

Assigned for all purposes to: Spring Street Courthouse, Judicial Officer: Stephen Goorvitch

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SUPERIOR COURT FOR THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

EDMA S. KIZIRIAN, an individual;
TALINE K. BOYAMIAN, an individual;
ARMAND R. KIZIRIAN, an individual;
ESTATE OF SEBOUH Z. KIZIRIAN,
by and through Armand R. Kizirian, as
Representative of the Estate of Sebouh Z.
Kizirian,

Plaintiffs,

vs.

KAISER FOUNDATION HOSPITALS,
a business entity, exact form unknown;
KAISER HEALTH PLAN, INC., a
business entity, exact form unknown;
SOUTHERN CALIFORNIA
PERMANENTE MEDICAL GROUP, a
business entity, exact form unknown;
LOUISE YEUK YAN YEUNG, M.D.,
an individual; STEPHEN HOWARD
LEBOWITZ, M.D., an individual;
RYUSHI THOMAS SAISHO, M.D., an
individual; SABAH ABDUL SATTAR,
M.D., an individual; SHETAL
HASHMUKH PATEL, M.D., an
individual; YEN-LIANG HIKO LIN,
M.D., an individual; and DOES 1
through 100, inclusive,

Defendants.

CASE NO.

COMPLAINT FOR:

- 1. WRONGFUL DEATH;**
- 2. MEDICAL MALPRACTICE;**
- 3. NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS;**
- 4. LOSS OF CONSORTIUM; and**
- 5. MEDICAL BATTERY**

DEMAND FOR JURY TRIAL

1 Plaintiffs Edma S. Kizirian, Taline K. Boyamian, and Armand R. Kizirian, and Plaintiff Estate
2 of Sebouh Z. Kizirian, by and through Armand R. Kizirian, as Representative of the Estate of Sebouh
3 Z. Kizirian (hereinafter “Decedent Plaintiff”, collectively, with other Plaintiffs, the “Plaintiffs”),
4 hereby file this Complaint against Defendants Kaiser Foundation Hospitals, a business entity, exact
5 form unknown (hereinafter “KFH”), Kaiser Foundation Health Plan, Inc., a business entity, exact form
6 unknown (hereinafter “KFHP”), Southern California Permanente Medical Group, a business entity
7 exact form unknown (hereinafter “SCPMG”), Louise Yeuk Yan Yeung, M.D. (hereinafter “Dr.
8 Yeung”), Stephen Howard Lebowitz, M.D., (hereinafter “Dr. Lebowitz”), Ryushi Thomas Saisho,
9 M.D., (hereinafter “Dr. Saisho”), Sabah Abdul Sattar, M.D. (hereinafter “Dr. Sattar”), Shetal
10 Hashmukh Patel, M.D. (hereinafter “Dr. Patel”), Yen-Liang Hiko Lin, M.D. (hereinafter “Dr. Lin”),
11 and Does 1 to 100 (hereinafter all Defendants collectively, “Kaiser” or “Defendants”). Plaintiffs are
12 informed and believes and on the basis of that information and belief alleges as follows:

13 **THE PARTIES**

14 1. At all times mentioned, Plaintiffs Edma S. Kizirian, Taline K. Boyamian, and Armand
15 R. Kizirian were individuals residing in the County of Los Angeles, State of California, and are the
16 heirs to Decedent Sebouh Z. Kizirian.

17 2. Plaintiff Estate of Sebouh Z. Kizirian is the estate of Decedent Sebouh Z. Kizirian, who
18 died on December 5, 2017 in Los Angeles, California.

19 3. Plaintiff Edma S. Kizirian is the widow of Decedent Sebouh Z. Kizirian. Plaintiff
20 Taline K. Boyamian is the daughter of Decedent Sebouh Z. Kizirian. Plaintiff Armand R. Kizirian is
21 the son of Decedent Sebouh Z. Kizirian.

22 4. Plaintiffs are informed and believe that Defendants Kaiser Foundation Health Plan, Inc.
23 and Kaiser Foundation Hospitals are business entities, exact form unknown organized and existing
24 under the laws of California, with their principal place of business located at 1 Kaiser Plaza, Oakland,
25 California.

26 5. Plaintiffs are informed and believe that Defendant Southern California Permanente
27 Medical Group is a business entity exact form unknown organized and existing under the laws of
28 California with its principal place of business located in Los Angeles County at 393 East Walnut

1 Street, Pasadena, California.

2 6. Plaintiffs are informed and believe that Louise Yeuk Yan Yeung, M.D. is an individual
3 residing in, and doing business in, the County of Los Angeles, State of California.

