

**MEMORANDUM IN
SUPPORT OF MOTION**

**Electronically Filed
FIRST CIRCUIT
1CCV-21-0000683
30-MAR-2026
11:14 AM
Dkt. 358 MES**

TO

DEFENDANTS

**MERLA TAKENAKA, RN, KAPIOLANI
MEDICAL CENTER FOR WOMEN AND
CHILDREN, AND HAWAII PACIFIC
HEALTH'S MEMORANDUM IN
SUPPORT OF MOTION FOR
SUMMARY JUDGMENT**

AND EXHIBITS B-D AND H-I

FILED UNDER SEAL

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

JARED JAMES,

Plaintiff,

vs.

PATRICK J. O'DONNELL, M.D.; SUSAN
TAN, M.D.; SELINA PETERS, M.D.;
MERLA TAKENAKA RN; KAPIOLANI
MEDICAL SPECIALISTS; KAPIOLANI
MEDICAL CENTER FOR WOMAN AND
CHILDREN; HAWAII PACIFIC HEALTH;
DOES 1-10; DOE CORPORATIONS; DOE
GOVERNMENT ENTITIES 1-5,

Defendants.

CIVIL NO. 1CCV-21-0000683 (SMK)

MEMORANDUM IN SUPPORT OF MOTION

MEMORANDUM IN SUPPORT OF MOTION

Defendants MERLA TAKENAKA, RN (“Nurse Takenaka”), KAPIOLANI MEDICAL CENTER FOR WOMEN AND CHILDREN (“KMCWC”), and HAWAII PACIFIC HEALTH (“HPH”) (hereinafter “HPH Defendants”), by and through their attorneys, GOODSILL ANDERSON QUINN & STIFEL, hereby move this Court for summary judgment as to any and all remaining claims by Plaintiff JARED JAMES.

I. INTRODUCTION

This is a medical malpractice case concerning the care and treatment Plaintiff Jared James received in 2016. This Court has already dismissed many of Plaintiff’s improper claims, and the only remaining claims fall under the titles of “Medical Malpractice” and “Breach of Contract” in the First Amended Complaint. Any and all of Plaintiff’s remaining claims fail as a matter of law. First, under even the most liberal approach, Plaintiff’s claims are time-barred as

the statute of limitations expired long before the filing of the initial Complaint. Second, while Plaintiff has asserted a variety of improper claims, Plaintiff's claims sound in medical negligence. Without the requisite expert support, Plaintiff's claims for medical negligence, regardless of how the claims are characterized, fail as a matter of law. The Court should grant summary judgment in favor of HPH Defendants.

II. FACTUAL AND PROCEDURAL BACKGROUND

This case stems from a procedure performed on Plaintiff at Kapiolani Medical Center for Women and Children on May 26, 2016, to treat his nasal valve collapse. *See* Exhibit A, Amended Complaint, filed on May 26, 2023 [Dkt. 65] at pars. 5 and 11. Plaintiff alleges errors with respect to the surgery, the timing and administration of anesthesia and the medical documentation. *See* Exhibit A. As a result, Plaintiff claims that he suffers from Empty Nose Syndrome and experiences pain, feelings of suffocation, fatigue, inability to sleep, voice changes, and psychological and emotional damage and loss of enjoyment of life. *Id.*

On July 5, 2017¹, Plaintiff submitted two Inquiries related to the same procedure to the Medical Inquiry and Conciliation Panel ("MICP"), as required by HRS § 671-12. *See* Exhibit B, Inquiry Regarding Rendering of Professional Services, filed on July 5, 2017, in MICP NO. 2017-052; and Exhibit C, Inquiry regarding Rendering of Professional Services, filed on July 5, 2017, in MICP No. 2017-053. Plaintiff was ordered by the MICP to provide a more definite statement of his claims in both Inquiries, and he submitted a consolidated More Definite Statement. *See* Exhibit D, More Definite Statements.

¹ The filing of the MICP Inquiries marked the latest date that the statute of limitations began to accrue. However, the statute of limitations likely began to run much earlier. *See* Defendants Patrick J. O' Donnell, M.D.; Susan Tan, M.D.; and Kapi'olani Medical Specialists' Motion for Summary Judgment, filed on March 27, 2026 [Dkt. 351].

On March 21, 2018, pursuant to HRS § 671-15, following completion of the MICP process, Plaintiff was notified by the MICP of the termination of the proceedings. *See* Exhibit E, Termination Letter for MICP No. 2017-052, dated March 21, 2018; Exhibit F, Termination Letter for MICP No. 2017-053, dated March 21, 2018. These termination letters expressly advised Plaintiff of the statute of limitations tolling provisions in HRS § 671-18. *See* Exhibit E; Exhibit F.

Plaintiff filed his initial Complaint in this matter on May 25, 2021, over two years after the termination of the MICP proceedings and five years after the subject medical care. *See* Dkt. 1.

On May 26, 2023, Plaintiff filed an Amended Complaint alleging the following claims: A) Conspiracy to Commit Fraud under HRS Chapter 842; B) Conspiracy to Commit Assault in the First Degree under HRS Chapter 842; C) Conspiracy to Commit Unlawful Imprisonment under HRS Chapter 842; D) Medical Malpractice; E) Breach of Contract; F) False Statements under 18 U.S.C. § 1035; G) “Racketeer Influenced and Corrupt Organizations” under 18 U.S.C. Chapter 96; and H) “Conspiracy against rights” under 18 U.S.C. § 241. *See* Exhibit A.

HPH Defendants served Plaintiff with discovery requests on September 24, 2025. HPH Defendants were forced to move to compel Plaintiff’s responses to discovery as he failed to respond despite repeated communications by counsel for HPH Defendants. *See* Dkt. 201.

Plaintiff’s expert disclosure and final naming of witnesses were due on January 20, 2026. *See* Exhibit G, Trial Setting Status Conference Order, filed on January 29, 2025 [Dkt. 181].

On February 17, 2026, HPH Defendants timely served all parties with their expert disclosure and filed their Final Naming of Witnesses. Barrios Decl. at par. 3; Dkts. 228, 230. Namely, HPH Defendants disclosed the report of Alexis Chaudron, RN, who is an expert in

nursing care and hospital administration. *See* Exhibit H, Report of Alexis Chaudron, RN, dated February 12, 2026. Nurse Chaudron opines that KMCWC’s hospital administration and nursing staff met the standard of care in the care and treatment of Plaintiff. *Id.*

On February 18, 2026, the Court granted HPH Defendant’s motion to compel and reserved its ruling on the request for fees and costs. *See* Dkt. 299.

On March 4, 2026, over a month and a half after Plaintiff’s expert disclosure deadline, Plaintiff served his responses to HPH Defendants’ discovery requests. In response to Interrogatory No. 30, Plaintiff stated “Plaintiff has not yet finalized the retention of testifying experts.” *See* Exhibit I, Plaintiff’s Responses to HPH Defendants’ Interrogatories, dated March 4, 2026 at No. 30.

HPH Defendants attempted to take Plaintiff’s deposition and noticed the deposition for a date and time that was originally proposed and agreed to by Plaintiff, March 17, 2026. Barrios Decl. at par. 4. Despite proper notice and repeated communications regarding his deposition, Plaintiff did not appear for his deposition. *Id.*

The discovery cutoff was on March 19, 2026. *See* Exhibit G.

To date, Plaintiff has failed to disclose any experts – let alone any expert who is critical of HPH Defendants. Barrios Decl. at par. 5.

Counts A, B, C, F, G and H of the First Amended Complaint have been dismissed with prejudice. *See* Exhibit J, Order Granting Defendants Patrick J. O’Donnell, M.D.; Susan Tan, M.D.; and Kapiolani Medical Specialists’ Motion for Partial Judgment on the Pleadings, filed on March 20, 2026 [Dkt. 333]; Exhibit K, Order Granting HPH Defendants’ Substantive Joinder, filed on March 11, 2026 [Dkt. 301]. The only remaining claims are Plaintiff’s claims for Medical Malpractice (Claim D) and Breach of Contract (Claim E). Under his claim for

Medical Malpractice, Plaintiff alleges the following 1) Assault in the First Degree; 2) False Imprisonment in the First Degree; 3) Fraud; 4) Intentional Infliction of Emotional Distress (“IIED”); 5) Product Liability; and 6) Unnecessary Actions.

HPH Defendants move for summary judgment on any and all of Plaintiff’s remaining claims.

III. LEGAL STANDARD

A. Summary Judgment Standard

Under Rule 56(c) of the Hawai‘i Rules of Civil Procedure, summary judgment shall be entered “if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.” *Morinoue v. Roy*, 86 Hawai‘i 76, 80, 947 P.2d 944, 948 (1997). A fact is material “if proof of that fact would have the effect of establishing or refuting one of the essential elements of a cause of action or defense asserted by the parties. *Id.*

Where the moving party is the defendant, who does not bear the ultimate burden of proof at trial, summary judgment is proper when the non-moving party-plaintiff fails to make a showing sufficient to establish the existence of an element essential to that party’s case, and on which that party will bear the burden of proof at trial.

Exotics Hawaii-Kona, Inc. v. E.I. Du Pont De Nemours & Co., 116 Hawai‘i 277, 302, 172 P.3d 1021, 1046 (2007) (citation omitted; formatting adjusted).

B. HRS § 657-7.3

Pursuant to HRS § 657-7.3 (“Medical torts; limitation of actions; time”), “[n]o action for injury or death against a . . . nurse, . . . physician or surgeon . . . or a licensed hospital

as the employer of any such person, based upon such person's alleged professional negligence, or for rendering professional services without consent, or for error or omission in such person's practice, shall be brought more than two years after plaintiff discovers, or through the use of reasonable diligence should have discovered, the injury." HRS § 657-7.3(a).

"Medical tort" means professional negligence, the rendering of professional service without informed consent, or an error or omission in professional practice, by a health care provider, which proximately causes death, injury, or other damage to a patient.

HRS § 671-1.

C. HRS § 671-18

Pursuant to HRS § 671-18, "[t]he filing of the inquiry with the medical inquiry and conciliation panel or with an approved or agreed upon alternative dispute resolution provider shall toll any applicable statute of limitations, and the statute of limitations shall remain tolled until sixty days after the termination of the panel."

IV. ARGUMENT

The Court should grant summary judgment in favor of HPH Defendants on all of the remaining claims. First, all of Plaintiff's claims are time-barred as the statute of limitations expired long before he filed his initial Complaint. Second, all of Plaintiff's claims sound in medical negligence and without an expert to support his claims, all of Plaintiff's claims fail as a matter of law.

A. Plaintiff's Claims are Time-Barred

HPH Defendants join in, and incorporate by reference, the arguments raised in Sections IV(A)-(B) of Defendants Patrick J. O' Donnell, M.D.; Susan Tan, M.D.; and Kapi'olani Medical Specialists' Motion for Summary Judgment, filed on March 27, 2026 [Dkts. 351, 353].

All of Plaintiff's claims are time-barred. Summary judgment should be granted in favor of HPH Defendants.

B. Plaintiff's Remaining Claims Fail as a Matter of Law

While uncomprehensible, even if Plaintiff's remaining claims survived the statute of limitations, his remaining claims are subject to summary judgment. The Supreme Court of Hawai'i has held that a plaintiff's arbitrary framing of a complaint and/or theory of the case, will not stand if the underlying facts show that a different legal theory is more appropriate. *See Nishi v. Hartwell*, 52 Haw. 188, 191, 473 P.2d 116, 119 (1970), overruled on other grounds by *Carr v. Strode*, 79 Haw. 475, 904 P.2d 489 (1995); *Territory of Hawaii v. Branco*, 42 Haw. 304, 311 (1958). Although Plaintiff has alleged breach of contract and a litany of other claims under the category of "medical malpractice," all of Plaintiff's claims are rooted in, and sound in, medical negligence and fail as a matter of law

1. Plaintiff has No Expert to Support His Claims

It is well-established that in medical malpractice actions, plaintiffs must establish: (a) the appropriate standard of care; (b) that defendant's conduct fell below such standard; and (c) that such conduct was the legal cause of plaintiff's injury. *Craft v. Peebles*, 78 Hawai'i 287, 299 (1995); *Bernard v. Char*, 79 Hawai'i 371, 377 (Ct. App. 1995). Further, "unlike the ordinary negligence case, it is the general rule that a malpractice case based on negligent treatment *cannot be established without expert medical testimony* to support it." *Bernard v. Char*, 79 Haw. 371, 377, (Ct. App.), *aff'd*, 79 Haw. 362 (1995) (emphasis added). Expert testimony is required to prove medical malpractice.

Additionally, the standard of care must be established by reference to prevailing standards of conduct in the applicable medical community. *See Carr v. Strode*,

79 Haw. 479, 485 n. 6 (1995). The expert must be qualified by his or her “knowledge, skill, experience, training, or education.” Hawaii Rules of Evidence 702. Although the expert need not have the highest possible qualifications to testify, he or she must have “such skill, knowledge, or experience *in the field in question* as to make it appear that [his or her] opinion or inference-drawing would probably aid the trier of fact in arriving at the truth.” (emphasis added). *Larsen v. State Sav. & Loan Ass’n*, 64 Haw. 302, 304 (1982). These more stringent requirements for qualifying an expert, as opposed to a lay witness, help offset the “aura of infallibility” that a scientific expert brings to the court.” *See U.S. v. Amaral*, 488 F.2d 1148, 1152 (9th Cir. 1973).

