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FILED  
13 APR 22 PM 3:30  
CLERK OF DISTRICT COURT  
FOR CLATSOP COUNTY

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

JARMAN,  
Plaintiff,

Case No.  
**COMPLAINT**  
(Personal Injury/Medical Negligence)

v.

ROSEBURG RADIOLOGISTS, P.C., a  
corporation;  
M.D.; , M.D.; and  
MERCY MEDICAL CENTER, INC., a  
corporation,  
Defendants.

Prayer: \$975,000  
Fee Authority: ORS 21.160(1)(c)  
NOT SUBJECT TO MANDATORY  
ARBITRATION  
JURY TRIAL REQUESTED

For her claim for relief, Plaintiff

Jarman alleges:

1.

At all times material herein, Defendant Roseburg Radiologists, P.C. was a corporation engaged in the business of providing medical imaging services in Douglas County, Oregon, and provided such services at Defendant Mercy Medical Center, Inc., a corporation that owned and operated Mercy Medical Center in Roseburg, Oregon.

2.

At all times material herein, Defendants Agarwal, M.D. and Warren, M.D., were employees or agents of Defendant Roseburg Radiologists, and acting within the course and scope of their employment or agency.

3.

At all times material herein, Defendants Roseburg Radiology, Agarwal, and Warren were actual or apparent agents of Defendant Mercy Medical Center acting within the course and scope of their agency.

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4.

On March 3, 2009, Plaintiff Jarman's nurse practitioner palpated a mass in her right breast. The nurse practitioner ordered mammograms of both breasts, which were conducted at Defendant Mercy Medical Center on March 5, 2009. Defendant Agarwal read the mammograms, and recommended that they be compared with previous mammograms. On March 17, 2009, Defendant Warren compared the mammograms with mammograms conducted in 2006, and reported no remarkable interval change between the mammograms. The nurse practitioner reported these findings to Plaintiff Jarman. Neither Defendant Agarwal nor Defendant Warren ordered or recommended additional diagnostic studies, including compressed views and/or ultrasound, or biopsy of the palpated mass in Plaintiff Jarman's right breast.

5.

On April 6, 2011, Ms. Jarman was seen at Umpqua Community Health Center. The mass in her breast had grown larger and more painful. On April 20, 2011, a biopsy of the mass revealed malignant, invasive breast cancer. Ms. Jarman's cancer was subsequently diagnosed as stage IIIB.

6.

Defendant Mercy, by and through the conduct of Defendant Roseburg Radiologists, Defendant Agarwal, and Defendant Warren; Defendant Roseburg Radiologists, by and through the conduct of Defendant Agarwal, and Defendant Warren; and Defendant Agarwal and Defendant Warren individually, were negligent and breached the duty of care they owed to Jarman in one or more of the following ways:

- (a) In failing to identify evidence of right breast malignancy in March, 2009; *Evidence but not diagnosed*
- (b) In failing to perform, order, or recommend additional diagnostic studies, including compressed mammography views and/or ultrasound of the right breast, in March, 2009; and *evidence*
- (c) In failing to perform, order, or recommend a right breast biopsy in March, 2009.

7.

Defendants' breach of their duty of care created a foreseeable and unreasonable risk of  
*- Women adenoma Ben was below the standard of care for all other adenoma Ben  
 - Benign tumors were negligent*

1 harm to Plaintiff Jarman and was a substantial factor in causing her to suffer severe and  
2 permanent injury, including the growth of cancerous tissue into the skin and invading the pectoral  
3 muscles, requiring more extensive and aggressive cancer treatments, resulting in increased pain,  
4 discomfort, mental anxiety and emotional distress, an increased risk of further cancer recurrences,  
5 and a shortened life expectancy, all to her noneconomic damage in an amount to be determined at  
6 trial, not to exceed \$800,000.

7 8.

8 As a further result of Defendants' breach of their duty of care, Plaintiff Jarman has  
9 and will continue to incur increased medical expenses, all to her economic damage in an amount to  
10 be determined by the jury, not to exceed \$175,000.

11 \* \* \* \* \*

12 WHEREFORE, Plaintiff Jarman prays for judgment against Defendants, and each  
13 of them, as follows:

- 14 a. For fair and reasonable noneconomic damages in an amount to be determined by
- 15 the jury, not to exceed \$800,000;
- 16 b. For economic damages in an amount to be determined by the jury, not to exceed
- 17 \$175,000; and,
- 18 c. For her costs and expenses incurred in this proceeding.

19 DATED this 22<sup>nd</sup> day of April, 2013.

20 JOHNSON, JOHNSON, LARSON & SCHALLER, P.C.

21 

22 Douglas G. Schaller, OSB #853238

23 Scott C. Lucas, OSB #970030

24 (541)

25 Attorneys for Plaintiff  
26 Trial Attorneys:

Schaller  
Lucas