

ORIGINAL

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FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE

DEC 08 2016

M. Preciado

KTD
DEC 08 2016

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF RIVERSIDE

BY FAX

11 ABIGAIL BORDERS, a minor, by and through
12 her Guardian ad Litem KASEY BORDERS;
KASEY BORDERS, KYLE BORDERS,

13 Plaintiffs,

14 vs.

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

19 Defendants.

Case No. **1616160**

COMPLAINT FOR DAMAGES FOR
MEDICAL MALPRACTICE:

1. Negligence
2. Negligence
3. Negligent Infliction of Emotional Distress
4. Negligent Infliction of Emotional Distress
5. Loss of Consortium

20 Plaintiffs, through Counsel, allege in their complaint for damages for medical
21 malpractice, as follows:

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

28 2. Plaintiffs are informed and believe and thereon allege that each of the

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

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

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

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

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

26 7. Defendants KAISER FOUNDATION HEALTH PLAN, INC., KAISER
27 FOUNDATION HOSPITALS, and DOES 151 through 200, inclusive, were at all times herein
28 mentioned duly organized California corporations or hospitals existing under and by virtue

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

9 8. At all times herein mentioned Defendants DOES 201 through 250 were doing
10 business as a district or County hospital or clinic, and DOES 240-250, a hospital operated by
11 a government entity or medical clinic or hospital, open to the public, or a medical facility or
12 clinic, operated by a government entity open to the public rendering medical, surgical,
13 hospital, diagnostic, nursing and other care to the general public for compensation. All of the
14 acts complained of herein by Plaintiffs against said Defendants were done and performed by
15 said Defendants by and through their duly authorized agents, servants and employees, each
16 of whom and all of whom were at all times mentioned herein acting within the course,
17 purpose, and scope of their said agency, service and employment, and whose conduct was
18 ratified by all Defendants, and each of them.

19 9. Each Defendant ratified and affirmed the conduct of each other Defendant. Each of
20 the Defendants was the agent, servant, and employee of the other Defendants.

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

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1 10(a). On September 15, 2016, Plaintiffs KASEY BORDERS and KYLE BORDERS
2 caused to be served upon said Defendants, and each of them, a Notice of Intent to Commence
3 Action, pursuant to California Code of Civil Procedure section 364.

4 I.

5 PLAINTIFF ABIGAIL BORDERS A MINOR, BY AND THROUGH HIS GUARDIAN
6 AD LITEM KASEY BORDERS ALLEGES FOR A CAUSE OF ACTION FOR
7 NEGLIGENCE AGAINST DEFENDANTS AND EACH OF THEM AS FOLLOWS:

8 11. Plaintiff ABIGAIL BORDERS repeats and repleads each and every allegation
9 contained each of the foregoing paragraphs, and incorporates the same herein by reference.

10 12. On or about the date of the filing of the complaint, KASEY BORDERS was by
11 order duly made and entered by the above entitled Court, appointed Guardian ad Litem of
12 Plaintiff ABIGAIL BORDERS a minor, born September 25, 2015 at KAISER PERMANENTE
13 RIVERSIDE MEDICAL CENTER.

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

22 14. Prior to September 25, 2015, the date of ABIGAIL BORDERS' birth, and
23 thereafter, KASEY BORDERS employed Defendants, and each of them, to diagnose and
24 treat her condition of pregnancy and to do all things necessary for her care and the care of
25 her baby, ABIGAIL BORDERS including but not limited to, pre-delivery care, the delivery,
26 and post-delivery care.

27 15. While minor Plaintiff ABIGAIL BORDERS was under the sole and exclusive
28 care and control of the Defendants, and each of them, Defendants, and each of them

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1 negligently, carelessly and unskillfully selected various hospitals and physicians and other
2 health care provides, negligently delivered, examined, treated, cared for, diagnosed, operated
3 upon, attended and otherwise handled and controlled the minor Plaintiff herein, thereby
4 proximately causing injuries and damages to the minor Plaintiff. Said acts of negligence
5 include, but are not limited to, negligently failing to timely deliver plaintiff, negligently
6 failing to diagnose or treat fetal distress, refusing to perform a requested Cesarean section.