In addition to the standard of care, expert testimony is required to prove that any breach in the standard of care by HPH Defendants *caused* Plaintiff’s injuries. *Barbee v. Queen’s Medical Center*, 119 Hawai’i 136, 145, 194 P.3d 1098, 1107 (Ct. App. 2008).

Here, Plaintiff has produced no report from an expert to support his claims for medical negligence. Barrios Decl. at par. 5. Plaintiff likewise has no expert to refute the opinions of Nurse Chaudron, who opines that KMCWC’s hospital administration and nursing staff at all times complied with the standard of care. *See* Exhibit H. Without the requisite expert support, Plaintiff’s claims fail as a matter of law.

2. Plaintiff’s Claims for “Assault in the First Degree”, False Imprisonment in the First Degree” and “Unnecessary Actions” Fail as a Matter of Law

To the extent Plaintiff brings claims for “Assault in the First Degree”, “False Imprisonment in the First Degree” and “Unnecessary Actions”, such claims fail as a matter of law. *See* Exhibit A at pgs. 9-10. Any such claims are duplicative of Plaintiff’s medical negligence claim, which fails in the absence of expert support. Summary judgment as to any

claims for “Assault in the First Degree”, “False Imprisonment in the First Degree” and “Unnecessary Actions” is appropriate.

3. Plaintiff’s Fraud Claim Fails as a Matter of Law

Summary judgment is appropriate as to Plaintiff’s fraud claim. First, Plaintiff’s allegations underlying his alleged fraud claim do not give rise to a cognizable claim for fraud under Hawaii law. Plaintiff alleges that (1) that Ms. Takenaka changed his check-in time to conceal an early anesthesia procedure; (2) that Dr. O’Donnell falsely claimed to have spoken with Plaintiff after the initial meeting on February 26, 2016, when no such communication occurred; (3) that Dr. O’Donnell and Rozel Cerezo fraudulently signed as witnesses to an informed consent process that never took place; and (4) that Dr. O’Donnell claimed to have fully completed an informed consent process on the day of surgery when he did not. *See* Exhibit A at pg. 10. These allegations, taken individually or collectively, do not give rise to a fraud claim. At most, the allegations describe deficiencies in the informed consent process and medical record-keeping. Even assuming, *arguendo*, that Plaintiff’s allegations could be construed as stating a fraud claim, Plaintiff has failed to produce evidence sufficient to satisfy his burden on each of the required elements: “(1) false representations were made by defendants, (2) with knowledge of their falsity (or without knowledge of their truth or falsity), (3) in contemplation of plaintiff’s reliance upon these false representations, and (4) plaintiff did rely upon them.” *Shoppe v. Gucci Am., Inc.*, 94 Hawai’i 368, 386, 14 P.3d 1049, 1067 (2000).

Here, there is no evidence that HPH Defendants made an affirmative false statement to Plaintiff with the intent that Plaintiff rely upon it. In addition, Plaintiff does not allege that he took any action or refrained from taking any action because of the alleged change in check-in time, the alleged false claims of communication, or the allegedly fraudulent consent

signatures. Even if Plaintiff could establish a false representation and reliance, he has not produced evidence that any damages he suffered resulted from reliance on the alleged misrepresentations. The damages Plaintiff seeks stem from the medical procedure at issue and not any cognizable claim of fraud. Accordingly, Plaintiff's fraud claim fails as a matter of law.

4. Plaintiff's Intentional Infliction of Emotional Distress Claim Fails as a Matter of Law

To maintain a claim for IIED, Plaintiff must prove the following elements:

1) that the act allegedly causing the harm was intentional or reckless; 2) that the act was outrageous; and 3) the act caused extreme emotional distress to another. *Hac v. Univ. of Hawaii*, 102 Haw. 92 (2003). In order to recover for IIED the alleged tortfeasors must have acted unreasonably and "without just cause or excuse and beyond all bounds of decency." *Chedester v. Stecker*, 64 Haw. 464, 468 (1982). Further, the question of whether the actions of the alleged tortfeasor were unreasonable or outrageous is for the court to decide unless reasonable persons may differ on that question. *Young v. Allstate Ins. Co.*, 119 Haw. 403, 429, 198 P.3d 666, 692 (2008).

The Hawaii Supreme Court has routinely upheld motions for summary judgment dismissing IIED claims. *See Ross v. Stouffer Hotel Co.*, 76 Haw. 454, 465 (1994) (holding that an IIED claim was properly dismissed when there was no evidence to adduce unreasonable actions after an employer fired an employee pursuant to its policy of preventing married employees from working in the same department); *Shoppe v. Gucci Am.*, 94 Haw. 368, 387 (2000) (holding that summary judgment was properly granted in favor of defendants when the alleged actions and remarks regarding the plaintiffs' job performance were not "outrageous.")).

Here, there is no evidence and no expert support for the proposition that HPH Defendants acted negligently, let alone outrageously, intentionally, or with reckless disregard in the care and treatment of Plaintiff. Any conclusory and unfounded allegations do not amount to facts or evidence of outrageous, intentional or reckless conduct.

There is also no evidence that Plaintiff has suffered severe emotional distress. To sustain a claim for IIED, Plaintiff must prove that she has suffered emotional distress so extreme that a reasonable person would be unable to “adequately cope.” *Young v. Allstate Ins. Co.*, 119 Haw. 403, 198 P.3d 666 (2008); *see also Kaho'ohanohano v. Dep't of Hum. Servs., State of Haw.*, 117 Haw. 262 (2008) (finding that a father had suffered severe emotional distress after the Department of Human Services failed to timely investigate child abuse claims, which resulted in life-threatening injuries to the child). Plaintiff has put forth no evidence, beyond his conclusory statements, that he has suffered extreme emotional distress. Indeed, Plaintiff did not produce an expert report regarding his emotional distress claim. Barrios Decl. at par. 5. Thus, Plaintiff's claim for IIED fails as a matter of law.

5. Plaintiff's Product Liability Claim Fails as a Matter of Law

Hawai'i product liability law requires a defective *product*. “Generally, a products liability claim based on either negligence or strict liability has three elements: (1) a duty to anticipate and design against reasonably foreseeable hazards; (2) breach of that duty; and (3) injury proximately caused by the breach.” *Wagatsuma v. Patch*, 10 Haw. App. 547, 564, 879 P.2d 572, 583 (1994). Here, there is no evidence of a defective product. There is likewise no evidence that any HPH Defendant was a manufacturer, retailer, distributor or supplier of any such product. Plaintiff's products liability claim fails as a matter of law.

6. Plaintiff's Breach of Contract Claim Fails as a Matter of Law

As with many of Plaintiff's claims, he has improperly attempted to manufacture a breach of contract claim in this tort-based lawsuit. Plaintiff's case centers on allegations that the medical care and treatment he received at KMCWC fell below the standard of care – such claims are based in negligence, not contract. *See Nishi v. Hartwell*, 52 Haw. 188, 191, 473 P.2d 116, 119 (1970). (“Thus, we treat this as a negligence action. The right of a plaintiff to relief does not depend upon his allegations or his theory of the case.”) Plaintiff's breach of contract claim fails as a matter of law as it is merely duplicative of Plaintiff's negligence claim, which is fatally flawed for the reasons set forth above.

Still, in order to establish a breach of contract claim in a medical malpractice case, a plaintiff must produce evidence of an express promise to produce certain results in medical treatment. *Higa v. Mirikitani*, 55 Haw. 167, 172 n.9 (1973) citing *Lillich, The Malpractice Statute of Limitations in New York and Other Jurisdictions*, 47 Cornell L.Q. 339, 349 (1962) (where it is alleged that a doctor expressly promised to treat the plaintiff so as to produce results in excess of the common-law tort duty of care, a contractual theory would be proper); *see also Au v. Au*, 63 Haw. 210, 219 (1981) (“A warranty is created when assurances are given that certain results will not occur; if the event does happen, there would exist an independent action for breach of contract warranty”); *see also Heneberry v. Pharoan*, 232 Md. App. 468 (2017) (finding that a physician who failed to remove the entirety of a patient's appendix failed to give a warranty of a specific outcome and the alleged conduct fell squarely within medical negligence).

Here, there are no allegations against HPH Defendants, and certainly no

admissible evidence, that HPH Defendants made any promise to Plaintiff for a specific result. Plaintiff's breach of contract claim fails as a matter of law.

7. Plaintiff's Informed Consent Claim Fails as a Matter of Law

To the extent Plaintiff asserts a claim for informed consent, such claim against HPH Defendants fails as a matter of law. As a threshold matter, none of the HPH Defendants had a duty to obtain Plaintiff's informed consent. Under longstanding Hawai'i law, physicians have an obligation to obtain the informed consent of their patients before "administering diagnostic and treatment procedures." *Cuc Thi Ngo v. Queen's Med. Ctr.*, 136 Haw. 54, 62 (2015), as corrected (Sept. 1, 2015) (citing *Carr v. Strode*, 79 Hawai'i 475, 479 (1995)). While the statute does not specify as to "health care provider," Hawaii Courts have repeatedly held that it is the *physician* alone who has an "affirmative duty" to obtain informed consent. *Ditto v. McCurdy*, 86 Haw. 93, 119, 947 P.2d 961, 987 (Ct. App. 1997) ("This is an affirmative duty of disclosure on the part of physicians and surgeons and it requires an affirmative act."); *Keomaka v. Zakaib*, 8 Haw. App. 518, 532-33, 811 P.2d 478, 486-87 (1991) ("The doctrine of informed consent imposes on physicians or surgeons the duty to fully disclose to a patient "the type of risks and alternatives" to a proposed treatment or surgery."); see *Carr v. Strode*, 79 Haw. 475 (1995); see also *Nishi v. Hartwell*, 52 Haw. 188, 473 P.2d 116 (1970). Given that HPH Defendants did not have a duty to obtain Plaintiff's informed consent, Plaintiff's claim for informed consent fails as a matter of law.

Second, even setting aside the lack of a duty on the part of HPH Defendants, Plaintiff's informed consent claim fails because Plaintiff has no expert to carry his *prima facie* burden establishing the risks, probability of therapeutic success, or the nature and viability of alternative treatment to support such a claim. See *Carr v. Strode*, 79 Hawai'i 475,

486, 904 P.2d 489, 500 (1995); *Ngo v. Queen's Med. Ctr.*, 136 Hawai'i 54, 68, 358 P.3d 26, 40 (2015), as corrected (Sept. 1, 2015).

The Hawai'i Supreme Court has unambiguously held that expert testimony is required for informed consent claims:

We strongly caution...that our adoption of the patient-oriented standard does not relieve plaintiffs of their burden to provide expert medical testimony as to the “materiality” of the risk; to the contrary, **a plaintiff maintains the burden of adducing expert medical testimony to establish the nature of risks inherent in a particular treatment, the probabilities of therapeutic success, the frequency of the occurrence of particular risks, and the nature of available alternatives to treatment.**

Carr, 79 Hawai'i 475, 486, 904 P.2d 489, 500 (1995) (emphasis added)

(internal quotations omitted). Following *Carr*, the Hawai'i Supreme Court further clarified in *Ngo* that plaintiffs must satisfy a two-step process. *See Ngo*, 136 Hawai'i at 68, 358 P.3d at 40. They must first “adduce expert testimony establishing prima facie that the risk of harm that occurred is a ‘recognized material risk of serious complication or mortality...’” *Id.* (See also, Hawai'i Civil Jury Instruction 14.4, which explicitly requires expert testimony to support an informed consent claim).

Here, Plaintiff has no expert to support his informed consent claim.

Without an expert to opine as to the materiality of the risk, any informed consent claim fails as a matter of law. Summary judgment is appropriate.

V. CONCLUSION

Based on the foregoing, HPH Defendants respectfully request that this Motion be granted in full and that the Court issue an order granting summary judgment in favor of HPH Defendants.

DATED: Honolulu, Hawaii, March 30, 2026.

