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

CAMILLE KIEFEL,

Plaintiff,

v.

OREGON COSMETIC AND  
RECONSTRUCTIVE CLINIC, P.C., an  
Oregon professional corporation; TINA JENQ,  
M.D., an individual; PROVIDENCE  
MILWAUKIE HOSPITAL, the assumed  
business name of PROVIDENCE HEALTH &  
SERVICES - OREGON, an Oregon religious  
nonprofit corporation,

Defendants.

Case No. \_\_\_\_\_

COMPLAINT (Professional  
Malpractice; Intentional Infliction of  
Emotional Distress; Misrepresentation)

CLAIM NOT SUBJECT TO  
MANDATORY ARBITRATION

(Prayer: \$3,500,000.00)

Filing Fee: \$ 884.00

Fee Authority: ORS 21.160(1)(d)

JURY TRIAL DEMANDED

Plaintiff CAMILLE KIEFEL alleges for her Complaint:

**THE PARTIES**

1.

At all times material hereto, Plaintiff Camille Kiefel (hereinafter, "Kiefel") was a resident of the State of Oregon.

2.

Defendant Tina Jenq, M.D. (hereinafter Dr. Jenq and "Jenq") is a board-certified plastic surgeon and board-certified general surgeon in the state of Oregon. Dr. Jenq is the President of the Oregon Cosmetic and Reconstructive Clinic, P.C., (hereinafter "OCRC"), which has its principal place of business in Portland, Oregon. OCRC's clinic is in Happy Valley, Clackamas County, Oregon. At all times material herein, Dr. Jenq was acting as an employee, agent, and/or owner of OCRC, and at all times acted within the course and scope of her employment and/or agency. OCRC is vicariously liable for Dr. Jenq's acts and omissions alleged herein.

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3.

At all material times herein, Dr. Jenq was affiliated with Providence Milwaukie Hospital and acting as an employee, agent, or apparent agent of Providence Milwaukie Hospital, within the course and scope of her employment, agency, or apparent agency. Providence Milwaukie Hospital and Providence Health & Services are vicariously liable for Dr. Jenqs acts and omissions alleged herein.

4.

Defendant Providence Milwaukie Hospital (hereinafter "PMH") is the assumed business name of Defendant Providence Health & Services - Oregon, which is an Oregon religious nonprofit corporation (hereinafter "Providence Health & Services"). PMH's principal place of business is in the city of Milwaukie, Clackamas County, Oregon. Providence Health & Services principal place of business is in Renton, WA.

**OTHER INDIVIDUALS AND ENTITIES MENTIONED HEREIN**

5.

At all times material hereto, Amy Ruff, LCSW (hereinafter "Ruff") held herself out to the general public as a Licensed Clinical Social Worker in the State of Oregon, having special skills, training and experience to provide mental health assessment, and/or evaluation of the mental health necessity, appropriateness, risks, complications, and/or benefits of an individual receiving "gender affirming" surgical procedures. At all times material hereto, Brave Space LLC (hereinafter, "Brave Space") was an Oregon limited liability company that facilitated access for transgender and non-binary children, youth, adults, and their families to mental health and medical care providers. At all relevant times herein, Ruff was an employee, agent, or apparent agent of Brave Space and at all relevant times acted within the course and scope of her employment and/or agency.

6.

At all times material hereto, Mara Burmeister, LPC (hereinafter, "Burmeister") held herself out to the general public as a Licensed Professional Counselor in the State of Oregon,

1 having special skills, training and experience to "build a therapeutic alliance" sufficient to provide  
2 mental health and "thorough biopsychosocial" assessment and/or evaluation of the mental health  
3 appropriateness, risks, and/or benefits of an individual receiving "gender affirming" surgical  
4 procedures. At all times material hereto, Project Quest dba Quest Center for Integrative Health  
5 (hereinafter, "Quest") was and is an Oregon public benefit nonprofit corporation offering  
6 behavioral and physical health services to individuals throughout the State of Oregon. At all  
7 relevant times herein, Burmeister was an employee, agent, or apparent agent of Quest and at all  
8 relevant times acted within the course and scope of her employment and/or agency.

9 7.