7 16. Defendants KAISER FOUNDATION HOSPITALS, and DOES 151-200, failed
8 and neglected to adequately select a competent medical staff and to periodically review the
9 competency of its medical staff, and failed to adequately monitor its staff such that the minor
10 Plaintiff was caused to, and did suffer injuries and damages as herein alleged.

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

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

22 19. As a further legal result of the negligence of the Defendants, and each of them,
23 and of the resulting injuries, Plaintiff will be obliged to incur expenses for medical care and
24 hospitalization for an indefinite period in the future and to pay for these expenses in the
25 treatment and relief of injuries for medical and surgical attention, hospitalization, nursing,
26 medication, and incidentals for said Plaintiff in an amount unknown to Plaintiff at present.

27 20. As a further legal result of the negligence of the Defendants, and each of them,
28 Plaintiff will suffer a decreased earnings and earning capacity in the future and future

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1 earnings to Plaintiff's further damage in a sum unknown at present.

2 II.

3 PLAINTIFF KASEY BORDERS ALLEGES FOR A SEPARATE AND
4 DISTINCT CAUSE OF ACTION FOR NEGLIGENCE AGAINST DEFENDANTS
5 AND EACH OF THEM:

6 21. Plaintiff KASEY BORDERS repeats and repleads each and every allegation
7 contained in each of the preceding paragraphs and incorporates the same herein by
8 reference.

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

16 23. Prior to September 25, 2015, the date of ABIGAIL BORDERS's birth, and
17 thereafter, KASEY BORDERS employed said Defendants, to diagnose and treat her
18 condition of pregnancy and to do all things necessary for her care, including, but not limited
19 to, pre-delivery care, the delivery and post-delivery care.

20 24. While Plaintiff KASEY BORDERS was under the sole and exclusive care and
21 control of the said Defendants, Defendants, negligently, carelessly and unskillfully delivered,
22 examined, treated, cared for, diagnosed, operated upon, attended and otherwise handled and
23 controlled the Plaintiff herein, thereby proximately causing injuries and damages to
24 Plaintiff.

25 25. As a legal result of the negligence of the Defendants, and each of them,
26 Plaintiff was injured in her health, strength and activity, sustaining severe shock, and injury
27 to Plaintiff's body, all of which said injuries have caused and continue to cause Plaintiff great
28 physical, emotional, and nervous pain and suffering, and which said injuries Plaintiff is

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1 informed and believes, and thereon alleges, will result in loss of earnings, permanent
2 disability, loss of enjoyment of life, and impairment of earning capacity all to Plaintiff's
3 damage in a sum in excess of the jurisdiction of the Municipal Court.

4 26. As a further legal result of the negligence of the Defendants, and each of them,
5 and the resulting injuries to the Plaintiff, said Plaintiff was compelled to, and did, incur
6 expenses for medical and surgical attention, hospitalization, nursing, medication and
7 incidentals for said Plaintiff in an amount unknown to Plaintiff at present.

8 27. As a further legal result of the negligence of the Defendants, and each of them,
9 and of the resulting injuries, Plaintiff will be obliged to incur expenses for medical care and
10 hospitalization for an indefinite period in the future and to pay for these expenses in the
11 treatment and relief of injuries for medical and surgical attention, hospitalization, nursing,
12 medication, and incidentals for said Plaintiff in an amount unknown to Plaintiff at present.

13 28. As a further legal result of the negligence of the Defendants, and each of them,
14 Plaintiff KASEY BORDERS has suffered loss of earnings and will suffer a decreased earning
15 capacity in the future and future earnings to Plaintiff's further damage in a sum unknown at
16 present.

17 III.

18 PLAINTIFF KASEY BORDERS ALLEGES FOR A SEPARATE AND
19 DISTINCT CAUSE OF ACTION FOR NEGLIGENT INFLICTION OF EMOTIONAL
20 DISTRESS AGAINST DEFENDANTS AND EACH OF THEM AS FOLLOWS:

21 29. Plaintiff KASEY BORDERS repeats and repleads each and every allegation
22 contained in the preceding paragraphs and incorporates the same herein by reference.