/s/ Lindsey N. Barrios

DAVID A. GRUEBNER

FOREST B. JENKINS

LINDSEY N. BARRIOS

Attorneys for Defendants

MERLA TAKENAKA, R.N, KAPIOLANI

MEDICAL CENTER FOR WOMEN AND

CHILDREN, and HAWAII PACIFIC

HEALTH

Exhibit B



MEDICAL INQUIRY AND CONCILIATION PANEL
OFFICE OF ADMINISTRATIVE HEARINGS
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
STATE OF HAWAII

In the Matter of the Inquiry of

MICP No. 2017-052

Inquiring Party(ies),

Jared James

INQUIRY REGARDING RENDERING OF
PROFESSIONAL SERVICES

DEPT. OF COMMERCE
AND CONSUMER AFFAIRS

2017 JUL -5 P 1:16

HEARINGS OFFICE

Patrick O'Donnell Dr. Susan Tan, Dr. Selena Peters
Kapiolani Medical Center for Women and
Children, Kapiolani Medical Health Care Provider(s).
Specialists
Hawaii Pacific Health, RAY VARA, Martha
Kenneth Nakamura, Thomas Yamashida
Rosel Cerezo, Marianne Mariano
Mary Cris Balisacan, Merla Takemaka, Rhemelyn Ulep
Wendy Tabalanza

INQUIRY REGARDING RENDERING OF PROFESSIONAL SERVICES

I. Name(s) and address(es) of Inquiring Party(ies): Jane Doe, Jane Doe, Jane Doe
John Doe, John Doe, John Doe

Jared James

1170 Nuuanu Ave

37068

Honolulu HI 96837

II. Name(s) and address(es) of the Health Care Provider(s):

Kapiolani Medical Center for Women & Children
Kapiolani Medical Specialists

Martha Smith

Kenneth Nakamura, Chief Medical Officer
Thomas Yamashida, Surgery Department Manager
Rosel Cerezo, Marianne Mariano, Mary Cris
Balisacan, Merla Takemaka, Rhemelyn Ulep
Wendy Tabalanza, Beth Acoba, Cynthia Capilla

Jennifer Cummings, Jennifer Kunihiro
Timothy Fireash
Address: 1319 Punahou St, Honolulu HI 96826

Dr. Patrick O'Donnell 1319 Punahou St
Dr. Susan Tan Honolulu HI #112 96826

Dr. Selena Peters 1319 Punahou St #630 Honolulu HI 96826

Hawaii Pacific Health 55 Merchant St
Honolulu, HI 96813

Inquiries cannot be accepted by the MICP unless accompanied by: 1) the appropriate filing fee(s) of \$450 per named Inquiring Party OR an Ex-Parte Motion to Waive Filing Fees; and 2) a Certificate of Consultation. Inquiries and documents may be filed at the Medical Inquiry and Conciliation Panel located at 335 Merchant Street, Suite 100, Honolulu, Hawaii 96813

Ray Vara
55 Merchant St
Honolulu, HI
96813

III. Description of the professional services that are the subject of your inquiry (attach additional pages if necessary):

A. When did they happen?

May 26th 2016

B. How did any problems happen?

Health care Providers

C. Which health care provider(s) and/or health care facilities do you believe were responsible for the alleged negligence?

All listed.

IV. What are the alleged negligent acts or omissions that fell below the applicable standard of care?

intentionally surgically operating on patient against his will skipping informed consent. ~~Intentional~~ Deception, ~~Intentional~~ Fraudulently Doctoring medical Records, Performing Unnecessary surgical procedures. Fraudulently Billing Insurance. organizational Executives creating & maintaining and Policy environment where Patients are harmed. staff: not verifying informed consent &

DATED: Honolulu Hawaii, July 5 2017
(County) (Date)

Rosel Cerezo
Fraudulently
witnessing
informed
consent.

Signature

808 784 9201
Daytime telephone number

jared.james23@gmail.com
Email address:

* prefer Email

Name
Address

Attorney for Inquiring Party/Health Care Provider

MEDICAL INQUIRY AND CONCILIATION PANEL
STATE OF HAWAII

In the Matter of the Inquiry of

Inquiring Party(ies),

vs.

Health Care Provider(s).

MICP No. _____

INQUIRING PARTY(IES)/
HEALTH CARE PROVIDER(S)
PROCEEDING STATEMENT;
CERTIFICATE OF SERVICE

Hearing Date: _____
Time: _____

INQUIRING PARTY/HEALTH CARE PROVIDER'S PROCEEDING STATEMENT

I. NATURE OF THE INQUIRY

(Brief summary of inquiry/response to inquiry)

II. INQUIRING PARTY'S/HEALTH CARE PROVIDER'S THEORY OF THE INQUIRY

Acts or omissions by health care providers which inquiring party believes constitutes negligence by Health Care Providers (Health Care Provider's response to the inquiry)

III. UNDISPUTED FACTS

(List any significant facts which the parties agree upon)

1.

2. (List additional facts as needed)

IV. WITNESSES

A. Expert Witnesses

- 1.
2. (List additional expert witnesses as needed)

B. Lay Witnesses

- 1.
2. (List additional lay witnesses as needed)

V. EXHIBITS

(List and describe each exhibit)

- 1.
2. (List additional exhibits as needed)

VI. LEGAL QUESTIONS

(List any legal questions or issues that will be raised in the proceeding)

DATED: Honolulu, Hawaii, _____.

Inquiring Party/Health Care Provider OR
Attorney for Inquiring Party/Health Care Provider

CERTIFICATE OF SERVICE

I hereby certify that on this date, I caused a true and correct copy of the foregoing document to be duly served on the following person at the address indicated, via first class mail, postage prepaid, or hand-delivery (as indicated below):

	Hand-delivered	Mailed
<i>[Name of person served]</i>	()	()

DATED: Honolulu, Hawai'i, _____

NAME

Exhibit C



DEPT. OF COMMERCE
AND CONSUMER AFFAIRS

2017 JUL -5 P 4: 32

MEDICAL INQUIRY AND CONCILIATION PANEL
OFFICE OF ADMINISTRATIVE HEARINGS
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
STATE OF HAWAII

In the Matter of the Inquiry of

MICP No. 2017-053

INQUIRY REGARDING RENDERING OF
PROFESSIONAL SERVICES

Inquiring Party(ies),

Jared James

medical center

vs.

Kapiolani Hospital for Women and Children
Dr. Selena Peters

Health Care Provider(s).

Kapiolani Medical
Specialists

Ray Varo
Martha Smith

Kenneth Nakamura Hawaii Pacific

Thomas Yamashida Health

INQUIRY REGARDING RENDERING OF PROFESSIONAL SERVICES

I. Name(s) and address(es) of Inquiring Party(ies):

Jared James

1170 Nuuanu Ave

37068

Honolulu HI 96837

II. Name(s) and address(es) of the Health Care Provider(s):

Dr. Selena Peters
1319 Punahou St
630
Honolulu HI 96826

Kapiolani Medical Center for
Women and Children
1319 Punahou St.
Honolulu HI 96826

Ray Varo
55 Merchant St
Honolulu HI 96813

Hawaii Pacific
Health
55 Merchant St
Honolulu HI 96813

Martha Smith
Kenneth Nakamura
Thomas Yamashida
Kapiolani Medical
Specialists
1319 Punahou St
Honolulu HI 9682

Inquiries cannot be accepted by the MICP unless accompanied by: 1) the appropriate filing fee(s) of \$450 per named Inquiring Party OR an Ex-Parte Motion to Waive Filing Fees; and 2) a Certificate of Consultation. Inquiries and documents may be filed at the Medical Inquiry and Conciliation Panel located at 335 Merchant Street, Suite 100, Honolulu, Hawaii 96813

III. Description of the professional services that are the subject of your inquiry (attach additional pages if necessary):

A. When did they happen?

May 26 2016

B. How did any problems happen?

Dr. Selena Peters

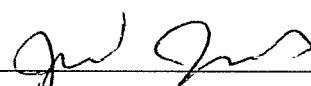
C. Which health care provider(s) and/or health care facilities do you believe were responsible for the alleged negligence?

All listed

IV. What are the alleged negligent acts or omissions that fell below the applicable standard of care?

Not monitoring sedated Patients vitals for 24 hours
Keeping patient sedated for extremely long period of time
against will without consent. Giving patient
Hypothermia, and continuing operation.
Hospital staff cited created imminent for patient harm

DATED: Honolulu Hawai'i, 7 5 17
(County) (Date)


Signature

808 784 9201
Daytime telephone number

jared.james23@gmail.com
Email address:

Exhibit D

DAVID Y. IGE
Governor

SHAN S. TSUTSUI
Lt. Governor

CATHERINE P. AWAKUNI COLÓN
Director

JO ANN M. UCHIDA TAKEUCHI
Deputy Director



CRAIG H. UYEHARA
Senior Hearings Officer

RICHARD A. YOUNG
ROWENA A. SOMERVILLE
RODNEY K.F. CHING
Administrative Hearings Officers

OFFICE OF ADMINISTRATIVE HEARINGS
DEPARTMENT OF COMMERCE & CONSUMER AFFAIRS
MEDICAL INQUIRY AND CONCILIATION PANEL
DESIGN CLAIMS CONCILIATION PANEL
STATE OF HAWAII

*** TRANSMITTAL MEMORANDUM ***

TO: David A. Gruebner, Esq.
John-Anderson L. Meyer, Esq.
Arthur F. Roeca, Esq.

FROM: Teri Suzuki
Legal Clerk

DATE: August 16, 2017

SUBJECT: James v. KMCWC, etal; MICP no. 2017-052

☒ (X) For Your Files	☒ (X) For Your Information
☐ () Per Your Request	☐ () For Your Signature & Return
☐ () Per Our Conversation	☐ () For Your Review & Disposition
☐ () Appropriate Action	☐ () See Remarks Below

Transmitted herewith is/are:

Inquiring Party's response to Request for a More Definite Statement

Remarks:

cc: Jared James (jaredjames23@gmail.com)

EXHIBIT D

MICP No. 2017-052

Physician(s): Dr. Patrick O'Donnell MD FACS, Dr. Susan Tan MD, Dr. Selena Peters MD:

Did have a high 'specialist' standard of duty to the patient that they did breach, committing the tort(s) of Intentional Battery, specifically surgical battery, without consent or privilege (not withstanding the cited 'medically necessary' doctrine), also Including; fraudulent representation of selves, fraudulent medical reporting, intentional and negligent infliction of emotional distress. Causing patient: Empty Nose Syndrome, PTSD, Severe Depression, Severe Anxiety, Anguish, Emotional Distress, and loss of income. The demonstratable facts clearly show liability beyond the required standards of proof, therefore the patient has a right to recovery.

Key Hospital and Organization Administration and Executive Personnel: Martha Smith, Kenneth Nakamura, Thomas Yamashida, Ray Vara:

A reasonable person would conclude that these key organizational executives had/have a duty to keep invitee patients safe through adequate regulation of internal policies, regulation of hospital personell with priveledges, and awareness of illegal/sub-standard activities in their respective organizations. These defendants did breach that duty by creating/allowing a workplace environment that induce(s/ed) patient harm. That patient harm, intentionally and negligently perpetrated by hospital personnel, was directly caused and incentivized by the workplace environment created through administrative and executive negligence. Therefore these defendants are liable, and the paitient has a right to recovery.

Rosel Cerezo: Fraud. Intentional Infliction of emotional stress.

Merla Takenaka: Intentional harmful touching, intentional infliction of emotional distress

Marianne Mariano, Mary Cris Balisacan, Rhemielyn Ulep, Wendy Tabalanza, Beth Acoba, Cynthia Capilla, Jennifer Cummings, Jennifer Kunihiro, Timothy Fiveash:

Negligent Harmful touching. Negligent Infliction of Emotional Distress.

Kapiolani Medical Center for Women and Children, Kapiolani Medical Specialists, Hawaii Pacific Health: Liable for employee conuct.

DAVID Y. IGE
Governor

SHAN S. TSUTSUI
Lt. Governor

CATHERINE P. AWAKUNI COLÓN
Director

JO ANN M. UCHIDA TAKEUCHI
Deputy Director



CRAIG H. UYEHARA
Senior Hearings Officer

RICHARD A. YOUNG
ROWENA A. SOMERVILLE
RODNEY K.F. CHING
Administrative Hearings Officers

OFFICE OF ADMINISTRATIVE HEARINGS
DEPARTMENT OF COMMERCE & CONSUMER AFFAIRS
MEDICAL INQUIRY AND CONCILIATION PANEL
DESIGN CLAIMS CONCILIATION PANEL
STATE OF HAWAII

*** TRANSMITTAL MEMORANDUM ***

TO: David A. Gruebner, Esq.
John-Anderson L. Meyer, Esq.

FROM: Teri Suzuki 
Legal Clerk

DATE: August 16, 2017

SUBJECT: James v. Peters, etal; MICP no. 2017-053

(X) For Your Files	(X) For Your Information
() Per Your Request	() For Your Signature & Return
() Per Our Conversation	() For Your Review & Disposition
() Appropriate Action	() See Remarks Below

Transmitted herewith is/are:

Inquiring Party's response to Request for a More Definite Statement

Remarks:

cc: Jared James (jaredjames23@gmail.com)

MICP No 2017-053

Dr. Selena Peters MD: False Imprisonment. Intentional and negligent infliction of emotional distress. Fraud.

Did intentionally improperly sedate patient, and keep patient sedated for an extended unmonitored period of time, and did conduct a full surgical operation sedation the entirety of which the patient had hypothermia, all of these facts are demonstrably provable, against industry regulation, and against the consent agreed to, as well as lacking privilege (not withstanding the cited 'medically necessary' doctrine). Damages caused include; Empty Nose Syndrome, PTSD, Severe Depression, Severe Anxiety, Anguish, Emotional Distress, loss of income. These facts and elements are clear and demonstrable beyond the required standards of proof, therefore, the patient has the right to recovery.

