

2012 DEC 11 PM 2:44

WOODRUFF K. SOLDNER 4023-0
MICHAEL R. CRUISE 7334-0
LEAVITT, YAMANE & SOLDNER
Pacific Guardian Center, Mauka Tower
737 Bishop Street, Suite 1740
Honolulu, Hawaii 96813
Telephone: (808) 521-7474
Facsimile: (808) 521-7749
Attorneys for Plaintiffs

L. FARALES
CLERK

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

RION WILLIAM KAMANA, Individually and
as attorney in fact for ANAKELA U. NAHINU
KILAKALUA; RION WILLIAM KAMANA,
as Prochein Ami for MAKANA NAHINU
KILAKALUA; POMAI NAHINU
KILAKALUA; SWEETIE NAHINU
KILAKALUA KAMANA; and RION
WILLIAM KAMANA, JR.

Plaintiffs,

v.

KAISER FOUNDATION HOSPITALS;
HAWAII PERMANENTE MEDICAL
GROUP, INC.; KAISER FOUNDATION
HEALTH PLAN, INC.; and DOE Defendants
1-100,

Defendants.

Civil No. 12-1-3139 12 .PWB
[Medical Malpractice]
COMPLAINT; SUMMONS

COMPLAINT

Plaintiffs RION WILLIAM KAMANA, Individually and as attorney in fact for
ANAKELA U. NAHINU KILAKALUA, and RION WILLIAM KAMANA, as Prochein Ami
for MAKANA NAHINU KILAKALUA, POMAI NAHINU KILAKALUA, SWEETIE

1
X COPY

NAHINU KILAKALUA KAMANA, and RION WILLIAM KAMANA, JR., through their attorneys hereby complains as follows against Defendants Kaiser Foundation Hospitals, Hawai'i Permanente Medical Group, Inc., and Kaiser Foundation Health Plan, Inc.

1. Plaintiffs RION WILLIAM KAMANA, Individually and as attorney in fact for ANAKELA U. NAHINU KILAKALUA, and RION WILLIAM KAMANA, as Prochein Ami for MAKANA NAHINU KILAKALUA, POMAI NAHINU KILAKALUA, SWEETIE NAHINU KILAKALUA KAMANA, and RION WILLIAM KAMANA, JR., (hereinafter collectively referred to as "Plaintiffs") have been and were at all relevant times herein residents of the City and County of Honolulu, State of Hawaii.

2. Defendant Kaiser Foundation Hospitals (hereinafter "Defendant Kaiser") is and was a corporation organized and existing under the laws of the State of Hawaii providing hospital services.

3. Defendant Hawai'i Permanente Medical Group, Inc. (hereinafter "Defendant Kaiser") is and was a corporation organized and existing under the laws of the State of Hawaii providing hospital services.

4. Defendant Kaiser Foundation Health Plan, Inc., (hereinafter "Defendant Kaiser") is and was a corporation organized and existing under the laws of the State of Hawaii providing hospital services.

5. Defendant Kaiser Foundation Hospitals, Defendant Hawai'i Permanente Group, Inc. and Defendant Kaiser Foundation Health Plan, Inc. and its employees, agents and individuals on a mission for the benefit of Kaiser shall be referred to as "Defendant Kaiser."

6. Defendant Kaiser has previously stipulated and agreed that all acts herein of

Physician Bryan Yamashiro, M.D. were done within the course and scope of his employment and as an agent for the benefit of Defendant Kaiser.

7. Defendant Kaiser has previously stipulated and agreed that all acts herein of Physician Fay Pema Bagarinao, M.D. were done within the course and scope of her employment and as an agent for the benefit of Defendant Kaiser.

8. Defendant Kaiser has previously stipulated and agreed that all acts herein of Physician Theresa Dizon, M.D. were done within the course and scope of her employment and as an agent for the benefit of Defendant Kaiser.