4 7. Plaintiffs are informed and believe that Stephen Howard Lebowitz, M.D. is an
5 individual residing in, and doing business in, the County of Los Angeles, State of California.

6 8. Plaintiffs are informed and believe that Ryushi Thomas Saisho, M.D. is an individual
7 residing in, and doing business in, the County of Los Angeles, State of California.

8 9. Plaintiffs are informed and believe that Sabah Abdul Sattar, M.D. is an individual
9 residing in, and doing business in, the County of Los Angeles, State of California.

10 10. Plaintiffs are informed and believe that Shetal Hashmukh Patel, M.D. is an individual
11 residing in, and doing business in, the County of Los Angeles, State of California.

12 11. Plaintiffs are informed and believe that Yen-Liang Hiko Lin, M.D. is an individual
13 residing in, and doing business in, the County of Los Angeles, State of California.

14 12. The true names and capacities, whether individual, plural, corporate, partnership,
15 associate, or otherwise, of the defendants named herein as DOES 1 through 100, inclusive, are
16 unknown to Plaintiffs who therefore sue such defendants by such fictitious names. Plaintiffs are
17 informed and believe, and based upon such information and belief allege, that each of the defendants
18 designated herein as DOES 1 through 100 is legally responsible in some manner for the events and
19 happenings herein referred to, and negligently, tortiously, and unlawfully, proximately caused injury
20 and damages to Plaintiffs as alleged herein. Plaintiffs will seek leave of Court to amend this Complaint
21 to show defendants' true names and capacities after the same have been ascertained.

22 13. Plaintiffs are informed and believe and based thereon allege, that each defendant was
23 the agent and employee of each other defendant, and in doing the things hereinafter alleged, acted
24 within the scope and course of such agency and employment, and that each defendant has ratified and
25 approved the acts of each other defendant.

26 **GENERAL ALLEGATIONS**

27 14. On November 25, 2016, approximately a year before he died, Decedent Sebouh Z.
28 Kizirian had surgery at Kaiser's Los Angeles Medical Center in order to address a ventral hernia.

1 What was supposed to be a same day discharge or one-night stay at Kaiser Sunset turned into a week-
2 long hospitalization. Mr. Kizirian's recovery had not at all gone expected to plan given Kaiser's
3 perception of his general health and the non-invasive nature of the hernia repair surgery. After a series
4 of tests, Kaiser detected pulmonary emboli in Mr. Kizirian's lungs and hypothesized that they had
5 been formed as a result of the hernia surgery and/or recent long-distance travel.

6 15. One of the tests Kaiser administered during Mr. Kizirian's first hernia surgery
7 hospitalization in 2016 was an echocardiogram. The echocardiogram was taken on November 28,
8 2016 and interpreted the following morning by Defendant Dr. Stephen Howard Lebowitz. Defendant
9 Dr. Lebowitz breached the standard of care in interpreting this echocardiogram by failing to see that
10 Mr. Kizirian's right ventricle was significantly swollen and completely out of proportion with his left
11 ventricle. Defendant Dr. Lebowitz also breached the standard of care by inaccurately measuring Mr.
12 Kizirian's pulmonary artery systolic pressure, which as a review of the echocardiogram shows, was in
13 fact substantially higher than he reported.

14 16. Aside from Defendant Dr. Lebowitz's negligence, other Kaiser physicians and medical
15 personnel also breached the standard of care in treating Mr. Kizirian during this hospitalization by
16 failing to detect significant pulmonary and cardiac issues Mr. Kizirian was experiencing at that time.

17 17. If Defendant Dr. Lebowitz had correctly interpreted the November 28, 2016
18 echocardiogram, Kaiser would have investigated Mr. Kizirian's cardiac health much more vigorously.
19 Either at the time of the hospitalization, or when the inevitable follow-up echocardiogram came, Kaiser
20 would have found that the pulmonary emboli were persistent, not subsiding even months after surgery.
21 This realization would eventually have led, in a timely manner, to Mr. Kizirian's ultimate diagnosis
22 of chronic thromboembolic pulmonary hypertension ("CTEPH"), instead of Kaiser Sunset's ICU team
23 having to make that diagnosis when Mr. Kizirian was already on his deathbed.

24 18. In addition, if other Kaiser physicians and medical personnel aside from Defendant Dr.
25 Lebowitz had not breached the standard of care in treating Mr. Kizirian during his 2016 hospitalization
26 and thus detected the significant pulmonary and cardiac issues he faced, Kaiser would have timely
27 begun treating him and prevented him from undergoing a second surgery a year later, a surgery for which
28 Mr. Kizirian was in too poor cardiovascular and pulmonary health to undergo.