10 At all times material hereto, Ewen Harrison, M.D. was a licensed physician in the state  
11 of Oregon, and board-certified in family medicine (hereinafter "Dr. Harrison"). At all times  
12 material hereto, Annelise Manns, Psy.D., was a licensed psychologist in the state of Oregon  
13 (hereinafter "Dr. Manns"). At all material times herein, Dr. Harrison and Dr. Manns were  
14 affiliated with Providence Medical Group (hereinafter "PMG").

#### 15 **JURISDICTION AND VENUE**

16 8.

17 This Court has subject matter jurisdiction over this action under ORS 14.030 because  
18 Defendants committed the acts and omissions complained of in the State of Oregon.

19 9.

20 This Court has personal jurisdiction over the defendants under ORCP 4(A)(4) and 4(C)  
21 because Defendants are engaged in substantial activities and not isolated within this state, and the  
22 injuries and damage to Kiefel's person and property arise out of defendants' acts and omissions  
23 within the State of Oregon.

24 10.

25 Venue is proper under ORS 14.080(1) because defendants' acts and omissions occurred,  
26 and plaintiff's causes of action arose, in the County of Clackamas, Oregon.

1 **COMMON ALLEGATIONS**

2 11.

3 Kiefel is a 33-year-old woman who has struggled with numerous mental health issues and  
4 diagnoses since her pre-teen and teenage years. Kiefel has a history of trauma, impulsivity and  
5 self-harm, and carries cognitive and sensory diagnoses, including generalized anxiety disorder,  
6 major depressive disorder, PTSD, and ADHD. Kiefel's diagnoses include sensory symptoms, such  
7 as vomiting due to the texture of foods, being unable to find comfortable clothing, and  
8 experiencing discomfort with the movement of her breasts, leading to her feeling discomfort and  
9 dissociation with her body.

10 12.

11 In about 2015, while experiencing social anxiety and harsh treatment by peers, Kiefel  
12 began to identify herself as having a "non-binary" "gender identity," and describing to therapists  
13 a feeling of distress regarding her breasts. One therapist, who saw her for about a year, diagnosed  
14 her with mild "gender dysphoria". Kiefel did not see that therapist after January 2017.

15 13.

16 In 2018, while having difficulties with medication management and side effects, Kiefel  
17 experienced a major depressive episode that included crippling anxiety about work duties, other  
18 people's opinions about her, and decision-making for even simple tasks like deciding what side  
19 of the sidewalk to walk on, and worrying about making wrong decisions or not knowing what to  
20 do. Her cognitive problems worsened, causing physical discomfort concerning lights and colors  
21 in her environment, clothing choices, and food and clothing textures. At times, this led to  
22 incapacitating panic attacks, at one point requiring de-escalation by the police. She became  
23 unable to work or drive, and was placed on long-term disability.

24 14.

25 The specialist managing her medications recommended caution surrounding treatment,  
26 and a focus on noninvasive modalities due to her susceptibility to harmful side effects, as well

1 as her mental health diagnoses leading to impulsivity, difficulty following through, a compulsive  
2 need to please others, and vulnerability to intimidation.

3 15.

4 Throughout the years, Kiefel had additional episodes, including one diagnosed by a PMG  
5 physician at her January 2019 well-woman visit as a "severe episode of recurrent major  
6 depressive disorder." During the well-woman visit, Kiefel had no concerns about her breasts. The  
7 doctor, however, considered her condition serious enough to implement Medicare's "HCC"  
8 (Hierarchal Condition Category) protocol for serious conditions that are likely to incur long-term  
9 costs for the facility.

10 16.

11 From September 2018 through March 2020, Kiefel received therapy and medication  
12 management with several providers at Western Psychological and Counseling Services. From  
13 July 2019 through mid-February 2020, Kiefel also received individual psychotherapy with  
14 psychologist Dr. Donald G. Dodson, Ph.D. The providers at Western Psychological and Dr.  
15 Dodson did not diagnose Kiefel with gender dysphoria. The only dysphoria that Dr. Dodson  
16 discussed with Kiefel was Rejection Sensitive Dysphoria.

17 17.

18 Kiefel had tried and failed many different therapies, and by 2020 was undergoing  
19 transcranial magnetic stimulation and trying an anticonvulsive medication, all under medical  
20 guidance.

