

1 MARY SCHULTZ
2 MARY SCHULTZ LAW, P.S.
3 2111 E. Red Barn Lane
4 Spangle, WA 99031
5 Tel: (509) 245-3522, Ext. 1
6 E-mail: Mary@MSchultz.com

7 *Attorney for Plaintiffs*

8 IN THE UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF WASHINGTON

10 MARK COX, individually, and the
11 ESTATE OF SUSAN A. COX by and
12 through Personal Representative Mark
13 Cox; SUSAN A. COX by and through
14 MARK COX,

15 Plaintiffs,

16 v.

17 GRITMAN MEDICAL CENTER;
18 GRITMAN MEDICAL CENTER d/b/a/
19 MOSCOW FAMILY MEDICINE;
20 PATRICIA N. MARCIANO, M.D.,
21 Todd Bledsoe PA-C, and others TBD.

22 Defendants.

NO. 2:23-cv-31

COMPLAINT FOR DAMAGES
FOR MEDICAL NEGLIGENCE
AND WRONGFUL DEATH

RCW 7.70 et seq.

RCW 4.20 et seq

JURY DEMAND

23 This wrongful death and survival action is brought under RCW
24 4.20.010, .020, .046 and .060 by Mark Cox individually, as Personal
25

26 COMPLAINT FOR DAMAGES
27 Page 1 of 18

MARY
SCHULTZ
LAW, P.S.

2111 E. Red Barn Lane
Spangle, WA 99031
(509) 245-3522
Mary@MSchultz.com

1 Representative of the Estate of Susan A. Cox (“Estate”), and for Susan Cox, and
2 filed in the above court under its diversity jurisdiction. The death of Susan A. Cox
3 was caused by medical negligence as defined by RCW 7.70.030(1), and (3), and
4 RCW 7.70.040 and .050. The Plaintiffs claim as follows:
5

6 I. PARTIES, JURISDICTION, AND VENUE
7

8 1.1 Mark Cox is over the age of 18, and the widow of his now deceased
9 wife, Susan Cox (D.O.B. May 17, 1968, and D.O.D. August 15, 2022).
10

11 1.2 Mark Cox is the personal representative of the deceased, Susan A.
12 Cox (deceased), and acting on behalf of the Estate of Susan Cox.
13

14 1.3 Mark Cox and Susan Cox married on April 4, 1995 in the state of
15 Nevada.
16

17 1.4 Mark Cox is entitled to bring this action for the wrongful death of his
18 spouse Susan Cox, for her benefit, for his benefit, and for the benefit of her estate,
19 including her stepdaughter Jamie Marie Glunt, for all damages caused, under
20 RCW 4.20.010, .020, .046 and .060.
21

22 1.5 Mark Cox and his wife Susan A. Cox and Mark resided in Albion,
23 Whitman County, Washington, at all material times herein.
24

25 1.6 Defendant Gritman Medical Center is a citizen of Idaho as it has been
26

1 incorporated in Idaho and has its principal place of business there. 28 U.S.C.A. §
2 1332.
3

4 1.7 Defendant Gritman directs its conduct at the state of Washington,
5 because, in relevant part, it publicly states so, it intentionally solicits business from
6 the state of Washington, and it affiliates operationally with the Pullman Regional
7 Hospital in Pullman, Washington.
8

9 1.8 Defendant Gritman has variously been incorporated in the state of
10 Washington under doing “business as” names such as dba Palouse Clinic, but its
11 incorporation in Washington is believed to have expired.
12

13 1.9 Defendant Gritman does business as Moscow Family Medicine,
14 which is located in Moscow, Idaho, and which is also engaged in the business of
15 providing medical care to patients in the state of Washington, and in particular
16 providing medical care to patients in the state of Washington, and in particular
17 relevance here, providing medical care and direction to Susan Cox in Whitman
18 County in the state of Washington, as well as providing her care in the state of
19 Idaho.
20

21 1.10 Defendants Gritman and Gritman d/b/a/Moscow Family Medicine
22 (hereafter “Gritman” collectively) are, and were at all material times herein, health
23 care providers subject to RCW 7.70.020.
24

1 1.11 Defendant Patricia N. Marciano, M.D. is, and was, a physician
2 employed by Defendant Gritman at its Moscow Family Medicine location at all
3 material times herein.
4

5 1.12 Defendant Marciano is, and was at all material times herein, a health
6 care provider subject to RCW 7.70.020.
7

