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**FILED**

ALAMEDA COUNTY

JUL 31 2018

*Monterey*

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF ALAMEDA

RITA PRADO, MILTON PRADO,

Plaintiffs,

vs.

KAISER FOUNDATION HEALTH PLAN, INC., a  
California Corporation, KAISER  
FOUNDATION HOSPITALS, a Corporation,  
d/b/a KAISER FOUNDATION HOSPITAL -  
OAKLAND/RICHMOND; THE PERMANENTE  
MEDICAL GROUP, INC., a Corporation;  
SOUTHERN CALIFORNIA PERMANENTE MEDICAL  
GROUP, a partnership, and DOES 1  
through 250, inclusive,

Defendants.

Case No.

**RG18914975**

COMPLAINT FOR DAMAGES FOR  
MEDICAL MALPRACTICE

1. Negligence
2. Loss of Consortium

Plaintiffs, through counsel, allege in their Complaint for  
Damages for Medical Malpractice as follows:

1. The true names, identities or capacities, whether  
individual, associate, corporate or otherwise of Defendants DOES 1  
through 250, inclusive, are unknown to Plaintiffs who, therefore, sue  
said Defendants by such fictitious names. When the true names,  
identities or capacities of such fictitiously-designated Defendants  
are ascertained, Plaintiffs will ask leave of Court to amend the  
Complaint to insert said true names, identities and capacities,

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BY FAX

1 together with the proper charging allegations.

2 2. Plaintiffs are informed and believes and thereon alleges  
3 that each of the Defendants sued herein as a DOE is responsible in some  
4 manner for the events and happenings herein referred to, thereby  
5 legally causing the injuries and damages to the Plaintiffs as herein  
6 alleged.

7 3. All of the facts, acts, events and circumstances herein  
8 mentioned and described occurred in the County of ALAMEDA, State of  
9 California, and all Defendants are residents of the County of ALAMEDA,  
10 State of California, doing business in said County, State of  
11 California.

12 4. At all times herein mentioned, Defendants DOES 1 through 50,  
13 inclusive, were, and now are, physicians and surgeons, holding  
14 themselves out as duly licensed to practice their profession under and  
15 by virtue of the laws of the State of California and were, and now are,  
16 engaged in the practice of their profession in the State of California.

17 5. At all times herein mentioned, Defendants DOES 51 through  
18 100, inclusive, were, and now are, registered nurses, licensed  
19 vocational nurses, practical nurses, physician assistants, aids,  
20 technicians, attendants, students or other paramedical personnel,  
21 holding themselves out as duly able to practice their profession under  
22 and by virtue of the laws of the State of California and were, and now  
23 are, engaged in the practice of their profession in the State of  
24 California and acting as agents, employees and servants of some or all  
25 of the other Defendants within the course and scope of said agency or  
26 employment.

27 6. At all times herein mentioned, Defendants KAISER FOUNDATION  
28 HEALTH PLAN INC. , KAISER FOUNDATION HOSPITALS d/b/a KAISER FOUNDATION

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1 HOSPITAL -OAKLAND/RICHMOND, THE PERMANENTE MEDICAL GROUP, INC.,  
2 SOUTHERN CALIFORNIA PERMANENTE MEDICAL GROUP, and DOES 101 through  
3 150, and each of them, were corporations, partnerships, joint  
4 ventures, or other entities organized and existing under the laws of  
5 the State of California, with their principal place of business  
6 situated in the State of California.

7 7. Defendants KAISER FOUNDATION HOSPITALS, and DOES 151  
8 through 200, inclusive, were at all times herein mentioned duly  
9 organized California corporations or hospitals existing under and by  
10 virtue of the laws of the State of California; that said Defendant  
11 corporations, hospitals and the remaining Defendants, and each of  
12 them, owned, operated, managed and controlled a general hospital  
13 facility within the County of ALAMEDA, State of California, held out to  
14 the public at large and to the Plaintiffs herein, as properly equipped,  
15 fully accredited, competently staffed by qualified and prudent  
16 personnel and operating in compliance with the standard of due care  
17 maintained in other properly equipped, efficiently operated and  
18 administered, accredited hospitals in said community commonly known  
19 and doing business as KAISER FOUNDATION HOSPITAL -OAKLAND/RICHMOND  
20 MEDICAL CENTER.

21 8. At all times herein mentioned Defendants DOES 201 through  
22 250 were doing business as a district hospital, a hospital operated by a  
23 government entity open to the public, or a medical facility operated by  
24 a government entity open to the public rendering medical, surgical,  
25 hospital, diagnostic, nursing and other care to the general public for  
26 compensation.

27 9. Defendants KAISER FOUNDATION HOSPITALS and DOES 151 through  
28 250, and each of them, at all times herein mentioned were institutions

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1 treatment, procedure or conduct no opportunity was afforded the  
2 Plaintiff or any authorized agent of the Plaintiff to exercise  
3 voluntary, knowledgeable and informed consent to said care, treatment,  
4 procedure or conduct.