21 18.

22 In March 2020, still on mental health leave and long term disability from work, Kiefel  
23 went on the Oregon Health Plan due to insurance costs. This required her mental health care and  
24 medication management to be transferred to PMG. Dr. Harrison became her primary medical  
25 doctor. PMG's medical staff provided diagnosis and treatment by telephone or video due to  
26 COVID-19 protocols.

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19.

Dr. Harrison noted both the severe 2019 episode and the HCC designation on Kiefel's chart. He described Kiefel's difficulty maintaining a "balance of issues" between her medications and side effects. Dr. Harrison's stated goal for Kiefel's medical treatment was to assist Kiefel to return to work through "medication management and ongoing therapy." Dr. Harrison began modifying her medication regimen and referred her to Dr. Manns for behavioral health.

20.

Dr. Manns phoned Kiefel to "collect background information" for "a brief course in behavior support." She noted that Kiefel had a lifelong history of mental health problems and had tried many different treatments. She noted that Kiefel was having worsening anxiety, "difficulty thinking straight and following through."

21.

In late April 2020, Kiefel spoke to Dr. Manns about a "breakdown" over returning a library book, and was noted to have "limited psychosocial support." Kiefel spoke to Dr. Harrison about upcoming periodic review of her disability benefits, and he signed paperwork via MyChart confirming that she remained too disabled to work.

22.

On April 21, 2020, Kiefel told Dr. Harrison in a virtual office visit that she had learned that OHP now covered breast reduction, and that she believed she needed the procedure. Dr. Harrison noted that Kiefel identified as "Non-binary" and, "Does not require masculinizing surgery, but would be comfortable with reduction only, no surgery to nipples or areolae". In addition to deeming her disabled, and noting her diagnoses of ADHD, generalized anxiety disorder, major depressive disorder, and PTSD, Dr. Harrison added the diagnosis of "breast hypertrophy," and advised Kiefel to consult Dr. Jenq for the requested surgery. Dr. Harrison did not diagnose Kiefel with gender dysphoria.

1 23.

2 In mid and late April 2020, Dr. Manns noted that Kiefel had self-discontinued some of  
3 her medication because it exacerbated her emotional dysregulation. Kiefel was described as  
4 "getting stuck on tasks and struggl[ing] to let go," having "recurrent thoughts of death," reliving  
5 traumatic experiences from bullying by activists, and particularly did "not feel safe in the trans  
6 community." In early May 2020, Dr. Manns provided Kiefel with a list of local trans-focused  
7 therapists willing to write approval letters for "gender-affirming" surgery. Based on Dr. Manns'  
8 recommendation, Kiefel contacted Brave Space, which was included on the list.

9 24.

10 In or about early May 2020, Brave Space scheduled Kiefel for an assessment with Ruff.  
11 On or about May 13, 2020, Ruff held one Zoom session with Kiefel, which lasted less than an  
12 hour. Based on this single Zoom session, Ruff prepared a written "Referral for Medical  
13 Transition" dated May 13, 2020 recommending that Kiefel "be referred to Dr. Tina Jenq at  
14 Oregon Cosmetic and Reconstructive Clinic for chest reduction to relieve gender dysphoria"  
15 (hereinafter the "Ruff Referral"). Despite the document being titled as a "Referral for Medical  
16 Transition"; in fact, the text of the Ruff Referral stated accurately that "they [Kiefel] do not  
17 identify with either gender and thus are not interested in transition."

18 25.

19 During the Ruff assessment session, Kiefel disclosed to Ruff her history of mental health  
20 diagnoses of ADHD, PTSD, major depressive disorder, and generalized anxiety disorder. Kiefel  
21 described her struggles with those mental health conditions and told Ruff that she continued to  
22 suffer from those conditions. She also disclosed that a major cause of her dysphoria was social  
23 stigmatization and lack of support within the trans activist community, and that she expected  
24 surgery to alleviate those issues.

25 26.

26 Ruff was and is not a psychologist, nor was Ruff one of Kiefel's regular psychotherapists.  
The Ruff Assessment was and is not a psychological evaluation, and did not contain any

1 diagnostic assessments of Kiefel, and, in particular, contained no diagnostic assessments of  
2 Kiefel's previously diagnosed anxiety, PTSD, ADHD, depression, or whether and how those  
3 diagnoses would adversely effect her ability to give informed consent for a double mastectomy.

