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SUPERIOR COURT OF WASHINGTON
IN AND FOR PIERCE COUNTY

M.N, A.B., G.T., and W.N., individually and on
behalf of all others similarly situated,

Plaintiffs,

v.

MULTICARE HEALTH SYSTEM, INC., a
Washington corporation,

Defendant.

No. 18-2-08055-5

**AMENDED CLASS ACTION
COMPLAINT**

I. INTRODUCTION

Plaintiffs M.N., A.B., G.T., and W.N. (“Plaintiffs”) hereby file this class action complaint on behalf of themselves and all others similarly situated, by and through the undersigned attorneys, against Defendant MultiCare Health System, Inc. (“Defendant” or “MultiCare”) and allege as follows based upon personal knowledge as to themselves and their own acts and experiences and, as to all other matters, upon information and belief based upon, *inter alia*, investigation conducted by their attorneys.

II. NATURE OF THE CASE

1. This is a class action lawsuit brought by Plaintiffs on behalf of a class of all similarly situated individuals (“Class Members”) who were subject to both actual and potential

1 Hepatitis C exposure at Defendant MultiCare’s Good Samaritan Hospital located in Puyallup,
2 Washington (“the Hospital”), between approximately August 4, 2017 and March 23, 2018 (the
3 “Hepatitis C Exposure Incidents”).

4 2. The Defendant has stated that the Hepatitis C Exposure Incidents were the result
5 of injections of narcotics performed by a nurse employed by Defendant, Cora Weberg
6 (hereinafter, “Nurse Weberg”), who had “remov[ed] higher-than-normal amounts of narcotics”
7 and “diverted medications intended for patients” for her own use and administered the
8 remainder to her patients using shared needles.¹ The Hospital has stated publicly that Nurse
9 Weberg is Hepatitis C positive.

10 3. As a result of Plaintiffs’ and the Class Members’ receiving injections of narcotics
11 at the Hospital, and as is set forth below with greater particularity, the Hospital has stated
12 publicly that Plaintiffs and the Class were exposed to blood-borne pathogens and placed at an
13 increased risk of contracting Hepatitis C. As a result, Plaintiffs and the Class Members have
14 been and will continue to be tested for this potentially deadly virus.

15 4. Plaintiffs and Class Members must now undergo medical treatment for their
16 injuries which would not have been necessary in the absence of Defendant’s violations alleged
17 herein, and have to live with severe emotional and mental anguish due to the negligence of
18 Good Samaritan Hospital.

19 5. This class action seeks damages, injunctive relief, declaratory judgments, costs,
20 attorneys’ fees, and other relief as a result of Defendant’s conduct described herein.

21 III. PARTIES

22 6. Plaintiffs M.N., A.B., G.T., and W.N. are residents and citizens of the state of
23 Washington.

24 7. Defendant MultiCare Health System, Inc. is a Washington nonprofit corporation
25

26 ¹ *MultiCare Good Samaritan Hospital Notifying Patients of Potential Hepatitis C Exposure*, MultiCare Health System (Apr. 30, 2018), <https://www.multicare.org/news/multicare-good-samaritan-hospital-notifying/>.

1 whose principal place of business is in Washington and has offices located in Pierce County,
2 Washington, and includes Good Samaritan Hospital in Puyallup, Washington.

3 **IV. JURISDICTION AND VENUE**

4 8. This Court has original subject matter jurisdiction pursuant to the Constitution of
5 the State of Washington, Art. 4, § 6.

6 9. Venue is proper in Pierce County pursuant to RCW 4.12.020 because the events
7 giving rise to this claim occurred in Pierce County, and Defendant MultiCare is located and
8 carries out business in Pierce County.

9 10. All conditions precedent to the commencement of this action have been
10 performed or have occurred.

11 **V. STATEMENT OF FACTS**

12 **A. Plaintiff M.N.**

13 11. On or about December 25, 2017, Plaintiff M.N. was admitted to the emergency
14 room at the Hospital for treatment and care. During the course of her care, she received
15 injections of narcotics from Hospital employees.