9. Defendant Kaiser has previously stipulated and agreed that all acts herein of Physician Lori Inouye-Yamashita, M.D. were done within the course and scope of her employment and as an agent for the benefit of Defendant Kaiser.

10. All acts of medical negligence by individuals herein were by employees and/or agents and/or borrowed employees and/or agents on a mission for the benefit of Defendants. Defendants are vicariously liable for the acts of any of their employees and/or agents and/or borrowed employees or agents on a mission for the benefit of Defendants. All actions or inactions by Defendant Kaiser employees, agents or individuals on a mission for the benefit of Kaiser, shall be referred to as "Defendant Kaiser."

11. All incidents described herein took place within the jurisdiction of the Circuit Court of the First Circuit, State of Hawaii.

12. Doe Defendants 1-100 are sued herein under fictitious names for the reason that their true names and identities are presently unknown to the Plaintiffs, except that they are connected in some manner with the named Defendants and/or were the parents, guardians, agents, servants, employees, employers, representatives, co-venturers, associates, vendors,

suppliers, manufacturers, subcontractors or contractors and/or owners, lessees, assignees, licensees, designees, and engineers of the named Defendants and/or in some manner presently unknown to the Plaintiffs, engaged in activities alleged herein and/or were in some manner responsible for the injuries or damages to Plaintiffs and/or manufactured and/or designed, and/or placed on the market a product which was defective which defect was a proximate cause of injuries or damages to Plaintiffs and/or inspected and/or maintained and/or controlled some object or product in a negligent manner which negligence was a proximate cause of injuries or damages to Plaintiffs and/or conducted some activity in a negligent or dangerous manner, which negligent or dangerous conduct was a proximate cause of injuries or damages to Plaintiffs and/or were in some manner related to the named Defendants, and Plaintiffs pray for leave to insert herein their true names, identities, capacities, activities and/or responsibilities when the same are ascertained. Plaintiffs and their counsel have made a diligent and good faith effort to ascertain the full names and identifies of all potential Defendants herein by examining all documents available to them in this matter.

13. This medical negligence claim alleges generally that Defendants, and each of them, by and through their physicians, nurses, healthcare providers, employees/agents/borrowed employees violated/breached the applicable standards of care expected of healthcare professionals in the setting of this case, and breached the duty of care which they owed to Plaintiff ANAKELA U. NAHINU KILAKALUA (hereinafter "Ms. Kilakalua") through their negligent acts and/or omissions and negligent failure to timely and appropriately evaluate, diagnose, refer, follow-up, and appropriately treat an acute bacterial infection, which involved, but was not limited to, a new and acute bacterial infection of Ms. Kilakalua's right middle ear, superimposed upon a documented history and problem of chronic middle ear infection (chronic

otitis media or COM) of the same ear—the history of which was known to Kaiser Defendants at the time of this incident in late May and June 2010.

14. While under their care and treatment in late May and June of 2010, Defendant Kaiser failed to appreciate, recognize, or understand that Ms. Kilakalua's untreated acute middle ear infection was progressing and spreading into the surrounding deep bony tissues and eventually into her cranium, which produced infection of her brain and surrounding membranes of the brain (meningitis), and the foreseeable complications, including, but not limited to, thrombosis of the venous sinuses of her brain, increased intracranial pressure, herniation of her brain, cardiopulmonary compromise, and neurologic injury to her brain and spinal cord resulting from such an untreated and/or inadequately treated life-threatening infection.

15. Left undiagnosed and untreated (and/or incorrectly and/or inadequately treated) while Ms. Kilakalua was under the exclusive care of the Defendant Kaiser in late May and June 2010 and thereafter, this undiagnosed, progressive and acute infection of her middle ear, mastoid, and brain produced and directly caused cerebral edema (brain swelling), thrombosis of the venous sinuses of her brain, increased intracranial pressure, partial herniation of her brain, sepsis, other related sequelae and preventable complications, and permanent and irreversible neurological injury to her brain, brainstem and cervical spinal cord—which left Ms. Kilakalua with permanent brain and spinal cord injury as a ventilator-dependent quadriplegic.