Merla Takenaka: Intentional harmful touching, intentional infliction of emotional distress

Roy Vara, Kenneth Nakamura, Martha Smith, Thomas Yamashida:

[Same As Above] A reasonable person would conclude that these key organizational executives had/have a duty to keep invitee patients safe through adequate regulation of internal policies, regulation of hospital personell with priveledges, and awareness of illegal/sub-standard activities in their respective organizations. These defendants did breach that duty by creating/allowing a workplace environment that induce(s/ed) patient harm. That patient harm, intentionally and negligently perpetrated by hospital personnel, was directly caused and incentivized by the workplace environment created through administrative and executive negligence. Therefore these defendants are liable, and the paitient has a right to recovery.

Kapiolani Medical Center for Women and Children, Hawaii Pacific Health, Kapiolani Medical Specialists: [Same As Above] Liable for employee conuct.

Exhibit H



February 12, 2026

Lindsey Barrios
Goodsill Anderson Quinn & Stifel
999 Bishop Street, Suite 1600
Honolulu, Hawaii 96813

Re: Independent Expert Report
James v. Kapiolani Medical Center for Woman and Children
Date of Injury: May 26, 2016

Dear Ms. Barrios:

I was retained for my professional opinion as related to hospital administration and the nursing care provided by Merla Takenaka, Pre-Operative Nurse, at Kapiolani Medical Center for Women & Children (KMCWC). I have been a surgical nurse for over 15 years and I am currently working as the Interim OR Educator at Dignity Health Mercy Hospital of Bakersfield. Prior to this position, I served as the Interim OR Manager at Dignity Health Mercy Hospital of Bakersfield. I have a Bachelor of Arts in Public Health Studies from the Johns Hopkins University (2003) and a Master's of Healthcare Administration from the University of North Carolina at Chapel Hill (2005). I continued to pursue a Bachelor of Science in Nursing (2010) and a Master's of Science in Nursing (2013) from the Johns Hopkins University School of Nursing. I also completed a Doctor of Education program in Leadership and Learning in Organizations at Vanderbilt University (2023). In addition, I hold FACHE, NEA-BC and CNOR certifications.

I have examined KMCWC medical records (KWC 1-316), KMCWC medical records (KMS 1-72), Amended Complaint, dated May 26, 2023, and, Answers to Amended Complaint, dated July 3, 2023 that were provided to me by legal counsel. I have reached the conclusion that KMCWC's hospital administration and the nursing staff at KMCWC met the standard of care to a reasonable degree of nursing probability, based on my professional expertise and educational background.

On February 26, 2016, Jared James saw Dr. Patrick O'Donnell, Otolaryngologist, with the chief complaint of difficulty breathing.

On February 29, 2026, Dr. Patrick O'Donnell, Otolaryngologist, documented an addendum that stated "I spoke with Dr. Tan and the patient. We decided to do inferior turbinate reduction and alar batten grafting using cartilage harvested from the concha [cpt 21235 & 30802]. The risks, benefits, alternatives of surgery were discussed in detail. These were including the risks of no significant improvement in symptoms, cosmetic dissatisfaction, cosmetic changes of the cartilage donor site. Patient is interested in proceeding. I will arrange for preoperative medical photographs."

On March 3, 2016, Jared James was scheduled for bilateral alar batten grafting using conchal auricular cartilage, inferior turbinate reduction on April 08, 2016 at 1:30 PM.

On April 6, 2016, Jared James rescheduled surgery to May 26, 2016 due to being sick.

On May 26, 2016 at 08:59, Jared James was admitted to the surgical center.

1

AEC CONSULTING LLC



WWW.AECCONSULTINGLLC.COM



ALEXIS@AECCONSULTINGLLC.COM



424-644-9604



At 09:48, Merla Takenaka, Pre-Operative Nurse, completed the Pre-Op Assess/Checklist and documented “Yes” to “Consent completed”.

At 09:48, Merla Takenaka, Pre-Operative Nurse, completed the Pre-Op/Procedure Checklist and documented “Yes” to “Procedure verified with consent”.

At 10:44, Merla Takenaka, Pre-Operative Nurse, wrote a Progress Note that included a comprehensive pre-operative nursing assessment and it also stated “Consent completed: Yes”.

At 10:45, Dr. Selena Peters, Anesthesiologist, wrote the Anesthesia Plan, which stated “Use of blood products discussed with patient whom. Anesthetic plan, benefits, and risks discussed with patient. Questions answered and anesthetic plan accepted. Discussed plan with: surgeon.”.

At 10:52, Dr. Patrick O’Donnell, Otolaryngologist, wrote the Plan in the History and Physical, which stated “We decided to do inferior turbinate reduction and alar batten grafting using cartilage harvested from the concha [cpt 21235 & 30802]. The risks, benefits, alternatives of surgery were discussed in detail. These were including the risks of no significant improvement in symptoms, cosmetic dissatisfaction, cosmetic changes of the cartilage donor site. Patient is interested in proceeding. Preoperative medical photographs were taken”.

At 11:08, Wendy Tabalanza, Circulating Nurse, documented “Yes” for “Consents verified?” in the Pre-Procedure Timeout.

At 11:13, Jared James’ status is changed to “Surgery”, indicating that he was in the operating room.

At 11:15, Dr. Selena Peters, Anesthesiologist, documented “Consent Signed” in the Anesthesia Checklist.

At 11:37, Wendy Tabalanza, Circulating Nurse, documented “Yes” for “Consents verified?” in the Timeout.

At 13:28, Dr. Patrick O’Donnell, Otolaryngologist, wrote Procedure Note that included “Informed consent was obtained”.

At 13:28, Jared James’ status changed to “Transfer In” in the Unit “PACU (Recovery)”, indicating that the surgical procedure ended.

Based on the aforementioned documents and the timeline presented above, Merla Takenaka, Pre-Operative Nurse, and the hospital administration at KMCWC did meet the standard of care to a reasonable degree of nursing probability, based on my professional expertise and educational background. Merla Takenaka, Pre-Operative Nurse, documented a comprehensive pre-operative assessment and procedure checklist that included verification of a completed surgical consent, which indicated that all parties have signed the consent. The Association of periOperative Registered Nurses (AORN) writes the Guidelines for Perioperative Practice; these guidelines serve as essential resources, reflecting the latest in perioperative best practices and safety standards. These guidelines include recommended documentation practices for the patient’s operative medical record. Moreover, the World Health Organization (WHO) developed the Surgical Safety Checklist in 2009 as part of the WHO’s “Safe Surgery Saves Lives”



initiative, which has been adopted globally. This checklist includes essential safety steps to be performed in three critical phases of surgery, including a pre-procedure and pre-incision timeouts prior to the surgery commencing. In my experience, the WHO's Surgical Safety Checklist has served as the foundation for the timeout practices implemented at hospitals. In this case, the timeouts were documented as completed and contained essential components that aligned with the WHO Surgical Safety Checklist and complied with the standard of care.

Merla Takenaka, Pre-Operative Nurse, acted in accordance with the 2016 edition of AORN Guidelines for Perioperative Practice. AORN (2016) states "The patient's health care record should reflect the perioperative patient's plan of care, including assessment, nursing diagnosis, outcome identification, planning, implementation, and evaluation of progress toward the outcome" (p. 555). Merla Takenaka, Pre-Operative Nurse, conducted a comprehensive pre-operative assessment and it was completed prior to Jared James entering the operating room. AORN (2016) continues to state "Perioperative nursing documentation should be synchronized with the nursing work flow" (p. 556). Merla Takenaka, Pre-Operative Nurse, completed all of her documentation in a timely manner by 11:25, which aligns with Jared James time in Pre-Operative status from 08:59 to 11:13.

The WHO emphasize the necessity of conducting a pre-procedure and pre-incision timeout prior to each surgical procedure, recognizing it as a critical moment in ensuring patient safety and quality of care. Before the induction of anesthesia, the WHO's Surgical Safety Checklist (2009) guidelines state that the surgical team should acknowledge that "the patient has confirmed his/her identity, site, procedure, and consent?". Wendy Tabalanza, Circulating Nurse, documented in alignment with WHO's Surgical Safety Checklist in the Pre-Procedure Timeout at 11:08, as shown below. Wendy Tabalanza, Circulating Nurse, also documented that there was a handoff from Merla Takenaka, Pre-Operative Nurse, indicating a continuity of care between staff members.

Tabalanza, Wendy B, RN at Thu May 26, 2016 11:08 AM

Timeout Details	
Timeout type	Pre-procedure

Procedures

Panel 1: Bilateral BILATERAL ALAR BATTEN GRAFTING USING CONCHAL AURICULAR CARTILAGE INFERIOR TURBINATE
REDUCTION with O'Donnell, Patrick J, MD
Panel 1: SEPTOPLASTY with O'Donnell, Patrick J, MD

Timeout Questions

Correct patient? **Yes**
Correct site? **Yes**
Correct side? **N/A**
Correct position? **Yes**
Correct procedure? **Yes**
Site marked? **N/A**
H&P note completed? **Yes**
Consents verified? **Yes**
Radiology studies available? **Yes**
Relevant lab results available? **Yes**
Are all required blood products & devices for the procedure available? **Yes**
Are adequate antibiotics and irrigation fluids available? **Yes**

Staff Present

Surgeons	O'Donnell, Patrick J. MD, Tan, Susan L. MD
Anesthesia Staff	Peters, Selena B. MD
Staff	Tabalanza, Wendy B, RN, Cummings, Jennifer, TECH, Takenaka, Merla, RN

Comments

report from M.TAKENAKA RN

WHO's Surgical Safety Checklist (2009) guidelines state to "confirm the patient's name, procedure, and where the incision will be made" as part of the pre-incision timeout. Wendy Tabalanza, Circulating



Nurse, continued to document according to the WHO's Surgical Safety Checklist in the Timeout at 11:37, as shown below.

Tabalanza, Wendy B, RN at Thu May 26, 2016 11:37 AM		
Timeout Details		
Timeout type	Pre-procedure	
Procedures		
Panel 1: Bilateral BILATERAL ALAR BATTEN GRAFTING USING CONCHAL AURICULAR CARTILAGE INFERIOR TURBINATE REDUCTION with O'Donnell, Patrick J, MD		
Panel 1: SEPTOPLASTY with O'Donnell, Patrick J, MD		
Timeout Questions		
Correct patient? Yes		
Correct site? Yes		
Correct side? Yes		
Correct position? Yes		
Correct procedure? Yes		
Site marked? Yes		
H&P note completed? Yes		
Consents verified? Yes		
Radiology studies available? Yes		
Relevant lab results available? Yes		
Are all required blood products & devices for the procedure available? Yes		
Are adequate antibiotics and irrigation fluids available? Yes		
Staff Present		
Surgeons	O'Donnell, Patrick J, MD, Tan, Susan L, MD	
Anesthesia Staff	Peters, Selena B, MD	
Staff	Tabalanza, Wendy B, RN, Cummings, Jennifer, TECH	
Verification History		
Staff	Performed	Verified
Tabalanza, Wendy B, RN	Thu May 26, 2016 11:37 AM	Thu May 26, 2016 11:40 AM

The surgical team, including Merla Takenaka, Pre-Operative Nurse, at KMCWC documented that the surgical consent was verified and signed prior to the procedure commencing in multiple timestamped instances, as demonstrated by the timeline above.

In conclusion, Merla Takenaka, Pre-Operative Nurse, and hospital administration at KMCWC did meet the standard of care to a reasonable degree of nursing probability, based on my professional expertise and educational background. Merla Takenaka, Pre-Operative Nurse, documented a thorough pre-operative assessment contemporaneously and that the surgical consent was completed prior to Jared James having surgery. Her charting aligns with the documentation from Wendy Tabalanza, Circulating Nurse, Dr. Patrick O'Donnell, Otolaryngologist, and Dr. Selena Peters, Anesthesiologist, that the surgical consent was signed. The surgical team conducted the pre-induction and pre-incision timeouts in accordance with the WHO guidelines, which is the standard of care for optimizing patient safety in surgical settings.

This report is not meant to be an exhaustive summary of the details of Jared James' care nor is it meant to be an exhaustive summary of my opinions. I reserve the right to amend my opinions as more information becomes available.

Sincerely,

Alexis Chaudron, EdD, MSN, MHA, RN, CNOR, NEA-BC, FACHE
Owner, AEC Consulting LLC.



Exhibit I

Jared James
Pro Se Litigant
2421 Tusitala St. 402
Honolulu, HI 96815
jaredjames23@gmail.com
(808) 800-6588

Date: March 4, 2026

Goodsill Anderson Quinn & Stifel
First Hawaiian Center
Suite 1600
999 Bishop Street
Honolulu, Hawaii 96813
Via Electronic Mail: dgruebner@goodsill.com; fjenkins@goodsill.com;
lbarrios@goodsill.com

Re: *Jared James v. Patrick J. O'Donnell, M.D., et al.*, Civil No. 1CCV-21-0000683 (SMK)
Service of Plaintiff's Answers to Defendants' First Request for Answers to
Interrogatories

Dear Counsel:

Enclosed herewith, please find Plaintiff Jared James' Answers to Defendants Merla Takenaka, RN, Kapiolani Medical Center for Women and Children, and Hawaii Pacific Health's First Request for Answers to Interrogatories, served herewith pursuant to **Rule 33(b)** of the Hawai'i Rules of Civil Procedure.