4 27.

5 Following procurement of the Brave Space letter, Kiefel informed Dr. Manns that Brave  
6 Space had provided the Ruff Referral. Kiefel also reported to Dr. Manns that she was "feeling  
7 foggy," like her medication was "not really working," and that she had "chronic thoughts of  
8 death," and felt like she "might be taking on to [sic] much right now."

9 28.

10 Around this same time, racial protests had erupted, and Kiefel asked Dr. Harrison and Dr.  
11 Manns for help with increasing anxiety, which was causing her to relive past traumatic  
12 experiences of being bullied by fellow-activists within the activist community. She also described  
13 having increased trouble with the texture of food, which made her throw up; and she could not  
14 avoid troublesome foods because she was disabled and dependent on her parents, with no ability  
15 to buy groceries on her own.

16 29.

17 On June 8, 2022, Kiefel had a "Top Surgery Consult" with Dr. Jenq at OCRC. Dr. Jenq's  
18 chart stated that "Camille is a transgender man ... who desires chest masculinization surgery for  
19 gender dysphoria. Was referred by Brave Space for single eval, sees clinical psychologist  
20 monthly. Dr. Harrison is PMD." In fact, Kiefel disclosed to Dr. Jenq that she was not a  
21 transgender man but was "non-binary" and used both female and "non-binary" pronouns and  
22 believed that her breasts were causing problems.

23 30.

24 Kiefel disclosed to Dr. Jenq her history of mental health diagnoses of ADHD, PTSD,  
25 major depressive disorder, and generalized anxiety disorder. Kiefel described the struggles she  
26 was going through with her mental health conditions. Dr. Jenq's charts describe Kiefel's past  
medical history as: "PMH: depression, anxiety, ADHD, PTSD." Dr. Jenq noted "Tasks prior to



1 surgery: requested mental health clearance from regular psychotherapist." On information and  
2 belief, Dr. Jenq did not review Kiefel's past medical history and did not obtain mental health  
3 clearance prior to surgery from Kiefel's regular psychotherapists, who included: Dr. Manns,  
4 whose records documented Kiefel's complex mental health issues but did not diagnose Kiefel  
5 with gender dysphoria and did not clear Kiefel as psychologically fit to undergo surgery; and a  
6 psychiatrist named Jonathan Horey, MD, at TMS Medical Services, whose records reflected  
7 Kiefel's history of mental health issues but did not diagnose her as having gender dysphoria.  
8 Kiefel's other recent treatment, which had ended a few months earlier with her change in  
9 insurance, was from: Todd Overman, Ph.D., at Western Psychological and Counseling Services  
10 (to whom Dr. Jenq would later refer Kiefel, *after* surgery), whose records reflected Kiefel's  
11 history of mental health issues but did not diagnose her with gender dysphoria; and Donald G.  
12 Dodson, Ph.D., whose records reflected Kiefel's history of mental health issues but did not  
13 diagnose her with gender dysphoria, and instead discussed the possibility that Kiefel had "RSD"  
14 (rejection-sensitive dysphoria).

15 31.

16 Kiefel also informed Dr. Manns and Dr. Harrison that Dr. Jenq and/or OHP would need  
17 a second recommendation letter before approving her for the mastectomy. Dr. Manns noted  
18 informing Kiefel that she and her supervisor had "not done a thorough mental health intake or  
19 evaluation in order to speak to pt's psychological readiness for surgery," and that such an  
20 evaluation would require Kiefel to "establish with specialty mental health provider for  
21 comprehensive psychiatric evaluation/intake," because Dr. Manns "[did] not have the training in  
22 evaluating pts prior to surgery." Dr. Manns recorded telling Kiefel that PMG had only intended  
23 to "address[] distress tolerance and ADHD management as bridge support until pt could establish  
24 with a long term provider."

25 32.