8 1.13 Defendant Mariano engaged in the business of providing medical
9 care to Susan Cox, who was known to Defendant to reside primarily in Whitman
10 County, Washington.
11

12 1.14 Defendant physician Patricia Marciano also affiliates with Pullman
13 Regional Hospital.
14

15 1.15 Defendant Bledsoe PA-C, is, and was, a physician's assistant
16 employed by Defendant Gritman at its Moscow Family Medicine location at all
17 material times herein.
18

19 1.16 Defendant Bledsoe is, and was at all material times herein, a health
20 care provider subject to RCW 7.70.020.
21

22 1.17 Defendants collectively provided health care services to Susan A.
23 Cox in Idaho, and in Albion, Whitman County, Washington.
24

25 1.18 Defendant Gritman assigned primary care provider, Patricia

1 Marciano, to act as Susan Cox’s primary care provider while Cox resided in
2 Albion, Whitman County, Washington.
3

4 1.19 Defendants Gritman, Marciano, and Bledsoe placed Susan Cox on an
5 ongoing prescriptive medication treatment program, and directed her treatment
6 with prescription medication, in and from Idaho, in and into Whitman County,
7 Washington.
8

9 1.20 Defendants used Rite-Aid Pharmacy (NYSE “RAD”) in Pullman,
10 Washington to dispense the drugs Defendants prescribed to Susan Cox in Idaho,
11 and in Whitman County, Washington.
12

13 1.21 All Defendants purposefully directed their actions at and into the state
14 of Washington for purposes of this case by accepting and treating Susan Cox over
15 a period of no less than six years, acting as her primary care provider.
16
17

18 1.22 The medical treatment and directives by and through the drugs
19 provided by Defendants to Susan Cox in Idaho and in Washington caused injury
20 and death to Susan Cox.
21

22 1.23 The same medical treatment caused injury to Plaintiff Mark Cox.
23

24 1.24 The same medical treatment caused injury to Jamie Mari Glunt.
25

26 1.25 This Court has original jurisdiction over this claim via diversity
27

1 jurisdiction, in that the matter in controversy exceeds the sum or value of \$75,000,
2 exclusive of interest and costs, and is between citizens of different States, per 28
3 U.S.C.A. § 1332. Complete diversity exists between Plaintiffs and Defendants.
4

5 1.26 Washington has specific jurisdiction over the nonresident Defendants
6 based upon their nexus with the decedent and the relevant events leading to the
7 suffering and death of Susan Cox.
8

9 1.27 Venue is proper in the Eastern District of Washington per 28 USC.
10 1391 (b) (2) in that a substantial part of the events or omissions giving rise to the
11 claim occurred in this District.
12

13 1.28 Defendant Gritman is liable under the doctrine of corporate
14 negligence, respondeat superior, agency, ostensible agency, and vicarious liability.
15

16 **II. FACTS**
17

18 2.1 Susan A. Cox, DOB: 05/17/68, now deceased, was a resident of
19 Whitman County, Washington, with her surviving spouse, Mark Cox.
20

21 2.2 Mark Cox is a resident of Whitman County, Washington

22 2.3 Since at least the year 2014, Susan Cox experienced ongoing cervical
23 and lumbar spine pain from injuries.
24

25 2.4 Since at least the year 2014, Susan Cox received primary care
26

1 medical treatment through Gritman and its affiliates and operating entities in
2 Moscow, Idaho, as well as in its interaction with the Pullman Regional Hospital in
3 Pullman, Washington.
4

5 2.5 Defendants assigned primary care physician Patricia Marciano to
6 Susan Cox to act as Susan Cox's primary care provider, and Defendant Todd
7 Bledsoe was assigned as Susan Cox's PA-C.
8

9 2.6 Dating back to the year 2016, Defendants individually and
10 collectively engaged in pain management for Susan Cox by prescribing Susan Cox
11 varying types of prescription pain medication, in varying doses, and in varying
12 combinations.
13
14

15 2.7 During these times, Defendants were aware that Susan Cox had
16 periods of alcohol abuse and was susceptible to abuse of prescription
17 medications.
18

19 2.8 During these times, Defendants, through various employees and
20 agents, prescribed and directed Susan Cox to obtain and take medications
21 including, but not limited to, repeated prescriptions and refills of, and often in
22 combinations of, the following:
23
24