1 19. As it turned out, even with Defendant Dr. Lebowitz's failure to see and raise as an issue
2 as to the fact that Mr. Kizirian's heart was in much poorer shape than thought, simply based on Mr.
3 Kizirian's condition in the hospital in 2016, Kaiser ordered a follow-up echocardiogram. This follow-
4 up echocardiogram was to be done about three months after Mr. Kizirian's discharge from the hospital
5 and after he had discontinued use of anticoagulants. The encounter notes from Mr. Kizirian's 2016
6 hospitalization are replete with references to this order as to two points: first, the necessity of having
7 a follow-up echocardiogram, and second, that it would be the responsibility of the primary care
8 physician, Defendant Dr. Ryushi Thomas Saisho, to schedule this.

9 20. Despite Mr. Kizirian seeing Defendant Dr. Saisho numerous times in 2017, Defendant
10 Dr. Saisho never scheduled a follow-up echocardiogram. Even while numerous Kaiser staff in the
11 2016 hospitalization encounter notes make reference to the fact that they believed the pulmonary
12 emboli were *likely* caused by the recent surgery and/or travel, but that a follow-up echocardiogram
13 should be done to rule out other possibilities, Defendant Dr. Saisho disregarded the orders of the
14 hospital treating physicians, breaching the standard of care by failing to follow the orders set by
15 Kaiser's physicians treating Mr. Kizirian at the Los Angeles Medical Center.

16 21. Instead, Defendant Dr. Saisho's encounter notes uniformly show his belief that Mr.
17 Kizirian suffered from pulmonary emboli due to his then recent surgery and that he should do no more
18 than ensure Mr. Kizirian took his three months of anticoagulants. Consequently, with Defendant Dr.
19 Saisho's baseless decision to disregard the orders from the hospital, Kaiser missed its second
20 opportunity to conduct an echocardiogram, discover the poor state of Mr. Kizirian's heart, and
21 ultimately diagnose CTEPH. Defendant Dr. Saisho's breach of the standard of care by disregarding
22 the orders of other Kaiser physicians without having any medical basis for doing so proximately
23 caused Mr. Kizirian's death because, if he had not breached the standard of care and had properly
24 directed Mr. Kizirian to a follow-up echocardiogram, Kaiser would have detected Mr. Kizirian's
25 significant cardiovascular and pulmonary issues and declined to authorize him for a second surgery,
26 which was the proximate cause of his death.

27 22. The third chance Kaiser had in uncovering Mr. Kizirian's weakened heart and lungs
28 came in the autumn of 2017 when Mr. Kizirian's ventral hernia reoccurred. After three trips to the

1 emergency room due to extreme pain and concern that the hernia had become strangulated, Mr.
2 Kizirian was scheduled for a second hernia surgery. The surgery for the second hernia operation, as
3 with the first, would be led by Defendant Dr. Louise Yeuk Yan Yeung.

4 23. As part of the pre-operation evaluation, Defendant Dr. Yeung recounted Mr. Kizirian's
5 prior hernia surgery's post-operation complication and prescribed Heparin as a prophylactic to be
6 started by Mr. Kizirian before undergoing this second surgery. Despite being aware of his prior post-
7 operation complication, Defendant Dr. Yeung either missed or chose to write off the fact that Mr.
8 Kizirian had never had the follow-up echocardiogram that numerous Kaiser physicians had said he
9 must in their 2016 hospital encounter notes, thus breaching the standard of care. The failure by
10 Defendant Dr. Yeung to catch this is made all the more egregious by the fact that the entirety of Mr.
11 Kizirian's treatment had been done in-network by Kaiser and had been clearly and methodically
12 documented on Kaiser's world-class and industry-leading electronic medical record keeping system.

13 24. Kaiser should have had Mr. Kizirian undergo a follow-up echocardiogram after his first
14 surgery as a matter of general health given the severe complication he experienced after his first
15 surgery. Defendants' failure to do so resulted in their failure to discover an underlying condition
16 rendering Mr. Kizirian a poor candidate for further surgery. As such, when Mr. Kizirian's ventral
17 hernia had reoccurred, the follow-up echocardiogram was no longer needed simply as a matter of
18 general health. Instead, Mr. Kizirian was about to undergo a second hernia operation, this time of the
19 invasive type, an event that Defendant Dr. Yeung knew would be physically taxing on Mr. Kizirian's
20 body. It is inconceivable that Defendant Dr. Yeung proceeded with this second surgery without the
21 benefit of having seen the results of a follow-up echocardiogram, particularly given her deep
22 involvement with the first hernia surgery and its aftermath, thus breaching the standard of care and
23 proximately causing Mr. Kizirian's death when his body was unable to cope with the stress of the
24 invasive hernia repair operation.

