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17 MAY 17 PM 2:18

KING COUNTY
SUPERIOR COURT CLERK
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CASE NUMBER: 17-2-12512-1 SEA

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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KING

JUDITH WANGEN, as Personal
Representative of the ESTATE OF
LAWRENCE E. WANGEN,

Plaintiff,

v.

KAISER FOUNDATION HEALTH PLAN
OF WASHINGTON, OVERLAKE
HOSPITAL MEDICAL CENTER, and
JOHN SCOTT EMERY, MD,

Defendants.

No.

COMPLAINT FOR MEDICAL
NEGLIGENCE, WRONGFUL DEATH,
AND SURVIVAL ACTION

I. PARTIES, JURISDICTION AND VENUE

1.1. Judith Wangen was the spouse of decedent Lawrence Edward Wangen until the time of his death, and is the Personal Representative of the Estate of Lawrence Edward Wangen. She has at all times pertinent hereto been a resident of Edmonds, Washington.

1.2. Defendant Kaiser Foundation Health Plan of Washington ("Kaiser") is an active corporation organized under the laws of the State of Washington and doing business in the State of Washington. Group Health Cooperative was acquired and is now a part of Kaiser

1 Foundation Health Plan of Washington as of February 1, 2017, and Kaiser is liable for the
2 acts and injuries alleged herein as the successor in interest to Group Health Cooperative.

3 1.3. Defendant Overlake Hospital Medical Center (“Overlake”) is an active
4 nonprofit corporation organized under the laws of the State of Washington and doing
5 business in the State of Washington.

6 1.4. Defendant John Scott Emery, M.D., is a physician licensed to practice
7 medicine in the State of Washington. At all relevant times, Dr. Emery was an employee or
8 agent of Group Health Cooperative, a part of Kaiser Foundation Health Plan of Washington
9 since February 1, 2017.

10 1.5. King County is the appropriate venue for this action because the events giving
11 rise to this cause of action took place in King County and defendants Kaiser and Overlake are
12 located therein.

13 1.6. Plaintiff elects not to submit this matter to arbitration. Please see attached
14 declaration of Judith Wangen.

15 II. FACTS

16 2.1. On June 8, 2015, decedent Lawrence Wangen was hospitalized at Overlake
17 Hospital under the care of Dr. Emery for a laparoscopic hiatal hernia repair and Nissen
18 fundoplication.

19 2.2. Following the surgery and during his hospitalization at Overlake Hospital
20 from June 8 through June 10, 2015, Mr. Wangen did not do well. His pain level was greater
21 than expected for the surgery he had, he needed increasing levels of oxygen support, his heart
22 rate and respiratory rate were elevated, and he had low urine output relative to his fluid
23 intake.
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1 2.3 By the morning of June 10th, Mr. Wangen’s need for oxygen had increased to
2 15 L/min and his kidneys were showing damage. A CT was done and an esophageal
3 perforation, likely caused by his surgery on June 8th, was detected. By that time, he was
4 septic.

5 2.4. At first, Dr. Emery planned to take Mr. Wangen to the operating room to
6 repair the perforation. Upon realizing that Overlake did not have a thoracic surgeon to back
7 him up during the esophageal repair, Dr. Emery decided to have Mr. Wangen transferred to
8 Virginia Mason, which is a center for esophageal surgery. He was transferred by ambulance
9 to Virginia Mason in the late afternoon/early evening of June 10th.