16 12. Plaintiff M.N. remained at the Hospital until she was discharged on or about
17 January 7, 2018.

18 13. Upon information and belief, Nurse Weberg worked at the Hospital during
19 M.N.'s stay.

20 14. On or about April 27, 2018, Plaintiff M.N. received a letter from the Hospital
21 indicating that at least one pain injection that she received may have exposed her to Hepatitis C.

22 15. Upon receiving the letter from the Hospital, Plaintiff returned to the Hospital on
23 May 2, 2018, where she was tested for Hepatitis C, Hepatitis B and HIV.

24 16. Following Plaintiff M.N.'s May 2, 2018 tests, she was advised by the Hospital
25 that she was negative for Hepatitis C, Hepatitis B and HIV.

26 17. As of the date of this Complaint, Plaintiff M.N. has been advised, and expects, to

1 be re-tested for Hepatitis B, Hepatitis C, and HIV. Until confirmation through re-testing,
2 Plaintiff M.N. cannot have any certainty about whether she has been infected by Defendant
3 exposing her to Hepatitis B, Hepatitis C, or HIV.

4 18. Plaintiff M.N. has been forced to incur the expense, inconvenience, and
5 distraction from everyday activities due to the worry and stress of her possible infection with
6 Hepatitis C. Those damages and similar damages that other Class Members have suffered and
7 will reasonably suffer in the future, in addition to the Class-wide damages of the emotional
8 disruption of their lives, the physical invasion and pain of the blood draws for testing, other
9 effects and risks of the testing process, and the months of anxiety and fear suffered by every
10 class member.

11 19. The fact that Plaintiff M.N. has been subject to the Hepatitis C Exposure Incident
12 has caused her lost wages, pain, suffering, humiliation, loss of enjoyment of life, and other
13 general and special damages in an amount to be proven at trial.

14 **B. Plaintiff A.B.**

15 20. In or about October 2017, Plaintiff A.B. was admitted to the emergency room at
16 the Hospital for treatment of injuries received from a fall. During the course of her care, she
17 received injections of narcotics from Hospital employees.

18 21. Upon information and belief, Nurse Weberg worked at the Hospital during
19 A.B.'s stay and Plaintiff A.B. was under the direct care of Nurse Weberg.

20 22. On or about April 27, 2018, Plaintiff A.B. received a phone call from the
21 President of MultiCare stating that she would soon receive a notification letter saying that
22 Defendant may have exposed her to Hepatitis C, Hepatitis B and HIV. The President informed
23 her that she was receiving a personal call because Plaintiff A.B.'s records indicated that more
24 fentanyl was dispensed than was needed to treat her injuries.

25 23. Plaintiff A.B. also recalls seeing Nurse Weberg pull a pre-filled syringe of the
26 prescribed narcotic from her pocket before injecting the narcotic into Plaintiff A.B.

1 24. Upon receiving the letter from the Hospital, Plaintiff A.B. returned to the
2 Hospital on or about April 30, 2018, where Plaintiff A.B. was tested for Hepatitis C, Hepatitis B
3 and HIV.

4 25. Following Plaintiff A.B.'s April 30, 2018 tests, Plaintiff A.B. was advised by the
5 Hospital that Plaintiff A.B. was negative for Hepatitis C, Hepatitis B and HIV.

6 26. Plaintiff A.B. was advised that she should be re-tested for Hepatitis B, Hepatitis
7 C, and HIV as she has an autoimmune disease that could compromise the reliability of the blood
8 test results. Plaintiff A.B. contacted Defendant and requested to be retested on this basis, but
9 Defendant never contacted Plaintiff A.B. about getting re-tested. Due to this lack of
10 communication from Defendant, Plaintiff A.B. sought to be re-tested by Plaintiff A.B.'s primary
11 care physician and Plaintiff A.B.'s re-test results were negative for Hepatitis C, Hepatitis B and
12 HIV.