25 25. Had Kaiser been aware of Mr. Kizirian's weakened heart (even if the CTEPH had not
26 yet been diagnosed) there is simply no way he would have been authorized for an invasive ventral
27 hernia repair. This is especially true given that this surgery is classified by Kaiser as an 'elective'
28 surgery in the absence of a strangulated hernia, notwithstanding Mr. Kizirian's prior emergency room

1 visits. Thus Kaiser, by breaching the standard of care in failing to uncover Mr. Kizirian's underlying
2 cardiovascular and pulmonary issues, proximately caused his death by authorizing and conducting an
3 invasive hernia repair surgery for which he was a very poor candidate.

4 26. Even putting aside (1) Defendant Dr. Lebowitz's failure to properly read an
5 echocardiogram, (2) Defendant Dr. Saisho's failure to facilitate a follow-up echocardiogram, and (3)
6 Defendant Dr. Yeung's failure to realize that no follow-up echocardiogram had occurred, Kaiser had
7 one last chance to prevent catastrophe for Mr. Kizirian. It botched this opportunity to do so. On the
8 night of Saturday, December 2, 2017, Mr. Kizirian was already in the telemetry wing of Kaiser Sunset.
9 His second surgery had occurred on November 29, 2017, and sure enough, within a couple of days he
10 was beginning to feel worse – a CT scan once again detected the pulmonary emboli. By the night of
11 December 2nd, Mr. Kizirian was declining. His blood pressure was very low, he was sweating
12 profusely, a large hematoma was forming, and he was complaining of sharp pain on the left side of his
13 chest (it should be noted that Mr. Kizirian's hernia was on the right side of his abdomen).

14 27. In short, Kaiser was losing control of its patient and it did not know why. Even
15 accounting for Kaiser's theory that Mr. Kizirian was simply susceptible to the formation of pulmonary
16 emboli during and after surgery, his post-op was not at all proceeding as Kaiser expected it to. The
17 evening of December 2nd Kaiser made the decision to transfer Mr. Kizirian to the ICU. Yet Mr.
18 Kizirian was not immediately transferred to the ICU because Kaiser first wanted him to take a CT
19 scan. But the CT scan was delayed because Mr. Kizirian was too weak to remove from his room.
20 Indeed, he was not even permitted to stand up despite protesting that he very much needed to use the
21 restroom. Despite the fact that Mr. Kizirian's health had deteriorated to such a point that Kaiser
22 wanted to admit him to the intensive care unit, the only physician actually present at bedside was a
23 surgery resident.

24 28. Clearly, to state the obvious, Mr. Kizirian had deteriorated to such an extent the night
25 of December 2nd that this had become an *extraordinary* situation that merited the personal attention
26 of someone much more senior than a medical resident who is, after all, a trainee. But Defendant Dr.
27 Yeung was never called to the hospital. Nor was the surgeon more senior than her, Dr. Talar Tejjirian,
28 a Kaiser physician who also had been involved, albeit to a lesser extent, in Mr. Kizirian's two surgeries

1 and post-op care. Why either of these doctors were not summoned to the hospital, notwithstanding
2 that it was a Saturday night, is incomprehensible, and it constitutes a breach of the standard of care by
3 Kaiser and Defendant Dr. Yeung to have left a medical resident in charge of a patient like Mr. Kizirian,
4 who was so plainly in far worse shape than expectations and rapidly declining. Kaiser's and Defendant
5 Dr. Yeung's failure to direct a physician with more expertise than a medical resident proximately
6 caused Mr. Kizirian's death as the medical resident, i.e. a trainee doctor, was unable to recognize the
7 symptoms of the significant and life threatening cardiovascular and pulmonary conditions Mr. Kizirian
8 was experiencing.