23 30. At all times herein mentioned, KASEY BORDERS was the mother of ABIGAIL
24 BORDERS the minor Plaintiff, and was and is under a duty to care for the minor child
25 herein. Plaintiff KASEY BORDERS employed said Defendants to care for and treat herself
26 and her minor child, ABIGAIL BORDERS during the pregnancy.

27 31. At all times mentioned, said Defendants were under a legal duty to Plaintiff
28 with respect to the care and treatment of the child, ABIGAIL BORDERS while the child was

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1 a patient in the said hospital and under the care of the said Defendants. Said Defendants
2 treated and cared for both the minor and KASEY BORDERS during the labor and delivery of
3 KASEY BORDERS and thereafter.

4 32. At all times mentioned, there existed a close relationship between Plaintiff
5 KASEY BORDERS and ABIGAIL BORDERS namely, mother and child, and said
6 Defendants were aware of this close relationship when they agreed to care for the child. It
7 was foreseeable that Plaintiff KASEY BORDERS would be damaged directly by negligent
8 acts or omissions to act and committed upon the child. Said Defendants were aware that
9 Plaintiff KASEY BORDERS was concerned about the physical well being of her child when
10 Defendants agreed to treat both the child and mother.

11 33. It was reasonably foreseeable and easily predictable that any acts of
12 negligence by these Defendants that would injure the child would lead to serious emotional
13 distress in Plaintiff KASEY BORDERS. Because the risk of harm to the Plaintiff was
14 reasonably foreseeable and easily predictable, Defendants owed Plaintiff a duty to exercise
15 due care in diagnosing, caring for, and treating Plaintiff's child, ABIGAIL BORDERS. This is
16 especially true as Defendants agreed to and did treat both KASEY BORDERS and ABIGAIL
17 BORDERS at the same time.

18 34. Said Defendants in disregard of the probability that their actions would cause
19 severe emotional distress, in failing to provide the necessary medical treatment to Plaintiff
20 KASEY BORDERS and her child, caused Plaintiff KASEY BORDERS severe emotional
21 distress arising from the abnormal event of participating in a negligent delivery and reacting
22 to the tragic outcome with fright nervousness and shock, grief, anxiety, worry, mortification,
23 shock, humiliation and indignity.

24 35. These damages for emotional distress accrued separately, consist of different
25 acts, and at separate times, from Plaintiff KASEY BORDERS's previous cause of action for
26 negligence from which she suffered physical injuries and pain and suffering during the
27 negligently conducted labor and delivery.

28 36. As a further legal result of the negligence of the Defendants, and of the

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1 resulting injuries, Plaintiff will be obliged to incur expenses for medical care and
2 hospitalization for an indefinite period in the future and to pay for these expenses in the
3 treatment and relief of injuries for medical and surgical attention, hospitalization, nursing,
4 medication, and incidentals for said Plaintiff in an amount unknown to Plaintiff at present.

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

8 38. By reason of the negligence of said Defendants, Plaintiff KASEY BORDERS
9 suffered severe and serious emotional distress and shock and injury to her nervous system
10 and body, all to her general damage in a sum within the jurisdiction of this Court and
11 pursuant to *Burgess v. Superior. Court* (1992) 2 Cal.4th 1064.

12 IV.

13 PLAINTIFF KYLE BORDERS ALLEGES FOR A SEPARATE AND
14 DISTINCT CAUSE OF ACTION FOR NEGLIGENT INFLICTION OF
15 EMOTIONAL DISTRESS AGAINST DEFENDANTS AND EACH OF THEM AS
16 FOLLOWS:

17 39. Plaintiff KYLE BORDERS repeats and repleads each and every allegation
18 contained in all prior paragraphs and incorporates the same herein by reference.

