

ORIGINAL

BY FAX

MARQUIS D. OWENS, ESQ. (SBN 264508)
OWENS LAW FIRM
905 W. Tennyson Road
Hayward, California 94544
Telephone: (510) 876-5817
Facsimile: (510) 474-1624
marquis@mowenslawcom

Attorney for Plaintiff
SHIRLEY GALATHE

FILED
Clerk of the Superior Court

JUN 21 2018

By [Signature]
DEPUTY CLERK
#435 fw.

SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SOLANO
(UNLIMITED JURISDICTION)

SHIRLEY GALATHE,

Plaintiff,

vs.

THE PERMANENTE MEDICAL GROUP,
INC.; KAISER FOUNDATION
HOSPITALS, INC.; KAISER
FOUNDATION HEALTH PLANS, INC.;
ADRIANE NUGYEN, M.D. and DOES 1-
50 inclusive,

Defendants.

Case No. #CS 051054

COMPLAINT FOR DAMAGES

and

DEMAND FOR JURY TRIAL

ASSIGNED TO
JUDGE ALESIA JONES
FOR ALL PURPOSES

Plaintiff Shirley Galathe, hereinafter, "Plaintiff", alleges generally against Defendants as follows:

GENERAL ALLEGATIONS

1. The entirety of this complaint is pled upon information and belief, and each allegation contained herein is likely to have evidentiary support after a reasonable opportunity for further investigation or discovery.

1 **Parties and Jurisdiction**

2 2. At all relevant times alleged herein, Plaintiff was a California citizen, residing in
3 Solano County, California.

4 3. At all relevant times alleged herein, Defendant THE PERMANENTE MEDICAL
5 GROUP, INC. and DOES 1-5 are now, and at all times mentioned in this complaint were
6 corporations organized and existing under the laws of the State of California.

7 4. At all relevant times alleged herein, Defendant KAISER FOUNDATION
8 HOSPITALS, INC., and DOES 6-10 are now, and at all times mentioned in this complaint were,
9 corporations organized and existing under the laws of the State of California.

10 5. At all relevant times alleged herein, Defendant KAISER FOUNDATION
11 HEALTH PLANS, INC. and DOES 10-15 are now, and at all times mentioned in this complaint
12 were, corporations organized and existing under the laws of the State of California.

13 6. At all relevant times alleged herein, Defendant ADRIAN NGUYEN, M.D., was
14 and is a medical doctor licensed in the State of California, and provided the medical care and
15 treatment to Plaintiff at issue in this Complaint.

16 7. The true names of defendants sued as Does are unknown to plaintiff, who
17 therefore sues them by such fictitious names. Each of the defendants, including Does 1 to 50,
18 were the agents, employees, supervisors, employers and joint venturers of the other defendants,
19 and were acting in the course and scope of such relationship at the time of the acts and omissions
20 herein alleged.

21 8. Venue in this jurisdiction is proper because at least one defendant operates its
22 medical facility in its jurisdictional area, because Plaintiff resides in the jurisdictional area, injury
23 to Plaintiff occurred in its jurisdictional area, and compensation sought for Plaintiff's injuries is
24 within the jurisdiction of this court.

25 **FACTS COMMON TO ALL CAUSES OF ACTION**

26 9. In and around September 2016, Plaintiff was at home resting, and started having
27 acute substernal chest pain. Plaintiff was concerned that she was suffering from a heart attack,
28 and called emergency to transport her to Kaiser hospital in Vallejo, California.

1 10. After an evaluation, the medical staff at KAISER misdiagnosed Plaintiff with non-
2 cardiac chest pain and constipation for which she was given treatment. The treatment did not
3 alleviate her chest pain.

4 11. On and around March 22, 2017, Plaintiff again sought treatment for her severe
5 chest pain, and was again diagnosed with constipation, for which KAISER again provided
6 treatment.

7 12. On and around March 25, 2017, Plaintiff again sought treatment for her severe
8 chest pain, wherein she was properly diagnosed with acute cholecystitis, and a painful
9 inflammation of the gall bladder, which required immediate surgery.