13 27. Plaintiff A.B. has been forced to incur the expense, inconvenience, and
14 distraction from everyday activities due to the worry and stress of her possible infection with
15 Hepatitis C. Those damages and similar damages that other Class Members have suffered and
16 will reasonably suffer in the future, in addition to the Class-wide damages of the emotional
17 disruption of their lives, the physical invasion and pain of the blood draws for testing, other
18 effects and risks of the testing process, and the months of anxiety and fear suffered by every
19 class member.

20 28. The fact that Plaintiff A.B. has been subject to the Hepatitis C Exposure Incident
21 has caused her lost wages, pain, suffering, humiliation, loss of enjoyment of life, and other
22 general and special damages in an amount to be proven at trial.

23 **C. Plaintiff G.T.**

24 29. On or around November 9, 2017, Plaintiff G.T. was admitted to the emergency
25 room at the Hospital for treatment of injuries related to a potential heart attack, chest pains, and
26 elevated heart rate. During the course of his care, he received injections of narcotics from

1 Hospital employees.

2 30. Upon information and belief, Nurse Weberg worked at the Hospital during
3 Plaintiff G.T.'s stay.

4 31. Upon receiving the letter from the Hospital post marked April 27, 2018 notifying
5 Plaintiff G.T. that he may have been infected by Defendant exposing him to Hepatitis C,
6 Hepatitis B and HIV, Plaintiff G.T. went to Indigo Urgent Care (owned and operated by
7 MultiCare) on or around May 18, 2018, where he was tested for Hepatitis C, Hepatitis B and
8 HIV.

9 32. Following Plaintiff G.T.'s May 18, 2018 tests, he was advised that he was
10 negative for Hepatitis C, Hepatitis B and HIV.

11 33. After receiving a notice letter from the Hospital, and hearing news reports about
12 the Hepatitis C Investigation at Hospital, Plaintiff G.T. questioned the reliability of Indigo
13 Urgent Care's test results. Plaintiff G.T. visited his Primary Care Physician on or around May
14 29, 2018 and was retested. Plaintiff G.T. was advised by his Primary Care Physician that he was
15 negative for Hepatitis C, Hepatitis B and HIV.

16 34. Plaintiff G.T. has been forced to incur the expense, inconvenience, and
17 distraction from everyday activities due to the worry and stress of his possible infection with
18 Hepatitis C. Those damages and similar damages that other Class Members have suffered and
19 will reasonably suffer in the future, in addition to the Class-wide damages of the emotional
20 disruption of their lives, the physical invasion and pain of the blood draws for testing, other
21 effects and risks of the testing process, and the months of anxiety and fear suffered by every
22 class member.

23 35. The fact that Plaintiff G.T. has been subject to the Hepatitis C Exposure Incident
24 has caused him lost wages, pain, suffering, humiliation, loss of enjoyment of life, and other
25 general and special damages in an amount to be proven at trial.

26

1 **D. Plaintiff W.N.**

2 36. On or around December 25, 2017, Plaintiff W.N. was admitted to the emergency
3 room at the Hospital for treatment of injuries related to chest pains. During the course of his
4 care, he received injections of narcotics from Hospital employees.

5 37. Upon information and belief, Nurse Weberg worked at the Hospital during
6 Plaintiff W.N.'s stay.

7 38. Upon receiving the letter from the Hospital post marked April 27, 2018 notifying
8 Plaintiff W.N. that he may have been infected by Defendant exposing him to Hepatitis C,
9 Hepatitis B and HIV, Plaintiff W.N. went to Tacoma General Hospital on or around May 16,
10 2018, where he was tested for Hepatitis C, Hepatitis B and HIV.

11 39. Following Plaintiff W.N.'s May 16, 2018 tests, he was advised that he was
12 negative for Hepatitis C, Hepatitis B and HIV.