10 2.5. Surgery was performed that night by Dr. Don Low, a specialist in esophageal
11 surgery. Mr. Wangen remained at the hospital until July 27th when he died as a result of the
12 perforation and resulting sepsis.
13

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15 **III. LIABILITY AND CAUSATION**

16 3.1. This is an action for medical negligence and wrongful death, brought pursuant
17 to the laws of the State of Washington, including RCW 7.70.010 et seq., RCW 4.20.010 et
18 seq., RCW 4.20.46, and RCW 4.20.060. The defendants and their respective employees or
19 agents were negligent and violated the standard of care with respect to their care and
20 treatment of Lawrence Wangen. The liability of defendants is based upon the legal theories
21 of negligence, respondeat superior, agency, negligent supervision, and independent
22 corporate negligence.
23

24 3.2. At all relevant times, Dr. Emery was employed by and/or was the actual or
25 ostensible agent of defendant Kaiser (Group Health), and therefore, defendant Kaiser is liable
26 for his acts and omissions.

1 3.3. Defendants Kaiser, Overlake Hospital, including its nursing staff, and Dr.
2 Emery owed duties to Lawrence Wangen to exercise the degree of care, skill, and learning
3 expected of reasonably prudent health care providers of the same type, acting in the same or
4 similar circumstances at the time the services were provided.

5 3.4. Defendants Kaiser, Overlake, and Dr. Emery and their agents breached their
6 duty of care and were negligent in failing to monitor and assess Mr. Wangen's condition
7 properly and thus failed to detect and provide appropriate treatment for the esophageal
8 perforation and incipient sepsis he experienced in a timely manner. The negligence of each
9 these defendants and their agents was a proximate cause of Mr. Wangen's death and of
10 plaintiff's damages as outlined below.

11 3.5. Defendant Overlake Hospital further failed to meet the standard of care by
12 failing to adequately train and/or supervise their agents and employees, including its nursing
13 staff, and to have appropriate systems in place to ensure that patients such as Mr. Wangen
14 were monitored, evaluated, and treated in a timely manner for post-surgical complications,
15 including but not limited to the development of sepsis.

18 **IV. DAMAGES**

19 4.1. As a direct and proximate result of defendants' acts and omissions, as
20 described above, plaintiff is entitled to be compensated for the following damages:

21 A. Lawrence Wangen suffered the following damages which survive his
22 death: medical expenses, disability, conscious pain and suffering, loss of enjoyment of life,
23 and death;

24 B. Judith Wangen has suffered damages for loss of companionship,
25 services, and consortium.
26

1 C. The statutory beneficiaries of a wrongful death claim, namely plaintiff
2 and those provided by law, have suffered damages on account of the suffering and death of
3 the decedent, for the loss of love, care, affection, companionship, guidance and society, of
4 the decedent. Claims for loss of consortium on behalf of the decedent's adult children,
5 Richard Wangen and Rachel Wangen-Hoch, are specifically included within the damages
6 claimed.
7

8 D. The Estate of Lawrence Wangen has suffered the loss of future
9 earnings and other economic losses.

10 E. All other rights and remedies arising from decedent's injuries.

11 F. All of the above damages are in an amount which will be proved at
12 trial.
13

14 **V. PRAYER FOR RELIEF**

15 WHEREFORE, Plaintiff prays for damages as set forth above, and for such other
16 relief as the Court deems just and reasonable.

17 DATED this 17th day of May, 2017.
18

19 SCHROETER, GOLDMARK & BENDER

20 *Kristin Houser*

21 KRISTIN HOUSER, WSBA # 7286
22 ADAM J. BERGER, WSBA #20714
23 THOMAS J. BREEN, WSBA #34574
24 Counsel for Plaintiff
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DECLARATION OF CLIENT REGARDING VOLUNTARY ARBITRATION

I, Judith Wangen, am plaintiff in a lawsuit against Kaiser Foundation Health Plan of Washington, Overlake Hospital Medical Center, and John Scott Emery, MD. I make this declaration based upon personal knowledge. I am over the age of 18 and competent to testify to the matters set forth herein.

1. My attorney of record, Kristin Houser, presented me with a copy of the provisions of RCW Chapter 7.70A and answered my questions before commencing this lawsuit.
2. I have elected not to submit the dispute in this matter to arbitration under that chapter.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

DATED at Seattle, Washington, this 16 day of May, 2017.


Judith Wangen