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FILED  
JAN. BUSINESS DIVISION  
CENTRAL DIVISION

2018 AUG 28 PM 2:48

6 Attorneys For Plaintiffs

CLERK-SUPERIOR COURT  
SAN DIEGO COUNTY, CA

7 SUPERIOR COURT OF CALIFORNIA  
8 COUNTY OF SAN DIEGO

9 My Ty T. Luong, individually and as  
10 Successor in Interest of the Estate of Kurt  
11 Ullrich,  
12 Hao Tran, individually and as Successor in  
13 Interest of the Estate of Kurt Ullrich,  
14 Plaintiffs,

) Case #: 37-2018-00043293-CU-PO-CTL

) PLAINIFFS COMPLAINT  
) FOR DAMAGES FOR WRONGFUL  
) DEATH

) BASED ON:

14 vs.

- ) 1. Professional Negligence/Medical  
) Malpractice  
) 2. Negligence  
) 3. Negligent Infliction of Emotional  
) Distress  
) 4. Willful Misconduct  
) 5. Breach of Fiduciary Duty  
) 6. Unfair Competition

15 Kaiser Permanente, a business entity,  
16 Q. F. Chacon-Lopez, M.D., MPH, an  
17 individual,  
18 Karen Olmscheid-Koerner, M.F.T./Ph.D,  
19 an individual,  
20 Heidi Sattler, L.C.S.W., an individual,

) DEMAND FOR JURY

21 And DOES 1  
22 THROUGH 50,  
23 Defendants

24 Plaintiffs allege on information and belief as follows:

25  
26 PARTIES AND JURISDICTION

27 1. Plaintiffs My Ty T. Luong, individually and as Successor in Interest of the Estate of Kurt  
28 Ullrich, and Hao Tran, individually and as Successor in Interest of the Estate of Kurt Ullrich

1 (hereinafter "Plaintiff" or "Plaintiffs") are now and at all times mentioned herein, individuals  
2 residing in San Diego County, California.

3 2. Kaiser Permanente, a business entity, Q. F. Chacon-Lopez, M.D., MPH, an individual,  
4 Karen Olmscheid-Koerner, M.F.T./Ph.D, an individual, Heidi Sattler, L.C.S.W., an individual,  
5 and Does 1 through 50 (hereinafter "Defendant" or "Defendants") at all times mentioned were  
6 providing medical services within the county of San Diego.

7 3. Plaintiffs are informed and believe and thereon allege that all defendants are either a licensed  
8 medical facility, corporation, or partnership, and licensed physician or licensed clinical social  
9 worker or licensed marriage and family therapist or licensed medical facility, located in the county  
10 of San Diego. Plaintiffs are informed and believe and thereon allege that at all times herein  
11 mentioned defendants were owners, co-owners, agents, representatives, and/or employees of each  
12 other and California business entities doing business in San Diego county.

13 4. In or about June 1, 2018 Plaintiffs gave all Defendants written notice of their  
14 intention to commence this action pursuant to California Code of Civil Procedure 364. (Exhibit 1-  
15 Proof and Receipt)

16 5. Plaintiffs are ignorant of the true names and capacities of Defendants sued herein as DOES 1  
17 through 50, inclusive, and therefore sues these Defendants by such fictitious names. Plaintiffs will  
18 amend this complaint to allege their true names and capacities when ascertained. Plaintiffs are  
19 informed and believe and based thereon allege that each of the fictitiously named Defendants  
20 is/are negligently and willfully and otherwise responsible in some manner for the occurrences  
21 herein alleged and that Plaintiffs' injuries and damages as herein alleged were proximately caused  
22 by that wrongdoing.

23 6. Plaintiffs are informed and believe and thereon allege that Defendants, and each of them,  
24 including DOES 1 through 50, inclusive, were agents, contractors, employees and/or partners and/or  
25 joint venturers of each of the other defendants herein named and in doing the things as hereinafter  
26 alleged, were acting within the course and scope of such agency, employment, partnership, and/or  
27 joint venture, as well as for themselves.

28 7. At all times mentioned herein, Defendants were doing business in San Diego county,

1 California, and DOES 1-50, and each of them, were the owners, agents, and/or employees of each  
2 other, and in doing the things hereinafter alleged, were acting in the scope of their agency and  
3 employment and with the permission and consent of each and/or all Defendants.

4 8. Venue lies within this District because all the transactions, occurrences, and/or treatments  
5 that gave rise to this suit and all conduct and liability that gave rise thereto arose in this District.

6 **GENERAL FACTUAL ALLEGATIONS**

7 9. In June of 2017 Kurt Ullrich, deceased (hereinafter "deceased) sought and received services  
8 from defendants for symptoms including mental disorientation and hallucinations, and severe  
9 anxiety and emotional dysfunctions.