16. The factual allegations herein are based primarily upon the medical records provided by Defendant Kaiser, which records may be incomplete or inaccurate.

May 24, 2010: Kaiser Gen Med Clinic (Kaiser Encounter No. 1)

17. **Ms. Kilakalua's new onset of two days of right ear pain and drainage with right-sided headache.** On May 24, 2010 Ms. Kilakalua, 26 years of age, presented to the Kaiser

Gen Med Clinic (“Kaiser Clinic”) at 9:20 a.m. with the new onset of two days of right ear pain with discharge and a right-sided headache. Defendant Kaiser Physician Bryan Yamashiro evaluated Ms. Kilakalua and documented the following: *“Records Reviewed. History recurrent OM (otitis media) and MRSA.”* Defendant Kaiser Physician Yamashiro also noted that Ms. Kilakalua’s right ear external canal was *“red and swollen with discharge”* and there was no fever and no stiff neck.

18. Defendant Kaiser Physician Yamashiro unreasonably and incorrectly surmised that all of Ms. Kilakalua’s new problems on May 24, 2010 were (or could be) explained by a diagnosis of “swimmer’s ear” (otitis externa) and a totally unrelated co-existing infection of Ms. Kilakalua’s facial sinuses. Based on his flawed assessment, reasoning and incorrect diagnosis, Defendant Kaiser Physician Yamashiro elected to treat Ms. Kilakalua with antibiotic ear drops and a course of ten (10) days of oral antibiotics which proved to be insufficient for her actual medical problems. He did not clean out the discharge and debris in her ear canal, did not suggest or perform any diagnostic testing, did not request any consultations, and did not specify a date for her to return to recheck her medical problems.

19. On May 24, 2010, Ms. Kilakalua had no signs, symptoms or other evidence of an irreversible neurological impairment or injury.

12 Days Later, June 05, 2010: Kaiser “Ahc Moa” (Kaiser Encounter No. 2)

20. Ms. Kilakalua returned to the Kaiser “Ahc Moa” at 8:00 p.m. on June 5, 2010, complaining of a severe unilateral headache. She was seen by Defendant Kaiser Physician Fay Bagarinao, who failed to document with any reasonable precision the type of pain, the location of the pain, or the character of Ms. Kilakalua’s pain. Although Ms. Kilakalua’s headache had been present for more than 12 days prior to her Kaiser visit on June 5, 2010, and had been

gradually progressing in severity since her first Kaiser encounter on May 24, 2010, the only information documented by Defendant Kaiser Physician Bagarinao in her cursory history was that headache was “*noted yesterday.*”

21. Although Ms. Kilakalua had no nausea or vomiting at the time, and had no recent history of migraine headaches, on June 5, 2010, Defendant Kaiser Physician Bagarinao concluded that Ms. Kilakalua was suffering from an acute migraine headache.

22. There is no documentation in Defendant Kaiser’s health records to suggest that Defendant Kaiser Physician Bagarinao ever looked at Ms. Kilakalua’s records to research her prior medical history and care. There is no mention of Ms. Kilakalua’s recurrent middle ear infections or her Kaiser clinic visit of May 24, 2010. Defendant Kaiser Physician Bagarinao alleges Ms. Kilakalua’s tympanic membranes were “*intact*” and that there was “*no discharge noted bilaterally.*” Based on her recurrent middle ear infections and the grossly abnormal findings seen at the time of Ms. Kilakalua’s subsequent admission to Kaiser several days later, **it is highly unlikely that her right ear drum would have been “intact” on June 5, 2010.**

23. Defendant Kaiser Physician Bagarinao’s assessment was deficient, her diagnostic reasoning was flawed, her diagnosis was unreasonable and incorrect, and there was no specific follow-up or specialist referral for Ms. Kilakalua’s continuing medical problem. Defendant Kaiser Physician Bagarinao failed to understand that Ms. Kilakalua’s ongoing pain was a clinically significant finding of a disease process that needed to be carefully and appropriately evaluated, diagnosed and treated in a timely manner.