26 Kiefel obtained contact information for Quest after learning that a second letter was  
required in order for Medicaid to pay for chest reduction surgery. Quest scheduled Kiefel for a

1 "mental health assessment for surgery" with Burmeister. On or about July 1, 2020, Burmeister  
2 held one Zoom session with Kiefel, which lasted approximately forty minutes. During the Zoom  
3 session with Burmeister, Kiefel disclosed her history of mental health diagnoses of ADHD,  
4 PTSD, major depressive disorder, and generalized anxiety disorder. Kiefel described her struggles  
5 with those mental health conditions. Kiefel disclosed that her individual identity was an absence  
6 of femininity, and that she used both female and "non-binary" pronouns.

7 33.

8 After the short Zoom session with Kiefel, Burmeister prepared a written "Referral -  
9 Mental Health Assessment for Surgery Letter" signed July 2, 2020 (hereinafter, the "Burmeister  
10 Assessment") and a July 1, 2020 letter to Dr. Jenq, (hereinafter, the "Burmeister Surgery Letter").  
11 Burmeister stated, among other things, that Kiefel "is seeking gender affirming chest  
12 reconstruction surgery in order to align their anatomical body with his lived/preferred gender.  
13 Camille has explored the potential psychosocial impacts of surgery and demonstrates the ability  
14 and the capacity to make a fully informed decision and give consent."

15 34.

16 Burmeister was and is not a psychologist, nor was Burmeister one of Kiefel's regular  
17 psychotherapists. The Burmeister Assessment was and is not a psychological evaluation, and did  
18 not contain any diagnostic assessments of Kiefel, and, in particular, contained no diagnostic  
19 assessments of Kiefel's previously diagnosed anxiety, PTSD, ADHD, depression, or whether and  
20 how those diagnoses would adversely effect her ability to give informed consent for a double  
21 mastectomy.

22 35.

23 Less than three weeks after the Burmeister Assessment, on July 21, 2020, Dr. Harrison  
24 noted frustration with the difficulty of managing Kiefel's medications, as her symptoms were  
25 becoming worse, including insomnia, poor self-care, and inability to drive or keep appointments,  
26 despite trying "several different formulations."

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36.

On August 12, 2020, Kiefel had a second "Top Surgery Consult" with Dr. Jenq at OCRC. Dr. Jenq's chart notes appeared to have cut and pasted her notes from the first "Top Surgery Consult," and again stated that "Camille is a transgender man ... who desires chest masculinization surgery for gender dysphoria. Was referred by Brave Space for single eval, sees clinical psychologist monthly. Dr. Harrison is PMD."

37.

On August 12, 2020, Dr. Jenq prepared a "Consent to Operation" form for Kiefel. Dr. Jenq's consent form included the following statement that Dr. Jenq knew was factually false and/or misleading, or which she made with reckless and conscious disregard for the truth or falsity thereof, or that in the exercise of reasonable care Dr. Jenq ought to have known was false or misleading, and which was not based upon the information Dr. Jenq provided to Kiefel, nor the information Kiefel provided to Dr. Jenq, nor the information contained in the records of Kiefel's regular psychotherapists, from whom Dr. Jenq claimed to seek clearance; namely:

"I have discussed with my physician, to my satisfaction, my condition and diagnosis, the procedures or treatment to be taken and the viable alternatives."

Jenq did not discuss with Kiefel the "viable alternatives" to surgery necessary to obtain informed consent.

38.

Dr. Jenq's Consent form enumerated the following risks: "bleeding, infection, under/over correction, fluid collection, delayed healing, asymmetry, COVID exposure risk." Dr. Jenq's Consent form did not contain (and Dr. Jenq did not discuss with Kiefel) certain risks of surgery including, but not limited to, the following:

- (a) that proper healing would require the use of a breast binder-which Dr. Jenq knew Kiefel could not tolerate-during the postoperative period;
- (b) that surgery might lead to inclusion cysts in the reconstructed tissue that could require additional procedures and make cancer screening more difficult;

- 1 (c) that surgery might not alleviate gender dysphoria or Kiefel's other significant
- 2 social and health problems;
- 3 (d) that surgery might exacerbate gender dysphoria and Kiefel's other significant
- 4 social and health problems;
- 5 (e) that surgery would lead to reproductive dysfunction, through lack of sexual
- 6 function, and the inability to breastfeed;
- 7 (f) that Kiefel would not be able to fit comfortably into women's clothes;
- 8 (g) that surgery could exacerbate Kiefel's mental health problems; and
- 9 (h) that Kiefel might not experience relief of her significant anxiety, distress, shaming
- 10 and ostracism, and that they might indeed worsen, especially should she decide to reclaim
- 11 her female identity after the surgery.