10 10. Defendants failed to care and properly care  
11 for deceased, including by not attending to deceased with due diligence and released deceased  
12 although his symptoms were severe and risked danger, harm, and serious injuries to deceased, in  
13 turn leaving deceased and ultimately plaintiffs to suffer the consequences and permanent  
14 consequences of serious injury to deceased by his suicide as the consequence of his symptoms and  
15 emotional impairments that he sought care for from defendants, who did not and did not properly  
16 treat him for.

17 11. Defendants should have been recognized and responded to and cared for and in turn  
18 prevented the deceased from harming himself, which is the precise reason he presented himself to  
19 defendants, to prevent harm to himself.

20 12. More specifically, defendants should have admitted deceased for constant supervision and  
21 care and treatment until he was no longer a threat to himself, and should have notified plaintiffs and  
22 members of deceased's family of his condition and risk of harm to himself, thereby avoiding and  
23 preventing the consequences of deceased's suicide.

24 13. Further, defendant Kaiser Permanente should have had a sufficient number, of adequately  
25 trained, professional medical and mental health providers and treaters, to tend to plaintiff,  
26 considering the volume of patients and work that was necessary to treat patients that contracted  
27 with Kaiser Permanente for medical treatment, including mental health treatment.

28 14. Defendants also should have and should have been adequately staffed to enable, sufficient

1 and serious monitoring and follow-up of deceased, to ensure his safety, considering the known or  
2 what should have been known, state and condition he was in, and for which there was a history of  
3 for which the deceased had been admitted for observation and mental treatment and care, that  
4 defendants should have known and been aware of and cared and treated deceased for.

5 As a result of the said negligence and wrongdoing of defendants, as herein referenced,  
6 Kurt Ullrich killed himself, resulting in the damages herein set forth.

7 15. Plaintiffs were at the time of the care of deceased, the spouse and son of deceased/

8 16. Defendants acted with gross negligence, recklessly, and in conscious disregard of the  
9 deceased and Plaintiffs' rights, safety, and/or well-being.

#### 10 **FIRST CAUSE OF ACTION**

##### 11 **Negligence-Medical Malpractice Against All Defendants**

12 17. Plaintiffs re-allege and incorporates by reference all of the previous allegations and  
13 paragraphs contained in this Complaint as though fully set forth here.

14 18. Deceased formed a physician and/or health care provider-patient  
15 relationship with Defendants, and each of them.

16 19. Deceased, a patient seeking medical care, including mental health care, and in turn  
17 Plaintiffs, are individuals who would foreseeably suffer harm as a result of the category of  
18 negligent conduct more fully described herein.

19 20. As said health care including mental health care providers, Defendants owed duties to  
20 deceased and Plaintiffs,  
21 including to use the level of skill, knowledge, and care in treatment that other reasonably careful  
22 Said providers would use in similar circumstances, otherwise known as "the standard of care"; To  
23 use the same degree of skill and care usually exercised by said health care providers  
24 in the same or similar locality, under similar circumstances; To use reasonable diligence in the  
25 application of the said providers' learning and skill.  
26

27 21. Defendants' treatment of deceased fell well below the standard of  
28 care due to facts including that they failed to properly staff, attend to and/or monitor and inspect

1 and diagnose and care for, and/or reasonably attend to and/or inspect and diagnose and monitor and  
2 care for, Plaintiff Edward Mayeski's symptoms, as referenced more fully herein, to Plaintiffs losses  
3 and damages.

4 22. Defendants as owners, agents, contractors and/or employees of each other, were  
5 acting within the course and scope of employment. Therefore, Defendants are vicariously liable for  
6 the actions and omissions of each and every agent, contractor and/or employee, of Defendants, and  
7 each of them, who committed those breaches.

8 23. Plaintiffs' injuries are not due to any action or contribution on the part of any  
9 Plaintiff, nor the deceased.

10 24. The negligence of Defendants, and each of them, was a substantial factor in causing  
11 Deceased and Plaintiffs harm, pain, emotional distress, disfigurement, shame, humiliation and  
12 related damages.

13 25. As a further proximate result of the negligence of Defendants, and each of them, Plaintiffs  
14 have incurred damages including medical expenses, lost earnings, and related expenses.

15 26. Defendants, and each of their, numerous breaches of duty and negligent conduct were  
16 a substantial factor and substantial factors in causing foreseeable future medical expenses and  
17 damages.

18 27. As the direct and proximate result of the foregoing  
19 and the death of the deceased, plaintiff My Ty T. Luong has been deprived of a kind and loving  
20 spouse and of his care, comfort, society, protection, love, companionship, affection, solace,  
21 moral support, loss of marital consortium, physical assistance in the operation and maintenance  
22 of the home, and financial support.