- 25 a. hydrocodone-acetaminophen 5-325, which is an opioid cough

1 suppressant, and which can interact with and increase the risk of
2 serious side effects (such as slow/shallow breathing, severe
3 drowsiness/dizziness) if taken with other products that may also
4 cause drowsiness or breathing problems, such as other opioid pain
5 or cough relievers (such as codeine, hydromorphone), alcohol,
6 marijuana (cannabis), drugs for sleep or anxiety (such as
7 alprazolam, lorazepam, zolpidem), muscle relaxants (such as
8 carisoprodol, cyclobenzaprine), or antihistamines (such as
9 cetirizine, diphenhydramine), and/or with drugs for sleep or anxiety
10 (such as alprazolam, lorazepam, zolpidem), and including
11 Diazepam;¹

- 12
13
14
15
16 b. Oxycodone-Acetaminophen 7.5-325 MG oral tablets, which is an
17 opioid similar to hydrocodone, and which can interact with certain
18 drugs that depress the central nervous system, and can lower
19
20
21
22

23
24 ¹ See generally, [https://www.webmd.com/drugs/2/drug-54281/hydrocodone-](https://www.webmd.com/drugs/2/drug-54281/hydrocodone-compound-oral/details)
25 [compound-oral/details](https://www.webmd.com/drugs/2/drug-54281/hydrocodone-compound-oral/details).

1 breathing and heart rate, such as benzodiazepines and other sedatives
2 and muscle relaxants;

3
4 c. Diazepam (generic name Valium, 5 MG oral tablets), which is a non-
5 opioid benzodiazepine, which can interact with hydrocodone and
6 other drugs for sleep or anxiety (such as alprazolam, lorazepam,
7 zolpidem), and which may increase the risk of serious side effects
8 (such as slow/shallow breathing, severe drowsiness/dizziness) if
9 taken with other products that may also cause drowsiness or
10 breathing problems, including opioid pain or cough relievers (such
11 as codeine, hydrocodone), alcohol, marijuana (cannabis), and/or
12 other drugs for sleep or anxiety (such as alprazolam, lorazepam,
13 zolpidem), muscle relaxants (such as carisoprodol,
14 cyclobenzaprine), or antihistamines (such as cetirizine,
15 diphenhydramine).²

16
17
18
19
20
21 d. Tramadol HCL 50 mg oral tablets (narcotic medicine, synthetic
22
23

24 ² See generally, [https://www.webmd.com/drugs/2/drug-6306/diazepam-](https://www.webmd.com/drugs/2/drug-6306/diazepam-oral/details)
25 [oral/details](https://www.webmd.com/drugs/2/drug-6306/diazepam-oral/details).

1 opioid analgesic used to help relieve physical pain), which can
2 interact with other opioid pain or cough relievers (such as codeine,
3 hydrocodone), and/or drugs for sleep or anxiety (such as alprazolam,
4 lorazepam, zolpidem), muscle relaxants (such as carisoprodol,
5 cyclobenzaprine), or antihistamines (such as cetirizine,
6 diphenhydramine);³

7
8
9 e. Celebrex, which is a nonsteroidal anti-inflammatory drug (NSAID),
10 specifically a COX-2 inhibitor, which relieves pain and swelling, but
11 which will increase the level or effect of hydrocodone by altering
12 drug metabolism.⁴
13
14

15 2.9 The level and duration of Defendants' treatment prescribed and
16 directed caused addiction which became evident, and was not addressed by
17 defendants, who continued prescribing and directing more and more such
18 treatment.
19
20

21
22
23 ³ See generally, <https://www.webmd.com/drugs/2/drug-4398-5239/tramadol-oral/tramadol-oral/details>.

24
25 ⁴ See generally, <https://www.webmd.com/interaction-checker/default.htm>.

1 2.10 By February 11, 2021, Defendants intended to increase the level of
2 benzodiazepam prescriptions but were notified by Susan Cox’s insurer that the
3 insurer would no longer allow prescriptions for narcotic pain medicines plus
4 benzodiazepines if the Defendants were already prescribing and directing more
5 than one such prescription, and they were already doing so, as Susan Cox was
6 already being prescribed diazepam. ⁵
7
8

9 2.11 By May 2022, Susan Cox, who had been performing as a cashier and
10 handling her employer’s accounts receivable was displaying and experiencing
11 cognitive difficulty, including confusion, sufficient to result in her termination
12 from her workplace.
13
14

15 2.12 Plaintiff Mark Cox repeatedly contacted Defendants and his wife
16 Susan Co’s pharmacy to express his concerns about the level of prescription
17 medications his wife was being prescribed and directed to take, but providers
18 would not speak to him because of Washington’s laws regarding health care
19 information protection.
20
21

