

Bruce G. Fagel, State Bar No. 103674
Law Offices of Bruce G. Fagel
& Associates
100 North Crescent Drive, Suite 360
Beverly Hills, California 90210
Tel: (310) 281-8700
Fax: (310) 281-5656
E-Mail: BruceFagel@fagellaw.com

Attorneys for Plaintiffs

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF PLACER

FILED BY FAX

DAVID WELCH, KAREN WELCH,

Plaintiffs,

vs.

KAISER FOUNDATION HEALTH PLAN, INC., a
California Corporation, KAISER
FOUNDATION HOSPITALS, a Corporation,
d/b/a KAISER FOUNDATION HOSPITAL -
ROSEVILLE; THE PERMANENTE MEDICAL
GROUP, INC., a Corporation; RENE ORONA,
M.D., JONATHAN WARDELL, M.D., DOES 1-
250, inclusive,

Defendants.

Case No.

COMPLAINT FOR DAMAGES FOR
MEDICAL MALPRACTICE

1. Negligence
2. Loss of Consortium

RECEIVED
NOV 18 2019
Superior Court of California
County of Placer

Plaintiffs, through counsel, allege in their Complaint for
Damages for Medical Malpractice as follows:

1. The true names, identities or capacities, whether
individual, associate, corporate or otherwise of Defendants DOES 1
through 250, inclusive, are unknown to Plaintiffs who, therefore, sue
said Defendants by such fictitious names. When the true names,
identities or capacities of such fictitiously-designated Defendants
are ascertained, Plaintiffs will ask leave of Court to amend the
Complaint to insert said true names, identities and capacities,

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1 together with the proper charging allegations.

2 2. Plaintiffs are informed and believes and thereon alleges
3 that each of the Defendants sued herein as a DOE is responsible in some
4 manner for the events and happenings herein referred to, thereby
5 legally causing the injuries and damages to the Plaintiffs as herein
6 alleged.

7 3. All of the facts, acts, events and circumstances herein
8 mentioned and described occurred in the County of PLACER, State of
9 California, and all Defendants are residents of the County of PLACER,
10 State of California, doing business in said County, State of
11 California.

12 4. At all times herein mentioned, Defendants RENE ORONA, M.D.,
13 JONATHAN WARDELL, M.D., and DOES 1 through 50, inclusive, were, and now
14 are, physicians and surgeons, holding themselves out as duly licensed
15 to practice their profession under and by virtue of the laws of the
16 State of California and were, and now are, engaged in the practice of
17 their profession in the State of California.

18 5. At all times herein mentioned, Defendants DOES 51 through
19 100, inclusive, were, and now are, registered nurses, licensed
20 vocational nurses, practical nurses, physician assistants, aids,
21 technicians, attendants, students or other paramedical personnel,
22 holding themselves out as duly able to practice their profession under
23 and by virtue of the laws of the State of California and were, and now
24 are, engaged in the practice of their profession in the State of
25 California and acting as agents, employees and servants of some or all
26 of the other Defendants within the course and scope of said agency or
27 employment.

28 6. At all times herein mentioned, Defendants KAISER FOUNDATION

1 Hospital Accreditation, and assumed and held themselves out to the
2 public as in compliance with the minimum standards required by said
3 Joint Commission for such accreditation.

4 10. Plaintiffs are informed and believe and upon such
5 information and belief allege that at all times herein mentioned,
6 Defendants, and each of them, were the agents, servants, employees,
7 joint-venturers, and copartners of their said co-Defendants; and, as
8 such, were acting within the course and scope of such agency, service,
9 partnership, venture, and employment at all times herein mentioned;
10 that each and every Defendant, as aforesaid, when acting as a
11 principal, was negligent in the selection and hiring of each and every
12 other Defendant, as its agent, servant, employee, joint-venturer and
13 partner. Further, each and every Defendant ratified the conduct of the
14 other Defendants.

15 I.

16 PLAINTIFF DAVID WELCH ALLEGES FOR A CAUSE OF ACTION
17 FOR NEGLIGENCE AGAINST DEFENDANTS AND EACH OF THEM, AS
18 FOLLOWS:

19 11. Plaintiff DAVID WELCH (DOB 1/9/1962) (Medical Record No.
20 110006307011), repeats and repleads each and every allegation
21 contained in all prior paragraphs and incorporates the same herein by
22 reference as to said Defendants and each of them.

23 12. At all times herein mentioned, and prior thereto, the
24 Plaintiff was in the exclusive control of the Defendants, and each of
25 them, and that at no time prior to the events, conduct, activities, care
26 and treatment herein complained of did the Defendants herein, or any of
27 them, obtain knowledgeable, informed consent for said care, treatment
28 or conduct; that prior to the initiation of or performance of said care,

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1 treatment, procedure or conduct no opportunity was afforded the
2 Plaintiff or any authorized agent of the Plaintiff to exercise
3 voluntary, knowledgeable and informed consent to said care, treatment,
4 procedure or conduct.