19 40. At all times herein mentioned, Plaintiff KYLE BORDERS was the father of
20 ABIGAIL BORDERS the minor plaintiff and husband of Plaintiff KASEY BORDERS.

21 41. At all times mentioned, said Defendants were under a legal duty to the
22 plaintiff with respect to the care and treatment of the minor ABIGAIL BORDERS and his
23 wife KASEY BORDERS, while they were patients in the said hospital and under the care of
24 the said Defendants.

25 42. That said defendants negligently caused injury to the plaintiff minor ABIGAIL
26 BORDERS and his wife plaintiff KASEY BORDERS during her labor, as hereinafter alleged.

27 43. Plaintiff KYLE BORDERS was present at the scene of the injury to his child and
28 wife when it occurred and at that time and place in the labor room and other areas of the

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1 hospital, and had contemporaneous sensory awareness of the causal connection between the
2 negligent conduct of the Defendants and was reasonably certain that his child was being
3 injured

4 (a) Mr. Borders was present during the entire labor and delivery of his daughter
5 Abigail. Mr. Borders had been educated by the hospital staff and midwives with regard to
6 the fetal monitor tracing that the normal range of fetal heart rates was 110/120-160 beats
7 per minute, and that said heart rate range was evidence that the fetus was being provided
8 with adequate supplies of blood and oxygen to his son's brain. Mr. Borders witnessed the
9 fetal heart rate drop below the normal range and was immediately aware, perceived and
10 understood that his daughter was receiving an inadequate supply of blood and oxygen to his
11 brain, thereby causing brain damage.

12 (b) Mrs. Borders and Mr. Borders were informed that their daughter had a facial
13 presentation and that a vaginal delivery would result in head swelling, bruising, eye
14 bruising, and other head trauma.

15 (c) Mrs. Borders requested a Cesarean-section but the Kaiser providers denied her
16 request in front of Mr. Borders, and despite the request for a Cesarean-section forced Mrs.
17 Borders to go forward with a vaginal delivery attempt.

18 (d) Mr. Borders knew and understood that the defendants' refusal to allow Mrs.
19 Borders to participate in the plan of care, and deny her request for a Cesarean-section, and
20 failing to obtain Mrs. Borders' consent to a vaginal delivery, was causing harm to his
21 daughter Abigail.

22 (e) Mr. Borders could see the trauma being caused to Abigail's head during the forced
23 vaginal delivery that occurred after 2.5 hours of pushing. Mr. Borders contemporaneously
24 witnessed and perceived that his daughter was receiving traumatic head injuries as he
25 witnessed his daughter's face become increasingly bruised during the delivery process, finally
26 to the point where her head was black and blue. Simultaneously, Mr. Borders witnessed his
27 daughter's heart rate drop well below the normal range that Kaiser had taught him.

28 (f) Mr. Borders contemporaneously knew and understood that his daughter was

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1 receiving a decreased supply of blood and oxygen to her brain, and that she was receiving
2 brain injury as a result of the delayed delivery and failure and refusal to perform the
3 c-section that his wife requested and to which she was entitled.

4 (g) At delivery., Mr. Borders saw that his daughter's head was entirely black and blue
5 and he contemporaneously knew and perceived and witnessed that this head trauma was the
6 direct result of Kaiser's refusal to perform the c-section tat his wife and requested, and that
7 the trauma was the result of defendants forcing Mrs. Borders to vaginally deliver Abigail in
8 a facial presentation that Kaiser had expressly told Mr. Borders and his wife would cause
9 their daughter head trauma.

10 44. Plaintiff was contemporaneously aware that his daughter was being injured
11 during the labor and delayed delivery. As a result of witnessing his child and wife being
12 injured, Plaintiff suffered severe emotional distress

13 45. Said Defendants in disregard of the probability that their actions, in failing to
14 provide the necessary medical treatment to ABIGAIL BORDERS and his wife KASEY
15 BORDERS and child, were a substantial factor in causing Plaintiff KYLE BORDERS to
16 suffer severe emotional distress.

