

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

MARIA DUGDALE, individually and as
Personal Representative of the ESTATE OF
JAMES DUGDALE,

Plaintiff,

v.

KAISER FOUNDATION HEALTH PLAN,
INC. and KAISER FOUNDATION
HEALTH PLAN OF WASHINGTON,
subsidiaries of KAISER PERMANENTE,
INC., and RICHARD HSU, M.D.,

Defendants.

Cause No.:

**PLAINTIFF'S COMPLAINT FOR
MEDICAL NEGLIGENCE,
RESPONDEAT SUPERIOR, AND
LOSS OF CONSORTIUM**

1. JURISDICTION AND VENUE

1.1 All events that give rise to this lawsuit occurred in Bellevue, King County,
Washington.

1.2 All health care that gives rise to this lawsuit occurred in Bellevue, King County,
Washington.

1.3 Plaintiff, Maria Dugdale, is the personal representative of the Estate of James
Dugdale and wife of James Dugdale.

1.4 Kaiser Foundation Health Plan, Inc. and Kaiser Foundation Health Plan of

1 Washington are subsidiaries of Kaiser Permanente, Inc., and are all health care providers as
2 defined by RCW 7.70 *et seq.* providing a wide range of medical and health care in Bellevue,
3 King County and throughout Washington State (defendants are collectively referred to hereafter
4 as Kaiser *et al.*).

5 1.5 At all times relevant to this lawsuit, including May 2018, Defendant Richard Hsu,
6 M.D. was a health care provider and physician practicing otolaryngology at Defendant Kaiser *et*
7 *al.* in Bellevue, Washington.

8 1.6 The amount in controversy exceeds \$75,000.00.

9 1.7 Jurisdiction and venue lie in the Superior Court for the State of Washington in
10 King County, Seattle.

11 2. PARTIES

12 2.1 Plaintiff, Maria Dugdale, is the personal representative of the Estate of James
13 Dugdale and wife of James Dugdale. Maria Dugdale also brings a claim on an individual basis.

14 2.2 Defendants Kaiser Foundation Health Plan, Inc. and Kaiser Foundation Health
15 Plan of Washington, subsidiaries of Kaiser Permanente, Inc., a California corporation, provided
16 health care to Plaintiff in Bellevue, King County, Washington.

17 2.3 Defendant Richard Hsu, M.D. (Dr. Hsu) is a health care provider and physician
18 practicing otolaryngology at Kaiser *et al.* in King County, Washington.

19 3. FACTS

20 3.1 During all times relevant to this lawsuit, Defendant Kaiser *et al.* and Defendant
21 Dr. Hsu were and are health care providers and/or a medical doctor, licensed to and offering
22 medical care in King County, Washington.

23 3.2 Defendant Dr. Hsu is believed to be an agent/employee of Kaiser *et al.*, and all
24 acts and non-actions complained of were on behalf of Kaiser *et al.*

25 3.3 At all times relevant to the health care provided to Plaintiff James Dugdale,
26 Defendant Dr. Hsu was an employee and/or ostensible or actual agent of Defendant Kaiser *et al.*

1 acting in the course and scope of his employment with Defendant Kaiser *et al.*

2 3.4 During May 2018, Plaintiff James Dugdale was a patient of Defendants Kaiser *et*
3 *al.* and Dr. Hsu.

4 3.5 Plaintiffs Maria Dugdale and James Dugdale have a young son, Andrew Dugdale.

5 3.6 Defendant Dr. Hsu and Defendant Kaiser *et al.* operated on Plaintiff James
6 Dugdale and performed a mastoidectomy on May 8, 2018.

7 3.7 On May 8, 2018, Defendants negligently and improperly removed brain tissue
8 from James Dugdale.

9 3.8 Defendants negligently failed to recognize that they had removed brain tissue and
10 opened a pathway by which bacteria could enter the brain of James Dugdale.

11 3.9 Due to the negligent removal of brain tissue and improper opening of a pathway
12 into the brain, James Dugdale developed an infection of the brain and meningitis, resulting in his
13 hospitalization on May 10, 2018, leading to severe brain damage and death on May 18, 2018.

