

1 ANDRE REKTE SBN 129578
2 REKTE | BRADSHAW
3 17189 Yuma Street
4 Victorville, CA 92395
5 Telephone: (760) 680-9143
6 Facsimile: (760) 780-1683

7 Attorneys for Plaintiff

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE

JUN 21 2019

K. Thomsen

JSB

JUN 21 2019

BY FAX

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 COUNTY OF RIVERSIDE

10 MARTA ANN-MARIE MATHEWS and
11 KATHERINE JOYCE WOODWARD,

12 Plaintiffs,

13 v.

14 KAISER FOUNDATION HOSPITAL,
15 KAISER PERMANENTE MEDICAL
16 CENTER, SOUTHERN CALIFORNIA
17 PERMANENTE GROUP, KAISER
18 FOUNDATION HEALTH PLAN
19 MICHAEL SIMENTAL, M.D., ROBERT
20 JOSLEN and DOES 1 through 20,
21 Inclusive,

22 Defendants.

Case No. **RIC 1903450**

COMPLAINT FOR WRONGFUL DEATH
(MEDICAL MALPRACTICE)

DEMAND FOR JURY TRIAL

23 Plaintiffs MARTA ANN-MARIE MATHEWS and KATHERINE JOYCE WOODWARD

24 allege:

25 1. That Plaintiffs, MARTA ANN-MARIE MATHEWS and KATHERINE JOYCE
26 WOODWARD are the natural daughters of Bonita Joslen (Decedent), who passed away on June
27 28, 2018 from an opioid overdose in Riverside County, California.

28 ///

1 2. That Defendants, KAISER FOUNDATION HOSPITAL, KAISER PERMANENTE
2 MEDICAL CENTER, SOUTHERN CALIFORNIA PERMANENTE GROUP, KAISER
3 FOUNDATION HEALTH PLAN (Hereafter collectively "KAISER Defendants") and MICHAEL
4 SIMENTAL, M.D. (Hereafter "SIMENTAL") all do/did business in the County of Riverside,
5 California and were responsible for the Decedent's care and death.

6
7 3. That the true names and capacities, whether individual, corporate, associate or
8 otherwise, of Defendants DOES 1 and 20, are unknown to Plaintiffs at this time, who therefore sue
9 said Defendants by such fictitious names and will ask leave of court to amend this complaint to show
10 their true names and capacities when ascertained. Said Defendants are sued as principals, and all of
11 the acts performed by them as agents, servants and employees were performed within the course and
12 scope of their authority and employment.

13
14 4. That Defendant, ROBERT JOSLEN, was the husband of the Decedent and is named
15 as a nominal Defendant.

16
17 5. That at all times herein mentioned, the Decedent was a patient of the Defendants, and
18 each of them.

19
20 6. That SIMENTAL was an employee/partner/agent of the KAISER Defendants from at
21 least 2015 through the time of the Decedent's death. The KAISER Defendants knew that
22 SIMENTAL was a licensed physician and practiced Family Medicine and had no specialty in Pain
23 Management Medicine or Psychiatry. The KAISER Defendants also knew that SIMENTAL had a
24 disciplinary history with the Medical Board of California (MBC) involving the excessive
25 prescribing of narcotics. Specifically, in December 2016, in case number 18-2012-226103,
26 SIMENTAL was disciplined by the MBC for gross negligence, repeated negligent acts,
27 prescribing without appropriate prior examination and medical indication, and repeated acts of
28