17 46. By reason of the negligence of said Defendants in failing to treat his wife and
18 son timely, Plaintiff KYLE BORDERS suffered severe and serious emotional distress and
19 shock and injury to his nervous system and body, all to his general damage in a sum within
20 the jurisdiction of this Court and pursuant to *Thing v. LaChusa* (1989) 48 Cal.3d 644.

21 47. As a further legal result of the negligence of the Defendants, and each of them,
22 and of the resulting injuries, Plaintiff will be obliged to incur expenses for medical care and
23 hospitalization for an indefinite period in the future and to pay for these expenses in the
24 treatment and relief of injuries for medical and surgical attention, hospitalization, nursing,
25 medication, and incidentals for said Plaintiff in an amount unknown to Plaintiff at present.

26 48. As a further legal result of the negligence of the Defendants, and each of them,
27 Plaintiff has suffered loss of earnings and will suffer a decreased earning capacity in the
28 future and future earnings to Plaintiff's further damage in a sum unknown at present.

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V.

PLAINTIFF KYLE BORDERS ALLEGES FOR A SEPARATE AND
DISTINCT CAUSE OF ACTION FOR LOSS OF CONSORTIUM AGAINST
DEFENDANTS AND EACH OF THEM AS FOLLOWS:

49. Plaintiff KYLE BORDERS repeats and repleads each and every allegation contained in all prior paragraphs and incorporates the same herein by reference as to said Defendants and each of them.

50. At all times herein mentioned, KASEY BORDERS and KYLE BORDERS were married and are husband and wife.

51. As a direct and proximate result of the aforesaid conduct of Defendants, and each of them, and the resultant injuries to Plaintiff KASEY BORDERS, Plaintiff KYLE BORDERS has suffered and is reasonably certain to suffer in the future the loss of consortium, love, companionship, comfort, affection, society, solace, moral support, enjoyment of sexual relations and physical assistance in the operation and maintenance of the home, causing damage in a sum in excess of the jurisdiction of the Municipal Court.

WHEREFORE, Plaintiffs pray for damages against the Defendants, and each of them, as follows:

FOR THE CAUSE OF ACTION FOR NEGLIGENCE FOR PLAINTIFF ABIGAIL
BORDERS A MINOR:

1. General damages, according to proof;
2. Past and future medical expenses, according to proof;
3. For loss of future earning and earning capacity, according to proof;
4. Costs of suit incurred herein, and
5. For such other and further relief as to the Court appears just and proper.

FOR THE CAUSE OF ACTION FOR NEGLIGENCE FOR PLAINTIFF KASEY
BORDERS:

1. General damages, according to proof;

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- 2. Past and future medical expenses, according to proof;
- 3. For loss of past and future earning and earning capacity, according to proof;
- 4. Costs of suit incurred herein, and
- 5. For such other and further relief as to the Court appears just and proper.

FOR THE CAUSE OF ACTION FOR NEGLIGENT INFLECTION OF EMOTIONAL DISTRESS FOR PLAINTIFF KASEY BORDERS:

- 1. General damages, according to proof;
- 2. Special damages, according to proof;
- 3. Costs of suit incurred herein, and
- 4. For such other and further relief as to the Court appears just and proper.

FOR THE CAUSE OF ACTION FOR NEGLIGENT INFLECTION OF EMOTIONAL DISTRESS FOR PLAINTIFF KYLE BORDERS:

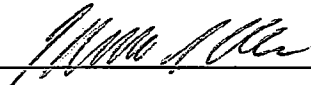
- 1. General damages, according to proof;
- 2. Special damages, according to proof;
- 3. Costs of suit incurred herein, and
- 4. For such other and further relief as to the Court appears just and proper.

FOR THE CAUSE OF ACTION FOR LOSS OF CONSORTIUM FOR PLAINTIFF KYLE BORDERS:

- 1. General damages, according to proof;
- 2. Special damages, according to proof;
- 3. Costs of suit incurred herein, and
- 4. For such other and further relief as to the Court appears just and proper.

