

SCANNED

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO CIVIL DIVISION

FEB 21 2013

BY Sherris Hunt
SHERRI HUNT, DEPUTY

Cynthia D. Hafif, SBN 153088
HAFIF & ASSOCIATES, LLP
3175-E Sedona Court
Ontario, CA 91764
Tel.: (909) 291-2439
Fax: (909) 291-2440

Attorneys for Plaintiff Yolanda Cohill

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN BERNARDINO

Yolanda Cohill,

Plaintiff,

vs.

Rodney A. Parker, M.D, My-Linh Kieu Pham, M.D.,
Casey Ki-Chi Ng, M.D., Kaiser Foundation
Health Plan, Inc.; Kaiser Foundation
Hospitals; Southern California Permanente
Medical Group; and DOES 1 through 100, Inclusive,

Defendants.

CASE NO. CIVDS1301757

COMPLAINT FOR DAMAGES
FOR MEDICAL NEGLIGENCE
AND DEMAND FOR JURY
TRIAL

[Unlimited Civil Action]

435-13022-0653

COMES NOW, Plaintiff, Yolanda Cohill ("Plaintiff"), for her personal injuries and damages, who complains and alleges against the defendants, Rodney A. Parker, M.D., My-Linh Kieu Pham, M.D., Casey Ki-Chi Ng, M.D.; Kaiser Foundation Health Plan, Inc.; Kaiser Foundation Hospitals; Southern California Permanente Medical Group; and, DOES 1 through 100, inclusive, and each of them, (hereinafter collectively referred to herein as "Defendants") as follows:

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I.

JURISDICTION

1. The Court has jurisdiction over this subject matter because a genuine and existing controversy over present rights exist between the parties, and there are no recognized exceptions or limitations on said subject-matter jurisdiction. Jurisdiction is based on the fact that the amount in controversy exceeds \$25,000.00, the jurisdictional amount of this court.

II.

VENUE

2. The above-captioned Court is the proper venue because the subject malpractice occurred in the county of San Bernardino.

III.

PARTIES

3. That the true names and capacities of DOES 1 through 100, inclusive, whether individual, corporate, associate or otherwise, are unknown to Plaintiff at the present time and Plaintiff is ignorant of the true names and capacities of such DOE Defendants, and when Plaintiff ascertains such true names and capacities of the DOES, she will ask leave of this Court to amend this Complaint by setting forth same.

4. Plaintiff is informed and believes and thereon alleges, that each of the Defendants sued herein as DOES are in some manner responsible for the events or happenings herein alleged.

5. That the facts, acts, events, and circumstances herein mentioned and described occurred in the City of San Bernardino, County of San Bernardino, and Defendants are residents of said County, State of California, and Los Angeles County, State of California.

6. That at all times herein mentioned, Rodney A. Parker, M.D., My-Linh Kieu Pham,

1 M.D., Casey Ki-Chi Ng, M.D.; and DOES 1 through 50, inclusive, were and now are health care
2 professionals, or doctors, surgeons, urologists, holding themselves out as duly licensed to
3 practice their profession under and by virtue of the laws of the State of California, and were and
4 now, are engaged in the practice of their professions in the State of California.

5 7. That at all times herein mentioned, Rodney A. Parker, M.D., My-Lihn Kieu Pham,
6 M.D., Casey Ki-Chi Ng, M.D.; and DOES 1 through 50, inclusive, held themselves out to the
7 public at large and to Plaintiff herein, as qualified physicians and surgeons duly licensed to
8 practice their professions by virtue and under the laws of the State of California, with expertise,
9 specialized knowledge, training, education, learning skill, techniques, and expertise in certain
10 specialties of medicine.

11 8. That holding themselves out as experts and specialists in fields of urology, medicine
12 and surgery, possessing skills, learning and experience in said specialties, Defendants herein, at
13 all times mentioned herein, represented to Plaintiff that they would, at all times, exercise and use
14 skill, prudence, learning and experience in said specialties and in the care and treatment of
15 Plaintiff in accordance with the standard of practice among competent, reputable and prudent
16 specialists practicing their specialties in the State of California.