13 40. Despite standard testing practices, Defendant did not advise Plaintiff W.N. that
14 he should be retested after six (6) weeks in order to verify that Plaintiff W.N. is negative for
15 Hepatitis C, Hepatitis B and HIV. Plaintiff W.N. intends to be re-tested by Plaintiff W.N.'s
16 primary care physician.

17 41. Plaintiff W.N. is on dialysis and is currently on the transplant list for a new
18 kidney and his exposure to Hepatitis C has caused him significant stress and anxiety over the
19 possibility that his eligibility for a transplant possibly could be affected. Plaintiff W.N. has been
20 forced to incur the expense, inconvenience, and distraction from everyday activities due to the
21 worry and stress of his possible infection with Hepatitis C. Those damages and similar damages
22 that other Class Members have suffered and will reasonably suffer in the future, in addition to
23 the Class-wide damages of the emotional disruption of their lives, the physical invasion and pain
24 of the blood draws for testing, other effects and risks of the testing process, and the months of
25 anxiety and fear suffered by every class member.

26 42. The fact that Plaintiff W.N. has been subject to the Hepatitis C Exposure Incident

1 has caused him lost wages, pain, suffering, humiliation, loss of enjoyment of life, and other
2 general and special damages in an amount to be proven at trial.

3 **B. Defendant's knowledge of the Hepatitis C Exposure Incidents**

4 43. Defendant is undeniably aware of the both potential and actual Hepatitis C
5 Exposure Incidents endured by its patients, including Plaintiffs and Class Members, because it
6 informed them directly of the Hepatitis C Exposure Incidents.

7 44. Nurse Weberg worked in the Emergency Department at the Hospital from
8 August 2017 through March 2018.

9 45. On information and belief, in August 2017, at least one complaint was lodged
10 with the Hospital indicating that Nurse Weberg had forced injectable pain medications on a
11 female patient in the emergency department who refused pain medications. Despite this, Good
12 Samaritan did nothing to investigate a potential issue of drug misuse on the part of Nurse
13 Weberg.

14 46. On or about April 30, 2018, Defendant notified approximately 2,800² Hospital
15 patients of the Hepatitis C Exposure Incident by letter and issued a press release with the same
16 information.

17 47. The letter stated in part:

18 We are contacting you to share some very concerning information.
19 According to our records, your received care in the Emergency
20 Department at MultiCare Good Samaritan Hospital in Puyallup,
21 Washington between August 4, 2017 and March 23, 2018. Recently
22 we discovered that during this eight-month period, an employee in
the Emergency Department may have exposed at least two patients
to Hepatitis C virus, causing them to become infected.

23 We sincerely apologize for the anxiety that this situation may cause
24 you. This is something that should never happen in any health
25 facility and we are committed to providing you with support.

26 ² See Tacoma-Pierce County Health Dept., *Hepatitis C Testing Results: Hepatitis Investigation data as of June 20, 2018*, <https://www.tpchd.org/healthy-people/diseases/hepatitis/hepatitis-c/hepatitis-c-testing-results> (last visited June 26, 2018).

1 48. As of at least April 30, 2018, according to the Hospital, at least two patients who
2 were treated by Defendant during approximately December 2017 likely contracted Hepatitis C
3 while in the Hospital Emergency Department.

4 49. As of June 20, 2018, the Tacoma-Pierce County Health Department is reporting
5 that there are six positive Hepatitis C cases under investigation, four probable cases of positive
6 Hepatitis C cases awaiting Center for Disease Control (“CDC”) lab testing, and eight Hepatitis
7 C cases confirmed by the CDC.³

8 50. The Washington State Department of Health initially determined through genetic
9 tests, that two patients contracted Hepatitis C derived from a common source, which it identified
10 was Nurse Weberg as the “common denominator.”

11 51. Defendant has admitted publicly that the cause of the Hepatitis C Exposure
12 Incident was the result of theft by Nurse Weberg of excessive levels of pain medication
13 (including narcotics, antihistamines, and sedatives) from the Hospital dispensary.