9 29. Moreover, Mr. Kizirian was on the 6th floor of telemetry, only a few hundred feet away
10 from the ICU which is also located on the 6th floor of Kaiser Sunset. Kaiser would later bring up
11 operating room equipment to the ICU for an emergency surgery, but apparently could not think to
12 have an ICU doctor walk a few hundred feet into telemetry to see the patient who was so weak, he
13 could not yet be moved to the intensive care unit despite an order requiring just that. Kaiser breached
14 the standard of care in not altering its ICU, only a few hundred feet away, of the gravely ill Mr. Kizirian
15 stuck in telemetry, and by failing to request that the ICU send a physician to immediately examine Mr.
16 Kizirian, as opposed to leaving him in the charge of the medical resident. Kaiser's failure to direct an
17 ICU physician to promptly examine Mr. Kizirian proximately caused Mr. Kizirian's death as the
18 medical resident, i.e. a trainee doctor, was unable to recognize the symptoms of the significant and life
19 threatening cardiovascular and pulmonary conditions Mr. Kizirian was experiencing.

20 30. Had a more experienced surgeon or an ICU doctor from Kaiser actually examined Mr.
21 Kizirian the night of December 2nd, they very well may have realized that he had a cardiac and
22 pulmonary issue. A Kaiser physician with more experience than the medical resident might have
23 demanded cardiology immediately interpret the echocardiogram taken earlier that day instead of
24 waiting for the result to come back the following afternoon. Indeed, the ICU was able to diagnose
25 CTEPH quite quickly despite (1) not having the benefit of a conscious patient to speak with to discuss
26 medical history and symptoms, and (2) not ordering any type of test that had not already been initiated
27 by the surgery team. In sum, as a patient who had had hernia surgery declined from 'telemetry' to
28 'ICU', the only physician that Kaiser put in the room with that patient was a medical resident from

1 surgery. Given the substantial resources Kaiser has at its Sunset hospital, such a staffing decision can
2 only be described as negligent and a breach of the standard of care, which proximately resulted in Mr.
3 Kizirian's death.

4 31. Finally, once Mr. Kizirian went into shock in the early morning hours of December 3,
5 2017, Kaiser decided to attempt an emergency surgery. At this point, Kaiser was still in the dark about
6 Mr. Kizirian's underlying heart issue. Instead, Kaiser hypothesized that a large hematoma was
7 pressing down on a critical artery and that this was the cause of the deterioration in Mr. Kizirian's
8 condition. At the hospital that morning were Mr. Kizirian's wife, Plaintiff Edma S. Kizirian, and his
9 son, Plaintiff Armand R. Kizirian. As Mr. Kizirian had previously been given paralytic and was
10 otherwise in no position to provide consent, Kaiser secured consent to the emergency surgery from
11 Plaintiff Mrs. Kizirian. However, at no point did Kaiser disclose to Plaintiffs Mrs. Kizirian or her son,
12 Plaintiff Armand R. Kizirian, that Kaiser's anesthesiology department refused to be involved in this
13 surgery.

14 32. Indeed, Defendant Dr. Sabah Abdul Sattar, one of the anesthesiologists contacted by
15 the surgery team questioned whether managing anesthesia for a bedside laparotomy was within their
16 hospital "privileges", a simply preposterous position to take. Plaintiffs believe Defendants Dr. Shetal
17 Hashmukh Patel and Dr. Yen-Liang Hiko Lin were likely two other anesthesiologists who declined
18 the surgery team's urgent request for their involvement with the laparotomy exploratory. By refusing
19 to assist other Kaiser physicians with the laparotomy exploratory surgery, Defendants Dr. Sabah Abdul
20 Sattar, Dr. Shetal Hashmukh Patel, and Dr. Yen-Liang Hiko Lin breached the standard of care in
21 allowing Kaiser to operate on Mr. Kizirian without sedative and was a proximate cause of his death
22 as the lack of sedative exasperated Mr. Kizirian's underlying cardiovascular and pulmonary
23 conditions.

24 33. Consequently, Kaiser began its operation on Mr. Kizirian without administering any
25 sedative whatsoever. However, Kaiser's anesthesiologists, realizing that they had erred in allowing
26 an operation to proceed with zero sedative, decided to come up to the ICU. However, at that point,
27 the surgery had already begun and the damage was done.

28 ///

34. At no point did Mr. Kizirian or Plaintiffs give consent to a surgery devoid of the supervision and involvement of anesthesiologists for the laparotomy exploratory on December 3rd. When Kaiser sought Plaintiff Mrs. Kizirian's consent to perform the laparotomy exploratory, at no point did Kaiser disclose the material fact that, if the surgery was to move forward, it would begin without any anesthesia being provided to Mr. Kizirian because Kaiser's anesthesiologists were refusing to participate in the surgery, refusing to even come to the ICU to examine Mr. Kizirian. Consequently, the consent Mrs. Kizirian gave was ineffective, and thus, Kaiser did not have Mr. Kizirian's or Plaintiffs' consent to begin the laparotomy exploratory surgery on the Decedent.

