IN THE CIRCUIT COURT OF THE STATE OF OREGON

FOR THE COUNTY OF MULTNOMAH

GENE LUI, D.O., Personal Representative of the Estate of Wendi K. Lui, and individually, Plaintiff, v. LEGACY HEALTH, an Oregon corporation dba Legacy Emanuel Hospital; LEGACY CLINICS, LLC dba Legacy Medical Group; LEGACY GOOD SAMARITAN HOSPITAL AND MEDICAL CENTER, an Oregon corporation; and DIAGNOSTIC IMAGING NW, P.C., an Oregon corporation, Defendants.	Case No. 24CV19837 THIRD AMENDED COMPLAINT and DEMAND FOR JURY TRIAL (Medical Negligence; Wrongful Death; Loss of Consortium) Prayer $25,000,000 Filing fee $1,178 per ORS 21.160(1)(e) CLAIM NOT SUBJECT TO MANDATORY ARBITRATION

COMES NOW Plaintiffs and for their Complaint against Defendants herein, alleges as follows:

FIRST CLAIM FOR RELIEF

The Estate of Wendi K. Lui

(Medical Negligence/Wrongful Death)

1.

GENE LUI, D.O., is the Court-appointed Personal Representative of the Estate of Wendi K. Lui. Pursuant to ORS 30.020, the statutory beneficiaries of the Estate are Wendi K. Lui's surviving spouse, Gene Lui and her minor child.

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2.

Defendant Legacy Health and Legacy Clinics, LLC are Oregon corporations involved in the healthcare industry. One or both own and/or operate hospitals in the Portland metropolitan area, including Defendant Legacy Good Samaritan Hospital and Medical Center, an Oregon corporation (located in Portland, Oregon). Defendant Legacy Health and Legacy Clinics, LLC and Defendant Legacy Good Samaritan Hospital and Medical Center are referred to collectively and individually hereafter as "Defendant Legacy." Defendant Legacy also owns and/or operates medical clinics and medical office buildings, including one located at Legacy Good Samaritan Hospital.

3.

Diagnostic Imaging NW, P.C. is an Oregon corporation with a principal place of business in Portland, Oregon.

4.

Defendant Kari A. Thomas, M.D. was at all times material a physician licensed in the State of Oregon and practicing the specialty of diagnostic radiology.

5.

Based on information and belief, Kari A. Thomas, M.D. was, at all times relevant, acting as an employee, agent or apparent agent of Defendant Legacy and/or Diagnostic Imaging Northwest, P.C., which are vicariously liable for her acts of negligence alleged below.

6.

On April 22, 2019, Plaintiff's decedent, who had a high risk of breast cancer, underwent an annual breast MRI for breast cancer screening at Legacy Good Samaritan Breast Center Mammography interpreted by Kari A. Thomas, M.D. Defendant Kari A. Thomas, M.D. reported her findings that there were no suspicious clusters of microcalcifications, dominant masses, or areas of architectural distortion.

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7.

On June 15, 2020, Plaintiff's decedent underwent another annual breast MRI interpreted by Sam Gruner, M.D. Dr. Gruner found in the left lung a 24 x 21 mm lobulated enhancing mass suggestive for malignancy and recommended an IV contrast-enhanced chest CT for initial further evaluation.

8.

On June 17, 2020, Plaintiff's decedent underwent a CT Chest with Contrast following abnormal findings on the breast MRI interpreted by Allison Pearl, M.D. Dr. Pearl found a spiculated lesion within the left upper lobe measuring 2.4 x 2.6 cm and recommended a pulmonary consult.

9.

On June 22, 2020, Plaintiff's decedent was seen by Karen Wesenberg, M.D., a pulmonologist and critical care physician. Dr. Wesenberg ordered a PET scan.

10.

Ultimately, in or around June or July of 2020, Plaintiff's decedent, a lifelong non-smoker, was diagnosed with non-small cell lung cancer (invasive adenocarcinoma).

11.