12 39.

13 Providence Milwaukie Hospital scheduled Kiefel for "bilateral breast reduction with free  
14 nipple grafts" on August 27, 2020. Dr. Jenq's chart notes included statements that Dr. Jenq knew  
15 were factually false and/or misleading, or that were made with conscious disregard for the truth  
16 or falsity thereof; or that in the exercise of reasonable care Dr. Jenq ought to have known were  
17 false or misleading, or which were not based upon the information provided to Dr. Jenq by Kiefel,  
18 or available to Dr. Jenq in the records of Kiefel's regular psychotherapists, from whom Dr. Jenq  
19 claimed to seek clearance. Dr. Jenq's false or misleading statements included:

- 20 (a) that "Kiefel is a healthy transgender nonbinary person who desires chest
- 21 masculinization surgery."
- 22 (b) that "PARQ was completed for bilateral breast reduction and specific risks of
- 23 bleeding, asymmetry, numbness, delayed wound healing, and under/overcorrection were
- 24 discussed."

25 40.

26 Kiefel did not ask for chest masculinization and did not consider herself transgender. For  
example, the record of her regular psychotherapist Dr. Horey, from whom Dr. Jenq claimed to

1 seek clearance, shows that throughout the same time period Dr. Horey's chart referred to Kiefel  
2 as a woman using the "she" pronoun, and did not mention gender dysphoria or gender identity  
3 disorder.

4 41.

5 On August 27, 2020, Dr. Jenq removed both of Kiefel's breasts and repositioned Kiefel's  
6 nipples through a double mastectomy with free nipple grafts.

7 42.

8 Until March 2022, Kiefel continued to identify with a "non-binary" gender identity. In  
9 February 2022, Kiefel's OB/GYN provider noted Kiefel was nonbinary, and referred to her  
10 "chest" rather than "breast" at her request.

11 43.

12 In March 2022 (and not before) Kiefel started to question her "non-binary" gender  
13 identity. Kiefel found that her mental health problems were improved through non-invasive  
14 mental health therapies focusing on embodiment and her physical health improved through  
15 holistic and alternative therapies. In or after March 2022 (and not before), Kiefel began to  
16 detransition and realized that the double mastectomy surgery, performed at Dr. Jenq's hands, had  
17 in fact seriously harmed her mental, emotional, psychological, social, and physical health and  
18 well-being. By September 2022, Kiefel was feeling significantly better with her female body, no  
19 longer was experiencing gender dysphoria, and came to have significant regrets about the August  
20 2020 double mastectomy. Based on the foregoing, and in or after March 2022 (and not before),  
21 Kiefel discovered that Dr. Jenq had not received or conveyed the information necessary to obtain  
22 informed consent to perform the double mastectomy on Kiefel.

23 44.

24 Kiefel did not know of facts (nor in the exercise of reasonable care should she have  
25 known of facts) that would make a reasonable person aware of the injury caused by defendants  
26 as alleged herein until in or after March of 2022, and not before.

1 45.

2 As a direct and proximate result of defendants' actions and inactions alleged herein, Kiefel  
3 has suffered physical, emotional, mental, and psychological injuries that caused and will continue  
4 to cause her serious pain, anguish, distress, discomfort, physical impairment, inconvenience,  
5 social stigma and isolation, and interference with her ability to perform both routine and with  
6 normal and usual activities; and she is still suffering extreme, excruciating, severe emotional  
7 distress, including but not limited to feelings of betrayal by and mistrust in health professionals,  
8 humiliation, distress, and anxiety over having lost her breasts and living with a permanently  
9 scarred, disfigured, and physically painful chest that does not fit comfortably into clothing  
10 designed for women's bodies, deep feelings of regret over unnecessarily and permanently losing  
11 her choice ever to breastfeed a child, and fears and anxiety over finding a life partner sexually and  
12 romantically attracted to a woman without breasts, all to Kiefel's general non-economic damage  
13 in an amount of \$3,000,000.00.

14 46.

