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7 IN THE CIRCUIT COURT OF THE STATE OF OREGON
8 COUNTY OF MARION

9 ALVA CAMMARATA,

10 Plaintiff,

11 v.

12
13 TONY LIN, M.D.; NORTHWEST
14 PERMANENTE, P.C., a professional
15 corporation; KAISER FOUNDATION
16 HOSPITALS, a California Corporation; and
17 KAISER FOUNDATION HEALTHPLAN
18 OF THE NORTHWEST, an Oregon
19 Corporation, dba KAISER PERMANENTE
20 and/or its/their unknown business entity
21 and/or subsidiary, a foreign corporation,

22 Defendants.

Case No. 13014585

CLAIM FOR RELIEF
MEDICAL NEGLIGENCE

(Request for Jury Trial;
Claim Not Subject to Mandatory Arbitration)

Total Prayer: \$661,548.68

23 COMES NOW THE PLAINTIFF, who alleges as follows:

24 1.

25 The amount in controversy exceeds the sum of \$50,000.00 and, therefore, the present
26 action is not subject to mandatory arbitration.

2.

At all times material, Defendant Tony Lin, M.D., was a licensed medical doctor and was the employee and/or agent of NORTHWEST PERMANENTE, P.C., a professional corporation; KAISER FOUNDATION HOSPITALS, a California Corporation; and KAISER FOUNDATION HEALTHPLAN OF THE NORTHWEST, an Oregon Corporation, dba KAISER PERMANENTE and/or its/their unknown business entity and/or subsidiary, a foreign corporation (hereinafter referred to as Defendant "Kaiser").

3.

At all times material, the Defendants, and each of them, entered into a fiduciary health care provider-patient relationship with Plaintiff and acted in concert as a joint enterprise to provide health care services to her.

4.

At all times material, Defendant Kaiser maintained regularly sustained business activities and hospitals, surgical centers, and other health care facilities within Marion County, Oregon.

5.

On or about May 20, 2011 during the performance of a left carpal tunnel release procedure Defendant Lin severed approximately 40-45% of Plaintiff's left median nerve. The severing of the left median nerve was due to a breach of the standard of care as set forth below. The severing of the left median nerve has caused permanent injuries to Plaintiff as set forth below.

6.

The Defendants, and each of them, were negligent in the following particulars:

- a.) In failing to take reasonable care to avoid severing Plaintiff's median nerve;
- b.) In performing the carpal tunnel release by cutting down onto a grooved blade guide with a scalpel without taking proper precautions to adequately protect the median nerve;
- c.) In placing the scalpel in an anatomically inappropriate location for the administration of the procedure;
- d.) In failing to maintain proper control of the scalpel as to avoid permanent severing of nerves;
- e.) In failing to insert and/or place the grooved blade guide or scalpel where the median nerve would not be present, as is required by the standard of care;
- f.) In failing to properly visualize the surgical fields so as to avoid permanent severing of the median nerve; and
- g.) In failing to take proper precautions to avoid the median nerve when Defendants knew or should have known that severing of the median nerve was possible, such that Defendants should have, and in the course and exercise of reasonable care, would have, avoided actual contact and severing of the median nerve.

7.

The negligence of the Defendants, and each of them, was a direct cause and/or substantial factor in causing Plaintiff's permanent injuries as follows:

- a.) partial severing of the median nerve causing:
 1. on-going and increased pain;
 2. decreased sensation in the fingers enervated by the median nerve (thumb, index, long, and part of ring fingers);
 3. all residual pain and deficits are expected to be permanent as it is beyond one

1 year from the median nerve laceration and repair; and

2 4. difficulty performing any sort of physical activity using her left hand;

3 5. the need for subsequent treatment including, but not limited to, pain
4 management.

5
6 The above damages are permanent and on-going, and have affected Plaintiff's normal
7 and usual activities and lifestyle, all to Plaintiff's non-economic damage in an amount to be
8 determined by a reasonable jury not to exceed the sum of \$650,000.

9
10 8.

11 As a direct and proximate result of the negligence aforementioned, Plaintiff was caused
12 to undergo reasonable and necessary health care services in the approximate sum of
13 \$11,548.68, and will require future health care services in the approximate sum of \$20,000, all
14 to Plaintiff's economic damage in an amount to be determined by a reasonable jury not to
15 exceed the sum of \$31,548.68.

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

- 21 1. For non-economic damages in an amount to be determined by a reasonable jury
22 not to exceed the sum of \$650,000;
23
24 2. For economic damages in an amount to be determined by a reasonable jury not
25 to exceed the sum of \$31,548.68; and


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1 3. For Plaintiff's costs and disbursements incurred herein.

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3 DATED this 22 day of April, 2013.

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5 GATTI, GATTI, MAIER, SAYER,
6 THAYER, SMITH & ASSOCIATES

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