Plaintiff expressly reserves the right to supplement these answers pursuant to **HRCP Rule 26(e)** as discovery proceeds, as additional information becomes available, and consistent with any amendment to the operative pleading.

Please confirm receipt of this email and its attachment by return email at your earliest convenience.

Respectfully submitted,

/s/ Jared James
Jared James
Pro Se Litigant
2421 Tusitala St. 402
Honolulu, HI 96815
jaredjames23@gmail.com
(808) 800-6588

EXHIBIT I

Jared James
Pro Se Litigant
2421 Tusitala St. 402
Honolulu, HI 96815
jaredjames23@gmail.com
(808) 800-6588
Plaintiff

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

JARED JAMES,

Civil No. 1CCV-21-0000683 (SMK)

Plaintiff,

vs.

PATRICK J. O'DONNELL, M.D.; SUSAN

TAN, M.D.; SELINA PETERS, M.D.;
MERLA TAKENAKA RN; KAPIOLANI
MEDICAL SPECIALISTS; KAPIOLANI
MEDICAL CENTER FOR WOMEN AND
CHILDREN; HAWAII PACIFIC HEALTH,
DOES 1-10; DOE CORPORATIONS;
DOE GOVERNMENT AGENCIES 1-5

Defendants.

**PLAINTIFF JARED JAMES'
ANSWERS TO DEFENDANTS MERLA
TAKENAKA, RN, KAPIOLANI
MEDICAL CENTER FOR WOMEN AND
CHILDREN, AND HAWAII PACIFIC
HEALTH'S FIRST REQUEST FOR
ANSWERS TO INTERROGATORIES**

JUDGE: Honorable Shirley M. Kawamura

TRIAL: May 18, 2026

**PLAINTIFF JARED JAMES' ANSWERS TO DEFENDANTS MERLA TAKENAKA, RN,
KAPIOLANI MEDICAL CENTER FOR WOMEN AND CHILDREN, AND HAWAII
PACIFIC HEALTH'S FIRST REQUEST FOR ANSWERS TO INTERROGATORIES**

Plaintiff Jared James, appearing pro se, hereby answers Defendants' First Request for Answers to Interrogatories pursuant to Rule 33 of the Hawai'i Rules of Civil Procedure.

GENERAL OBJECTIONS

The following General Objections apply to each and every Interrogatory and are incorporated by reference into each specific answer below as if fully set forth therein. The assertion of any specific objection does not waive any General Objection.

1. Attorney-Client Privilege and Work Product. To the extent Plaintiff has communicated with any attorney for purposes of seeking legal advice, such communications are protected by attorney-client privilege. Materials prepared by Plaintiff in anticipation of litigation are protected under HRCP Rule 26(b)(3). Plaintiff will assert privilege as appropriate.

2. Hawaii Constitutional Privacy (Art. I, § 6). Hawaii's constitutional right to privacy is broader than its federal counterpart. Financial records, medical records beyond those directly at issue in this action, and social media content implicating personal matters unrelated to this litigation are protected. Haw. Const. art. I, § 6; Cohan v. Ayabe, 2012 WL 3597437.

3. Expert Witness Protection (HRCP 26(b)(4)). Consulting experts are protected from disclosure. Draft reports and communications with any testifying expert, and materials prepared in anticipation of litigation, are protected to the extent permitted by HRCP 26(b)(3) and 26(b)(4). Plaintiff will disclose testifying experts and opinions consistent with the Court's schedule and HRCP.

4. Overbreadth and Disproportionality. To the extent any Interrogatory seeks information spanning from 2016 to present across all financial, personal, and medical categories, such requests are overbroad and disproportionate to the needs of this case as required by HRCP Rule 26(b)(1).

5. Contention / Narrative Interrogatories. To the extent any interrogatory seeks detailed contentions, complete witness chronologies, or expert-type analysis before completion of discovery, Plaintiff objects that such interrogatories are premature. Plaintiff will supplement under HRCP 26(e).

6. Intentional Tort and RICO Framing. Defendants frame the substantive interrogatories in terms of 'Medical Malpractice,' 'intentional infliction of emotional distress,' 'Product Liability,' and 'Breach of Contract.' Plaintiff objects to the framing of

'Medical Malpractice' to the extent it implies that the claims asserted are grounded in negligence. The claims asserted against Defendants Merla Takenaka, KMCWC, and HPH include federal RICO violations (18 U.S.C. § 1962(c)), institutional battery (through facilitation and concealment of ghost surgery), fraudulent misrepresentation, intentional infliction of emotional distress, breach of contract, false imprisonment (respondeat superior), and spoliation of evidence, none of which sounds in simple medical negligence. Plaintiff's answers are provided in the context of the intentional, fraudulent, and institutional conduct.

7. Continuing Nature of Responses. All responses are subject to supplementation under HRCP Rule 26(e) as additional information becomes available through discovery.

8. Tolling Preservation. Plaintiff's claims are subject to tolling under HRS § 657-20 (fraudulent concealment) and the pendency of the Hawaii Medical Inquiry and Conciliation Panel ('MICP') proceeding, formally terminated on or about March 21, 2018, which tolled any applicable statute of limitations during its pendency and for sixty (60) days thereafter pursuant to HRS § 671-12. This tolling objection and preservation is incorporated into each answer below.

9. Amendment Preservation. Plaintiff's responses are based on operative pleading as of date served; will supplement under HRCP 26(e). Plaintiff reserves all rights to supplement, amend, or reframe the factual basis for claims in this action consistent with any amendment to the pleadings, as discovery is ongoing and Plaintiff's legal theories continue to be developed.

Note Regarding Time Constraints

Plaintiff is responding within the time period ordered by the Court. Due to the limited time available to compile historical medical, billing, and employment records dating back to 2016, certain information is based on records presently available and Plaintiff's current recollection. Plaintiff will supplement these responses pursuant to HRCP Rule 26(e) as additional records are obtained.

Plaintiff's references throughout these answers to the adenoidectomy and/or removal of adenoid tissue are made on information and belief based on Plaintiff's review of

Defendants' operative records and research into this medical field. Plaintiff reserves the right to supplement all answers referencing this procedure.

Plaintiff is not presently withholding any responsive material on the basis of attorney-client privilege or work product based on Plaintiff's current review. Therefore, no privilege log is required at this time. Plaintiff reserves the right to assert privilege and produce a log if applicable materials are later identified.

INTERROGATORY QUESTIONS AND ANSWERS

INTERROGATORY NO. 1: State your name, addresses, date of birth, social security number, and other names you have used.

ANSWER:

Jared James. Current address: 2421 Tusitala St., Apt. 402, Honolulu, HI 96815. Date of birth: August 12, 1982. Social Security Number: Plaintiff objects to disclosure of his full Social Security Number on privacy and identity-theft grounds pursuant to Hawaii's constitutional right to privacy, Haw. Const. art. I, § 6. Plaintiff will provide the last four digits of his Social Security Number, "2952", upon entry of a mutually agreeable protective order governing the use and handling of such information or further order of the Court. Plaintiff has used no other names.

INTERROGATORY NO. 2: State the location of your prior residences for the past fifteen years, including the inclusive dates of occupancy and the names of all other persons who lived there at the time.

ANSWER:

Plaintiff's Alaska residence address(es), dates, and co-occupants are not presently fully recalled; Plaintiff will supplement after reasonable inquiry and review of records. To the best of Plaintiff's present recollection, Plaintiff's residences for the past fifteen years are as follows:

- 2421 Tusitala St., Apt. 402, Honolulu, HI 96815 — 2020 - Present; sole occupant.
- 445 Kaiolu St, Honolulu, HI 96815 ~ 2019-2020; sole occupant.

Alaska — pre-2015. Hawai'i — 2015 to present.

Plaintiff will supplement this response pursuant to HRCP Rule 26(e) as additional information is identified.

INTERROGATORY NO. 3: State the names of all spouses and dates of marriage and divorce, if applicable.

ANSWER:

None.

INTERROGATORY NO. 4: State the names, birthdates, and addresses of all children and dependents.

ANSWER:

None.

INTERROGATORY NO. 5: State the name, address and years of attendance of each high school, college, university, other institution or training school you attended and the degrees or certificates you received.

ANSWER:

Yakutat High School — Graduate, 2002.

Santa Monica College — Graduate, Associate Accounting 2009.

Fort Lewis College — Graduate Bachelors Business Administration, Emphasis: Finance, 2011.

INTERROGATORY NO. 6: Identify each job or occupation you have had for the last fifteen years including the identity of each employer and supervisor, a description of your employer's business, your inclusive dates of employment, a description of services you performed, your rate of pay, the average number of hours you worked per week, and the reason(s) why you left each job or occupation.

ANSWER:

Plaintiff objects that this Interrogatory is overbroad to the extent it seeks information beyond that which is reasonably proportionate to Plaintiff's damages claims. Without waiving this objection:

Plaintiff has been unable to maintain consistent employment since the May 26, 2016 surgery due to the injuries described herein, including chronic sleep deprivation, Empty Nose Syndrome, cognitive impairment, and psychological sequelae.

Prior to the surgery, Plaintiff possessed an Associate degree in Accounting (Santa Monica College, 2009) and a Bachelor of Business Administration with an emphasis in Finance (Fort Lewis College, 2011). The injuries caused by Defendants directly and proximately caused Plaintiff's inability to realize his earning capacity.

INTERROGATORY NO. 7: Describe in detail any and all facts concerning your medical treatment by Nurse Takenaka, KMCWC and/or HPH related to the subject incident.

ANSWER:

Plaintiff responds as follows, based on the Amended Complaint and Plaintiff's present recollection and records. Plaintiff will supplement pursuant to HRCF Rule 26(e).

(a) Pre-Operative Period — May 26, 2016. Plaintiff presented to Kapiolani Medical Center for Women and Children ('KMCWC') on May 26, 2016 for what he understood to be a narrow nasal vestibule procedure using conchal auricular cartilage, as agreed with Dr. O'Donnell on February 26, 2016. Prior to surgery, Plaintiff was directed to a secluded basement room, isolated from other patients and family, and deprived of his personal belongings, clothing, and including items necessary for independent communication and departure.

(b) Altered Check-In Time — Merla Takenaka, RN. Defendant Merla Takenaka, RN, is identified in KMCWC's own medical records as present in Operating Room 01 on May 26, 2016, and as having submitted a 'report' documented in the Intra-Operative Nurses Notes. Defendant Takenaka altered Plaintiff's recorded check-in time in the official KMCWC medical records from approximately 8:00 a.m. to 9:00 a.m. This falsification created a false chronology of events and concealed the true timeline of Plaintiff's restraint and early

anesthesia induction — which occurred approximately 2.5 hours before the scheduled surgical start time of approximately 11:35 a.m.

(c) Early Anesthesia. Without Plaintiff's valid consent, anesthesia was administered to Plaintiff while he was in the secluded pre-operative area, rendering him unconscious and wholly incapable of resisting, communicating, or withdrawing from the subsequent surgical procedures. This induction occurred while KMCWC's nursing staff, including Defendant Takenaka, were present and acting within the course and scope of their employment.

(d) Operating Room — KMCWC Institutional Control. KMCWC, as the institutional operator of Operating Room 01, had complete custody and control over: (i) who entered the operating room; (ii) the nursing and technical staff assigned to the procedure, including circulator Wendy B. Tabalanza, RN, scrub tech Jennifer Cummings, TECH, and Defendant Takenaka herself; (iii) the Stryker video recording system present in the OR; and (iv) the credentialing and surgical scheduling systems that determined which physicians were authorized to perform surgery on Plaintiff. HPH, as the parent system of KMCWC, controlled and maintained the administrative, billing, and records infrastructure.

(e) Nursing Communication Order — Discontinued. KMCWC's own medical records reflect that a 'NURSING COMMUNICATION' order was placed and then discontinued on May 26, 2016. This discontinuation reflects a gap in the contemporaneous record that is relevant to what was communicated to nursing staff — including Defendant Takenaka — regarding the scope of the procedure and the identity of the surgical team actually present.

(f) Ghost Surgery — Unauthorized Surgical Team. Dr. Susan Tan, M.D., is identified in the KMCWC Intra-Operative Nurses Notes as 'Assisting' surgeon. The consent documentation in Plaintiff's records, however, does not reflect valid, knowing consent to Dr. Tan's participation in the capacity in which she ultimately performed during the surgery. KMCWC's surgical scheduling, credentialing, and perioperative nursing protocols — administered by its nursing and administrative staff including Defendant Takenaka — were the institutional mechanism that

enabled, permitted, and facilitated the presence of an unauthorized or improperly disclosed surgical team in the operating room.

(g) Post-Operative and Post-Discharge. Following surgery, KMCWC's post-operative staff administered post-operative care as Plaintiff regained consciousness. Plaintiff suffered from the injuries described herein as a direct result of the unlawful and unconsented procedures performed within KMCWC's facility on May 26, 2016.

This answer will be supplemented following completion of discovery, including production of nursing staff rosters, OR scheduling records, credentialing files, Stryker video records, and all institutional communications regarding the May 26, 2016 procedure.