DATED: December 6, 2016

Law Offices of Bruce G. Fagel and Associates

By: 

Bruce G. Fagel.
Attorneys for Plaintiffs

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| | | |
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| ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Bruce G. Fagel, State Bar No. 103674 Law Offices of Bruce G. Fagel & Associates 100 North Crescent Drive, Suite 360 Beverly Hills, California 90210 | | FOR COURT USE ONLY |
| TELEPHONE NO.: (310) 281-8700 FAX NO.: (310) 281-5656 ATTORNEY FOR (Name): Plaintiffs, Abigail Borders | | |
| SUPERIOR COURT OF CALIFORNIA, COUNTY OF Riverside STREET ADDRESS: 4050 Main Street MAILING ADDRESS: Riverside, California 92501-3703 CITY AND ZIP CODE: BRANCH NAME: Riverside Court Civil Department | | |
| CASE NAME: ABIGAIL BORDERS, a minor by and through GAL KASEY BORDERS v KAISER FOUNDATION HOSPITAL | | |
| CIVIL CASE COVER SHEET <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000) <input type="checkbox"/> Limited (Amount demanded is \$25,000 or less) | Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402) | CASE NUMBER: RIC 1616160 DEPT: |

Items 1-6 below must be completed (see instructions on page 2).

BY FAX

1. Check one box below for the case type that best describes this case:

| | | |
|--|---|---|
| Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) | Contract <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) | Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403) <input checked="" type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) |
| Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input checked="" type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PI/PD/WD (23) | Real Property <input type="checkbox"/> Eminent domain/Inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) | Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20) |
| Non-PI/PD/WD (Other) Tort <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PI/PD/WD tort (35) | Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) | Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) |
| Employment <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15) | Judicial Review <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39) | Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43) |

2. This case is is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:

| | |
|--|--|
| a. <input type="checkbox"/> Large number of separately represented parties | d. <input type="checkbox"/> Large number of witnesses |
| b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court |
| c. <input type="checkbox"/> Substantial amount of documentary evidence | f. <input type="checkbox"/> Substantial postjudgment judicial supervision |

3. Remedies sought (check all that apply): a. monetary b. nonmonetary; declaratory or injunctive relief c. punitive

4. Number of causes of action (specify): 5

5. This case is is not a class action suit.

6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: December 7, 2016

Bruce G. Fagel, State Bar No. 103674 (TYPE OR PRINT NAME)  (SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

CM-010

To Plaintiffs and Others' Filing First Papers. If you are filing a first paper (for example, a complaint) in a civil case, you must complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check one box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the primary cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties in Complex Cases. In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES

Auto Tort

- Auto (22)—Personal Injury/Property Damage/Wrongful Death
- Uninsured Motorist (46) *(if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto)*

Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

- Asbestos (04)
 - Asbestos Property Damage
 - Asbestos Personal Injury/Wrongful Death
- Product Liability *(not asbestos or toxic/environmental)* (24)
- Medical Malpractice (45)
 - Physicians & Surgeons
 - Other Professional Health Care Malpractice

Other PI/PD/WD (23)

- Premises Liability (e.g., slip and fall)
- Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)
- Intentional Infliction of Emotional Distress
- Negligent Infliction of Emotional Distress

Other PI/PD/WD

Non-PI/PD/WD (Other) Tort

- Business Tort/Unfair Business Practice (07)
- Civil Rights (e.g., discrimination, false arrest) *(not civil harassment)* (08)
- Defamation (e.g., slander, libel) (13)
- Fraud (16)
- Intellectual Property (19)
- Professional Negligence (25)
 - Legal Malpractice
 - Other Professional Malpractice *(not medical or legal)*
- Other Non-PI/PD/WD Tort (35)

Employment

- Wrongful Termination (36)
- Other Employment (15)