14 52. Defendant Safety Alert posted on its website states in part:

15 MultiCare Good Samaritan Hospital in Puyallup is notifying certain
16 patients who were treated in the Emergency Department during a
17 nearly eight-month period in 2017 and 2018 that they should be
18 tested for Hepatitis C. The alert follows the confirmation that two
patients who were treated in December likely contracted the disease
while in the Emergency Department.

19 Good Samaritan and local and state health department officials have
20 conducted a thorough investigation and determined that one of our
21 nurses was removing higher-than-normal amounts of narcotics from
22 our dispensing system and admitted to diverting medications
23 intended for patients. She tested positive for Hepatitis C and had
24 treated both of the patients we know are infected. Hepatitis C is most
25 commonly transmitted by exposure to an infected person’s blood
26 through shared needles. The nurse no longer works for MultiCare.⁴

53. As of June 7, 2018, the Hospital is reporting that “for 14 samples from patients

³ *Id.*

⁴ *Safety Alert: Potential Hepatitis C Exposure for Some Good Samaritan Emergency Department Patients*, MultiCare Health System (June 7, 2018, Update), <https://www.multicare.org/safety-alert/>.

1 whose Hepatitis C test was positive during our screening process...it is very likely that samples
2 from six of these patients are genetically matched to the two initial patients we identified earlier
3 this year, with infections likely linked to care provided at Good Samaritan. These patients have
4 been notified of the results, and we are taking responsibility for their treatment and working
5 with them to establish personal care plans.”⁵

6 54. The Hospital further stated that “[f]ive of the patient samples did not match the
7 initial cases. We believe these patients all have chronic Hepatitis C acquired previously. We are
8 helping coordinate their treatment as well. Three samples did not have enough of the active
9 virus the testing requires. We continue to investigate these cases in cooperation with the
10 Tacoma-Pierce County Health Department.”⁶.

11 55. Nurse Weberg administered the medication to patients using needles that she
12 shared among them and herself.

13 56. The narcotics diverted by Nurse Weberg included fentanyl and hydromorphone.

14 57. According to information published by Defendant, Nurse Weberg has tested
15 positive for Hepatitis C.

16 58. Nurse Weberg was arrested by the Puyallup Police Department on two counts of
17 second-degree assault due to the Hepatitis C Exposure Incidents.

18 59. On or about May 7, 2018, the Washington Nursing Care Quality Assurance
19 Commission announced the suspension of Nurse Weberg’s nursing license, citing
20 “unprofessional conduct.”

21 60. Defendant has publicized the work schedule of Nurse Weberg between August 4,
22 2017 and March 23, 2018 so that patients can determine whether they are potentially affected.⁷

24 ⁵ *Id.*

25 ⁶ *Id.*

26 ⁷ *Nurse Shifts*, MultiCare Health System,
https://www.multicare.org/file_viewer.php?id=17395&title=Emergency+Department+Shifts (last
visited June 26, 2018).

1 61. Defendant has admitted publicly that it has experienced issues “around reporting
2 of narcotic use.”⁸

3 62. Hepatitis C is a blood-borne viral infection of the liver that is usually spread
4 when blood from a person infected with the Hepatitis C virus enters the body of someone who is
5 not infected. Hepatitis C is most commonly transmitted by exposure to an infected person’s
6 blood through shared needles.

7 63. If left untreated, Hepatitis C can cause serious long-term health problems.
8 Symptoms of Hepatitis C may include stomach pain, vomiting or yellow eyes or skin.

9 64. Plaintiffs and Class Members received injections of narcotics, antihistamines or
10 sedatives between August 4, 2017 and March 23, 2018 during stays at the Hospital that
11 subjected them to the Hepatitis C Exposure Incidents.