22
23
24 ⁵ See Patricia N Marciano MD, Chart, February 11, 2021 5:28 PM.
25

1 2.13 Mark Cox repeatedly told his wife Susan Cox that she was being
2 harmed by the prescription medications she was directed to take; but Susan Cox
3 understood from Defendants that these prescriptions were correct, proper, and
4 necessary, and were to be taken as prescribed.
5

6 2.14 By August 2, 2022, Defendants were aware that Susan Cox was
7 falling down, falling out of bed, and on that date, Defendants observed for
8 themselves and noted in Susan Cox's chart:
9

10 Feels confused and out of it. Repeating herself. On exam today she
11 seemed slightly confused and kept repeating herself. She appeared
12 dazed.
13

14 2.15 On August 2, 2022, with knowledge of such symptoms, and with
15 such symptoms evident, Defendants increased Susan Cox's prescription
16 medications, now adding and directing her to take gabapentin (100 mg capsule
17 three times a day increasing to two capsules three times a day after one week) and
18 sertraline (Zoloft), one tablet per day, in concert with her diazepam, oxycodone-
19 acetaminophen, propranolol, and Celebrex.
20

21 2.16 Susan Cox took these prescriptions as directed.
22

23 2.17 On August 15, 2022, while at home and in bed, Susan Cox became
24 unresponsive.
25

1 2.18 On August 15, 2022, Susan Cox died.

2 2.19 Susan Cox’s death was caused by brain swelling, and excess fluid in
3 and around the lungs, which are commonly seen in the setting of drug overdose.
4 Susan Cox’s cause of death was determined to be “the toxic effects of multiple
5 drugs (oxycodone, sertraline, gabapentin, diazepam),” hypoxic ischemic
6 encephalopathy, pulmonary edema, and aspiration pneumonia.
7
8

9 2.20 Susan Cox showed no indication of medical findings consistent with
10 Alzheimer’s dementia or demyelinating disease which could otherwise have
11 caused the confusion and symptoms of which Defendants were made aware and
12 themselves noted.
13
14

15 2.21 Susan Cox’s autopsy with toxicology was performed in Spokane
16 County, Washington, at the request of the Whitman County, Washington coroner.
17

18 2.22 Plaintiff Susan Cox suffered in the months, days, and hours before
19 her death, and during her death, and died as a result of the medical treatment
20 directed by Defendants.
21

22 2.23 Plaintiff Mark Cox suffered emotionally in the months, days, and
23 hours before his wife’s death, and suffered irreparable loss as a result of the
24 medical treatment directed by Defendants.
25

1 2.24 Stepdaughter Jamie Glunt has suffered emotionally, and irreparable
2 loss, as a result of the medical treatment directed by Defendants.
3

4 III. CAUSES OF ACTION

5 Plaintiffs reassert all of the above, and further allege as follows:
6

7 MEDICAL NEGLIGENCE

8 3.1 All Defendants are health care providers as defined in RCW
9 7.70.020.
10

11 3.2 All Defendants failed to follow accepted standards of care under
12 RCW 7.70.030(1) and RCW 7.70.040.
13

14 3.3 All Defendants directed medical treatment and gave Susan Cox
15 instructions that caused Susan Cox's death.
16

17 VIOLATION OF INFORMED CONSENT

18 3.4 All Defendants failed to provide Susan A. Cox with informed
19 consent as to their treatment and drug dispensing plan, and her death resulted
20 from health care to which she did not consent as a result, per RCW 7.70.030(3),
21 and RCW 7.70.050.
22
23
24
25

1 3.5 Defendants failed to inform Susan Cox of the material facts of, or
2 facts relating to, her treatment that included multiple drugs including
3 combinations of oxycodone, sertraline, gabapentin, and diazepam.
4

5 3.6 The referenced mixing of these drugs carried the material risk of
6 causing the adverse signs and symptoms displayed by Susan Cox in the weeks
7 and days prior to her death, and leading to her fatal overdose.
8

9 3.7 Susan Cox consented to the treatment and directives prescribed her
10 without being aware of or fully informed of such material fact or facts.
11

12 3.8 No reasonably prudent patient under similar circumstances would
13 have consented to the treatment if informed of such material fact or facts.
14

15 RES IPSA LOQUITOR

16 3.9 Defendants are responsible for the death of Susan A. Cox under
17 res ipsa loquitor liability.
18

19 CAUSATION

20 3.10 The treatment directed and failure of informed consent in question
21 proximately caused injury to Susan Cox, and ultimately caused her death.
22