14 3.10 On May 8, 2018, the health care provided by Defendant Dr. Hsu and Defendants
15 Kaiser *et al.* to Plaintiff James Dugdale violated the standard of care for a prudent Washington
16 health care facility performing a mastoidectomy.

17 3.11 At that time and place, the health care provided by Defendant Dr. Hsu and
18 Defendants Kaiser *et al.* to Plaintiff James Dugdale, each defendant violated the standard of care
19 for a prudent Washington otolaryngologist performing a mastoidectomy.

20 3.12 As a direct and proximate result of Defendants Hsu and Kaiser *et al.* providing
21 health care below the standard of care, Plaintiffs James and Maria Dugdale suffered harms,
22 losses, and damages.

23 3.13 Plaintiff's harms, losses, and damages include but are not limited to the following:
24 wrongful death, necessary medical care and hospitalization, medical procedures, loss of home
25 services, loss of income, health care and funeral expenses that were reasonably and necessarily
26 incurred, the net accumulations lost to James Dugdale's estate, the loss of enjoyment of life due

1 to James Dugdale's shortened life expectancy, the pain, suffering, anxiety, emotional distress,
2 humiliation, and fear experienced by James Dugdale prior to his death, past and future economic
3 damages in the loss of money, goods and services that Maria Dugdale would have received from
4 James Dugdale, loss of marital consortium, past and future economic damages for the money,
5 goods and services any benefit of value that Andrew Dugdale would have received from James
6 Dugdale had he lived, loss of consortium of Andrew Dugdale based on the loss of his
7 relationship with James Dugdale, emotional and psychological harm and other harms, losses, and
8 damages to be proven at trial.

9 **4. FIRST CAUSE OF ACTION: Medical Negligence, RCW 7.70 et seq.**

10 4.1 Plaintiff re-alleges paragraphs 1.1 through 3.14 as if fully set forth herein.

11 4.2 The above described health care provided by Defendants Dr. Hsu and Kaiser *et*
12 *al.*, and each of them violated the standard of care for a reasonable prudent Washington health
13 care facility and otolaryngologist in May 2018.

14 4.3 As a direct and proximate result of Defendants and each of their providing health
15 care below the standard of care, Plaintiff suffered harms, losses and damages.

16 4.4 Plaintiff's harms and losses are described in paragraph 3.13.

17 **5. SECOND CAUSE OF ACTION: *Respondeat Superior***

18 5.1 Plaintiff re-alleges paragraphs 1.1 through 4.4 as if fully set forth herein.

19 5.2 At all times that Defendant Dr. Hsu provided health care to Plaintiff James
20 Dugdale he was an employee, ostensible or actual agent of Defendant Kaiser *et al.* and in the
21 course and scope of his employment with Defendant Kaiser *et al.*

22 5.3 Under the doctrine of agency and *respondeat superior*, Defendant Kaiser *et al.* is
23 liable for all Plaintiff's harms, losses, and damages proximately caused by Defendant Dr. Hsu's
24 negligent actions, inactions, and failure to comply with the standard of care.

25 5.4 Plaintiff's harms, losses and damages are as described in paragraph 3.13.

26 **6. THIRD CAUSE OF ACTION: Loss of Consortium**

1 6.1 Plaintiff re-alleges paragraphs 1.1 through 5.4 as if fully set forth herein.

2 6.2 The Defendants' above-described violation medical negligence and violation of
3 the standard of care proximate caused Plaintiff to suffer loss of consortium and companionship,
4 harms, losses and damages.

5 **7. REQUEST FOR RELIEF**

6 7.1 Plaintiff seeks judgment, jointly and individually, against each and all defendants
7 for:

8 7.2 General damages in excess of \$75,000.00;

9 7.3 Special damages to be proven at trial;

10 7.4 Prejudgment interest on liquidated damages;

11 7.5 Court and litigation costs; and

12 7.6 Other relief the Court determines as appropriate.

13
14 DATED this 26th day of July, 2018.

15 Respectfully Submitted,

16
17 By Stephen Hornbuckle

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