24. On June 5, 2010, Ms. Kilakalua had no signs, symptoms or other evidence of an irreversible neurological impairment or injury.

24 Hours Later, June 6, 2010: Kaiser “Ahc Moa” (Kaiser Encounter No. 3)

25. Ms. Kilakalua returned to the Kaiser “Ahc Moa” 7:44 p.m. on June 6, 2010 once again reporting acute right ear pain and drainage, and a severe unilateral headache.

26. Ms. Kilakalua was seen by Defendant Kaiser Physician Theresa Dizon. Defendant Kaiser Physician Dizon performed a poorly documented history and examination in which she did not refer to Ms. Kilakalua’s past history of chronic middle ear problems, and she failed to note Ms. Kilakalua’s two recent visits to the Kaiser clinics for her progressively severe problems.

27. Defendant Kaiser Physician Dizon was unable to visualize Ms. Kilakalua’s right tympanic membrane. She failed to explain why she could not see Ms. Kilakalua’s ear drum. Without an awareness or reasonable explanation for Ms. Kilakalua’s progressive symptoms and findings, Defendant Kaiser Physician Dizon mistakenly assumed that all of Ms. Kilakalua’s problems, signs and symptoms could once again be explained by a simple diagnosis of “otitis externa.” Defendant Kaiser Physician Dizon discharged Ms. Kilakalua home and still in pain with only antibiotic drops for her ears.

28. In her apparent extreme haste to discharge this patient home, Defendant Kaiser Physician Dizon failed to appreciate, recognize and understand that Ms. Kilakalua was in significant pain during her clinic visit, which was not consistent with Defendant Kaiser Physician Dizon’s misguided and incorrect diagnosis. Defendant Kaiser Physician Dizon failed to understand that such ongoing severe pain was a clinically significant finding of a disease process that needed to be carefully and appropriately evaluated, diagnosed and treated in a timely manner.

29. On June 6, 2010, Ms. Kilakalua had no evidence of, and did not have, an irreversible neurological impairment or injury.

3 Hours Later, June 6, 2010: Kaiser “Ahc Moa” (Kaiser Encounter No. 4)

30. On June 6, 2010 shortly after her discharge home, at 11:30 p.m., Plaintiff Rion Kamana telephoned the Defendant Kaiser’s “Ahc Moa” for help and guidance because Ms. Kilakalua was “*crying because she was in so much pain.*”

31. Defendant Kaiser’s “Ahc Moa” call center nurse failed to appreciate, recognize and understand that Ms. Kilakalua’s call to Kaiser to report severe pain shortly after her discharge home represented an emergency medical condition that needed urgent physician reevaluation, diagnostic testing, and consultation, as indicated.

32. Rather than instruct Ms. Kilakalua to seek reevaluation, Defendant Kaiser’s on-call Physician Lori Inouye-Yamashita wrote Ms. Kilakalua a prescription for Percocet, and left it for pick-up at the Labor and Delivery Department.

33. Defendant Kaiser’s nurses and Defendant Kaiser Physician Inouye-Yamashita breached the standard of care expected of reasonable acute care nurses, physicians and healthcare systems by failing to instruct Ms. Kilakalua to seek reevaluation, and instead ordering and dispensing a controlled narcotic to Ms. Kilakalua without the benefit of an appropriate evaluation. Such an opiate merely masked the progression of her undiagnosed and untreated infection, which caused her devastating and permanent neurological injuries.

34. Defendant Kaiser’s nurses and Defendant Kaiser Physician Inouye-Yamashita failed to understand that such ongoing severe pain was a clinically significant finding of a disease process that needed to be carefully and appropriately evaluated, diagnosed and treated.