INTERROGATORY NO. 8: Describe with particularity all Documents and/or Things or evidence that support your allegations of 'Medical Malpractice' against Nurse Takenaka, KMCWC and/or HPH, as alleged in your Amended Complaint.

ANSWER:

Plaintiff objects to the characterization of his claims as 'Medical Malpractice' to the extent such framing implies negligence, for the reasons stated in General Objection No. 6. The claims asserted against Defendants Merla Takenaka, KMCWC, and HPH sound primarily in intentional tort, RICO, fraud, battery, false imprisonment, and institutional concealment — not in medical negligence. Plaintiff further objects that this Interrogatory is a premature contention interrogatory. Without waiving these objections, Plaintiff identifies the following categories of documents and evidence:

(a) KMCWC Intra-Operative Nurses Notes for May 26, 2016, showing Defendant Takenaka's presence as OR staff and her submission of a 'report,' the surgical team present (including Dr. Susan Tan as 'Assisting' surgeon), and the Pre-Procedure Timeout documentation.

(b) KMCWC Anesthesia/Flowsheet records documenting the timing of anesthesia induction on May 26, 2016 relative to the surgical start time at approximately 11:35 a.m., showing Plaintiff was already hypothermic at surgical

start — consistent with early anesthesia administration significantly in advance of the procedure.

(c) KMCWC electronic medical records showing the alteration of Plaintiff's check-in time from approximately 8:00 a.m. to 9:00 a.m., attributed to Defendant Merla Takenaka.

(d) The KMCWC 'NURSING COMMUNICATION' order placed and discontinued on May 26, 2016, and all related nursing documentation.

(e) KMCWC credentialing, privileging, and surgical scheduling records for Drs. O'Donnell, Tan, and Peters for May 26, 2016.

(f) All KMCWC/HPH policies and procedures governing informed consent verification, surgical team identification, nursing pre-operative assessments, and OR access.

(g) The absence of any Stryker video recording of the May 26, 2016 procedure, despite the Stryker video system's documented presence in the operating room, and all communications regarding the non-preservation or destruction of such recording.

(h) KMCWC and HPH billing records submitted to HMSA and Med-QUEST (Hawaii Medicaid) for the May 26, 2016 surgery and related post-operative encounters.

(i) Plaintiff's exhibits A-000 through A#96, previously filed and/or produced, which are incorporated herein by reference.

This answer will be supplemented following completion of discovery.

INTERROGATORY NO. 9: State any and all facts which support your contention of 'Medical Malpractice' against Nurse Takenaka, KMCWC and/or HPH related to the subject incident, as alleged in your Amended Complaint.

ANSWER:

Plaintiff incorporates General Objection No. 6 and the objections stated in answer to Interrogatory No. 8. Without waiving those objections, Plaintiff states the following facts supporting Plaintiff's claims against these institutional Defendants:

(a) Merla Takenaka — Falsification of Medical Records. Defendant Takenaka, acting within the course and scope of her employment at KMCWC and HPH, falsified Plaintiff's medical records by altering his check-in time from approximately 8:00 a.m. to 9:00 a.m. This act concealed the true timeline of Plaintiff's pre-operative isolation and early anesthesia induction, which occurred unlawfully approximately 2.5 hours before the scheduled procedure.

(b) Merla Takenaka — Presence and Report in Operating Room. Defendant Takenaka was present as identified OR staff on May 26, 2016. The Intra-Operative Nurses Notes contain a comment 'report from M.TAKENAKA RN.' Takenaka therefore had direct contemporaneous knowledge of: (i) the actual surgical team present in OR 01; (ii) the pre-operative and intra-operative events occurring on May 26, 2016; and (iii) any deviation from the consented scope of the procedure.

(c) KMCWC — Institutional Failure to Verify Consent. KMCWC's own Pre-Procedure Timeout documentation for May 26, 2016 reflects 'Consents verified? Yes.' However, the consent documentation in Plaintiff's records was fabricated on or about March 1, 2016 and did not reflect Plaintiff's knowing, voluntary consent to the procedures actually performed. KMCWC's nursing staff — including Defendant Takenaka — certified consent was verified when the underlying consent documentation was fraudulent.

(d) KMCWC — Institutional Failure to Control OR Access. KMCWC had exclusive institutional control over its Operating Room 01 on May 26, 2016. KMCWC permitted, enabled, and facilitated the participation of a surgical team whose precise role and scope had not been validly disclosed to or consented to by Plaintiff.

(e) KMCWC/HPH — Stryker Video Destruction/Non-Preservation. A Stryker video recording system was present in KMCWC's operating room during the May

26, 2016 procedure. Defendants have represented in this litigation that no surgical video exists. If the Stryker video was destroyed or not preserved, such destruction or non-preservation constitutes spoliation of material evidence directly relevant to what actually transpired in OR 01 on May 26, 2016, and KMCWC/HPH — as the institutional custodian of that system and its recordings — bear direct responsibility for such spoliation.

(f) HPH — Parent Enterprise Liability. HPH, as the parent entity and administrative system of KMCWC, controlled and maintained the billing, records, and institutional infrastructure through which the fraudulent and unconsented acts were facilitated and concealed. HPH's administrative infrastructure transmitted billing claims to HMSA and Med-QUEST that falsely represented the May 26, 2016 procedures were performed pursuant to lawful, valid informed consent.

This answer will be supplemented following completion of discovery.

INTERROGATORY NO. 10: Describe with particularity all Documents and/or Things or evidence that support your allegations of intentional infliction of emotional distress against Nurse Takenaka, KMCWC and/or HPH, as alleged in your Amended Complaint.

ANSWER:

Plaintiff incorporates General Objection Nos. 5, and 6. Plaintiff objects that this is a premature contention interrogatory. Without waiving these objections, Plaintiff identifies the following categories of documents and evidence:

(a) The KMCWC medical records documenting Plaintiff's isolation in a secluded basement room, separation from personal belongings, and early anesthesia induction on May 26, 2016, approximately 2.5 hours before the scheduled surgical start.

(b) The Intra-Operative Nurses Notes placing Defendant Merla Takenaka in the OR and reflecting her submission of a report, establishing her direct participation in and knowledge of the events that caused Plaintiff's distress.

- (c) Records showing the alteration of Plaintiff's check-in time by Defendant Merla Takenaka, reflecting intentional concealment of what was done to Plaintiff.
- (d) The absence of any Stryker surgical video — and communications regarding its non-preservation — reflecting KMCWC/HPH's institutional conduct depriving Plaintiff of the ability to verify what was actually done to his anesthetized body.
- (e) All post-operative communications between Plaintiff and KMCWC/HPH or their agents regarding Plaintiff's injuries and complaints.
- (f) Plaintiff's medical records documenting his diagnosis of Empty Nose Syndrome, post-traumatic stress disorder, chronic sleep deprivation, and psychological sequelae arising from the May 26, 2016 procedure and the years of concealment and uncertainty that followed.
- (g) Plaintiff's exhibits A-000 through A#96, incorporated by reference.

This answer will be supplemented following completion of discovery.

INTERROGATORY NO. 11: State any and all facts which support your contention of intentional infliction of emotional distress against Nurse Takenaka, KMCWC and/or HPH related to the subject incident, as alleged in the Amended Complaint.

ANSWER:

Plaintiff incorporates General Objection Nos. 5, and 6. Plaintiff objects that this is a premature contention interrogatory. Without waiving these objections, Plaintiff states as follows:

Under Hawaii law, intentional infliction of emotional distress requires conduct that is (1) intentional or reckless, (2) outrageous, and (3) that causes extreme emotional distress. *Hac v. Univ. of Haw.*, 102 Haw. 92, 106-07, 73 P.3d 46, 60-61 (2003). Conduct is 'outrageous' when it is without just cause or excuse and beyond all bounds of decency. The following facts, each within the knowledge and conduct of Defendants Takenaka, KMCWC, and/or HPH, meet and exceed this standard:

- (a) On May 26, 2016, Defendant Merla Takenaka, acting within the scope of her KMCWC employment, participated in the pre-operative isolation, deprivation of

belongings, and early administration of anesthesia to Plaintiff — a sequence of acts that rendered Plaintiff chemically incapacitated, completely helpless, and unable to refuse, resist, or communicate for over 2.5 hours before the scheduled surgical start. Merla Takenaka then falsified the medical record to conceal this timeline.

(b) KMCWC, through its nursing and administrative staff, certified that 'Consents verified? Yes' at the Pre-Procedure Timeout while permitting surgical procedures to be performed based on fabricated consent documentation. This institutional ratification of fraud — on an unconscious, helpless patient — is outrageous conduct.

(c) KMCWC and HPH destroyed or failed to preserve the Stryker video recording of the May 26, 2016 surgery. This deliberate or grossly negligent destruction of evidence deprived Plaintiff — for years — of the ability to know what was actually done to his body while he was unconscious. The prolonged uncertainty, psychological torment, and inability to obtain complete medical care as a result of this concealment caused Plaintiff extreme and ongoing emotional distress.

(d) Over the years following the May 26, 2016 surgery, Plaintiff sought to obtain complete records and accountability from KMCWC and HPH regarding what had been done to him. KMCWC and HPH, through their institutional conduct, continued to provide incomplete or misleading information and concealed material facts, causing ongoing severe emotional distress.

This answer will be supplemented following completion of discovery.

INTERROGATORY NO. 12: Describe with particularity all Documents and/or Things or evidence that support your allegations of 'Product Liability' against Nurse Takenaka, KMCWC and/or HPH, as alleged in your Amended Complaint.

ANSWER:

Plaintiff objects to this Interrogatory to the extent it assumes product liability claims are asserted against Defendants Takenaka, KMCWC, and/or HPH. To the extent this

Interrogatory seeks information about claims not asserted against these defendants, no further response is required at this time. Plaintiff will supplement if appropriate under HRCF 26(e).

Plaintiff incorporates General Objection Nos. 5, and 6. Plaintiff objects that this Interrogatory is premature to the extent expert discovery is required to establish product liability theories against institutional defendants. Without waiving any objection, and subject to supplementation:

(a) The Arthrocare turbinate wand used by Dr. O'Donnell in the unconsented turbinate procedure on May 26, 2016, as documented in the operative report.

(b) The instruments used in the unconsented bilateral alar batten grafting procedure, including conchal/auricular cartilage harvesting instruments.

(c) The instruments used in the unconsented septoplasty.

(d) KMCWC's surgical equipment procurement, inspection, and maintenance records for OR 01 for May 26, 2016.

(e) All KMCWC/HPH policies governing the procurement, deployment, and oversight of surgical instruments used in the procedures performed on Plaintiff.

To the extent this Interrogatory seeks information about product liability claims not specifically asserted against Defendant Merla Takenaka individually, Plaintiff notes that the product liability claims run against the institutional Defendants in their capacity as operators and controllers of the operating room where the relevant devices were deployed. This answer will be supplemented following expert consultation and completion of discovery.

INTERROGATORY NO. 13: State any and all facts which support your contention of 'Product Liability' against Nurse Takenaka, KMCWC and/or HPH related to the subject incident, as alleged in your Amended Complaint.

ANSWER:

Plaintiff incorporates the objections and response to Interrogatory No. 12. Without waiving any objection, Plaintiff states that KMCWC, as the operator and institutional

custodian of Operating Room 01, provided, deployed, and maintained the surgical instruments and devices used in the unconsented procedures performed on Plaintiff on May 26, 2016. To the extent any such device was defective, deployed in a manner inconsistent with its intended use, or used in connection with a surgical procedure for which no valid consent existed, KMCWC's institutional authorization and deployment of such devices supports product liability theories. Facts will be further developed through expert discovery and review of device procurement and maintenance records.

This answer will be supplemented following expert consultation and completion of discovery.

INTERROGATORY NO. 14: Describe with particularity all Documents and/or Things or evidence that support your allegations of 'Breach of Contract' against Nurse Takenaka, KMCWC and/or HPH, as alleged in your Amended Complaint.

ANSWER:

Plaintiff incorporates General Objection Nos. 5, and 6. Without waiving these objections, Plaintiff identifies the following categories of documents and evidence supporting the breach of contract claims against KMCWC and HPH:

(a) The KMCWC hospital admission agreement and patient rights documentation provided to Plaintiff on or about May 26, 2016, which created express contractual obligations to Plaintiff including, without limitation, the right to: (i) receive only the procedures to which he validly consented; (ii) know the identity and role of each member of his surgical team; (iii) have his medical records accurately and truthfully maintained; and (iv) receive care free from unauthorized surgical procedures.

(b) The consent documentation on file in Plaintiff's KMCWC records, which Plaintiff contends was fabricated and which demonstrates KMCWC's and HPH's failure to ensure that any valid, lawful informed consent was obtained prior to the performance of eleven unconsented surgical acts.

(c) The KMCWC Intra-Operative Nurses Notes, Timeout documentation, and operative report, which reflect that the procedures actually performed —

including septoplasty, bilateral alar batten grafting, and inferior turbinate reduction — exceeded or deviated materially from the contractual scope of any authorized procedure.

(d) KMCWC and HPH billing records reflecting charges for services that were not lawfully authorized, constituting a breach of the contractual obligation to perform only consented procedures.

(e) All institutional policies, protocols, and patient rights documents governing the patient-hospital relationship at KMCWC and under HPH's system policies.

