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8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF SACRAMENTO
10

11 JULIE HOLMES, NOAH HOLMES,

12 Plaintiffs,

13 vs.

14 KAISER FOUNDATION HEALTH PLAN, INC., a
15 California Corporation, KAISER
FOUNDATION HOSPITALS, a Corporation,
16 d/b/a KAISER FOUNDATION HOSPITAL -
SACRAMENTO; THE PERMANENTE MEDICAL
17 GROUP, INC., a Corporation;
and DOES 1 through 250, inclusive,

18 Defendants.

Case No.

COMPLAINT FOR DAMAGES FOR
MEDICAL MALPRACTICE

1. Negligence
2. Loss of Consortium

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

21 1. The true names, identities or capacities, whether
22 individual, associate, corporate or otherwise of Defendants DOES 1
23 through 250, inclusive, are unknown to Plaintiffs who, therefore, sue
24 said Defendants by such fictitious names. When the true names,
25 identities or capacities of such fictitiously-designated Defendants
26 are ascertained, Plaintiffs will ask leave of Court to amend the
27 Complaint to insert said true names, identities and capacities,
28 together with the proper charging allegations.

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BY FAX

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

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

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

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

26 6. At all times herein mentioned, Defendants KAISER FOUNDATION
27 HEALTH PLAN INC., KAISER FOUNDATION HOSPITALS d/b/a KAISER FOUNDATION
28 HOSPITAL - SACRAMENTO, THE PERMANENTE MEDICAL GROUP, INC., and DOES 101

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1 Joint Commission for such accreditation.

2 10. Plaintiffs are informed and believe and upon such
3 information and belief allege that at all times herein mentioned,
4 Defendants, and each of them, were the agents, servants, employees,
5 joint-venturers, and copartners of their said co-Defendants; and, as
6 such, were acting within the course and scope of such agency, service,
7 partnership, venture, and employment at all times herein mentioned;
8 that each and every Defendant, as aforesaid, when acting as a
9 principal, was negligent in the selection and hiring of each and every
10 other Defendant, as its agent, servant, employee, joint-venturer and
11 partner. Further, each and every Defendant ratified the conduct of the
12 other Defendants.

13 i.

14 PLAINTIFF JULIE HOLMES ALLEGES FOR A CAUSE OF ACTION
15 FOR NEGLIGENCE AGAINST DEFENDANTS AND EACH OF THEM, AS
16 FOLLOWS:

17 11. Plaintiff JULIE HOLMES (Medical Record No. 14713520),
18 repeats and repleads each and every allegation contained in all prior
19 paragraphs and incorporates the same herein by reference as to said
20 Defendants and each of them.

21 12. At all times herein mentioned, and prior thereto, the
22 Plaintiff was in the exclusive control of the Defendants, and each of
23 them, and that at no time prior to the events, conduct, activities, care
24 and treatment herein complained of did the Defendants herein, or any of
25 them, obtain knowledgeable, informed consent for said care, treatment
26 or conduct; that prior to the initiation of or performance of said care,
27 treatment, procedure or conduct no opportunity was afforded the
28 Plaintiff or any authorized agent of the Plaintiff to exercise

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1 voluntary, knowledgeable and informed consent to said care, treatment,
2 procedure or conduct.

3 13. Several years prior to August 27, 2018, the date of
4 Plaintiff's diagnosis with Stage IV Cervical Cancer, Plaintiff JULIE
5 HOLMES, age 32 (4/11/1986), employed Defendants, and each of them, to
6 diagnose and treat her medical conditions and to do all things
7 necessary for her care, including, but not limited to surgery, pap
8 smears and other medical and gynecological treatment.

9 14. While the Plaintiff was under the sole and exclusive care and
10 control of the Defendants, and each of them as aforesaid, Defendants,
11 and each of them, negligently, carelessly and unskillfully selected
12 various hospitals and physicians and other health care providers, and
13 negligently examined, treated, cared for, diagnosed, operated upon,
14 attended, handled and controlled the Plaintiff herein, thereby
15 proximately causing injuries and damages to the Plaintiff, including
16 but not limited to, negligently performing and examining serial pap
17 smears which were read and reported as non-cancerous, and further
18 negligently failing to timely diagnose or treat her cervical cancer.