45 Hours Later, June 8, 2010: Kaiser Emergency Department (Kaiser Encounter No. 5)

35. On June 8, 2010 at 9:03 p.m. Ms. Kilakalua was brought to Defendant Kaiser's Emergency Department at Moanalua. Defendant Kaiser's records indicate Ms. Kilakalua was noted to be "*febrile to 105 F, with rigors and chills, CT head concerning for right mastoiditis, right sigmoid sinus thrombosis and diffuse cerebral edema.*" Defendant Kaiser Emergency Physicians and ENTs examined and evaluated Ms. Kilakalua who was found to have "*right tympanic membrane perforation*" and pus was suctioned at bedside. An MRI confirmed transverse and sigmoid sinus thrombosis.

36. Because of the repeated failures of Defendant Kaiser's physicians, nurses, employees and agents, as well as Defendant Kaiser's healthcare delivery system, to appropriately evaluate, diagnose, refer, and treat Ms. Kilakalua's medical condition in a reasonable and timely manner, Ms. Kilakalua became acutely ill as her middle ear infection progressed and became more virulent and life-threatening.

37. Defendant Kaiser's repeated actions, inactions and failures led to and caused the progression to a life-threatening intracranial infection, central venous thrombosis, cerebral edema, increased intracranial pressure, partial brainstem herniation and resultant injury to Ms. Kilakalua's cervical spinal cord and permanent quadriplegia.

38. Defendant Kaiser, and each Defendant individually breached their duty of care to Ms. Kilakalua and failed to comply with the accepted standards of care in providing care.

39. Defendant Kaiser failed to appreciate, recognize and understand the significance and importance of Ms. Kilakalua's history and pre-existing problem with recurrent middle ear infections.

40. Defendant Kaiser failed to appreciate, recognize and understand that Ms. Kilakalua's known pre-existing chronic and recurrent middle ear infections, presenting signs,

symptoms and clinical course at that time represented a clinically significant progressive disease process.

41. Defendant Kaiser failed to perform any diagnostic testing on Ms. Kilakalua and failed to arrange for close follow-up and timely referral or consultation with an ENT specialist.

42. Defendant Kaiser failed to recognize and diagnose Ms. Kilakalua's abnormal tympanic membrane and cholesteatoma on physical examination and incorrectly claimed that Ms. Kilakalua's right tympanic membrane was within normal limits.

43. Defendant Kaiser failed to recognize, diagnose and appropriately treat Ms. Kilakalua's progressive middle ear infection before it progressed to a life-threatening intracranial infection, cerebral edema, increased intracranial infection, and partial brainstem herniation with cervical spinal cord injury. The actions and/or inactions of Defendant Kaiser, and each of them, were a substantial factor in Plaintiffs' damages as alleged herein.

COUNT I - Medical Negligence
(All Defendants)

44. Plaintiffs reallege and incorporate the preceding paragraphs as though fully set forth herein.

45. Timely and standard of care evaluation of, and investigation into, and treatment of, Ms. Kilakalua's medical condition, including timely diagnostic testing, would have resulted in Ms. Kilakalua's emergency medical condition being discovered, treated and resolved before her infection progressed into intracranial infection and meningitis, cerebral edema, partial herniation of her brainstem, and ventilator-dependent quadriplegia.

46. The foregoing actions and/or inactions of Defendant Kaiser, and each of them, individually and by and through their employees and/or agents violated and/or breached the

standard of care, and each of those violations and/or breaches of the standard of care, individually and collectively, were substantial factors in causing Plaintiffs' damages as alleged herein.

COUNT II - Failure To Properly Staff, Train and Supervise
(All Defendants)

47. Plaintiffs reallege and incorporate the preceding paragraphs as though fully set forth herein.

48. Defendants, and each of them, had a duty to ensure that any staff and/or employee and/or agent including but not limited to, physicians and nurses practicing within Defendant Kaiser's hospitals and clinics, were properly trained and supervised.

49. Defendants, and each of them, breached said duties and was a substantial factor in causing Plaintiffs' damages as alleged herein.