With respect to Defendant Merla Takenaka individually, to the extent she entered into any separate representations or undertakings with Plaintiff during the pre-operative process (including participating in consent verification), those representations created contractual obligations and she breached them by participating in the falsification of the medical record and the certification of fraudulent consent documentation.

This answer will be supplemented following completion of discovery.

INTERROGATORY NO. 15: State any and all facts which support your contention of 'Breach of Contract' against Nurse Takenaka, KMCWC and/or HPH related to the subject incident, as alleged in your Amended Complaint.

ANSWER:

Plaintiff incorporates the objections and response to Interrogatory No. 14. The key facts supporting breach of contract are:

(a) On or before May 26, 2016, KMCWC and HPH, through their admission process and institutional representations, undertook contractual obligations to Plaintiff to: provide only consented medical care; ensure accurate medical recordkeeping; disclose the identity of his surgical team; and protect his right to refuse or modify treatment.

(b) KMCWC and HPH breached those obligations by: (i) performing eleven unconsented surgical acts on May 26, 2016; (ii) permitting an incompletely disclosed surgical team to perform surgery on Plaintiff; (iii) falsifying Plaintiff's medical records through the actions of Defendant Takenaka and others; (iv)

failing to preserve the Stryker video recording; and (v) submitting billing claims to HMSA and Med-QUEST for procedures performed without lawful consent.

(c) Defendant Merla Takenaka individually breached her obligations to Plaintiff by falsifying his medical records and by certifying (through the Timeout process) that consent had been verified when the consent documentation was fraudulent.

As a direct result of these breaches, Plaintiff suffered significant harm including, but not limited to, the physical injuries described herein, the loss of the ability to know what was done to his body, ongoing medical complications, and economic and non-economic damages.

This answer will be supplemented following completion of discovery.

INTERROGATORY NO. 16: Identify each person who has information relating to the care and treatment you received from Nurse Takenaka, KMCWC and/or HPH that is the subject of your claims and/or the injuries you contend resulted from an act and/or omission by Nurse Takenaka, KMCWC and/or HPH, and describe the substance of their information.

ANSWER:

The following persons are known or believed to have information relating to the care and treatment at KMCWC/HPH and/or the injuries Plaintiff contends resulted from Defendants' conduct. Addresses and contact information for KMCWC/HPH-employed individuals are within Defendants' possession, custody, and control.

1. Merla Takenaka, RN (Defendant). Knowledge of: the alteration of Plaintiff's check-in time from approximately 8:00 a.m. to 9:00 a.m. in the official KMCWC medical records; her pre-operative and intra-operative 'report' as documented in the Intra-Operative Nurses Notes; the pre-operative events on May 26, 2016, including Plaintiff's isolation and early anesthesia induction; the actual composition of the surgical team present in OR 01 on May 26, 2016.

2. Wendy B. Tabalanza, RN (KMCWC Circulator, May 26, 2016). Knowledge of: all intra-operative events in OR 01 on May 26, 2016; the surgical team present; the conduct of the Pre-Procedure Timeout; the consent verification

process; and any communications regarding the scope of the procedure and the identity of the surgeons.

3. Jennifer Cummings, TECH (KMCWC Scrub Tech, May 26, 2016).

Knowledge of: intra-operative events, instruments used, procedures performed, and the surgical team present on May 26, 2016.

4. Jennifer A. Kunihiro, RN (KMCWC Relief Circulator). Knowledge of: intra-operative events in OR 01 from approximately 11:40 a.m. to 12:15 p.m. on May 26, 2016.

5. Timothy Fiveash, TECH (KMCWC Relief Scrub). Knowledge of: intra-operative events in OR 01 from approximately 11:40 a.m. to 12:15 p.m. on May 26, 2016.

6. Dr. Selena B. Peters, M.D. (Defendant — Anesthesiologist). Knowledge of: the anesthesia administered to Plaintiff on May 26, 2016; the timing of anesthesia induction relative to the surgical start time; the hypothermic state of Plaintiff at the time surgery commenced; the actual procedures performed; and the surgical team present.

7. Dr. Patrick J. O'Donnell, M.D. (Defendant — Primary Surgeon).

Knowledge of the procedures performed and the composition of the surgical team.

8. Dr. Susan Tan, M.D. (Defendant — Assisting Surgeon / Ghost Surgeon).

Knowledge of her role and participation in the May 26, 2016 surgery and the informed consent process, or lack thereof, governing her participation.

9. All KMCWC/HPH health information management and medical records staff who processed, generated, maintained, or produced Plaintiff's medical records, including any staff involved in alterations or amendments to those records.

10. All KMCWC/HPH compliance, risk management, and patient relations staff who received or responded to any complaint or inquiry from Plaintiff regarding the May 26, 2016 surgery.

11. All treating, evaluating, and consulting physicians who have provided care to Plaintiff following the May 26, 2016 surgery, including but not limited to physicians treating Plaintiff for Empty Nose Syndrome, PTSD, nasal complications, and related conditions. Names and contact information will be supplemented.

12. Any expert witnesses retained or to be retained by Plaintiff. Names and areas of expertise will be disclosed consistent with the Court's scheduling order.

Plaintiff reserves the right to supplement this response pursuant to HRCP Rule 26(e) as additional witnesses are identified through discovery.

INTERROGATORY NO. 17: For each verbal contact that you had with any physician, nurse, or any other person working with Nurse Takenaka, KMCWC and/or HPH regarding the care and treatment you received from Nurse Takenaka, KMCWC and/or HPH that is the subject of your claims and/or the injuries you contend resulted from an act and/or omission by Nurse Takenaka, KMCWC and/or HPH, identify each person with whom you spoke, date and time of the contact, the substance of what was said, and each person who heard or may have heard any part of what was said.

ANSWER:

Plaintiff objects that this Interrogatory is compound and overbroad. Plaintiff further notes that many of the events described herein occurred on May 26, 2016, while Plaintiff was sedated, anesthetized, or under the influence of perioperative medications affecting consciousness and memory. The identities of certain clinical and support staff remain within Defendants' possession, custody, and control and have not yet been fully disclosed through discovery. Without waiving these objections, Plaintiff provides the following communications presently recalled and will supplement this response pursuant to HRCP Rule 26(e):

Communication 1 — May 26, 2016 (Pre-Operative, KMCWC). Persons: Plaintiff and KMCWC nursing/intake staff whose identities are within Defendants' records. Substance: Plaintiff was directed to a basement room and separated from his clothing, communication device(s), and personal belongings. Plaintiff was not informed of the specific nursing staff assigned to his care, including

Defendant Merla Takenaka. No verbal communication regarding consent to the scope of the procedures was had with any KMCWC nursing staff on May 26, 2016, to Plaintiff's knowledge.

Communication 2 — May 26, 2016 (Post-Operative Recovery, KMCWC).

Persons: Plaintiff and KMCWC recovery room staff whose full identities are within Defendants' records. Substance: Upon regaining partial consciousness in the post-operative recovery area, Plaintiff received instructions regarding post-operative care. The specific substance of those communications is not fully recalled due to the residual effects of general anesthesia. Plaintiff will supplement this response.

Communication 3 — Patient Relations Specialist: “Wendy” ~ on or about 2016-2017. Plaintiff relayed an overview of the allegations, plaintiff requested the Stryker video.

Plaintiff will supplement this response pursuant to HRCF Rule 26(e) upon receipt of nursing staff rosters, OR scheduling records, perioperative nursing documentation, and all other discovery relevant to the identities and communications of KMCWC/HPH staff.

INTERROGATORY NO. 18: Identify each physician, psychiatrist, psychologist, or therapist, hospital, medical center, or other healthcare provider by whom you have been examined, cared for, or treated, or with whom you have consulted in the past fifteen years; state their names, addresses, telephone numbers, inclusive dates of treatment; and describe the type of treatment you received, preliminary and final diagnosis, and prognosis.

ANSWER:

Plaintiff objects to this Interrogatory to the extent it seeks information about medical treatment for conditions wholly unrelated to the injuries arising from the May 26, 2016 surgery. Financial records, sensitive medical records beyond those directly at issue in this action, and records implicating conditions unrelated to this litigation are protected by Hawaii's constitutional right to privacy. *Haw. Const. art. I, § 6*. Without waiving this objection, Plaintiff identifies the following providers whose treatment relates to the

injuries at issue in this case. Additional pre-existing providers, to the extent relevant, will be supplemented:

- (a) Castle hospital - Hawai'i. Psychological medicine.
- (b) Queens Medical Center - various medicine.
- (c) Dr. Hyman - Psychological and physical medicine.
- (d) Dr. Patrick McGivern - Psychological medicine.
- (e) Dr. Marvin Acklin - Psychological medicine. **Address:** 850 W Hind Dr #203, Honolulu, HI 96821

Plaintiff will supplement this response pursuant to HRCF Rule 26(e) as additional records are compiled.

INTERROGATORY NO. 19: If you received treatment for a condition you developed as a result of the subject incident, identify each physician, psychiatrist, psychologist, or therapist, hospital, medical center, or other healthcare provider by whom you have been examined, cared for, or treated, or whom you have consulted; state their names, addresses, telephone numbers, inclusive dates of treatment; and describe the type of treatment you received, preliminary and final diagnosis, and prognosis.

ANSWER:

As a direct and proximate result of the unconsented procedures performed on Plaintiff on May 26, 2016, and the institutional conduct of KMCWC, HPH, and Defendant Merla Takenaka, Plaintiff has developed and sought treatment for the following conditions:

Conditions: Empty Nose Syndrome (ENS); chronic nasal obstruction and collapse; bilateral inferior turbinate damage; septal deviation resulting from unconsented septoplasty; adenoid removal (on information and belief, based on operative documentation); chronic sleep deprivation; post-traumatic stress disorder (PTSD); anxiety and depression arising from the circumstances of the unauthorized surgery and years of institutional concealment; and associated psychological sequelae.

- (a) Castle hospital - Hawai'i. Psychological medicine.
- (b) Queens Medical Center - various medicine.

(c) Dr. Hyman - Psychological and physical medicine.

(d) Dr. Patrick McGivern - Psychological medicine.

(e) Dr. Marvin Acklin - Psychological medicine. **Address:** 850 W Hind Dr #203,
Honolulu, HI 96821

Plaintiff will supplement this response pursuant to HRCF Rule 26(e) as additional records are compiled.

INTERROGATORY NO. 20: For each of the healthcare providers identified above in your answer to Interrogatory No. 19 who/which billed you for services, state the date(s) of service and amount of each bill.

ANSWER:

Plaintiff does not presently have complete billing statements for all providers. Billing and EOB records are maintained by the providers and Plaintiff's insurers (including HMSA/Med-QUEST). Plaintiff will supplement pursuant to HRCF Rule 26(e) as billing records are compiled.

INTERROGATORY NO. 21: Describe all of the injuries that you allege resulted from an act and/or omission by Nurse Takenaka, KMCWC and/or HPH.

ANSWER:

As a direct and proximate result of the acts and omissions of Defendants Takenaka, KMCWC, and HPH, Plaintiff suffered the following injuries, which are ongoing:

(a) Physical Injuries: (i) Empty Nose Syndrome arising from the unconsented bilateral inferior turbinate reduction; (ii) chronic nasal obstruction, collapse, and breathing impairment arising from the unconsented bilateral alar batten grafting procedure; (iii) septal injury arising from the unconsented septoplasty; (iv) removal of adenoid tissue (on information and belief); (v) chronic sleep deprivation arising from nasal obstruction and ENS; (vi) chronic pain and discomfort in the nasal and sinus region.

(b) Psychological and Emotional Injuries: (i) Post-traumatic stress disorder (PTSD); (ii) severe anxiety and depression arising from the discovery that

unauthorized surgical procedures were performed on Plaintiff's anesthetized body; (iii) extreme emotional distress arising from Defendant Merla Takenaka's falsification of the medical record and the institutional concealment by KMCWC and HPH; (iv) prolonged psychological torment arising from the inability — due to Defendants' destruction or non-preservation of the Stryker video — to obtain a complete accounting of what was done to Plaintiff's body.

(c) Economic Injuries: (i) Medical expenses incurred for treatment of the conditions described above; (ii) past and future loss of income and/or impairment of earning capacity; (iii) future medical expenses for ongoing and anticipated treatment of ENS, nasal reconstruction, psychological care, and related conditions.

(d) Loss of Bodily Integrity and Autonomy: The violation of Plaintiff's constitutionally and legally protected right to control his own body and to be free from unconsented medical procedures constitutes harm in and of itself, separate and apart from the resulting physical injuries.

The injuries specifically attributable to KMCWC and HPH as institutional Defendants include all of the above, because: (i) the surgery occurred within KMCWC's facility under KMCWC's institutional control; (ii) KMCWC's nursing staff, including Defendant Takenaka, participated in the pre-operative acts enabling the unauthorized procedures; (iii) KMCWC/HPH destroyed or failed to preserve the Stryker video, compounding and extending Plaintiff's injuries; and (iv) KMCWC/HPH's fraudulent billing transmissions to HMSA and Med-QUEST constituted predicate acts in furtherance of the RICO enterprise.