JURISDICTION AND VENUE

35. This Court has jurisdiction over this matter, and under Code of Civil Procedure section 395, venue is proper in that Plaintiffs' injuries were incurred within the County of Los Angeles and the actions giving rise to Plaintiffs' Complaint arose in whole or in part within the County of Los Angeles.

36. Plaintiffs gave written notice to Defendants of intent to commence this action pursuant to Code of Civil Procedure section 364 on December 4, 2018.

FIRST CAUSE OF ACTION

(For Wrongful Death by All Plaintiffs Against All Defendants)

37. Plaintiffs incorporate by reference the allegations set forth above.

38. As a direct and proximate result of Defendants' negligence and carelessness as described above, Mr. Kizirian died on December 5, 2017.

39. As the direct and proximate result of the foregoing and the death of the Decedent, Plaintiff Edma S. Kizirian has been deprived of a kind and loving husband, Plaintiffs Taline K. Boyamian and Armand R. Kizirian have been deprived of a kind and loving parent, and these Plaintiffs have been deprived of Decedent's care, comfort, society, protection, love, companionship, affection, solace, moral support, physical assistance in the operation and maintenance of the home, and financial support.

40. As a further direct and proximate result of the foregoing, Plaintiffs have been damaged in a sum to be established according to proof at trial.

41. As a direct and proximate result of Kaiser's acts resulting in Mr. Kizirian's death, Plaintiffs have incurred reasonable and necessary expenses for Mr. Kizirian's funeral, burial, and memorial services to their damage in a presently unascertained sum and which will be established according to proof at trial.

SECOND CAUSE OF ACTION

(For Medical Malpractice by All Plaintiffs Against All Defendants)

42. Plaintiffs incorporate by reference the allegations set forth above.

43. During all periods of time during which the Decedent was a patient of Defendants, the Defendants, and each of them, agreed to perform and undertook to perform for the Decedent all services necessary to the Decedent's care, which included, but was not limited to, observation, examination, evaluation, diagnosis, care and treatment of the Decedent, and in so doing, the Defendants, and each of them, established a relationship with the Decedent, giving rise to each Defendant's duty to the Decedent to provide skillful management of his health condition, including but not limited to observation, evaluation, examination, diagnosis, care and treatment of the Decedent.

44. Defendants and each of them breached their duty to the Decedent to provide skillful management of his health condition, including but not limited to observation, examination, diagnosis, care and treatment.

45. At all times herein mentioned, Defendants and each of them so negligently and carelessly cared for, treated and rendered medical services upon the person and body of the Decedent and so negligently and carelessly operated, managed, controlled and conducted their services, activities and supervision in connection with the Decedent's care and treatment that as a direct and proximate result thereof the Decedent was caused to and did suffer the fatal injuries herein alleged.

46. During said periods of time herein above alleged, Defendants and each of them, were negligent, careless and unskillful in their management of the health of the Decedent, including but not limited to the observation, examination, diagnosis, care and treatment that were or should have been provided to the Decedent.

47. The negligence of Defendants and each of them, includes but is not limited to the following: (1) Defendant Dr. Lebowitz's failure to properly read Decedent's echocardiogram taken on

1 November 28, 2016, (2) Defendant Dr. Saisho's failure to facilitate a follow-up echocardiogram for
2 Decedent as instructed to do so by other Kaiser staff, (3) Defendant Dr. Yeung's failure to realize that
3 no follow-up echocardiogram had occurred before authorizing Decedent's second hernia repair
4 surgery in December 2017 despite Kaiser's order requiring such follow-up and despite her familiarity
5 with the severe complication Decedent experienced after his first hernia surgery in November 2016,
6 (4) Kaiser's failure to have a physician more experienced and knowledgeable than a medical resident
7 examine Decedent the night of December 2, 2017 as his condition suddenly and substantially
8 deteriorated, and (5) Kaiser's failure to administer anesthetic at the start of Decedent's laparotomy
9 exploratory surgery in December 2017.

10 48. Further, during said periods of time, Defendants, and each of them, did negligently and
11 carelessly fail to properly advise, warn or inform the Decedent of any other possible alternative
12 methods of diagnosis or treatment, or of the possible risks attendant to the methods of diagnosis or
13 treatment utilized, thereby failing to obtain a free and informed consent.

14 49. Further, during said periods of time, Defendants, and each of them, did negligently
15 select, review and supervise their medical staff.