10 13. The mis-diagnosis and eventual surgery has left Ms. Galathe with severe scarring,
11 trauma, emotional distress, anxiety, stress, general malaise and fatigue.

12 13. Plaintiff is informed and believes that Defendants should have properly diagnosed
13 the cholecystitis on her first visit, when she sought treatment in September 2016.

14 14. Medical professionals must adhere to the standard and optimal level of care
15 expected by patients, their families and the medical community. Failure to appropriately
16 diagnose and provide effective treatment for patients exhibiting gall bladder inflammation can
17 progress to irreversible damage.

18 15. Defendants and DOES 1-50 breached its standard of care when it failed to adhere
19 to the standard and optimal level of care expected by patients, their families and the medical
20 community when it failed to appropriately diagnose and provide affective, immediate treatment to
21 Plaintiff.

22 **FIRST CAUSE OF ACTION – PROFESSIONAL NEGLIGENCE**

23 Plaintiff for a first cause of action alleges against all defendants:

24 16. Plaintiff incorporates by reference paragraphs 1-15 above, as though fully set forth
25 herein.
26

27 //
28

1 17. At all times mentioned herein, Defendants' acts and omissions with respect to the
2 medical care and treatment of Plaintiff were unreasonable and below the applicable standard of
3 care.

4 18. Defendants, each of them, have the duty to exercise the utmost care in diagnosis
5 and treatment of its patients.
6

7 19. At the time of the aforementioned incident, defendants, and each of them, had a
8 duty to protect Plaintiff against unreasonable risks of harm.

9 20. Defendants, and each of them, breached their duties by:

10 a. Failing to timely diagnose, and provide treatment, with the utmost degree of skill
11 and care;
12

13 b. Failure to use due care was the legal and proximate cause of injuries and
14 permanent damages to Plaintiff.

15 21. As a direct and legal result of the above referenced negligent acts or failures to act
16 on the part of defendants, and each of them, plaintiff suffered damages as set forth more fully
17 above and Plaintiff requests judgment against defendants, and each of them, as set forth below.
18

19 **SECOND CAUSE OF ACTION – GROSS NEGLIGENCE**

20 Plaintiff for a second cause of action alleges against all defendants:

21 22. Plaintiff incorporates by reference paragraphs 1-21 above, as though fully set forth
22 herein.
23

24 23. At all times mentioned herein, Defendants' acts and omissions with respect to the
25 medical care and treatment of Plaintiff was reckless, demonstrated a substantial lack of concern
26 for whether plaintiff was suffering from a significant medical ailment.

27 //

1 24. Defendant failed to exercise the slightest care and diligence, which raises the belief
2 that the act or omission was the result of a conscious indifference to the right or welfare of
3 Plaintiff.

4 25. As a direct and legal result of the above referenced negligent acts, and failures to
5 act on the part of defendants, and each of them, plaintiff suffered damages as set forth more fully
6 above and Plaintiff requests judgment against defendants, and each of them, as set forth below.

7
8 **PRAYER FOR RELIEF**

9 Plaintiff prays judgment against defendants, and each of them, as follows:

- 10 1. For noneconomic damages according to proof at time of trial;
11 2. For economic damages according to proof at time of trial;
12 3. For costs of suit herein;
13 4. For prejudgment interest in accordance with law; and
14 5. For such further relief as the Court may deem proper.

15 **DEMAND FOR JURY TRIAL**

16 Plaintiff Shirley Galathe demands a jury trial on each and all of the causes of action set
17 forth in this Complaint.

18 Dated: June 21, 2018

OWENS LAW FIRM

19
20 By: 

MARQUIS D. OWENS

Attorney for Plaintiff, SHIRLEY GALATHE

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
VERIFICATION OF SHIRLEY GALATHE

I Shirley Galathe, declare:

I am a party to this action. The contents of the foregoing **Plaintiff's Complaint** are true of my own knowledge, except as to those matters, which are stated upon information and belief, and as to those matters I believe to be true.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Dated: 6-21-2018

Shirley Galathe
Shirley Galathe

VERIFICATION