INTERROGATORY NO. 22: If any of the injuries that you allege resulted from an act and/or omission by Nurse Takenaka, KMCWC and/or HPH will probably be permanent, describe each injury and identify each person who provided the prognosis.

ANSWER:

Plaintiff contends that the following injuries are permanent or likely permanent in nature:

(a) Empty Nose Syndrome (ENS). This condition, arising from the unconsented bilateral inferior turbinate reduction performed within KMCWC's OR, is a chronic and in many cases permanent condition with no widely accepted cure. The removal or reduction of turbinate tissue is irreversible without significant reconstructive surgery.

(b) Loss of Nasal Tissue and Structural Integrity. The unconsented procedures — including the adenoidectomy (on information and belief), septoplasty, and alar batten grafting — permanently altered the anatomy of Plaintiff's nose and nasal cavity in ways that cannot be fully reversed.

(c) Psychological Sequelae. PTSD, severe anxiety, and depression arising from the circumstances of the unauthorized surgery and the institutional concealment may constitute permanent or long-term conditions.

Plaintiff will supplement this response as expert and medical opinions are developed.

INTERROGATORY NO. 23: If any further treatment (e.g., surgery, rehabilitation therapy, psychological care) was recommended, identify each person who recommended the treatment and describe the nature of the treatment.

ANSWER:

(a) Dr. Hyman - Psychological therapy recommended.

(b) Dr. Patrick McGivern - Psychological therapy recommended.

Plaintiff will supplement this response pursuant to HRCP Rule 26(e) as additional medical consultations occur and records are compiled.

INTERROGATORY NO. 24: If any of the injuries that you allege resulted from an act and/or omission by Nurse Takenaka, KMCWC and/or HPH detrimentally affected your performance at work or your non-work activities, describe how your performance or activity has been detrimentally affected and state the inclusive dates when your performance at work or your non-work activities were affected.

ANSWER:

As a direct and proximate result of the injuries described in Interrogatory No. 21, Plaintiff's work performance and non-work activities have been detrimentally affected from on or about May 26, 2016, to the present and continuing, as follows:

(a) Work Performance: inability to concentrate, inability to interact with others, severe pain, severely inhibited energy.

(b) Non-Work Activities: Plaintiff has been unable to engage in physical activities, recreational pursuits, and normal daily activities that require adequate nasal breathing and unimpaired sleep. Chronic sleep deprivation arising from Empty Nose Syndrome and nasal obstruction has severely impaired Plaintiff's cognitive function, energy levels, and quality of life from approximately May 26, 2016, to the present.

(c) Social and Relational Impact: The psychological injuries — including PTSD, anxiety, and depression — have adversely affected Plaintiff's personal relationships and social functioning.

Plaintiff will supplement this response as additional information is identified.

INTERROGATORY NO. 25: If you incurred any non-medical expenses and/or monetary losses as a result of the injuries that you allege resulted from an act and/or omission by Nurse Takenaka, KMCWC and/or HPH, state the nature and the amount of each such expense and the date on which it was incurred.

ANSWER:

Transportation costs: to medical appointments - ongoing since May 26, 2016.

Costs of assistive devices: air treatment costs including space heaters and humidifiers.

Plaintiff will supplement this response pursuant to HRCP Rule 26(e) as records are compiled.

INTERROGATORY NO. 26: For each monetary payment received by you or anyone on your behalf (e.g., a medical provider) from Medicare, Medicaid, the Social Security Administration, worker's compensation, an insurance company, or any other person or

entity in connection with the injuries that you contend were the result of an act and/or omission by Nurse Takenaka, KMCWC and/or HPH, identify the date of each payment, the dollar amount, the identity of each payer and recipient, and what the payment was for.

ANSWER:

Standard insurance coverage of medical bills.

Plaintiff will supplement pursuant to HRCP Rule 26(e).

INTERROGATORY NO. 27: Describe your past, present and future loss of income and/or impairment of earning capacity that resulted from the injuries that you contend were the result of an act and/or omission by Nurse Takenaka, KMCWC and/or HPH, including the identity of each person or entity that paid or would have paid your wages, earnings or income; the amount of each loss with an explanation of the computation; the inclusive dates of when you would have obtained the wages, earnings or income if not for the injuries that you contend were the result of an act and/or omission by Nurse Takenaka, KMCWC and/or HPH, and the amount of each sick leave payment you received and by whom paid.

ANSWER:

Plaintiff objects that this Interrogatory is a premature contention interrogatory requiring expert analysis for a complete response. Without waiving this objection, Plaintiff states as follows:

Past lost income from approximately May 26, 2016 to present: having an associate degree in accounting, a bachelors degree in business administration, and a high I.Q., Plaintiff had a high earning capacity.

Plaintiff's future loss of income and impairment of earning capacity will be established through expert vocational and economic testimony and will be supplemented upon retention of expert witnesses and completion of fact discovery.

INTERROGATORY NO. 28: State the amount and nature of all future expenses and/or monetary losses you anticipate will be incurred by you as a result of the injuries that you

contend were the result of an act and/or omission by Nurse Takenaka, KMCWC and/or HPH.

ANSWER:

Plaintiff objects that this Interrogatory requires expert testimony and is premature. Without waiving this objection, Plaintiff anticipates the following categories of future expenses and monetary losses:

(a) Future Medical Expenses: The costs of ongoing and future treatment for Empty Nose Syndrome, nasal reconstruction, psychological therapy, sleep disorder treatment, and all related care arising from the injuries caused by the May 26, 2016 surgery.

(b) Future Loss of Earning Capacity: As identified by expert vocational and economic witnesses to be retained.

(c) Future Non-Economic Losses: Ongoing pain, suffering, loss of enjoyment of life, and psychological harm.

(d) Future Scientific Research: on bone, cartilage, and soft-tissue regeneration: **Estimated ~\$25 Million**, to find a cure that would make Plaintiff 60-70% whole. This estimation was done using Plaintiff's knowledge and understanding of science, biology, physiology, and finance.

e) Future medical-intervention/execution: based on scientific research into bone, cartilage, and soft-tissue regeneration to make Plaintiff 60-70% whole: **Estimated ~\$12 Million.** This estimation was done using Plaintiff's knowledge and understanding of science, biology, physiology, and finance.

Plaintiff will supplement with specific dollar amounts and computations upon retention of relevant experts and completion of discovery.

INTERROGATORY NO. 29: For each court case (e.g. civil, criminal, bankruptcy) you were/are involved in other than this case, and/or any other type of proceeding you were/are involved in (including but not limited to administrative hearings) before a judge, magistrate, mediator, arbitrator or hearings officer, state the date and description of the incident; title of the court/docket number or case/case number; name of the attorney

who represented you; how the case or proceeding was concluded; and the amount of money you received from any adverse party.

ANSWER:

Hawai'i Medical Inquiry and Conciliation Panel (MICP): Plaintiff was a party to the ('MICP') proceeding arising from the same subject incident described in the Amended Complaint. The MICP proceeding was formally terminated on or about March 21, 2018. No monetary recovery was received from any adverse party in connection with the MICP proceeding. Pro se.

1SS181000674: SUSAN TAN M D VS JARED P JAMES

First Amendment issues. Pro se. Concluded via 'withdrawal' by petitioner Dr. Susan Tan.

1SS181000646: PATRICK J. O'DONNELL, M.D. VS. JARED JAMES. Temporary restraining order/injunction proceeding. First Amendment issues. Pro se.

Concluded in favor of petitioner. No monetary recovery received by any party.

Plaintiff reserves the right to object to disclosure of proceedings whose relevance is not proportionate to the needs of this case.

INTERROGATORY NO. 30: As provided by Rule 26 of the Hawaii Rules of Civil Procedure, Identify each expert you expect to call to testify at the trial of this case, and state his field of expertise, educational background, specialized training in his field, professional or trade associations which he is a member of, publications, previous experience with problems similar to those related to the subject incident, and the subject matter, facts and opinions that he is expected to testify about and the grounds for each fact and opinion.

ANSWER:

Plaintiff has not yet finalized the retention of testifying experts. Plaintiff objects that this Interrogatory is premature to the extent it requires disclosure of expert opinions prior to the completion of fact discovery and in advance of the Court's scheduling order governing expert disclosures.

Plaintiff anticipates retaining experts in the following fields: otolaryngology / head and neck surgery; nursing standards of care; hospital administration and institutional credentialing practices; medical record integrity and alterations; economics and vocational rehabilitation; and psychiatry/psychology.

Plaintiff will supplement this response pursuant to HRCF Rule 26(e) consistent with the Court's scheduling order upon the retention of testifying experts.

INTERROGATORY NO. 31: State the name of each lay witness whom you expect to call to testify at a trial of this action; and with regard to each such witness, state: (a) The address, email address, and telephone number of said witness; and (b) A brief description of the facts to which each witness will testify.

ANSWER:

Plaintiff's anticipated lay witnesses include, at minimum, the following persons identified in Interrogatory No. 16. Contact information for KMCWC/HPH-employed individuals is within Defendants' possession, custody, and control. Plaintiff will supplement this response as the case develops.

1. Merla Takenaka, RN — Alteration of Plaintiff's check-in time; her report in the OR; pre-operative and intra-operative events on May 26, 2016.

2. Wendy B. Tabalanza, RN — Intra-operative events, consent verification, surgical team present in OR 01 on May 26, 2016.

3. Jennifer Cummings, TECH — Intra-operative events and procedures performed on May 26, 2016.

4. Jennifer A. Kunihiro, RN — Intra-operative events in OR 01, approximately 11:40 a.m. to 12:15 p.m., May 26, 2016.

5. Timothy Fiveash, TECH — Intra-operative events, May 26, 2016.

6. Dr. Selena B. Peters, M.D. — Anesthesia administration, timing, Plaintiff's condition during the procedure.

7. Dr. Patrick J. O'Donnell, M.D. — The February 26, 2016 pre-operative agreement; procedures performed; representations made to Plaintiff.

8. Dr. Susan Tan, M.D. — Her role and participation in the May 26, 2016 surgery.

9. Jared James (Plaintiff) — All facts personal to Plaintiff's experience, injuries, damages, and communications with Defendants.

10. [Additional witnesses to be identified through discovery] — Will be supplemented pursuant to HRCF Rule 26(e).

INTERROGATORY NO. 32: Identify each exhibit you intend to introduce into evidence at the trial of this case, or which you intend to show to the court or jury, including the date, description of its contents, author(s) and/or recipient(s), and who has the present care, custody and control of said exhibits.

ANSWER:

Plaintiff's trial exhibits include, without limitation, the following categories of documents, all of which are in Plaintiff's possession or have been produced in discovery:

(a) Plaintiff's KMCWC medical records for the May 26, 2016 surgery, including the Intra-Operative Nurses Notes (showing Defendant Takenaka's presence and report), the anesthesia/flowsheet records, the Timeout documentation, and all nursing documentation. [Exhibits A-000 through A#96 as previously filed/produced.]

(b) The consent documentation in Plaintiff's KMCWC file, including the fabricated informed consent form.

(c) The operative report of Dr. O'Donnell dated May 26, 2016.

(d) The Dr. Susan Tan Co-Surgeon Surgical Report and all co-surgeon documentation.

(e) All pre-operative medical records including Dr. O'Donnell's addendum of February 29, 2016.

(f) KMCWC billing records submitted to HMSA and Med-QUEST.

(g) Correspondence with KMCWC, HPH, and DCCA RICO regarding the destruction/non-preservation of the Stryker video and the regulatory complaint record.

- (h) Plaintiff's post-operative medical records documenting his injuries.
- (i) Expert reports (to be supplemented upon retention of testifying experts).
- (j) Audio recordings of interactions with Dr. Patrick O'Donnell after Surgery on May 26, 2016.
- (k) Marketing materials by Dr. Patrick O'Donnell and Dr. Susan Tan used before surgery on May, 26, 2016.

Plaintiff will supplement this exhibit list pursuant to HRCF Rule 26(e) prior to trial.

INTERROGATORY NO. 33: Identify each person who assisted you in answering the above interrogatories and the capacity under which each person provided such assistance.

ANSWER:

Jared James, Plaintiff, pro se. Mr. James answered or assisted with all Interrogatories Nos. 1 through 33 based on his personal knowledge, his review of records in his possession, and reasonable inquiry conducted in good faith.

VERIFICATION

I, Jared James, declare under penalty of perjury under the laws of the State of Hawai'i that the foregoing Answers to Defendants Merla Takenaka, RN, Kapiolani Medical Center for Women and Children, and Hawaii Pacific Health's First Request for Answers to Interrogatories are true and correct to the best of my knowledge, information, and belief.

I further declare that these answers are based upon my personal knowledge, my review of records in my possession, and reasonable inquiry conducted in good faith.

I reserve the right to supplement or amend these answers pursuant to **Rule 26(e)** of the Hawai'i Rules of Civil Procedure as additional information becomes available.

Executed on this 4 day of March, 2026, in Honolulu, Hawai'i.

/s/ Jared James
JARED JAMES
Pro Se Litigant
2421 Tusitala St. 402

Honolulu, HI 96815
jaredjames23@gmail.com
(808) 800-6588 Plaintiff