16 50. Further, during said periods of time, Defendants, and each of them, did negligently and
17 carelessly fail to furnish equipment or laboratory, or radiological facilities that were necessary for the
18 skillful care and treatment of the Decedent.

19 51. As a direct and legal result of the aforesaid negligence, carelessness and unskillfulness
20 of Defendants, and each of them, the Decedent suffered grave injuries including pain, suffering and
21 ultimately, death. Plaintiffs are informed and believe and thereon allege that said death would not
22 have occurred if not for the negligence of Defendants.

23 52. Moreover, the Decedent's remaining family suffered, and will in the future continue to
24 suffer pain, loss of enjoyment of life and other forms of severe mental and emotional distress and
25 anguish.

26 53. As a further direct and legal result of the aforesaid negligence, carelessness and
27 unskillfulness of Defendants, and each of them, the Decedent has incurred loss of earnings and loss of
28 earning capacity.

1 54. As a further, direct and legal result of said negligence, carelessness and unskillfulness
2 of the Defendants, and each of them, Plaintiffs are be entitled to recover prejudgment interest under
3 Code of Civil Procedure §998 and Civil Code §3291.

4 **THIRD CAUSE OF ACTION**

5 **(For Negligent Infliction of Emotional Distress by Plaintiffs Edma S. Kizirian, Taline K.**
6 **Boyamian, and Armand R. Kizirian Against All Defendants)**

7 55. Plaintiffs incorporate by reference the allegations set forth above.

8 56. Based on the familial relationship between Plaintiffs Edma S. Kizirian, Taline K.
9 Boyamian, and Armand R. Kizirian, as described above, at the time they visited Mr. Kizirian on the
10 morning of December 3, 2017, Kaiser owed a duty of due care to the these Plaintiffs to refrain from
11 causing them any emotional injury in connection with the care and treatment of their husband and
12 father, as applicable.

13 57. At all times herein mentioned, the Plaintiffs Edma S. Kizirian, Taline K. Boyamian,
14 and Armand R. Kizirian were in close proximately to Defendants negligent conduct and negligent
15 failure to exercise due care in the course of medical care and treatment of Mr. Kizirian at Kaiser's Los
16 Angeles Medical Center, and personally witnessed the negligent care and treatment that was rendered.
17 Moreover, Plaintiffs Edma S. Kizirian and Armand R. Kizirian were in close proximity to Mr. Kizirian
18 and Defendants as Defendants prepared to and actually performed the laparotomy exploratory surgery
19 on Mr. Kizirian without first administering any anesthetic.

20 58. Because Defendants respective failures to exercise due care in the course of their care
21 and treatment of the Decedent, and especially by causing the death of the Decedent, Plaintiffs Edma
22 S. Kizirian, Taline K. Boyamian, and Armand R. Kizirian sustained great emotional disturbance and
23 shock and injury to his nervous system, all of which has caused, continues to cause, and will cause
24 them great physical and mental pain and suffering, all to their damage in sums to specified according
25 to law.

26 59. As the actual and proximate result of Defendants' conduct and in breach of their duty
27 of due care, in connection with Plaintiffs Edma S. Kizirian, Taline K. Boyamian, and Armand R.
28 Kizirian witnessing of their father and husband, as applicable, Decedent Sebouh Z. Kizirian's suffering

1 and ultimate death, these Plaintiffs have suffered and will continue to suffer serious emotional distress.

2 **FOURTH CAUSE OF ACTION**

3 **(For Loss of Consortium by Plaintiff Edma S. Kizirian Against All Defendants)**

4 60. Plaintiffs incorporate by reference the allegations set forth above.

5 61. At all times relevant to this Complaint, Plaintiff Edma S. Kizirian and Decedent Sebouh
6 Z. Kizirian were husband and wife.

7 62. As a direct and proximate result of the conduct of Defendants resulting in the death of
8 Sebouh Z. Kizirian, as set forth above, Plaintiff Edma S. Kizirian has suffered a loss of consortium,
9 including the loss of love, companionship, comfort, society and affection of her husband, all to her
10 damage in an amount not yet fully determined, subject to proof at the time of trial.

11 **FIFTH CAUSE OF ACTION**

12 **(For Medical Battery by Plaintiff Estate of Sebouh Z. Kizirian Against Defendants Kaiser**
13 **Foundation Hospitals, Kaiser Foundation Health Plan, Inc., Southern California**
14 **Permanente Medical Group, Louise Yeuk Yan Yeung, M.D., Sabah Abdul Sattar, M.D.,**
15 **Shetal Hashmukh Patel, M.D., and Yen-Liang Hiko Lin, M.D.)**

16 63. Plaintiffs incorporate by reference the allegations set forth above.