12 65. News reports have informed Plaintiffs and Class Members that the threat posed
13 to them is not just theoretical; there have been eight confirmed Hepatitis C cases in patients that
14 were treated by Defendant in the class time period and another four cases that are probable.

15 66. As a direct and proximate result of Defendant’s negligence and the notice it was
16 required to send as a result, Plaintiffs and Class Members were informed that they had been put
17 in a zone of danger of contracting Hepatitis C. The only way to determine if they had been
18 infected so that they could take steps to mitigate the disease and begin treatment was to subject
19 themselves to the expense, inconvenience, distraction from everyday activities, pain, and
20 physical invasion of a blood draw for Hepatitis C, Hepatitis B and HIV testing.

21 67. Because of the limitations of Hepatitis C, Hepatitis B and HIV testing, a recent
22 infection may not be detectable for months, so Plaintiffs and Class Members cannot yet know
23 whether they are out of the zone of danger into which Defendant’s conduct placed them. From
24

25 ⁸ *MultiCare Good Samaritan Hospital Notifying Patients of Potential Hepatitis C Exposure*, MultiCare
26 Health System, (Apr. 30, 2018), <https://www.multicare.org/news/multicare-good-samaritan-hospital-notifying/>.

1 the date of the Notice and extending over the months until the second test is completed,
2 Plaintiffs and Class Members will live with the anxiety, stress, and emotional distress that they
3 may be infected with Hepatitis C, Hepatitis B and/or HIV. That distress is the natural, expected
4 product of the zone of danger into which the Defendant's negligence placed Plaintiffs and Class
5 Members.

6 VI. CLASS ALLEGATIONS

7 68. The proposed class (the "Class") is defined as follows:

8 All persons who were treated at the MultiCare Good Samaritan
9 Hospital in Puyallup, Washington between August 4, 2017 and
10 March 23, 2018 and were determined by the Hospital that they
should be tested for Hepatitis B, Hepatitis C and HIV.

11 69. Excluded from the Class are Defendant and its employees, officers and directors,
12 and the Judge(s) assigned to this case. Plaintiffs reserve the right to modify, change or expand
13 the Class definition after conducting discovery.

14 70. The requirements of Washington's class action rule, CR 23, are met in this case.
15 Class treatment is appropriate if the four threshold requirements of CR 23(a), and one of the
16 three requirements of CR 23(b), are met.

17 71. There are four CR 23(a) requirements for class actions: numerosity;
18 commonality; typicality; and adequacy. All are met in this case.

19 72. Numerosity. The exact number of Class Members is unknown to Plaintiffs, but
20 can be readily determined from records maintained by Defendant. According to Defendant, it
21 notified at least 2,800 individuals that they were possibly exposed to a bloodborne pathogen
22 during their treatment and should immediately have their blood tested for HIV and Hepatitis B
23 and C. Thus, the number of persons who are members of the proposed Class is so numerous that
24 joinder of all members is impracticable.

25 73. Commonality. There are numerous questions of fact and/or law that are common
26 to Plaintiffs and all members of the Class, with answers that are common to all members of the

1 Class, including, but not limited to:

- 2 a. Whether Defendant failed to conduct a proper employment
3 background check of Nurse Weberg or otherwise negligently hired
4 her;
- 5 b. Whether Plaintiffs' and Class Members' increased risk of exposure
6 to a bloodborne pathogens was caused by Defendant's negligence;
- 7 c. Whether reasonable pre-employment review of Nurse Weberg's
8 available background made her an unsuitable candidate for direct
9 patient care at Defendant's Hospital;
- 10 d. Whether Defendant used appropriate and standard-of-care
11 practices to screen persons hired at the Hospital and intended to
12 have direct patient contact;
- 13 e. Whether Defendant used appropriate and standard-of-care
14 practices to monitor the distribution of prescription drugs within
15 the Hospital;
- 16 f. Whether Defendant used appropriate and standard-of-care
17 practices to monitor the use of needles, and to prevent the
18 dangerous sharing of needles, by Hospital staff;
- 19 g. Whether Defendant timely detected the misconduct of Nurse
20 Weberg and the obvious danger she posed to persons at
21 Defendant's Hospital;
- 22 h. The adequacy and appropriateness of Defendant's post-exposure
23 testing administered to Plaintiffs and Class Members.
- 24 i. The nature and extent of the legal claims available to Plaintiffs and
25 Class Members as a result of zone of danger into which
26 Defendant's conduct has placed them;
- 27 j. The recoverable damages of Plaintiffs and Class Members
associated with the necessary testing, re-testing, and
inconvenience, disruption, and fear naturally appertaining thereto.