17 9. That at all times herein mentioned, Rodney A. Parker, M.D., My-Linh Kieu Pham,
18 M.D., Casey Ki-Chi Ng, M.D., and DOES 1 through 50, inclusive, held themselves out to the
19 public at large and to Plaintiff as duly qualified physicians, urologists and surgeons, duly licensed
20 to practice their profession by virtue of and under the laws of the State of California, and
21 exercising prudence, reasonable judgment and care in the selection, employment and control of
22 qualified, trained, experienced nurses, nursing personnel, assistants, aides and employees,
23 performing service and caring for patients, including, but not limited to the Plaintiff, under their
24 supervision, control, direction, responsibility and authority.

25 10. That at all times herein mentioned, Kaiser Foundation Health Plan, Inc., Kaiser
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1 Foundation Hospitals; Southern California Permanente Medical Group, and DOES 51 through
2 60, inclusive, were corporations or partnerships organized and existing under the laws of San
3 Bernardino, California, and also under the laws of Los Angeles, California.

4 11. Defendants, Kaiser Foundation Health Plan, Inc., Kaiser Foundation Hospitals;
5 Southern California Permanente Medical Group, and DOES 61 through 70, inclusive, were and
6 at all times herein mentioned, are a Corporation or partnership. The remaining Defendants, and
7 each of them, at all times herein mentioned, were members of the foregoing-named Corporation
8 or DOE Defendants and are sued herein individually and by their common name to be
9 ascertained during discovery.

10 12. That at all times herein mentioned, DOES 71 through 90, inclusive, were physicians'
11 assistants, aides, nurses, attendants, technicians, nursing or medical students, acting as agents,
12 employees or servants of some or all of the other Defendants, within the course and scope of said
13 agency and employment.

14 13. That at all times herein mentioned, Defendants, and each of them, and DOES 1-100,
15 were the agents, servants, partners, employees, employers, and joint venturers of each other and
16 of their co-Defendants, and were acting within the purpose and scope of their employment,
17 partnership, agency or joint venture.

18 14. Plaintiff names the Defendants herein, and each of them, because Plaintiff is in doubt
19 and does not know of all potential said Defendants. Plaintiff is entitled to redress whether the
20 injuries and damages to the Plaintiff herein alleged were caused by the combined negligence of
21 all of the Defendants or by the concurrent or successive and separate negligence of the
22 Defendants or one or more of them. For that reason, Plaintiff names all of said Defendants and
23 ask that the Court and jury determine the liability of each and all of said Defendants in this action
24 and to what extent and what responsibility falls upon each of said Defendants, and that a
25 judgment be awarded to the Plaintiff as against some or all of the Defendants, either jointly or
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1 severally, as may be found liable, in accordance with state law.

2 15. Defendants, Kaiser Foundation Health Plan, Inc., Kaiser Foundation Hospitals;
3 Southern California Permanente Medical Group; and DOES 91 through 100, inclusive, were at
4 all times herein mentioned, duly organized California corporations and partnerships existing
5 under and by virtue of the laws of the State of California; that said Defendants, and each of them,
6 owned, operated, managed and controlled a medical facility within said County, State of
7 California, held out to the public at large, and Plaintiff herein as properly equipped, fully
8 accredited, competently staffed by qualified, able and competent personnel, and operating in
9 compliance with the standard of care maintained in other properly equipped and efficiently
10 operated and administered accredited hospitals in said community, offering full, competent and
11 efficient hospital, medical, surgical, laboratory, x-ray, anesthesia, and paramedical services to the
12 general public and to Plaintiff herein, that said Defendants, and each of them, administered,
13 governed, controlled, managed and directed all the necessary functions, activities and operations
14 of said hospital facility, including its nursing care, Intern, resident and house staff, physicians and
15 surgeons, medical staff, x-ray, intensive care, recovery room and emergency room departments,
16 including, but not limited to Personnel and staff of specialized departments, clinical laboratories,
17 physical therapy facilities, and the technicians necessary to the operation of said hospital, hospital
18 facility, or specialized hospital departments.

