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**Judge Clears Path for Class Action Lawsuit against Kaiser
for Violations of Mental Health Parity Act**

Alameda Superior Court Judge denies Kaiser's motion to dismiss lawsuit brought by three families who have suffered hardships due to Kaiser's failure to consider the needs of individuals suffering with serious mental health conditions

OAKLAND — Earlier this week, an Alameda Superior Court Judge denied a motion by healthcare giant Kaiser Foundation Health Plan, Inc., to dismiss a class action case against it alleging that Kaiser violated the Mental Health Parity Act and the Unruh Act.

The lawsuit alleges that as a matter of general practice or policy Kaiser makes decisions about treatment for those with mental health conditions without considering the needs of individual patients. As a result, Kaiser members have been denied one-on-one therapy and pushed into "group" therapy sessions or classes, forced to wait for long periods of time to receive needed services, provided misleading information about services, or discouraged from seeking services altogether. For some Kaiser members, the results have been devastating, even tragic.

The Mental Health Parity Act generally requires health plans to provide mental health care services that are on par with their primary health care services. The Unruh Act prohibits health plans from discriminating against persons with a mental health disability and/or mental health medical condition.

The Court's ruling noted a commonality in the Plaintiff's allegations: "An inference to be drawn from all of Plaintiffs' allegations is that Kaiser simply does not allocate adequate resources to coverage, treatment and care of its members suffering from mental illness. All of Plaintiff's claims, whether focused on long wait times or the predominance of group therapy as opposed to individual therapy, may well be accounted for by a shortage of providers." The Court reserved judgment on what injunctive relief, if any, it would order if Plaintiffs ultimately proved their claims.

Lead plaintiff Susan Futterman's husband, Fred Paroutaud, was a Kaiser member when he suffered a mental health crisis and was diagnosed with bipolar disorder.

Among other acts, Kaiser refused to provide him with individual therapy, and when Ms. Futterman desperately requested an urgent appointment for her husband, Kaiser told her he had to wait for his psychiatrist to return from vacation. While waiting for Kaiser to make that appointment, Mr. Paroutaud committed suicide. Ms. Futterman explains, “I believed then, as I believe now, that if my husband had received appropriate and timely care from Kaiser he might well still be alive. We asked Kaiser for that care. I pleaded with Kaiser for that care. He did not receive it.”

Plaintiff Acianita Lucero, who suffered from major depression, made repeated requests for Kaiser to provide her with an urgent mental health appointment but Kaiser refused to see her in a timely manner and misled her about the type of services that were available to her. Ms. Lucero claims that when Kaiser finally saw her, she was pushed into group therapy and didactic “classes” and was denied one-on-one psychotherapy, without an assessment of her individual medical needs.

Plaintiff Maria Spivey sought out mental health care from Kaiser for her daughter Chloe after Chloe, a teenager suffering from major depression and other mental illness, threatened to kill herself. Ms. Spivey alleges that without even first meeting Chloe, Kaiser threw her in a teen “Aftercare” group program and offered her medication. Chloe felt uncomfortable in the group due to its focus on substance abuse problems. In March 2014, Chloe, at the age of 17, committed suicide by hanging herself.

With more than 9 million enrollees across the United States, Kaiser is the largest HMO in California, reporting more than \$16 billion in profits since 2009, including \$2 billion in the first half of 2015.

In 2013, Kaiser was fined \$4 million by California’s Department of Managed Health Care (DMHC) for “serious” and “systemic” violations of state law, including delays and denials of timely, appropriate mental health care to its members, falsification of appointment records to conceal illegal delays, and providing members with misleading information about the care available to them. In February 2015, a second DMHC investigation revealed that Kaiser’s violations continue.

The class action lawsuit seeks compensatory and statutory damages for class members as well as an injunction requiring Kaiser to comply with the law.

The operative Fourth Amended Complaint and the Judge’s August 31, 2015 Order may be found at http://www.sl-employmentlaw.com/docs/2015-03-16_futterman_v._kfhp_4th_amended_complaint_rg13697775_wo_ex.pdf and <http://www.sl-employmentlaw.com/files/order-on-demurrer.pdf>.

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