

FILED

JUN 12 2019

Timothy W. Fitzgerald  
SPOKANE COUNTY CLERK

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF SPOKANE

**19202599-32**

No.

DIANE PAXTON, M.D. individually and as  
personal representative of the ESTATE OF  
MARK PAXTON, M.D.

Plaintiffs,

vs.

COMPLAINT FOR MEDICAL  
NEGLIGENCE AND DAMAGES

BRYAN HUTER, M.D., individually,  
PROVIDENCE SACRED HEART MEDICAL  
CENTER, PROVIDENCE HEALTH &  
SERVICES, PROVIDENCE HEALTH &  
SERVICES – WASHINGTON, and KAISER  
FOUNDATION HEALTHPLAN OF  
WASHINGTON, Washington Corporations

Defendants

**I. IDENTIFICATION OF PLAINTIFFS**

1.1 At all times material hereto, Plaintiff Mark Paxton, M.D. (deceased), was a resident of  
the State of Washington residing in the County of Spokane.

1.2 At all times material hereto, Plaintiff Diane Paxton M.D., was a resident of the State  
of Washington residing in the County of Spokane.

COMPLAINT FOR DAMAGES - I

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## **II. IDENTIFICATION OF DEFENDANTS**

2.1 To the best information, knowledge, and belief of the Plaintiffs, Defendant Bryan Huter, M.D., ("Dr. Huter") at all times material hereto, was a physician, licensed in the State of Washington, who was working in Spokane County, Washington during the time of the subject care.

2.2 To the best information, knowledge and belief of Plaintiffs, at all times material hereto, Defendant Providence Sacred Heart Medical Center was a Washington company or corporation with its principal place of business in the County of Spokane, State of Washington.

2.3 To the best information, knowledge and belief of Plaintiffs, at all times material hereto, Providence Health & Services was a Washington company or corporation with its principal place of business in the County of Spokane, State of Washington.

2.4 To the best information, knowledge and belief of Plaintiffs, at all times material hereto, Providence Health & Services – Washington was a Washington company or corporation with its principal place of business in the County of Spokane, State of Washington.

2.5 To the best information, knowledge, and belief of Plaintiff, at all times material hereto Kaiser Foundation Health Plan of Washington was a Washington company or corporation with its principal place of business in the County of Spokane, State of Washington.

## **III. VENUE AND JURISDICTION**

3.1 Subject matter and personal jurisdiction are proper in the Superior Court of Washington for Spokane County.

3.2 Venue is proper in Spokane County, Washington.

3.3 Plaintiffs bring their claims within the time limit allowed by the applicable statute of limitations.

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**IV. COMPLIANCE WITH LAWS  
PECULIAR TO HEALTHCARE LAWSUITS**

4.1 Pursuant to the provisions of RCW 7.70A.020, an appropriate declaration of counsel is appended hereto as Exhibit A declining the option to submit this dispute to arbitration under the above entitled chapter.

**V. DATE AND NATURE OF OCCURRENCE**

5.1 On February 7, 2018, Plaintiff Mark Paxton, M.D. ("Dr. Paxton") was seen at Providence Sacred Heart Medical Center ("PSHMC") with a presentation concerning for internal bleeding. Defendant Dr. Huter negligently failed to take reasonable and prudent steps to address the internal bleeding and treat the same. These failures resulted in the death of Plaintiff Dr. Paxton.

**VI. CLAIMS AGAINST DEFENDANT BRYAN HUTER, M.D.**

6.1 Medical Negligence. Defendant Dr. Huter failed to exercise the degree of care, skill, and learning expected of reasonably prudent healthcare providers in the same profession or class in the State of Washington acting in the same or similar circumstances. Such conduct proximately caused severe injuries and damages to Plaintiffs. Defendant Dr. Huter's conduct violated RCW 7.70 and other applicable laws.

**VII. CLAIMS AGAINST DEFENDANTS PROVIDENCE SACRED HEART  
MEDICAL CENTER aka PROVIDENCE HEALTH AND SERVICES aka  
PROVIDENCE HEALTH AND SERVICES-WASHINGTON.**

7.1 Medical Negligence. Defendants Providence Sacred Heart Medical Center, aka Providence Health and Services, aka Providence Health and Services- Washington, through its employees, agents, and members, including, but not limited to, Defendant Dr. Huter, failed to exercise the degree of care, skill and learning expected of reasonably prudent healthcare providers in the same profession or class in the state of Washington acting in the same or similar circumstances.

Such conduct proximately caused severe and permanent injuries and damages to Plaintiffs. Defendant's conduct violated RCW 7.70 and other applicable laws.

7.2 Vicarious Liability. Defendants Providence Sacred Heart Medical Center, aka Providence Health and Services, aka Providence Health and Services- Washington is vicariously liable for all acts and omissions of its employees, agents and members including, but not limited to, Defendant Dr. Huter under the doctrines of Respondeat Superior, Ostensible Agency or Apparent Agency.

7.3 Corporate Negligence. Defendants Providence Sacred Heart Medical Center, aka Providence Health and Services, aka Providence Health and Services- Washington, is liable under the Doctrine of Corporate Negligence.

## **VIII. CLAIMS AGAINST DEFENDANT KAISER FOUNDATION HEALTHPLAN OF WASHINGTON.**

8.1 Medical Negligence. Defendant Kaiser Foundation Health Plan of Washington, through its employees, agents, and members, including, but not limited to, Defendant Dr. Huter, failed to exercise the degree of care, skill and learning expected of reasonably prudent healthcare providers in the same profession or class in the state of Washington acting in the same or similar circumstances. Such conduct proximately caused severe and permanent injuries and damages to Plaintiffs. Defendant's conduct violated RCW 7.70 and other applicable laws.

8.2 Vicarious Liability. Defendant Kaiser Foundation Health Plan of Washington is vicariously liable for all acts and omissions of its employees, agents and members including, but not limited to, Defendant Dr. Huter under the doctrines of Respondeat Superior, Ostensible Agency or Apparent Agency.

8.3 Corporate Negligence. Defendant Kaiser Foundation Health Plan of Washington, is

liable under the Doctrine of Corporate Negligence.

**IX. INJURIES AND DAMAGES**

9.1 The acts and omissions of Defendants directly and proximately caused Plaintiffs to suffer severe and permanent injuries, including but not limited to the death of Dr. Paxton. These injuries are both mental and physical and include but are not limited to pain and suffering and mental anguish as well as loss of consortium.

9.2 Plaintiffs have and will incur economic damages including, but not limited to, medical expenses and other expenses in an amount that will be proven at trial.

9.3 Plaintiffs are entitled to prejudgment interest on liquidated sums from the time the expenses were incurred to the time of trial at the appropriate and proper rate of interest.

*WHEREFORE*, having set forth in their Complaint, Plaintiffs request this Court enter judgment against Defendants for:

- (1) All injuries and damages sustained by Plaintiffs in amounts to be proven at trial;
- (2) Reasonable costs and fees incurred herein; and,
- (3) Such further relief as justice requires.

DATED this 10 day of June, 2019.

THE MARKAM GROUP, INC., P.S.

By: 

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COLLIN M. HARPER, WSBA No. 44251  
Attorneys for Plaintiffs