15 As a direct and proximate result of defendants' actions and inactions alleged hereinafter,  
16 Kiefel has incurred and will incur in the future necessary costs for medical, psychological, and  
17 therapeutic treatment, diagnostics, and other physical and mental health expenses, to Kiefel's  
18 economic damage in the amount of \$500,000.00.

19  
20 **FIRST CAUSE OF ACTION - COUNT 1**

21 (For Professional Malpractice against all Defendants)

22 47.

23 Kiefel re-alleges paragraphs 1-46 and incorporates them herein by reference.

24 48.

25 At all material times, defendants Dr. Jenq PMH, and Providence Health & Services,  
26 OCRC, and their employees, staff, agents, and apparent agents, owed a duty of reasonable care  
to Kiefel to use that knowledge, skill, and care that is generally used in similar cases and

1 | circumstances by physicians in communities having similar medical standards and available  
2 | facilities, which duty these defendants breached in one or more of the following ways, any one  
3 | of which was a departure from the accepted standard of care:

4 | (a) Negligently categorizing Kiefel as a “transgender man .. Who desires chest  
5 | masculinization surgery;”

6 | (b) Negligently failing to obtain a mental health and/or psychological clearance from  
7 | Kiefel’s regular psychotherapists or psychologists;

8 | (c) Negligently failing to require and obtain a psychological evaluation prior to  
9 | surgery;

10 | (d) Negligently failing to review Kiefel’s past medical history (including but not  
11 | limited to her past mental health history);

12 | (e) Negligently failing to act appropriately, including failing to properly examine,  
13 | perform diagnostic tests on, and treat Kiefel, in light of her medical history, symptoms  
14 | and complaints;

15 | (f) Negligently recommending an irreversible surgery without advising Kiefel of non-  
16 | surgical alternatives for treating gender dysphoria; and

17 | (g) Negligently recommending a surgical procedure for gender dysphoria without  
18 | determining the cause of Kiefel’s alleged gender dysphoria.

19 | 49.

20 | Providence Health & Services, PMH, and OCRC are vicariously liable for the actions and  
21 | omissions of Dr. Jenq, and their other employees, staff, agents, and apparent agents, alleged  
22 | herein.

23 | 50.

24 | As a direct and proximate consequence of defendants' actions and inactions alleged  
25 | herein, Kiefel has suffered noneconomic and economic damages in the amount of \$3,500,000.00.

26 |

1 **FIRST CAUSE OF ACTION - COUNT 2**

2 (For Professional Malpractice - Lack of Informed Consent against all Defendants)

3 51.

4 Kiefel re-alleges paragraphs 1 to 50 and incorporates them herein by reference.

5 52.

6 Dr. Jenq had the legal duty to obtain Kiefel's informed consent.

7 53.

8 Dr. Jenq breached her legal duty by failing to explain to Kiefel in sufficient detail:

- 9 (a) the procedure to be undertaken,
- 10 (b) the existence of alternative methods of treatment for gender dysphoria, and
- 11 (c) the numerous material risks of the procedure.

12 54.

13 OCRC, Providence Health & Services and PMH are vicariously liable for the actions and  
14 omissions of Dr. Jenq, as alleged herein.

15 55.

16 As a direct and proximate consequence of defendants' actions and inactions alleged  
17 herein, Kiefel has suffered noneconomic and economic damages in the amount of \$3,500,000.00.

18 **FIRST CAUSE OF ACTION - COUNT 3**

19 (For Professional Malpractice - Battery against all Defendants)

20 56.

21 Kiefel re-alleges paragraphs 1 to 55 and incorporates them herein by reference.

22 57.

23 Dr. Jenq had the legal duty to obtain Kiefel's informed consent.

24 58.

25 Dr. Jenq breached her legal duty by failing to obtain informed consent.  
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59.

Dr. Jenq caused Kiefel harmful and offensive physical contact. A surgical procedure performed without valid informed consent is battery.

60.

Providence Health & Services, PMH, and OCRC are vicariously liable for the actions and omissions of their employees, agents, and apparent agents alleged herein.

61.

As a direct and proximate consequence of defendants' actions and inactions alleged herein, Kiefel has suffered noneconomic and economic damages in the amount of \$3,500,000.000.

