

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

JOHN JUNGWIRTH,

Plaintiff,

v.

KAISER FOUNDATION HOSPITALS;
KAISER FOUNDATION HEALTH PLANS
OF THE NORTHWEST dba KAISER
PERMANENTE; NORTHWEST
PERMANENTE, P.C., HOPE
ORTHOPEDICS OF OREGON abn of
WILLAMETTE ORTHOPEDIC GROUP,
LLC; SALEM EMERGENCY PHYSICIANS'
SERVICE, P.C.; JEFFREY KNIGHT, M.D.;
MATTHEW BUDGE, M.D.; MICHAEL
HAHN, M.D.; SUDEEP TAKSALI, M.D.;
PAUL GRAMENZ, M.D.; KYRAN COLBRY,
M.D.; and KEVIN BELL, PA-C,

Defendants.

Case No.

COMPLAINT

Prayer: \$2,200,000.00

Fee Authority: ORS 21.160(1)(d)

NOT SUBJECT TO MANDATORY
ARBITRATION

Jury Trial Requested

COMES NOW plaintiff and, by way of his Complaint against defendants, alleges as follows:

1.

At all times material herein, defendant Jeffrey Knight, M.D. (hereinafter "Dr. Knight") was a physician and surgeon licensed to practice medicine in the State of Oregon and practicing as an orthopedic surgeon.

2.

At all times material herein, defendant Matthew Budge, M.D. (hereinafter "Dr. Budge") was a physician and surgeon licensed to practice medicine in the State of Oregon and practicing as an orthopedic surgeon.

3.

At all times material herein, defendant Michael Hahn, M.D. (hereinafter "Dr. Hahn") was a physician and surgeon licensed to practice medicine in the State of Oregon and practicing as an orthopedic surgeon.

4.

At all times material herein, defendant Sudeep Taksali, M.D. (hereinafter "Dr. Taksali") was a physician and surgeon licensed to practice medicine in the State of Oregon and practicing as an orthopedic surgeon.

5.

At all times material herein, defendant Paul Gramenz, M.D. (hereinafter "Dr. Gramenz") was a physician licensed to practice medicine in the State of Oregon and practicing as an emergency medicine physician.

6.

At all times material herein, defendant Kyran Colbry, M.D. (hereinafter "Dr. Colbry") was a physician licensed to practice medicine in the State of Oregon and practicing as an emergency medicine physician.

7.

At all times material herein, defendant Kevin Bell, PA-C. (hereinafter "Mr. Bell") was a physician's assistant, licensed to practice in the State of Oregon and providing physician assistant services at Hope Orthopedics of Oregon. Upon information and belief, Mr. Bell was employed by Hope Orthopedics of Oregon.

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7.

At all times material herein, defendants Kaiser Foundation Hospitals, Kaiser Foundation Health Plans of the Northwest dba Kaiser Permanente and Northwest Permanente, P.C., (hereinafter collectively, "Kaiser") were active corporations, authorized to do and doing business in Multnomah County, Oregon. Kaiser operated and provided medical and hospital services to members of the public, including plaintiff.

8.

At all times material herein, defendant Hope Orthopedics of Oregon abn of Willamette Orthopedic Group, LLC (hereinafter "Hope Orthopedics") was an active domestic limited liability company, authorized to do and doing business in Marion County, Oregon. Defendant Hope Orthopedics employed various medical providers, including physician assistants, and provided medical services to members of the public, including plaintiff.

9.

At all times material herein, defendant Salem Emergency Physicians' Service, P.C., (hereinafter "Salem Emergency") was an active domestic professional corporation, authorized to do and doing business in Marion County, Oregon. Salem Emergency provided medical services to members of the public, including plaintiff.

10.

At all material times, Dr. Knight was acting as a member, owner, employee and/or agent of defendant Hope Orthopedics and was acting within the course and scope of such employment or agency.

11.

At all material times, Dr. Budge was acting as a member, owner, employee and/or agent of defendant Kaiser and was acting within the course and scope of such employment or agency.

12.

At all material times, Dr. Hahn was acting as a member, owner, employee and/or agent of defendant Kaiser and was acting within the course and scope of such employment or agency.

13.

At all material times, Dr. Taksali was acting as a member, owner, employee and/or agent of defendant Hope Orthopedics and was acting within the course and scope of such employment or agency.

14.

At all material times, Dr. Gramenz was acting as a member, owner, employee and/or agent of defendant Salem Emergency and was acting within the course and scope of such employment or agency.

15.

At all material times, Dr. Colbry was acting as a member, owner, employee and/or agent of defendant Salem Emergency and was acting within the course and scope of such employment or agency.

16.

At all material times, Mr. Bell was acting as an employee and/or agent of defendant Hope Orthopedics and was acting within the course and scope of such employment or agency.

16.

At all material times herein, John Jungwirth was a patient of defendants and relied upon defendants to deliver competent and professional medical and hospital services.

17.

On or about July 1, 2014, John Jungwirth underwent a left cubital tunnel and left carpal tunnel release performed by Dr. Knight.

18.