Contract

- Breach of Contract/Warranty (06)
- Breach of Rental/Lease Contract *(not unlawful detainer or wrongful eviction)*
- Contract/Warranty Breach—Seller Plaintiff *(not fraud or negligence)*
- Negligent Breach of Contract/Warranty
- Other Breach of Contract/Warranty
- Collections (e.g., money owed, open book accounts) (09)
- Collection Case—Seller Plaintiff
- Other Promissory Note/Collections Case
- Insurance Coverage *(not provisionally complex)* (19)
- Auto Subrogation
- Other Coverage
- Other Contract (37)
- Contractual Fraud
- Other Contract Dispute

Real Property

- Eminent Domain/Inverse Condemnation (14)
- Wrongful Eviction (33)
- Other Real Property (e.g., quiet title) (26)
- Writ of Possession of Real Property
- Mortgage Foreclosure
- Quiet Title
- Other Real Property *(not eminent domain, landlord/tenant, or foreclosure)*

Unlawful Detainer

- Commercial (31)
- Residential (32)
- Drugs (38) *(if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential)*

Judicial Review

- Asset Forfeiture (05)
- Petition Re: Arbitration Award (11)
- Writ of Mandate (02)
 - Writ—Administrative Mandamus
 - Writ—Mandamus on Limited Court Case Matter
 - Writ—Other Limited Court Case Review
- Other Judicial Review (39)
 - Review of Health Officer Order
 - Notice of Appeal—Labor Commissioner Appeals

Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)

- Antitrust/Trade Regulation (03)
- Construction Defect (10)
- Claims Involving Mass Tort (40)
- Securities Litigation (28)
- Environmental/Toxic Tort (30)
- Insurance Coverage Claims *(arising from provisionally complex case type listed above)* (41)

Enforcement of Judgment

- Enforcement of Judgment (20)
- Abstract of Judgment (Out of County)
- Confession of Judgment *(non-domestic relations)*
- Sister State Judgment
- Administrative Agency Award *(not unpaid taxes)*
- Petition/Certification of Entry of Judgment on Unpaid Taxes
- Other Enforcement of Judgment Case

Miscellaneous Civil Complaint

- RICO (27)
- Other Complaint *(not specified above)* (42)
- Declaratory Relief Only
- Injunctive Relief Only *(non-harassment)*
- Mechanics Lien
- Other Commercial Complaint Case *(non-tort/non-complex)*
- Other Civil Complaint *(non-tort/non-complex)*

Miscellaneous Civil Petition

- Partnership and Corporate Governance (21)
- Other Petition *(not specified above)* (43)
- Civil Harassment
- Workplace Violence
- Elder/Dependent Adult Abuse
- Election Contest
- Petition for Name Change
- Petition for Relief from Late Claim
- Other Civil Petition

SUPERIOR COURT OF CALIFORNIA, COUNTY OF RIVERSIDE
4050 Main Street
Riverside, CA 92501
www.riverside.courts.ca.gov

NOTICE OF DEPARTMENT ASSIGNMENT FOR ALL PURPOSES

BORDERS VS KAISER FOUNDATION HOSPITALS

CASE NO. RIC1616160

This case is assigned to the Honorable Judge Daniel A Ottolia in Department 04 for all purposes.

The Case Management Conference is scheduled for 06/06/17 at 8:30 in Department 04.

The plaintiff/cross-complainant shall serve a copy of this notice on all defendants/cross-defendants who are named or added to the complaint and file proof of service.

Any disqualification pursuant to CCP Section 170.6 shall be filed in accordance with that section.

Requests for accommodations can be made by submitting Judicial Council form MC-410 no fewer than five court days before the hearing. See California Rules of Court, rule 1.100.

CERTIFICATE OF MAILING

I certify that I am currently employed by the Superior Court of California, County of Riverside, and that I am not a party to this action or proceeding. In my capacity, I am familiar with the practices and procedures used in connection with the mailing of correspondence. Such correspondence is deposited in the outgoing mail of the Superior Court. Outgoing mail is delivered to and mailed by the United States Postal Service, postage prepaid, the same day in the ordinary course of business. I certify that I served a copy of the foregoing NOTICE on this date, by depositing said copy as stated above.

Court Executive Officer/Clerk

Date: 12/08/16

by: _____

MARIA M PRECIADO, Deputy Clerk