19 16. Plaintiff is informed and believes, and upon such information and belief alleges that
20 at all times herein mentioned, Defendants, and each of them, and DOES 1 through 100, were the
21 agents, servants, employees and copartners of their said co-defendants, and as such, were acting
22 within the course and scope of such agency, partnership, and employment at all times herein
23 mentioned; that each and every Defendant, as aforesaid, when acting as a principal, was negligent
24 in the selection, hiring and maintaining of each and every other Defendant, as its agents, servants,
25 partners, and employees, and the granting of staff hospital privileges to said Defendants.

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IV.

FIRST CAUSE OF ACTION

MEDICAL NEGLIGENCE

[As Against All Defendants, and DOES 1through 100]

17. Plaintiff incorporates paragraphs 1through16 as though fully set forth herein.

18. At all times herein mentioned, Rodney A. Parker, M.D., My-Lihn Kieu Pham, M.D., Casey Ki-Chi Ng, M.D., Kaiser Foundation Health Plan, Inc., Kaiser Foundation Hospitals; Southern California Permanente Medical Group, and DOES 1 through 100, inclusive, and each of them, so negligently and carelessly failed to properly perform medical procedures and failed to ensure the character, quality, ability and competency of individuals treating patients in said facility, that the Plaintiff was caused to suffer and did suffer, the injuries and damages hereinafter alleged.

19. Since December 6, 2011, Plaintiff sought treatment with Defendants, Rodney A. Parker, M.D., My-Linh, Kieu Pham, M.D., Casey Ki-Chi Ng, M.D., Kaiser Foundation Health Plan, Inc., Kaiser Foundation Hospitals, Southern California Permanente Medical Group; and DOES 1 through 100, inclusive, for primary care of gynecology and general health.

20. Defendants, and each of them, and DOES 1through 100, specifically Rodney A. Parker, M.D., failed to properly treat, diagnose, and evaluate Plaintiff so as to cause the injury and damages as more fully stated herein.

21. On December 6, 2011, Plaintiff went into surgery for a hysterectomy. Instead, Plaintiff underwent a LAVH converted to open hysterectomy, and during the procedure, without her consent, Plaintiff's bladder was opened and the laparoscopy was abandoned. TAH was then performed. Defendants knew there were serious complications with the surgery, yet consciously elected not to repair the problems noted and ended the surgery. Plaintiff remained in the Kaiser Fontana Facility hospital until December 15, 2011, when she was discharged. From December

1 20, 2011, Plaintiff suffered with pain, nausea, vomiting and incontinence. It was then learned
2 and revealed during December 20, 2011 through February 2013, that, namely Rodney A. Parker,
3 M.D., as the primary surgeon, with My-Linh Kieu Pham, M.D. assisting, negligently and without
4 Plaintiff's consent, cut, battered, caused fistulas and injured Plaintiff's uterus, bladder, vagina,
5 abdomen, urethra, and ureter, causing an open wound into Plaintiff's abdomen cavity and an
6 ileus injury. Thereafter, multiple procedures and surgeries were performed by Defendants, and
7 on April 5, 2012, Sangku Kang, M.D., attempted to correct some of the damage by inserting a
8 new stent in the left urethral area, and on May 10, 2012 the stent was taken out to because the
9 stent that had been inserted on April 5, 2012, had fallen through some hole created by
10 Defendants, and each of them, and traveled from the left urethral area down to the urinary
11 bladder and into the vagina.