17 64. As set forth above, once Mr. Kizirian went into shock in the early morning hours of
18 December 3, 2017, Kaiser decided to attempt an emergency surgery at their Los Angeles Medical
19 Center. Approximately an hour before the emergency surgery began, Plaintiffs Edma S. Kizirian and
20 Armand R. Kizirian arrived at the hospital to be with Mr. Kizirian.

21 65. When Plaintiffs Edma S. Kizirian and Armand R. Kizirian visited Mr. Kizirian, his
22 eyes were partially open, and he was not moving. Mr. Kizirian had had a breathing tube inserted a
23 couple hours before and he had been put on a ventilator. Mrs. Kizirian and Armand R. Kizirian
24 believed that Mr. Kizirian was sedated but would come to learn later that this was not the case. Mr.
25 Kizirian was, in fact, not sedated, but had only been given a paralytic drug. As such, Mr. Kizirian was
26 not moving because Kaiser had given him a drug to paralyze him for the insertion of the breathing
27 tube but had failed to sedate to him. Thus, Mr. Kizirian could not move or speak.

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1 66. Upon learning that Plaintiff Edma S. Kizirian was Mr. Kizirian's wife, Kaiser sought
2 Mrs. Kizirian's consent for the laparotomy exploratory surgery. At no point did Kaiser inform Mrs.
3 Kizirian (or Armand R. Kizirian) that Kaiser's anesthesiologists that morning at the Los Angeles
4 Medical Center, i.e. Defendants Dr. Sattar, Dr. Patel, and Dr. Lin, were refusing to participate in the
5 laparotomy exploratory and that Mr. Kizirian was not sedated and would not be sedated for the
6 laparotomy exploratory.

7 67. As a result, when Kaiser asked for and received Mrs. Kizirian's consent for the
8 laparotomy exploratory surgery for Mr. Kizirian, Kaiser had failed to disclose a material fact that
9 would have resulted in Mrs. Kizirian declining to provide consent and insisting that Kaiser's
10 anesthesiologists become involved in the surgery. Thus, Kaiser did not have consent to perform the
11 laparotomy exploratory surgery on Mr. Kizirian.

12 68. Defendant Dr. Yeung initiated the laparotomy exploratory surgery on Mr. Kizirian by
13 cutting open his abdomen. Paralyzed but not sedated, Mr. Kizirian was able to feel everything as he
14 underwent the removal of a hernia mesh without any sedative whatsoever.

15 69. Once the surgery had begun, Kaiser's anesthesiologists realized the grave mistake they
16 had made, joined the operation, and began to administer sedative to Mr. Kizirian. However, at that
17 point, the surgery had already begun and the damage was done.

18 70. As a direct and proximate result of the intentional and tortuous conduct of Kaiser, Mr.
19 Kizirian sustained physical injury, emotional distress, anxiety, humiliation, and loss of quality of life
20 for which he suffered damage in an amount not yet fully determined, subject to proof at the time of
21 trial.

22 71. Moreover, given Kaiser's outrageous conduct on operating on Mr. Kizirian without
23 administering sedative, but after having pharmacologically paralyzed him, Plaintiffs will seek punitive
24 damages subject to proof at the time of trial.

25 **PRAYER FOR RELIEF**

26 Wherefore, Plaintiffs prays for judgment against Defendants as follows:

- 27 a. For an award of actual, consequential, and incidental losses and money damages,
28 in an amount to be proven at trial;

- 1 b. For punitive and/or exemplary damages according to proof at trial based upon
2 the fifth cause of action;
3 c. For prejudgment interest at the maximum legal rate;
4 d. For civil and statutory penalties where appropriate;
5 e. Costs of suit;
6 f. Reasonable attorney's fees; and
7 g. Such other relief as the Court deems just and proper.

8
9 DATED: March 4, 2019

BOYAMIAN LAW, INC.
KIZIRIAN LAW FIRM, P.C.

10
11 By: 

12 Taline K. Boyamian
13 Armand R. Kizirian
14 Pro Se and Attorneys for All Other Plaintiffs

15 **DEMAND FOR JURY TRIAL**

16 Plaintiffs hereby demand a jury trial for all claims so triable.

17
18 DATED: March 4, 2019

BOYAMIAN LAW, INC.
KIZIRIAN LAW FIRM, P.C.

19
20 By: 

21 Taline K. Boyamian
22 Armand R. Kizirian
23 Pro Se and Attorneys for All Other Plaintiffs
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