COUNT III - Vicarious Liability
(All Defendants)

50. Plaintiffs reallege and incorporate the preceding paragraphs as though fully set forth herein.

51. Defendants are vicariously liable under the doctrines of *respondeat superior* and/or joint enterprise and/or apparent authority for the actions/inactions of the employees and/or agents and/or servants and/or borrowed servants, including, but not limited to: the physicians, technicians, radiologists, nurses, midwives, staff doctors, residents and any others involved in the care and treatment of Ms. Kilakalua.

COUNT IV - Negligent Infliction of Emotional Distress
(All Defendants)

52. Plaintiffs restate and incorporate the preceding paragraphs as though fully set forth herein.

53. Plaintiffs have and will suffer extreme emotional distress as a result of Defendants' actions and failures to act.

54. Defendants are liable for the negligent infliction of emotional distress.

COUNT V – Damages-Anakela Kilakalua
(All Defendants)

55. Plaintiffs reallege and incorporate the preceding paragraphs as though fully set forth herein.

56. Each of the acts and/or failures to act and/or negligence and/or violations/breaches of duty of Defendants, and each of them, and their employees and/or agents, and each of them, as set forth herein, was/were a substantial factor in Ms. Kilakalua suffering a life-threatening intracranial infection, central venous thrombosis, cerebral edema, increased intracranial pressure, partial brainstem herniation and resultant injury to Ms. Kilakalua's cervical spinal cord leaving Ms. Kilakalua as a ventilator-dependent quadriplegic, such that she will require round-the-clock medical and/or attendant care for the remainder of her life.

57. Each of the acts and/or failures to act and/or negligence and/or violations/breaches of duty of Defendants, and each of them, and their employees and/or agents, and each of them, as set forth herein, was/were a substantial factor in Ms. Kilakalua incurring substantial medical and therapeutic expenses in the past and incurring substantial medical, rehabilitative and care expenses in the future, including hospitalization, medical care and/or attendant care for the remainder of Ms. Kilakalua's life. Plaintiffs seek leave to amend this Complaint at the time of trial to include such additional damages as may be appropriate.

58. Each of the acts and/or failures to act and/or negligence and/or violations/breaches of duty of Defendants, and each of them, and their employees and/or agents, and each of them, as set forth herein, was/were a substantial factor in Ms. Kilakalua's suffering in the past, and in Ms. Kilakalua's suffering in the future, extreme pain, severe emotional distress and mental anguish, loss of enjoyment of life, lost wages and a diminished earning capacity.

59. Plaintiffs seek from Defendants all damages available by law.

COUNT VI – Damages – Rion William Kamana (Ms. Kilakalua's Life Partner)
(All Defendants)

60. Plaintiffs reallege and incorporate the preceding paragraphs as though fully set forth herein.

61. Plaintiff Rion William Kamana relied upon Ms. Kilakalua for care, comfort, financial support, emotional support, society and affection.

62. The negligence, acts and/or omissions of Defendants, and each of them, collectively and individually, were a substantial factor in Plaintiff Rion William Kamana suffering:

a. Severe emotional and mental distress, grief, sorrow, and being denied the love, care, companionship, society, comfort, affection, and consortium of his partner, Ms.

Kilakalua;

b. Suffering the loss of support, including financial support, of Ms.

Kilakalua;

c. Suffering non-economic damages, including serious emotional distress and mental anguish, loss of love, affection, society, comfort, loss of consortium, care and companionship of Ms. Kilakalua.

63. Plaintiff Rion William Kamana also has experienced great worry and distress as a result of Defendants' failure to accept full responsibility for Ms. Kilakalua's harms and losses.