12 22. As a result of Defendants, and each of their negligent and intentional acts, the
13 Plaintiff, suffers with left distal urethral obstruction, has vaginal bleeding, is incontinent, has
14 urine uncontrollably leaking from her body to where a per cutaneous nephrostomy tube was
15 surgically placed in her for many months and she has undergone multiple surgeries in an attempt
16 to correct Defendants, and each of their, malpractice. Plaintiff was left with carrying a bag that
17 holds the urine as it exits her body through the nephrostomy tube. Plaintiff suffers with constant
18 infections, requiring continual antibiotics, and due to the intake of constant medications, vomits
19 regularly. Plaintiff has suffered with urinary leakage from the vagina and has to wear diapers.
20 On July 24, 2012, Plaintiff while walking around her kitchen she accidentally got her
21 nephrostomy tube caught on the counter and it was pulled out. Since being pulled out Plaintiff
22 has had severe left sided flank pain radiating to the left lower abdomen. Plaintiff takes dialaudid
23 at home for chronic left flank pain. On December 2012, a new stent was placed by Casey Ki-
24 Chi Ng, M.D., and in February 2013, the second stent was removed. Plaintiff is under constant
25 medical treatment and sustained permanent damage. Plaintiff, is informed and believes, and
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1 thereon alleges, that some of said injuries will be of permanent nature and will result in some
2 permanent disability to the Plaintiff all to her general damages in a sum within the jurisdiction of
3 this Court.

4 23. As a further proximate result of the negligence of Defendants, and each of them,
5 Plaintiff has incurred medical expenses and will in the future require medical care in a sum to be
6 proven at time of trial, which will be lifetime care as a result of said injuries. Said conduct by
7 Defendants was below the standard of care and constitutes malpractice. The medical malpractice
8 claim arises out of the medical treatment and care received by Defendants, including lack of
9 informed consent, negligent supervision, a battery by engaging in procedures and methods not
10 consented to, the failure to provide information, the failure to obtain consent, improper
11 administration of the surgical procedures, and future unnecessary surgeries, resulting in damage
12 including incontinence, permanent scarring and internal damage to Plaintiff's uterus, abdomen,
13 bladder, vagina, urethra, ureter, and other areas yet unknown, pain and suffering, and the inability
14 to perform daily activities and work.

15 24. By reason of said injuries, Plaintiff has been, and in the future will be unable to
16 follow her usual occupation, hobbies, missionary church work, domestic duties, marital duties,
17 all to her future damages. Plaintiff, at this time, cannot ascertain the exact amount of Plaintiff's
18 loss of earnings and earning capacity. When said amount is ascertained, Plaintiff will ask leave of
19 this Court to amend this Complaint to insert said amount, according to proof.

20 25. That prior to the filing of the within Complaint three years had not elapsed from the
21 date of the injury, and a period of less than one calendar year had elapsed after Plaintiff's first
22 learned, or had a reasonable opportunity to learn, of the fact that the injuries suffered and
23 complained of herein were a proximate result of the negligent acts or omissions to act on the part
24 of the Defendants, and each of them. Said Defendants, and each of them, knew or should have
25 known of their own negligence and the relationship between the negligence and Plaintiff's
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1 injuries and failed negligently or intentionally to disclose these facts and circumstances to
2 Plaintiff or to the Plaintiff having reasonable opportunity to learn of said negligent conduct and
3 acts.

4 WHEREFORE, Plaintiff prays for judgment against the Defendants, and each of
5 them, as follows:

- 6 1. For general damages to be determined by the Court;
7 2. For medical and incidental expenses incurred and to be incurred past, present and
8 future, according to proof;
9 3. For loss of earnings and earning capacity, according to proof, past, present and future;
10 4. For prejudgment interest allowed by law;
11 5. For costs of suit; and
12 6. For other and further relief as this Court may deem just and proper.

13 February 20, 2013

HAFIF & ASSOCIATES, LLP

14
15 By: Cynthia D. Hafif
16 Cynthia D. Hafif
17 Attorney for Plaintiff

18 **DEMAND FOR JURY TRIAL**

19 PLEASE TAKE NOTICE that Plaintiff hereby demand(s) a trial by jury in the above-
20 entitled action.

21 DATED: February 20, 2013

HAFIF & ASSOCIATES, LLP

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23 By: Cynthia D. Hafif
24 Cynthia D. Hafif
25 Attorney for Plaintiff, Yolanda Cohill