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FILED
SUPERIOR COURT
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

MAY 9 2013

5 Attorneys for Plaintiff

By MR [Signature] Deputy

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF SAN BERNARDINO

BY FAX

CIVDS1304801

11 SALLY TETZLAFF,

12 Plaintiff,

13 vs.

14 KAISER FOUNDATION HEALTH PLAN, INC., a
15 Corporation, KAISER FOUNDATION
HOSPITALS, a Corporation, SOUTHERN
16 CALIFORNIA PERMANENTE MEDICAL GROUP,
a Partnership, and DOES 1 through 250,
inclusive,

17 Defendants.

Case No.

COMPLAINT FOR DAMAGES
FOR MEDICAL MALPRACTICE

Hearing Date 11.08.13.
at 8:39 Dept 534

\$435.00
130509-

18 Plaintiff, through counsel, alleges for a cause of action for medical
19 malpractice/negligence as follows:

20
21 1. The true names, identities or capacities, whether individual,
22 associate, corporate or otherwise of Defendants DOES 1 through 250, inclusive,
23 are unknown to Plaintiffs who, therefore, sue said Defendants by such fictitious
24 names. When the true names, identities or capacities of such fictitiously-
25 designated Defendants are ascertained, Plaintiff will ask leave of Court to amend
26 the Complaint to insert said true names, identities and capacities, together with
27 the proper charging allegations.

28 2. Plaintiff is informed and believes and thereon alleges that each of

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1 the Defendants sued herein as a DOE is responsible in some manner for the
 2 events and happenings herein referred to, thereby legally causing the injuries
 3 and damages to the Plaintiffs as herein alleged.

4 3. All of the facts, acts, events and circumstances herein mentioned
 5 and described occurred in the County of SAN BERNARDINO, State of California,
 6 and all Defendants are residents of the County of SAN BERNARDINO, State of
 7 California, doing business in said County, State of California.

8 4. At all times herein mentioned, Defendants DOES 1 through 50,
 9 inclusive, were, and now are, physicians and surgeons, holding themselves out as
 10 duly licensed to practice their profession under and by virtue of the laws of the
 11 State of California and were, and now are, engaged in the practice of their
 12 profession in the State of California.

13 5. At all times herein mentioned, Defendants DOES 51 through 100,
 14 inclusive, were, and now are, registered nurses, licensed vocational nurses,
 15 practical nurses, physician assistants, aids, technicians, attendants, students or
 16 other paramedical personnel, holding themselves out as duly able to practice
 17 their profession under and by virtue of the laws of the State of California and
 18 were, and now are, engaged in the practice of their profession in the State of
 19 California and acting as agents, employees and servants of some or all of the
 20 other Defendants within the course and scope of said agency or employment.

21 6. At all times herein mentioned, Defendants KAISER FOUNDATION
 22 HEALTH PLAN INC., KAISER FOUNDATION HOSPITALS, SOUTHERN CALIFORNIA
 23 PERMANENTE MEDICAL GROUP, and DOES 101 through 150, and each of them,
 24 were corporations, partnerships, joint ventures, or other entities organized and
 25 existing under the laws of the State of California, with their principal place of
 26 business situated in the State of California.

27 7. Defendants KAISER FOUNDATION HOSPITALS, and DOES 151
 28 through 200, inclusive, were at all times herein mentioned duly organized

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1 California corporations or hospitals existing under and by virtue of the laws of
2 the State of California; that said Defendant corporations, hospitals and the
3 remaining Defendants, and each of them, owned, operated, managed and
4 controlled a general hospital facility within the County of SAN BERNARDINO,
5 State of California, held out to the public at large and to the Plaintiffs herein, as
6 properly equipped, fully accredited, competently staffed by qualified and
7 prudent personnel and operating in compliance with the standard of due care
8 maintained in other properly equipped, efficiently operated and administered,
9 accredited hospitals in said community, commonly known as Kaiser Fontana.

10 8. At all times herein mentioned Defendants DOES 201 through 250
11 were doing business as a district hospital, a hospital operated by a government
12 entity open to the public, or a medical facility operated by a government entity
13 open to the public rendering medical, surgical, hospital, diagnostic, nursing and
14 other care to the general public for compensation.

15 9. Defendants KAISER FOUNDATION HOSPITALS and DOES 151 through
16 250, and each of them, at all times herein mentioned were institutions or
17 controlled institutions, duly accredited by the Joint Commission on Hospital
18 Accreditation, and assumed and held themselves out to the public as in
19 compliance with the minimum standards required by said Joint Commission for
20 such accreditation.

21 10. Plaintiffs are informed and believe and upon such information and
22 belief allege that at all times herein mentioned, Defendants, and each of them,
23 were the agents, servants, employees, joint-venturers, and copartners of their
24 said co-Defendants; and, as such, were acting within the course and scope of
25 such agency, service, partnership, venture, and employment at all times herein
26 mentioned; that each and every Defendant, as aforesaid, when acting as a
27 principal, was negligent in the selection and hiring of each and every other
28 Defendant, as its agent, servant, employee, joint-venturer and partner. Further,

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1 each and every Defendant ratified the conduct of the other Defendants.