64. Plaintiff Rion William Kamana seeks all damages available by law.

COUNT VII – DAMAGES – Makana Nahinu Kilakalua, Pomai Nahinu Kilakalua, Sweetie Nahinu Kilakalua Kamana, and Rion William Kamana, Jr. (Ms. Kilakalua's Children)

65. Plaintiffs reallege and incorporate the preceding paragraphs as though fully set forth herein.

66. The negligence, acts and/or omissions of Defendants, and each of them collectively and individually, were a substantial factor in Makana Nahinu Kilakalua, Pomai Nahinu Kilakalua, Sweetie Nahinu Kilakalua Kamana, and Rion William Kamana, Jr. suffering:

a. Severe emotional and mental distress, grief, sorrow, and being denied the love, care, companionship, society, comfort, affection, and guidance of their mother, Ms. Kilakalua;

b. Suffering the loss of support, including financial support of Ms. Kilakalua.

c. Plaintiff Rion William Kamana as Prochein Ami for Makana Nahinu Kilakalua, Pomai Nahinu Kilakalua, Sweetie Nahinu Kilakalua Kamana, and Rion William Kamana, Jr. seeks all damages available by law.

COUNT VIII – Punitive Damages

67. Plaintiffs reallege and incorporate the preceding paragraphs as though fully set forth herein.

68. Defendant Kaiser, through advertising and promotion designed to entice people to purchase the Kaiser insurance and health plan, touts the benefits of its electronic medical record system which supposedly makes a patient's past medical information and care available to all of

Defendant Kaiser's physicians and healthcare providers. Despite access to Ms. Kilakalua's medical records and past medical care, some of Defendant Kaiser's physicians did not refer to or review Ms. Kilakalua's prior medical information to inform themselves of the nature of Ms. Kilakalua's chronic ear problems and conditions, and instead relied upon a cursory and inadequate examination that ignored the serious and life-threatening nature of Ms. Kilakalua's condition.

69. Such conduct is willful and/or wanton and/or reckless and/or careless and/or callous thereby evidencing conscious disregard for consequences and justifies an award of punitive damages.

**COUNT IX – Punitive Damages - Financial Scheme Which Deprived
Ms. Kilakalua of Standard of Care Medical Evaluation and Treatment**
(All Defendants)

70. Pursuant to a corporate financial scheme, Defendant Kaiser has enacted policies, procedures and protocols which sacrifice patient safety and standard of care medical treatment in favor of cost-cutting.

71. Despite its substantial advertising touting the benefits of the Kaiser system for patients, Defendant Kaiser has failed to inform patients of its cost-cutting policies, procedures and protocols and the effect upon patient care and safety.

72. Upon information and belief, Defendant Kaiser, by and through financial incentives and cost-cutting policies and procedures, discourages physicians and staff from using diagnostic testing which would have allowed discovery and timely treatment of Ms. Kilakalua's condition.

73. Defendant Kaiser ignored the risk of harm to Ms. Kilakalua in favor of adherence to their financially-motivated policies and procedures designed to reduce utilization of

physicians and medical procedures and medical resources at the expense of the health and safety and standard of medical care treatment of patients, including Ms. Kilakalua. This conduct evidences a willful and/or wanton and/or conscious and/or reckless disregard for the safety and welfare of patients, including Ms. Kilakalua.

74. For years Defendant Kaiser has been engaged in these financially-motivated maneuvers at the expenses of standard of care medical treatment for Kaiser patients. This conduct evidences a willful and/or wanton and/or conscious and/or reckless and/or callous disregard for the safety and welfare of patients, including Ms. Kilakalua.

75. Such justifies an award of punitive and exemplary damages.

WHEREFORE, Plaintiffs demand judgment against Defendants above-named, jointly and severally as follows:

- A. Special damages in an amount to be shown at the time of trial;
- B. General damages in an amount to be shown at the time of trial and in excess of the minimal jurisdictional amount of this Court;
- C. Punitive damages;
- D. Costs of suit, attorneys' fees, prejudgment interest, and such other relief, both legal and equitable that the Court deems just and proper.

DATED: Honolulu, Hawai'i, December 11, 2012.



WOODRUFF K. SOLDNER
MICHAEL R. CRUISE
Attorneys for Plaintiffs