5 13. Three years prior to April 30, 2018, the date of Plaintiff's  
6 diagnosis with Stage IV Cervical Cancer, Plaintiff RITA PRADO, age 30,  
7 employed Defendants, and each of them, to diagnose and treat her  
8 medical conditions and to do all things necessary for her care,  
9 including, but not limited to surgery, pap smears and other medical and  
10 gynecological treatment.

11 14. While the Plaintiff was under the sole and exclusive care and  
12 control of the Defendants, and each of them as aforesaid, Defendants,  
13 and each of them, negligently, carelessly and unskillfully selected  
14 various hospitals and physicians and other health care providers, and  
15 negligently examined, treated, cared for, diagnosed, operated upon,  
16 attended, handled and controlled the Plaintiff herein, thereby  
17 proximately causing injuries and damages to the Plaintiff, including  
18 but not limited to, negligently performing and examining a pap smear  
19 test in 2015 at Kaiser Richmond Medical Center, which was read and  
20 reported as histologically normal.

21 15. Plaintiff did not discover both the injury and the negligent  
22 cause of her injury until approximately April 30, 2018 when she was  
23 first diagnosed with Stage IV Cervical Cancer, and some time  
24 thereafter, when the pap smear test of 2015 was pathologically re-read  
25 and reported as being histologically abnormal at Kaiser Oakland  
26 Medical Center.

27 16. Defendants KAISER FOUNDATION HOSPITALS failed and neglected  
28 to adequately select a competent medical staff and to periodically

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1 review the competency of its medical staff, and failed to adequately  
2 monitor its staff such that the Plaintiff was caused to, and did suffer  
3 injuries and damages as herein alleged.

4 17. As a legal result of the negligence of the Defendants, and  
5 each of them, the Plaintiff was injured in health, strength and  
6 activity, sustaining severe shock, and injury to the body, all of which  
7 said injuries have caused and continue to cause Plaintiff great  
8 physical, emotional, and nervous pain and suffering, and which said  
9 injuries Plaintiff is informed and believes, and thereon alleges, will  
10 result in loss of earnings, permanent disability, loss of enjoyment of  
11 life, and impairment of earning capacity all to Plaintiff's damage in a  
12 sum in excess of the jurisdiction of the Municipal Court.

13 18. As a further legal result of the negligence of the  
14 Defendants, and each of them, and the resulting injuries to the  
15 Plaintiff, said Plaintiff was compelled to, and did, incur expenses for  
16 medical and surgical attention, hospitalization, nursing, medication  
17 and incidentals for said Plaintiff in an amount unknown to Plaintiff at  
18 present.

19 19. As a further legal result of the negligence of the  
20 Defendants, and each of them, and of the resulting injuries, Plaintiff  
21 will be obliged to incur expenses for medical care and hospitalization  
22 for an indefinite period in the future and to pay for these expenses in  
23 the treatment and relief of injuries for medical and surgical  
24 attention, hospitalization, nursing, medication, and incidentals for  
25 said Plaintiff in an amount unknown to Plaintiff at present.

26 20. As a further legal result of the negligence of the Defendants,  
27 and each of them, Plaintiff will suffer a decreased earnings and  
28 earning capacity in the future and future earnings to Plaintiff's

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1 further damage in a sum unknown at present.

2 II.

3 PLAINTIFF MILTON PRADO ALLEGES FOR A SEPARATE AND DISTINCT CAUSE  
4 OF ACTION FOR LOSS OF CONSORTIUM AGAINST DEFENDANTS AND EACH OF  
5 THEM AS FOLLOWS:

6 21. Plaintiff MILTON PRADO repeats and repleads each and every  
7 allegation contained in all prior paragraphs and incorporates the same  
8 herein by reference as to said Defendants and each of them.

9 22. At all times herein mentioned, RITA PRADO and MILTON PRADO  
10 were married and are husband and wife.

11 23. As a direct and proximate result of the aforesaid conduct of  
12 Defendants, and each of them and the resultant injuries to his wife RITA  
13 PRADO, Plaintiff MILTON PRADO has suffered and is reasonably certain to  
14 suffer in the future the loss of consortium, love, companionship,  
15 services, comfort, affection, society, solace, moral support,  
16 enjoyment of sexual relations and physical assistance in the operation  
17 and maintenance of the home, causing damages and special damages in a  
18 sum in excess of the jurisdiction of the Municipal Court.

19 WHEREFORE, Plaintiffs pray for damages against the Defendants,  
20 and each of them, as follows:

21 FOR THE CAUSE OF ACTION FOR NEGLIGENCE FOR PLAINTIFF RITA PRADO:

- 22 1. General damages, according to proof;
- 23 2. Past and future medical expenses, according to proof;
- 24 3. For loss of future earning and earning capacity,  
25 according to proof;
- 26 4. Costs of suit incurred herein, and
- 27 5. For such other and further relief as to the Court appears  
28 just and proper.

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FOR THE CAUSE OF ACTION FOR LOSS OF CONSORTIUM FOR PLAINTIFF

MILTON PRADO:

1. General damages, according to proof;
2. Special damages, according to proof;
3. Costs of suit incurred herein, and;
4. For such other and further relief as to the Court appears just and proper.

DATED: July 31, 2018

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By: \_\_\_\_\_

Bruce G. Fagel.  
Attorneys for Plaintiffs

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