On July 8, 2020, Plaintiff's decedent underwent a left upper lobectomy by Dr. Engstad. Dr. Engstad removed a 2.8 cm primary tumor invading the visceral pleural surface and 4/13 lymph nodes positive for micro-metastatic tumor deposits (Level 5/6; 8/9 and 10L).

12.

Plaintiff's decedent's lung cancer at the time of her left upper lobectomy was pT3N2MO, or Stage IIIB.

13.

Plaintiff's decedent died of metastatic lung cancer on December 6, 2023.

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14.

Plaintiff Gene Lui did not and could not have reasonably discovered the negligence of defendants in failing to diagnose his wife's lung cancer until less than two years from the filing of this lawsuit. Plaintiff Gene Lui did not discover Dr. Thomas's tortious conduct until 2024.

15.

Defendant Kari A. Thomas, M.D. was negligent in one or more of the following ways:

a) In failing to accurately interpret and report the April 2019 breast MRI imaging as including an enhancing mass in the left lung; and

b) In failing and neglecting to recommend additional imaging of the left lung when the MRI was abnormal.

16.

Due to the negligence of Defendant Kari A. Thomas, M.D. acting in the course and scope of her agency with Defendant Legacy and/or Defendant Diagnostic Imaging NW, PC, Plaintiff's decedent's lung cancer went undiagnosed for more than one year, growing and spreading and causing her premature death. Ultimately, Plaintiff's decedent's lung cancer metastasized to her brain and liver, as diagnosed in May of 2022, causing leptomeningeal disease, hydrocephalus, headaches, tremors, dizziness, falls, imbalance, and vision loss. Plaintiff's decedent's pain and suffering interfered with her daily activities of living, including her ability to travel about and see family and friends and enjoy her life, caused significant emotional distress to know that her terminal cancer would end her life before her minor child reached the age of majority, and diminished her enjoyment of life, ultimately resulting in her untimely death at 51yo, survived by her husband and minor child. The emotional distress and anxiety this caused Plaintiff's decedent was extensive. All of the above caused Plaintiff's decedent, and thus her Estate, non-economic damages in the amount of $20,000,000.

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17.

Had Plaintiff's decedent's lung cancer been diagnosed in April of 2019, more likely than not, she would have been diagnosed when the primary tumor could have been treated by resection and she would not have died 53 months later, in December of 2023.

SECOND CLAIM FOR RELIEF

Gene Lui, D.O., individually

(Loss of Consortium)

Plaintiff herein incorporates by reference Paragraphs 1-17, above.

18.

The injuries and damages sustained by Plaintiff's Decedent, Wendi Lui, at the end of her life left her progressively disabled and unable to care for herself, perform basic household and grooming tasks, and bedridden most of the time. Plaintiff herein became his wife's caregiver, which caused him to suffer a loss of consortium with his wife of many years, a complete disruption of their marital lives together, including caring for a minor child, and therefore, caused Plaintiff herein to suffer non-economic damages in the amount of $5,000,000.00.

DEMAND FOR RELIEF

WHEREFORE, Plaintiffs pray for judgment in their favor and against Defendants:

1. For Plaintiff The Estate of Wendi K. Lui's First and Second Claims for Relief:
   - (a) Non-economic damages in the amount of $20,000,000.00; and
   - (b) Costs and disbursements incurred herein; and
2. For Plaintiff Gene Lui, D.O's Second Claim for Relief:
   - (a) Non-economic damages in the amount of $5,000,000.00; and

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(b) Costs and disbursements incurred herein.

DATED this 24th day of October, 2026.

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/s/ Rachel F. O'Neal

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PLAINTIFFS HEREBY DEMAND A JURY TRIAL

/s/ Rachel F. O'Neal

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CERTIFICATE OF SERVICE

I hereby certify that I served THIRD AMENDED COMPLAINT AND DEMAND FOR JURY TRIAL on the 26th day of October, 2026 by e-file and serve and email.

I further certify that said copy was served as indicated above and addressed to said parties at the addresses listed below:

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