On or about the afternoon of July 5, 2014, John Jungwirth developed pain and swelling in his left hand and arm. Late that afternoon, he contacted Hope Orthopedics and was told to take additional pain medication every two hours and to go to the emergency room if the pain persisted. The pain persisted and plaintiff went to the emergency room at Salem Hospital at 12:25 am on July 6, 2015. His pain was 10/10 and he was having numbness and tingling in his left ring and small fingers. Dr. Gramenz examined him and ordered a CT of the left arm. The CT revealed a large, 3cm x 15cm hematoma along the ulnar nerve. Dr. Gramenz consulted with orthopedic surgeon Dr. Budge. Dr. Budge examined Mr. Jungwirth, reviewed the CT and determined that Mr. Jungwirth should be treated for pain. Mr. Jungwirth was discharged at 8:19 am with oxycodone and was advised by Dr. Gramenz to follow up with orthopedics within a day.

19.

Mr. Jungwirth's pain, swelling and numbness in his left hand and arm continued on July 6, 2014 after his discharge from the emergency department at Salem Hospital. The oxycodone was not controlling his pain, his swelling increased and at 10:30 pm on July 6, 2014, he returned to the emergency room at Salem Hospital. He was examined by Dr. Colbry. Dr. Colbry noted that Mr. Jungwirth had decreased sensation to not only the left small and ring fingers, but also the middle and index fingers. It was also noted that Mr. Jungwirth had no sensation in his left small finger. Dr. Colbry obtained an orthopedic consult from Dr. Hahn. Dr. Hahn examined Mr. Jungwirth, admitted him for observation and pain management, and noted "sign out to Dr. Knight/Taksali in AM."

20.

First Dr. Taksali and then Dr. Knight examined Mr. Jungwirth on the morning of July 7, 2014. Dr. Knight ordered Mr. Jungwirth's discharge for later that day, and instructed Mr. Jungwirth to follow up with him later that week, or if his symptoms flared up. Mr. Jungwirth

1 was discharged from Salem Hospital at 9:55 am on July 7, 2014. At no point, during either
2 admission, did any physician attempt to decompress the large hematoma, despite
3 increasing neurologic symptoms.

4 21.

5 Later that day, on July 7, 2014, due to persistent pain, Mr. Jungwirth contacted Dr.
6 Knight. Dr. Knight saw him at approximately 5:00 pm in his office. He began to remove Mr.
7 Jungwirth's sutures at which point blood spontaneously drained from the hematoma.

8 22.

9 Defendants and their agents, employees or apparent agents were negligent in one
10 or more of the following ways:

- 11 (a) Failing to conduct a reasonable and thorough exam;
12 (b) Failing to order and obtain appropriate labs to assess Mr. Jungwirth's
13 hematoma in light of his use of blood thinning medication;
14 (c) Failing to include nerve compression due to hematoma in the differential
15 diagnosis;
16 (d) Failing to recognize signs and symptoms of nerve compression due to
17 hematoma;
18 (e) Failing to properly treat John Jungwirth's nerve compression and hematoma in
19 a timely manner; and
20 (f) Failing to evacuate or decompress John Jungwirth's hematoma in a timely
21 manner.

22 23.

23 Defendant Mr. Bell was negligent in failing to advise plaintiff to seek immediate
24 medical attention when he contacted Hope Orthopedics regarding his symptoms on July 5,
25 2014.

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24.

Defendants Dr. Knight and Hope Orthopedics were negligent in failing to appropriately treat the hematoma after the spontaneous decompression.

25.

As a result of the negligence and violations of the defendants as alleged above, John Jungwirth has suffered damage to the ulnar and median nerves of his left arm and hand, is permanently and painfully injured and has suffered economic damages in the form of past medical bills and expenses in a reasonable sum to be determined by a jury, but not to exceed \$50,000.

26.

As a result of the negligence and violations of the defendants as alleged above, John Jungwirth has suffered and will suffer economic damages in the form of future medical bills and expenses, lost wages, loss of future earning capacity, lost business profits and substitute domestic services in a reasonable amount to be determined by a jury, but not to exceed \$650,000.

27.

As a further result of the negligence of defendants, John Jungwirth has suffered non-economic damages in the form of past and future pain and suffering, as well as loss of enjoyment of life and an inability to engage in his normal activities. Plaintiff's non-economic damages are in a reasonable amount to be determined by a jury, but not to exceed \$1,500,000.

WHEREFORE, plaintiff prays for judgment in his favor and against the defendants as follows:

1. Economic damages in a reasonable amount to be determined by a jury at trial, not to exceed \$700,000;

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- 1 2. Non-economic damages in a reasonable amount to be determined by a jury at
2 trial, not to exceed \$1,500,000;
3 3. Plaintiffs' costs and disbursements incurred herein; and
4 4. Any such other relief that the Court deems just and proper.

5 Dated this 30th day of July, 2016.

6 **BODYFELT MOUNT LLP**

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8 BY: Kirstin L. Abel

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12 Attorneys for Plaintiff

14 Plaintiff hereby demands a jury trial.

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16 Kirstin L. Abel
Kirstin L. Abel, OSB No. 035046
17 Of Attorneys for Plaintiffs