74. Typicality. Plaintiffs' claims are typical of those of the absent Class Members because their claims arise from the same event, practice and/or policies, namely Defendant's hiring of Nurse Weberg and neglect to adequately monitor the danger she posed to Class Members. Defendant defined the Class members by their own determination that they had been

1 put at risk. The typicality of the financial and emotional impact of being told that one is at risk
2 for serious diseases and must be tested is self-evident. The impact may vary slightly in degree
3 from person to person, but Plaintiffs remain typical of the Class because each member of the
4 Class members were similarly affected by Defendant's negligence.

5 75. Adequacy. Adequate representation has two components: (1) the representative's
6 interests must not be antagonistic to those of other class members; and (2) class counsel must be
7 qualified, experienced, and generally able to conduct the litigation. Both requirements are
8 plainly met here.

9 76. Plaintiffs will fairly and adequately represent and protect the interests of all
10 members of the Class.

11 77. Plaintiffs do not have any interests antagonistic to or in conflict with the interests
12 of the Class; each Plaintiff was subjected to the same actions by the Defendant as was each
13 member of the Class.

14 78. Defendant has no unique defenses against Plaintiffs that would interfere with
15 Plaintiffs' representation of the Class. Defendant conducted an internal analysis regarding who
16 was exposed and sent them the letters informing them of the Hepatitis C Exposure Incidents.
17 Defendant's defenses against Plaintiffs are no different than those against any of the Class
18 members.

19 79. With respect to counsel, Plaintiffs have engaged Keller Rohrback L.L.P. and
20 Sauder Schelkopf LLC to represent Plaintiffs and the Class. Keller Rohrback and Sauder
21 Schelkopf have extensive experience in class action litigation.

22 80. In addition to meeting the four requirements of CR 23(a), the Class must meet at
23 least one of the three requirements of CR 23(b):

24 (1) the prosecution of separate actions by or against individual members of the
25 class would create a risk of (A) inconsistent or varying adjudications with respect
26 to individual members of the class which would establish incompatible standards
of conduct for the party opposing the class, or (B) adjudications with respect to
individual members of the class which would as a practical matter be dispositive

1 of the interests of the other members not parties to the adjudications or
2 substantially impair or impede their ability to protect their interests; or

3 (2) the party opposing the class has acted or refused to act on grounds generally
4 applicable to the class, thereby making appropriate final injunctive relief or
corresponding declaratory relief with respect to the class as a whole; or

5 (3) the court finds that the questions of law or fact common to the members of the
6 class predominate over any questions affecting only individual members, and that
7 a class action is superior to other available methods for the fair and efficient
8 adjudication of the controversy. The matters pertinent to the findings include: (A)
9 the interest of members of the class in individually controlling the prosecution or
10 defense of separate actions; (B) the extent and nature of any litigation concerning
the controversy already commenced by or against members of the class; (C) the
desirability or undesirability of concentrating the litigation of the claims in the
particular forum; (D) the difficulties likely to be encountered in the management
of a class action.

11 81. The requirements of CR 23(b)(1)(A) are met here, because the prosecution of
12 separate actions by members of the Class would create a risk of establishing incompatible
13 standards of conduct for Defendant. Additionally, the requirements of CR 23(b)(1)(B) are
14 satisfied because adjudication of these claims by individual members of the Class would, as a
15 practical matter, be dispositive of the interests of the other members not parties to the actions, or
16 substantially impair or impede the ability of other members of the Class to protect their
17 interests.