**SECOND CAUSE OF ACTION**

(For Intentional Infliction of Emotional Distress against all Defendants)

62.

Kiefel re-alleges paragraphs 1 to 60 and incorporates them herein by reference.

63.

Defendants' actions and omissions alleged herein constitute extreme and extraordinary transgressions of the bounds of socially tolerable conduct for medical professionals, or far exceeded any reasonable limits of social toleration for the actions of medical professionals, including but not limited to, the following:

- (a) by recommending that Kiefel undergo an irreversible "chest reduction" surgery without advising Kiefel of all the risks of the surgery;
- (b) by recommending that Kiefel undergo an irreversible "chest reduction" surgery without advising Kiefel of non-surgical alternatives for treating gender dysphoria;
- (c) by recommending that Kiefel undergo an irreversible chest reduction surgery without an appropriate consideration of Kiefel's extensive history of co-morbidities in the form of mental health diagnoses and symptoms;
- (d) on information and belief, by failing to review Kiefel's prior medical and mental

1 health records;

2 (e) by affirming Kiefel's self-reported desire for a chest reduction surgery, without  
3 questioning Kiefel's motivation for such a surgery;

4 (f) by performing a double mastectomy on the basis that Kiefel was a "transgender  
5 man...who desires chest masculinization surgery" which was false and was not stated by  
6 Kiefel.

7 64.

8 Defendants abused their positions of trust and authority with the intent to cause, or with  
9 reckless disregard to causing, Kiefel to suffer extreme, excruciating, severe emotional distress.

10 In the alternative, severe distress was certain or substantially certain to result for Kiefel from  
11 defendant's acts and omissions.

12 65.

13 Defendant's acts and omissions did in fact cause Kiefel severe mental and emotional  
14 distress, as alleged herein.

15 66.

16 As the direct and proximate cause of defendants' actions and omissions alleged herein,  
17 Kiefel has suffered damages in the amount of \$3,500,000.00.

18 **THIRD CAUSE OF ACTION**

19 (Misrepresentation against OCRC, Dr. Jenq, PMH, and Providence Health & Services)

20 67.

21 Kiefel re-alleges paragraphs 1 to 66 and incorporates them herein by reference.

22 68.

23 Dr. Jenq knowingly and intentionally made false representations in connection with the  
24 Consent form and charts she prepared for Kiefel before the double mastectomy surgery. Dr. Jenq's  
25 false representations were material. In the alternative, Dr. Jenq made false representations with  
26 reckless disregard for the truth or falsity of the representations.

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69.

In addition, Dr. Jenq had the duty to disclose all the material facts about the proposed double mastectomy, which duty arose because of defendant’s confidential relationships with Kiefel. Dr. Jenq knowingly and intentionally made representations that were, at best, half-truths or at worst, intentional concealment of facts about the proposed double mastectomy surgery for gender dysphoria.

70.

Dr. Jenq made such false, material representations with an intent that Kiefel rely on defendant’s representations and undergo the double mastectomy, and to induce Kiefel to undergo the double mastectomy. Dr. Jenq breached her duty to exercise due care in failing to disclose all the material facts about the double mastectomy, in that defendants presented half-truths and/or concealed facts about the proposed surgery. Dr. Jenq did so with the intent that Kiefel rely on her representations.

71.

Kiefel reasonably and justifiably relied on Dr. Jenq’s representations. Kiefel had a right to rely on Dr. Jenq’s representations.

72.

OCRC, PMH, and Providence Health & Services are vicariously liable for the actions and inactions of Dr. Jenq alleged herein.

73.

As a direct and proximate result of defendants' actions and omissions herein, Kiefel has suffered economic and noneconomic damages in the amount of \$3,500,000.00.

**PRAYER**

WHEREFORE, Plaintiff Kiefel prays for judgment against Defendants, as follows:

- 1. Economic damages in the amount of \$500,000.00;
- 2. Non-economic damages in the amount of \$3,000,000.00;
- 3. Prejudgment and post-judgment interest at the legal rate;

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- 4. Costs and disbursements incurred herein; and,
- 5. For such other, different, equitable, or ancillary relief the court deems just.

DATED this 28<sup>th</sup> day of February, 2024.

/s/ Benjamin Boyd  
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