

1
2
3
4
5
6
7
8
9
10
11
12

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MULTNOMAH

ROBERT A. WAYLAND)	Case No.
)	
Plaintiff,)	COMPLAINT AND
)	DEMAND FOR JURY TRIAL
v.)	(Medical Negligence)
)	
NORTHWEST PERMANENTE, P.C., an)	Prayer: \$12,600,000.00
Oregon corporation; KAISER)	Filing Fee \$1,111.00 per
FOUNDATION HOSPITALS, INC., a)	ORS 21.160(1)(e)
California corporation,)	
)	NOT SUBJECT TO MANDATORY
Defendants.)	ARBITRATION

Plaintiff Robert A. Wayland alleges as follows:

FIRST CLAIM FOR RELIEF
(Medical Malpractice)

1.

At all times material herein, Defendant Northwest Permanente, PC was a professional corporation licensed in the State of Oregon and engaged in the business of providing medical care to patients through the work of health care professionals employed by or otherwise acting as agents of Northwest Permanente, PC.

2.

At all times material herein, Defendant Kaiser Foundation Hospitals, Inc. was a California corporation licensed to do business in the State of Oregon and engaged in the business of owning and operating inpatient and outpatient hospitals and medical centers where patients received healthcare from employees and agents of Defendant Northwest Permanente, PC. In addition, Defendant Kaiser Foundation Hospitals, Inc. employed, or

1 otherwise engaged as agents, other health care professionals to provide medical care to
2 patients.

3 3.

4 Defendants Kaiser Foundation Hospitals, Inc., and Northwest Permanente, PC
5 were, at all times material, engaged in a joint enterprise to provide medical care and
6 services to patients. Each of these Defendants acted as the agent of the other.

7 Hereinafter, Defendants Northwest Permanente, PC and Kaiser Foundation Hospitals,
8 Inc. will be collectively referred to as “Defendant Kaiser.”

9 4.

10 At all times material, the agents and employees of Defendant Kaiser involved in
11 Plaintiff Robert Wayland’s healthcare were acting within the course and scope of their
12 employment or agency with Defendant Kaiser, which is vicariously liable for the
13 negligence alleged below.

14 5.

15 On April 22, 2017, employees or agents of Defendant Kaiser performed surgery on
16 Plaintiff Robert A. Wayland’s cervical spine in order to decompress his spinal canal and
17 stabilize his cervical vertebrae. During surgery they negligently injured his spinal cord
18 and failed to significantly decompress his spinal canal. When he awoke, Mr. Wayland
19 was partially paralyzed below the neck, with diminished sensation throughout his body.

20 6.

21 After an intensive and lengthy course on in-patient and out-patient neurologic
22 rehabilitation, Mr. Wayland regained some neurologic function, but he remains
23 significantly neurologically impaired. He has quadraparesis, worse on the left side than
24 the right. He has diminished and altered sensation throughout his body. He has Horner’s
25 Syndrome, Brown-Sequard Syndrome and a variety of other neurologic abnormalities
26 and impairments, some or all of which are permanent.

1 7.
2 Because Defendant Kaiser failed to significantly decompress Mr. Wayland's spinal
3 canal, including removal of significant osteophyte, he is still in need of additional
4 cervical spine surgery to accomplish those tasks, but the risks of such surgery are great.

5 8.
6 Mr. Wayland has and will continue to experience pain, anxiety, emotional
7 distress, neurologic deficits and loss of enjoyment of life as a result of Defendant Kaiser's
8 negligence and is at risk of losing more neurologic function in the future.

9 9.
10 Mr. Wayland has incurred medical bills in the approximate amount of
11 \$100,000.00 and will likely incur future medical bills in the approximate amount of
12 \$1,500,000.00.

13 10.
14 Mr. Wayland has lost earning capacity in the estimated amount of \$1,000,000.00.

15 11.
16 Mr. Wayland's economic damages as a result of Defendant Kaiser's negligence are
17 therefore estimated at \$2,600,000.00.

18 12.
19 Mr. Wayland's non-economic damages are estimated not to exceed
20 \$10,000,000.00.

21 13.
22 Mr. Wayland's injuries and damages were caused by the negligence of Defendant
23 Kaiser in one or more of the following respects:

- 24 (a) In damaging his spinal cord during surgery;
25 (b) In failing to adequately decompress his spinal canal and spinal cord;
26 (c) In failing to remove all osteophytes impinging on his spinal canal and cord;


- 1 (d) In operating on his cervical spine using an anterior approach, given the
2 nature of his spinal canal compression and/or the location of osteophytes
3 impinging on his spinal canal;
- 4 (e) In implanting artificial discs in his cervical spine, given the nature of his
5 spinal canal compression and/or location of impinging osteophytes; and
- 6 (f) In perforating and/or penetrating through longitudinal ligaments in light of
7 the nature of his spinal canal compression and/or the location of
8 osteophytes impinging on his spinal canal.

9 WHEREFORE, Plaintiff prays for judgment in his favor and against Defendant
10 Kaiser, as follows:

- 11 1. \$10,000,000.00 in non-economic damages;
12 2. \$2,6000,000.00 in economic damages; and
13 3. For his costs and disbursements incurred herein.


14 DATED this 11 day of January, 2019.

15 MILLER & WAGNER, LLP

16 
17 Robert S. Wagner, OSB #844115
18 David K. Miller, OSB #823370
19 Of Attorneys for Plaintiff
20 Telephone: (503) 299-6116
21 Email: rsw@miller-wagner.com
dkm@miller-wagner.com

22 Trial Attorneys:
23 Robert S. Wagner, OSB #844115
24 David K. Miller, OSB #823370

25 PLAINTIFF HEREBY DEMANDS
26 JURY TRIAL

27 
28 Robert S. Wagner, OSB #844115
29 David K. Miller, OSB #823370
30 Of Attorney for Plaintiff