1 clearly excessive prescribing. SIMENTAL was placed on probation with the MBC for a period of
2 two years, as of December 22, 2016. The disciplinary order stemmed from an accusation charging
3 that SIMENTAL, while employed at the same Kaiser Permanente facility in Riverside,
4 excessively prescribed narcotic and other controlled drugs to at least three patients. The accusation
5 charged SIMENTAL with an "extreme departure from the standard of care" in prescribing
6 narcotics and benzodiazepines to patients and cited conduct by SIMENTAL including prescribing
7 "high doses of long and short- acting opioid analgesics for the patient without medical evidence of
8 necessity;" "frequent early refills for medicine for various reasons without accountability;"
9 prescribing such drugs despite "obtaining imaging studies that were virtually negative followed by
10 a negative physical examination;" prescribing despite obtaining "negative urine toxicology
11 examinations," which "should be addressed for possible diversion, overtaking or lack of
12 consumption of medicines;" failing to create a "pain management agreement with regarding his
13 medications; and prescribing benzodiazepines even though "no psychological evaluation of the
14 patient or a psychiatric consultation was ever completed to clinically validate the need for strong,
15 ongoing benzodiazepines for a patient".

16
17
18 7. Despite knowing about SIMENTAL's disciplinary probation with the MBC the
19 KAISER Defendants allowed SIMENTAL to continue working as one of their physicians and
20 allowed him to prescribe opioids and other narcotics without any type of oversight or restrictive
21 protocols to protect their patients from the same acts SIMENTAL was disciplined for by the
22 MBC. This was not only negligent and below the standard of care for any health care provider but
23 was a conscious disregard for the patients that the KAISER Defendants assigned to SIMENTAL.
24 This negligence and conscious disregard for the Decedent's wellbeing ended up with her dying
25 from over prescriptions of narcotics by SIMENTAL. Data will show that, between July 18, 2015,
26 and May 18, 2018, SIMENTAL issued to the Decedent 28 prescriptions for 2-mg hydromorphone
27 (a Schedule II narcotic), 23 prescriptions for 30-mg morphine (a Schedule II narcotic), and 11
28

1 prescriptions for temazepam (a Schedule IV benzodiazepine). In March of 2018, Decedent filled
2 SIMENTAL prescriptions for all three drugs, and she again filled SIMENTAL prescriptions for
3 hydromorphone in April and May 2018.

4
5
6 8. The KAISER Defendants negligent acts and conscious disregard for the Decedent's
7 safety and health was as a proximate and direct cause bringing about the Decedent's death. As a
8 direct and proximate cause of these acts, Plaintiffs lost forever, their mother. By reason of said
9 injuries and consequences, Plaintiffs have sustained general and special damages in a monetary sum.
10 Based on the allegations in this complaint, the Plaintiffs will also seek leave of court to amend this
11 complaint to include the right to seek punitive damages against the KAISER Defendants for their
12 conscious disregard for the health and safety of the Decedent.

13
14 9. As to SIMENTAL, his care of the Decedent was far below the standard of care that
15 would be expected from a physician. His negligent acts and conscious disregard for the Decedent's
16 safety and health was as a proximate and direct cause of the Decedent's death. As a direct and
17 proximate cause of these acts, Plaintiffs lost forever, their mother. By reason of said injuries and
18 consequences, Plaintiffs have sustained general and special damages in a monetary sum. Based on the
19 allegations in this complaint, the Plaintiffs will also seek leave of court to amend this complaint to
20 include the right to seek punitive damages against SIMENTAL for his conscious disregard for the
21 health and safety of the Decedent.

22
23 WHEREFORE, Plaintiffs pray for judgment against the Defendants, and each of them, as
24 follows:

- 25 1. General damages;
- 26 2. Funeral and burial expenses;
- 27 3. All special damages available by law;
- 28 4. For costs of suit incurred herein;

1 5. For such other and further relief as this court may deem just and proper.

2
3 Dated: June 20, 2019

REKTE | BRADSHAW

4
5 By: 

6 Andre Rekter, Esq.
7 Attorney for Plaintiffs

8
9
10 JURY DEMAND

11
12 Plaintiffs hereby demand a trial by jury on all claims so triable.

13
14
15 Dated: June 20, 2019

REKTE | BRADSHAW

16
17 By: 

18 Andre Rekter, Esq.
19 Attorney for Plaintiff