19 15. Defendants KAISER FOUNDATION HOSPITALS failed and neglected
20 to adequately select a competent medical staff and to periodically
21 review the competency of its medical staff, and failed to adequately
22 monitor its staff such that the Plaintiff was caused to, and did suffer
23 injuries and damages as herein alleged.

24 16. As a legal result of the negligence of the Defendants, and
25 each of them, the Plaintiff was injured in health, strength and
26 activity, sustaining severe shock, and injury to the body, all of which
27 said injuries have caused and continue to cause Plaintiff great
28 physical, emotional, and nervous pain and suffering, and which said

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1 injuries Plaintiff is informed and believes, and thereon alleges, will
2 result in loss of earnings, permanent disability, loss of enjoyment of
3 life, and impairment of earning capacity all to Plaintiff's damage in a
4 sum in excess of the jurisdiction of the Municipal Court.

5 17. As a further legal result of the negligence of the
6 Defendants, and each of them, and the resulting injuries to the
7 Plaintiff, said Plaintiff was compelled to, and did, incur expenses for
8 medical and surgical attention, hospitalization, nursing, medication
9 and incidentals for said Plaintiff in an amount unknown to Plaintiff at
10 present.

11 18. As a further legal result of the negligence of the
12 Defendants, and each of them, and of the resulting injuries, Plaintiff
13 will be obliged to incur expenses for medical care and hospitalization
14 for an indefinite period in the future and to pay for these expenses in
15 the treatment and relief of injuries for medical and surgical
16 attention, hospitalization, nursing, medication, and incidentals for
17 said Plaintiff in an amount unknown to Plaintiff at present.

18 19. As a further legal result of the negligence of the Defendants,
19 and each of them, Plaintiff will suffer a decreased earnings and
20 earning capacity in the future and future earnings to Plaintiff's
21 further damage in a sum unknown at present.

22 II.

23 PLAINTIFF NOAH HOLMES ALLEGES FOR A SEPARATE AND DISTINCT CAUSE
24 OF ACTION FOR LOSS OF CONSORTIUM AGAINST DEFENDANTS AND EACH OF
25 THEM AS FOLLOWS:

26 20. Plaintiff NOAH HOLMES repeats and repleads each and every
27 allegation contained in all prior paragraphs and incorporates the same
28 herein by reference as to said Defendants and each of them.

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1 21. At all times herein mentioned, JULIE HOLMES and NOAH HOLMES
2 were married and are husband and wife.

3 22. As a direct and proximate result of the aforesaid conduct of
4 Defendants, and each of them and the resultant injuries to his wife
5 JULIE HOLMES, Plaintiff NOAH HOLMES has suffered and is reasonably
6 certain to suffer in the future the loss of consortium, love,
7 companionship, services, comfort, affection, society, solace, moral
8 support, enjoyment of sexual relations and physical assistance in the
9 operation and maintenance of the home, causing damages and special
10 damages in a sum in excess of the jurisdiction of the Municipal Court.

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

13 FOR THE CAUSE OF ACTION FOR NEGLIGENCE FOR PLAINTIFF JULIE
14 HOLMES:

- 15 1. General damages, according to proof;
- 16 2. Past and future medical expenses, according to proof;
- 17 3. For loss of future earning and earning capacity,
18 according to proof;
- 19 4. Costs of suit incurred herein, and
- 20 5. For such other and further relief as to the Court appears
21 just and proper.

22 FOR THE CAUSE OF ACTION FOR LOSS OF CONSORTIUM FOR PLAINTIFF NOAH
23 HOLMES:

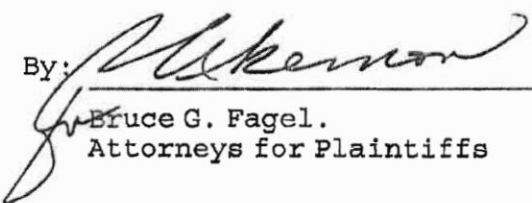
- 24 1. General damages, according to proof;
- 25 2. Special damages, according to proof;
- 26 3. Costs of suit incurred herein, and;
- 27 4. For such other and further relief as to the Court appears
28 just and proper.

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DATED: March 20, 2019

Law Offices of Bruce G. Fagel &
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By: 

Bruce G. Fagel.
Attorneys for Plaintiffs

Courthouse News Service

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