18 82. In addition, the requirements of CR 23(b)(3) are met here because questions of
19 law or fact common to members of the Class predominate over any questions affecting only
20 individual members. Moreover, a class action is superior to the other available methods for the
21 fair and efficient adjudication of this controversy.

22 VII. CLAIMS

23 83. Defendant MultiCare had a duty to exercise the degree of care expected from a
24 reasonably prudent hospital and a duty to safeguard Plaintiffs and Class Members' well-being.
25 Defendant failed to exercise the degree of care expected of a reasonably prudent hospital acting
26 in similar circumstances. Defendant had a duty to train and supervise its employees to ensure

1 that competent and safe nursing care was provided to Plaintiffs and Class Members. Defendant
2 failed in its duty because it knew or should have known that Nurse Weberg was putting
3 Plaintiffs and Class Members at risk, and, that duty was heightened after Defendant received the
4 initial complaint against Nurse Weberg. Defendant acted negligently in supervising its nursing
5 staff.

6 84. Defendant breached its duty when its agents failed to exercise that degree of care,
7 skill, and learning expected of a reasonably prudent health care provider at that time in the
8 profession or class to which he or she belongs, in the state of Washington, acting in the same or
9 similar circumstances, and such failure was the proximate cause of the injuries sustained by
10 Plaintiffs and the Class.

11 85. Defendant breached its duty when its agents violated the standard of care and
12 acted negligently in properly training, investigating and supervising its nursing staff, including
13 Nurse Weberg.

14 86. Defendant breached its duty when its agents failed to properly screen Nurse
15 Weberg for employment in the emergency department at Good Samaritan Hospital.

16 87. Defendant breached its duty when its agents failed to realize that medication was
17 being misused in the emergency department, in particular, that Nurse Weberg was stealing
18 injectable narcotics and endangering patients, for over a period of six months.

19 88. Defendant breached its duty of care when its employees and agents failed to take
20 appropriate steps to investigate Nurse Weberg until after she had infected patients with Hepatitis
21 C or other bloodborne pathogens, particularly in light of a patient complaint against Nurse
22 Weberg.

23 89. Defendant breached its duty of care when its employees and agents failed to take
24 timely steps to discipline or terminate Nurse Weberg.

25 90. Defendant breached its duty of care when it failed to implement and/or follow
26 existing policies and procedures with regard to proper management of medication, particular

1 injectable narcotic pain medication.

2 91. As a direct and proximate result of the violations of the standard of care and
3 failures by Defendant, Plaintiffs and Class Members have: incurred the need for necessary
4 medical care, treatment, and services received as of the filing of this action and with reasonable
5 probability to be required in the future; have incurred inconvenience and loss of time associated
6 with such medical care, treatment, and services; suffered serious emotional distress, including
7 but not limited to living with the knowledge that they could have or potential will contract a
8 bloodborne pathogen disease, such as Hepatitis C. The extent of Plaintiffs' and Class Members'
9 injuries are unknown and will require and will continue to require expensive medical care and
10 treatment. These and other general and special damages are continuing in nature and will be
11 determined by the jury at the time of trial.

12 **VIII. PRAYER FOR RELIEF**

13 WHEREFORE, Plaintiffs request the following relief against the Defendant MultiCare
14 Health System:

- 15 (a) Certification of this action as a class action pursuant to CR 23;
- 16 (b) General and special damages in an amount to be proven at trial;
- 17 (c) Reasonable attorneys' fees and costs and a service award for Plaintiffs;
- 18 (d) Any and all applicable pre-judgment and post-judgment interest on the judgment;
19 and
- 20 (e) Such other and further relief as the Court deems just and proper under the
21 circumstances of this case.

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1 DATED this 2nd day of August, 2018.
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