2 I.

3 PLAINTIFF SALLY TETZLAFF ALLEGES FOR A CAUSE OF ACTION FOR
4 MEDICAL MALPRACTICE / NEGLIGENCE AGAINST DEFENDANTS AND EACH
5 OF THEM. AS FOLLOWS:

6 11. Plaintiff SALLY TETZLAFF , repeats and repleads each and every
7 allegation contained in all prior paragraphs and incorporates the same herein by
8 reference as to said Defendants and each of them.

9 12. At all times herein mentioned, and prior thereto, the Plaintiff was in
10 the exclusive control of the Defendants, and each of them, and that at no time
11 prior to the events, conduct, activities, care and treatment herein complained of
12 did the Defendants herein, or any of them, obtain knowledgeable, informed
13 consent for said care, treatment or conduct; that prior to the initiation of or
14 performance of said care, treatment, procedure or conduct no opportunity was
15 afforded the Plaintiff or any authorized agent of the Plaintiff to exercise
16 voluntary, knowledgeable and informed consent to said care, treatment,

17 procedure or conduct.

18 13. In approximately January, 2012, prior thereto, and thereafter,
19 Plaintiff SALLY TETZLAFF employed Defendants, and each of them, to diagnose
20 and treat her medical condition for treatment, care and removal of a medi-port
21 catheter, and to do all things necessary for her care, including, but not limited to
22 surgery and other medical care and treatment.

23 14. While the Plaintiff was under the sole and exclusive care and control
24 of the Defendants, and each of them as aforesaid, Defendants, and each of them,
25 negligently, carelessly and unskillfully selected various hospitals and physicians
26 and other health care providers, and negligently examined, treated, cared for,
27 diagnosed, operated upon, attended and otherwise handled and controlled the
28 Plaintiff herein, thereby proximately causing injuries and damages to the

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1 Plaintiff. Said acts of negligence, include, but are not limited to negligently
2 failing to treat, care for and remove the medi-port catheter completely from
3 plaintiff's chest, and thereafter negligently failing to discover and treat and care
4 for plaintiff from the sequella from the remaining catheter parts, migrating
5 remnants, and foreign bodies left in her chest cavity, and elsewhere.

6 15. It was on May 18, 2012 that Plaintiff first discovered both her
7 injuries and the negligent cause of her injuries.

8 16. Defendants KAISER FOUNDATION HOSPITAL failed and neglected to
9 adequately select a competent medical staff and to periodically review the
10 competency of its medical staff, and failed to adequately monitor its staff such
11 that the minor Plaintiff was caused to, and did suffer injuries and damages as
12 herein alleged.

13 17. As a legal result of the negligence of the Defendants, and each of
14 them, the Plaintiff was injured in health, strength and activity, sustaining severe
15 shock, and injury to the body, all of which said injuries have caused and continue
16 to cause Plaintiff great physical, emotional, and nervous pain and suffering, and
17 which said injuries Plaintiff is informed and believes, and thereon alleges, will
18 result in loss of earnings, permanent disability, loss of enjoyment of life, and
19 impairment of earning capacity all to Plaintiff's damage in a sum in excess of the
20 jurisdiction of the Municipal Court.

21 18. As a further legal result of the negligence of the Defendants, and
22 each of them, and the resulting injuries to the Plaintiff, said Plaintiff was
23 compelled to, and did, incur expenses for medical and surgical attention,
24 hospitalization, nursing, medication and incidentals for said Plaintiff in an
25 amount unknown to Plaintiff at present.

26 19. As a further legal result of the negligence of the Defendants, and
27 each of them, and of the resulting injuries, Plaintiff will be obliged to incur
28 expenses for medical care and hospitalization for an indefinite period in the

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1 future and to pay for these expenses in the treatment and relief of injuries for
2 medical and surgical attention, hospitalization, nursing, medication, and
3 incidentals for said Plaintiff in an amount unknown to Plaintiff at present.

4 20. As a further legal result of the negligence of the Defendants, and
5 each of them, Plaintiff will suffer a loss of earnings and decreased earnings and
6 earning capacity in the future, and future earnings to Plaintiff's further damage
7 in a sum unknown at present.

8 WHEREFORE, Plaintiff prays for damages against the Defendants, and each
9 of them, as follows:

10 FOR THE CAUSE OF ACTION FOR NEGLIGENCE FOR PLAINTIFF SALLY
11 TETZLAFF

- 12 1. General damages, according to proof;
- 13 2. Past and future medical expenses, according to proof;
- 14 3. For loss of past and future earnings and earning
15 capacity, according to proof;
- 16 4. Costs of suit incurred herein, and
- 17 5. For such other and further relief as to the Court appears just and
18 proper.

20 DATED: May 8, 2013

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21 By: 

22 Bruce G. Fagel,
23 Attorneys for Plaintiffs

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