23 3.11 Defendants' individual and joint conduct resulted in a substantial
24 loss of chance of survival.
25

1 3.12 Defendants caused Plaintiff Mark Cox substantial emotional
2 suffering and distress, and ultimately the loss of spousal consortium.
3

4 3.13 Defendants caused stepdaughter Jamie Glunt substantial
5 emotional suffering and distress, and ultimately the loss of parental
6 consortium.
7

8 IV. DAMAGES.

9 WHEREFORE, the Plaintiffs reassert all of the above and state as follows:
10

11 4.1 As a direct and proximate result of the Defendants' breach of the
12 standard of care and failure of informed consent, Susan Cox suffered substantial
13 anxiety, confusion, pain, suffering, distress, frustration, loss of her employment,
14 loss of enjoyment of life, anguish and fear, throughout the time leading up to her
15 death, and physical and emotional anguish, fear, suffering, and distress in her
16 death.
17
18

19 4.2 As a direct and proximate result of the Defendants' breach of
20 standard of care and failure of informed consent, Defendants caused Mark Cox,
21 substantial anxiety, confusion, anger, disbelief, pain, suffering, distress,
22 frustration, loss of enjoyment of life, and anguish throughout the time leading up
23 to his wife's death, and anguish, suffering, and physical distress from his wife's
24
25
26

1 death.

2 4.3 As a direct and proximate result of the Defendants' breach of
3 standard of care and failure of informed consent, Defendants caused Mark Cox to
4 lose all marital consortium, including his wife's past and continuing love, support,
5 affection, care, companionship, nurturing, advice, guidance, counsel, and society.
6
7

8 4.4 As a direct and proximate result of the breach of standard of care on
9 the part of all Defendants, Susan A. Cox's stepdaughter Jamie Marie Glunt has
10 been deprived of parental consortium, and suffered anguish and emotional distress
11 from her mother's death.
12

13
14 V. RELIEF REQUESTED.

15 WHEREFORE, Plaintiffs request:

16 5.1 That judgment be entered against all Defendants jointly and severally
17 for compensation for all loss suffered by Susan Cox, Mark Cox, and the Plaintiff
18 Estate and beneficiaries, for all damages caused by Defendants through their
19 medical negligence and failure of informed consent in the suffering and wrongful
20 death of Decedent Susan A. Cox.
21
22

23 5.2 That judgment be entered for any and all further relief available as a
24 matter of law at the time this matter is tried.
25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

VI. JURY DEMAND.

6.1 Plaintiffs demand a jury of twelve.

DATED this 5th day of February, 2023.

MARY SCHULTZ LAW, P.S.

/s/Mary Schultz

Mary Schultz, WSBA # 14198

Attorney for Plaintiffs

Mary Schultz Law, P.S.

2111 E. Red Barn Lane

Spangle, WA 99031

Tel: (509) 245-3522, Ext. 1

Email: Mary@MSchultz.com

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

MARK COX, individually, and the ESTATE OF SUSAN A. COX by and through Personal Representative Mark

(b) County of Residence of First Listed Plaintiff Whitman County, WA (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Mary Schultz
Mary Schultz Law P.S.

DEFENDANTS

GRITMAN MEDICAL CENTER; GRITMAN MEDICAL CENTER d/b/a/ MOSCOW FAMILY MEDICINE; PATRICIA
County of Residence of First Listed Defendant Latah County, Idaho (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

TBD

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
2 U.S. Government Defendant
3 Federal Question (U.S. Government Not a Party)
4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State PTF DEF 1 1
Citizen of Another State PTF DEF 2 2
Citizen or Subject of a Foreign Country PTF DEF 3 3
Incorporated or Principal Place of Business In This State PTF DEF 4 4
Incorporated and Principal Place of Business In Another State PTF DEF 5 5
Foreign Nation PTF DEF 6 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

Table with 5 columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes various legal categories like Personal Injury, Real Property, Labor, etc.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding
2 Removed from State Court
3 Remanded from Appellate Court
4 Reinstated or Reopened
5 Transferred from Another District (specify)
6 Multidistrict Litigation - Transfer
8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 28 U.S.C.A. § 1332
Brief description of cause: Medical Malpractice Wrongful Death

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ 5,000,000 CHECK YES only if demanded in complaint: JURY DEMAND: [X] Yes [] No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE DOCKET NUMBER

DATE 02/05/2023 SIGNATURE OF ATTORNEY OF RECORD Mary Schultz

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE