

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MULTNOMAH

08271

1306-08271

DAVID GREGG

Plaintiff,

v.

NW PERMANENTE P.C., an Oregon
corporation, and KAISER
FOUNDATION HOSPITALS, a
California corporation; and CHARLES
JOSEPH WROBEL, MD,

Defendants.

Case No.
COMPLAINT - Action at Law; Medical
Negligence

Amount of Prayer: \$7,500,000
ORS 21.160(1)(d)

CLAIM NOT SUBJECT TO
MANDATORY ARBITRATION

FIRST CLAIM FOR RELIEF

Medical Negligence

Plaintiff alleges:

1.

At all times mentioned, defendant NW Permanente P.C. was and is now an Oregon corporation and a professional corporation of physicians, surgeons and healthcare providers licensed by the state of Oregon and employed by the Kaiser Foundation Health Plan of Oregon to provide medical and surgical care to their members including David Gregg, and at all times mentioned was performing regular and sustained business activity within Multnomah County, Oregon.

2.

At all times mentioned, Kaiser Foundation Hospital was a California corporation engaged in the operation and maintenance of hospitals and clinics in the State of Oregon, and at all times mentioned was performing regular and sustained business activity within

1 Multnomah County, Oregon (hereinafter both NW Permanente PC and Kaiser
2 Foundation Hospital referred to as "defendant Kaiser").

3 3.

4 At all times mentioned, David Gregg was a patient of defendants and all
5 individuals who rendered treatment and care to Mr. Gregg, including Charles Joseph
6 Wrobel, MD and Loren Jenkins, MD and the nursing staff and providers at Kaiser were
7 working in the course and scope of their employment for the defendants.

8 4.

9 Beginning on or about March 23, 2011, plaintiff David Gregg was seen by
10 medical providers at Kaiser with complaints of back pain and the chart note indicates
11 some bladder concerns.

12 5.

13 On April 15, 2011, David Gregg was seen by defendant Kaiser employee
14 Dr. Benjamin Erickson for complaints of low back pain, abnormal urination issues and
15 pain in his back related to trying to urinate.

16 6.

17 On April 20, 2011, a CT scan was performed to determine if kidney stones were
18 the cause of the painful urination and urination issues. No kidney stones were found and
19 no explanation for the pain. Defendant Kaiser's employee Dr. Benjamin Erickson
20 wanted to wait and see what developed.

21 7.

22 On or about May 4-5, 2011, David Gregg emailed defendant Kaiser through Dr.
23 Erickson about his worsening symptoms, including wobbly legs, left leg not moving the
24 same as right, catching left toe or sole of shoe when walking unlike any previous
25 experience. Defendant Kaiser, through Dr. Erickson, made a referral to urology.

1 8.

2 On June 6th, plaintiff emailed Dr. Erickson and complained of increased numbness
3 that had moved up his feet to his legs and in last few days progressed above his knees,
4 that he was no longer able to walk normally and felt like his legs would buckle when he
5 got out of bed in the morning and that he had been to a naturopath who believed plaintiff
6 had a neurological problem.

7 9.

8 Dr. Erickson examined plaintiff on June 6, 2011.

9 10.

10 Eventually on June 10, 2011, David Gregg received a neurology consult by
11 defendant Kaiser and on June 12, 2011, Dr. Wrobel performed an excision of
12 meningioma and laminectomy with Dr. Jenkins.

13 11.

14 After the surgery, Dr. Wrobel told David Gregg's family he did not remove the
15 entire meningioma. Dr. Wrobel told plaintiff no follow up testing was necessary because
16 the tumors take decades to grow and he would be dead before it was a problem.
17 Defendants did not order a follow up MRI to determine how much of the tumor was left
18 behind until December 10, 2011 (lumbar) and January 12, 2012 (thoracic).

19 12.

20 Following the surgery, plaintiff complained of new areas of numbness and
21 increased numbness.

22 13.

23 From June 21, 2011 through August 28, 2011, plaintiff continued to complain of
24 new areas of numbness and increased numbness, including his perineum and his feet.

14.

On or about August 28, 2011, plaintiff underwent an evacuation of chronic right subdural hematoma. On September 8, 2011, plaintiff was noted to be asymptomatic and told to get annual scan of thoracic spine.

15.

Plaintiff requested another MRI that was done on December 10, 2011.

16.

On or about December 13, 2011, plaintiff was diagnosed with a recurrence of his spinal canal meningioma and on January 6, 2012 plaintiff underwent a second surgery after which it was determined that Mr. Gregg suffered permanent neurologic compromise as the result of the negligence and delayed treatment described in detailed below.

17.

At all material times, defendant Kaiser acting by and through its agents and/or apparent agents was negligent in one or more of the following particulars:

- a. In failing to order a neurosurgery consult after receiving David Gregg's email of May 5, 2011;
- b. Failing to act on chronic and severe middle and lower back pain reported to Dr. Erickson in April and May 2011;
- c. In failing to order a follow up MRI after failing to remove all of the meningioma on June 12, 2011;
- d. In having David Gregg seen by a physician's assistant and not a neurosurgeon after the June 12, 2011 surgery given his worsening symptoms and new complaints;
- e. In failing to determine and diagnose the cause of David Gregg's worsening symptoms and new complaints following the surgery of June 12, 2011;

- 1 f. In failing to remove enough bone to access the tumor on June 12,
2 2011; and
3 g. In failing to perform corrective surgery in a timely manner after June
4 12, 2011 given David Gregg's worsening symptoms and new
5 complaints.

6 18.

7 As a result of the negligence of the defendants, David Gregg sustained permanent
8 injuries including need for installation of IVC filter that could not be removed and
9 requires a lifetime usage of warfarin; semi-paralyzed for week that compounded other
10 issues, lose use of left leg for extended period of time, T12 incomplete spinal cord
11 dysfunction; resection of recurrent tumor complicated by epidural hematoma requiring
12 evacuation, paraparesis, impaired lower limb sensation, neurological disorder, impaired
13 activities of daily living, impaired mobility, altered gait and balance, erectile dysfunction,
14 painful feet, neurogenic bladder with retention and some spasticity, neurogenic bowel
15 and pain all of which injuries, and the consequences of them, have caused David Gregg,
16 permanent pain and suffering, emotional distress, inconvenience and interference with his
17 usual and normal activities, all to his non-economic damage in the amount of \$6,000,000.

18 19.

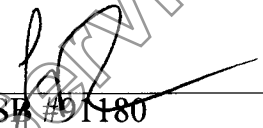
19 As a further result of defendants' negligence, David Gregg incurred medical bills
20 in an amount to be determined, and sustained past and future lost earning capacity, wage
21
22
23
24
25
26

1 loss and lost benefits and loss of household services in the amount of \$1,500,000, or in an
2 amount to be determined at trial, as economic damages.

3 WHEREFORE, plaintiff prays for judgment against defendants in the sum of
4 \$6,000,000 non-economic damages and for a further sum of \$1,500,000 economic
5 damages for medical bills, lost earning capacity and loss of household services.

6 DATED June 7, 2013

7 PAULSON COLETTI
8 TRIAL ATTORNEYS PC

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12 Attorney for plaintiff
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