5 13. On or about February, 2016, and prior and several visits
6 subsequent thereto, Plaintiff DAVID WELCH, employed Defendants, and
7 each of them, to diagnose and treat his medical conditions and to do all
8 things necessary for his care, including, but not limited to surgery,
9 and other medical treatment and care.

10 14. While the Plaintiff was under the sole and exclusive care and
11 control of the Defendants, and each of them as aforesaid, Defendants,
12 and each of them, negligently, carelessly and unskillfully selected
13 various hospitals and physicians and other health care providers, and
14 negligently examined, treated, cared for, diagnosed, operated upon,
15 attended, handled and controlled the Plaintiff herein, thereby
16 proximately causing injuries and damages to the Plaintiff, including
17 but not limited to, failing to timely diagnose or treat his spinal tumor
18 and cancer.

19 15. Defendants KAISER FOUNDATION HOSPITALS failed and neglected
20 to adequately select a competent medical staff and to periodically
21 review the competency of its medical staff, and failed to adequately
22 monitor its staff such that the Plaintiff was caused to, and did suffer
23 injuries and damages as herein alleged.

24 16. Plaintiff did not discover the negligence of the defendants,
25 nor the cause of his injuries until August 15, 2019 when his cancer was
26 first diagnosed on August 15, 2019 at Marshall Medical Center in
27 Placerville, California, as stage 4 aggressive non-Hodgkins lymphoma
28 and/or high grade lymphoma.

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1 17. As a legal result of the negligence of the Defendants, and
2 each of them, the Plaintiff was injured in health, strength and
3 activity, sustaining severe shock, and injury to the body, all of which
4 said injuries have caused and continue to cause Plaintiff great
5 physical, emotional, and nervous pain and suffering, and which said
6 injuries Plaintiff is informed and believes, and thereon alleges, will
7 result in loss of earnings, permanent disability, loss of enjoyment of
8 life, and impairment of earning capacity all to Plaintiff's damage in a
9 sum in excess of the jurisdiction of the Municipal Court.

10 18. As a further legal result of the negligence of the
11 Defendants, and each of them, and the resulting injuries to the
12 Plaintiff, said Plaintiff was compelled to, and did, incur expenses for
13 medical and surgical attention, hospitalization, nursing, medication
14 and incidentals for said Plaintiff in an amount unknown to Plaintiff at
15 present.

16 19. As a further legal result of the negligence of the
17 Defendants, and each of them, and of the resulting injuries, Plaintiff
18 will be obliged to incur expenses for medical care and hospitalization
19 for an indefinite period in the future and to pay for these expenses in
20 the treatment and relief of injuries for medical and surgical
21 attention, hospitalization, nursing, medication, and incidentals for
22 said Plaintiff in an amount unknown to Plaintiff at present.

23 20. As a further legal result of the negligence of the Defendants,
24 and each of them, Plaintiff will suffer a decreased earnings and
25 earning capacity in the future and future earnings to Plaintiff's
26 further damage in a sum unknown at present.

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II.

PLAINTIFF KAREN WELCH ALLEGES FOR A SEPARATE AND DISTINCT CAUSE
OF ACTION FOR LOSS OF CONSORTIUM AGAINST DEFENDANTS AND EACH OF
THEM AS FOLLOWS:

21. Plaintiff KAREN WELCH repeats and repleads each and every allegation contained in all prior paragraphs and incorporates the same herein by reference as to said Defendants and each of them.

22. At all times herein mentioned, DAVID WELCH and KAREN WELCH were married and are husband and wife.

23. As a direct and proximate result of the aforesaid conduct of Defendants, and each of them and the resultant injuries to her husband DAVID WELCH, Plaintiff KAREN WELCH has suffered and is reasonably certain to suffer in the future the loss of consortium, love, companionship, services, comfort, affection, society, solace, moral support, enjoyment of sexual relations and physical assistance in the operation and maintenance of the home, causing damages and special damages in a sum in excess of the jurisdiction of the Municipal Court.

WHEREFORE, Plaintiffs pray for damages against the Defendants, and each of them, as follows:

FOR THE CAUSE OF ACTION FOR NEGLIGENCE FOR PLAINTIFF DAVID WELCH:

1. General damages, according to proof;
2. Past and future medical expenses, according to proof;
3. For loss of future earning and earning capacity, according to proof;
4. Costs of suit incurred herein, and
5. For such other and further relief as to the Court appears just and proper.

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1 FOR THE CAUSE OF ACTION FOR LOSS OF CONSORTIUM FOR PLAINTIFF

2 KAREN WELCH

- 3 1. General damages, according to proof;
- 4 2. Special damages, according to proof;
- 5 3. Costs of suit incurred herein, and;
- 6 4. For such other and further relief as to the Court appears
- 7 just and proper.

8 DATED: November 18, 2019

Law Offices of Bruce G. Fagel &
Associates

10 By: 

11 Bruce G. Fagel.
12 Attorneys for Plaintiffs

25 Law Offices
26 of
27 Bruce G. Fagel
&
28 Associates