23 28. As a further direct and proximate result of the  
24 foregoing death of the deceased, plaintiff Hao Tran has been deprived of a kind and loving parent  
25 and of his care, comfort, love, protection, advice, society, physical assistance, and  
26 financial support.

27 29. As a further direct and proximate result of the foregoing, plaintiffs have been generally  
28

1 damaged in a sum to be established according to proof, and as provided by Code of Civil  
2 Procedure sections 425.10 and 425.11.

3 30. As a further direct and proximate result of the death of the deceased, plaintiffs have  
4 incurred reasonable and necessary expenses for decedent's funeral, burial, and  
5 memorial services to their damage in a presently unascertained sum. Plaintiffs will seek  
6 the specific amount when it is finally determined.

7 31. Wherefore, plaintiffs demand judgment as set forth below.

8 **SECOND CAUSE OF ACTION**

9 **Negligence Against all Defendants**

10 32. Plaintiff re-alleges and incorporates by reference all of the previous allegations and  
11 paragraphs contained in this Complaint as though fully set forth here.

12 33. At all times mentioned herein Defendants, and each of them, owed a duty to the deceased  
13 and Plaintiffs of care and treatment that other reasonably careful health care providers would use  
14 under similar situations and is otherwise known as the standard of care.

15 34. But for Defendants, and each of their, said negligent treatment, including but not  
16 limited to failing to attend to and/or care for and/or diagnose and/or treat and/or monitor, as set  
17 forth herein, plaintiffs would not have suffered the injuries and/or damages and/or losses.

18 35. As a proximate result of the negligence of the Defendants, and each of them, Plaintiffs  
19 have been, and will be, damaged in sums according to proof at trial.

20 **THIRD CAUSE OF ACTION**

21 **Negligent Infliction of Emotional Distress Against All Defendants**

22 36. Plaintiffs re-allege and incorporate by reference all of the previous allegations and  
23 paragraphs contained in this Complaint as though fully set forth here.

24 37. Defendants, and each of them, provide healthcare and medical services to the public.  
25 Defendants, and each of them, assumed the duty of caring for deceased when he  
26 came to have medical and related services. and each of them were to use reasonable care to  
27  
28

1 prevent emotional harm to Plaintiffs.  
2 Defendants, and each of them, breached these duties when failed to properly meet the standards  
3 of care as set forth above.

4 38. As a direct and proximate result of Defendants, and each of their, numerous breaches  
5 of duties, Plaintiffs suffered serious emotional distress.

6 39. Defendants, and each of them, acted with conscious and/or reckless and/or grossly  
7 negligent, disregard for the rights and safety of Plaintiffs and the probability that their conduct  
8 would result in injury and serious emotional distress to Plaintiffs.

9 40. Due to the foreseeability that Plaintiffs would experience shock, nervousness, anxiety,  
10 grief, worry, humiliation, embarrassment, indignity, apprehension, fear, and terror, the  
11 Defendants, and each of them, including as members of the health care field, knew or should  
12 have known of the obvious probability that harm and serious emotional distress would result for  
13 Plaintiffs.

#### 14 15 **FOURTH CAUSE OF ACTION**

##### 16 **Willful Misconduct Against All Defendants**

17 41. Plaintiffs re-allege and incorporate by reference all of the previous allegations and  
18 paragraphs contained in this Complaint as though fully set forth here.

19 42. During the period of their care of deceased, each of the Defendants knew  
20 or should have known the perils posed to deceased and in turn Plaintiffs for their failures to  
21 comply with their duties of care to provide care that a reasonably prudent medical facility  
22 operator, physician, clinical social worker, marriage and family therapist, or other health care  
23 provider or administrator would use.

24  
25 43. During the period of their care of deceased, each of the Defendants knew  
26 or should have known that the perils posed by their failure to comply with their standards of care  
27 to provide care that a reasonably prudent medical facility operator, physician, clinical social  
28 worker, marriage and family therapist, or other health care provider or administrator would use,

1 exposed deceased and in turn Plaintiffs to the probability of injuries, losses, and/or damages.  
2 During the period of their care of deceased, each of the Defendants knowingly and/or  
3 with gross negligence and/or consciously and/or recklessly disregarded the aforesaid perils and  
4 rights and safety and well-being and probability of injury to deceased and Plaintiffs, and  
5 in doing so failed to comply with their duties under the standards of care as set forth above.  
6 Certain of their willful misconduct and failures included the gross and reckless failure to attend  
7 to and diagnose and monitor deceased's symptoms and conditions, as more fully set forth above  
8 and herein, and thereby treat deceased in a manner that would arrest and/or prevent and/or heal  
9 his and Plaintiffs' pain, suffering, and injuries, and damages.

10 44. By virtue of the aforesaid, Defendants have acted in conscious and/or reckless and/or  
11 grossly negligent disregard of the probability of deceased and Plaintiffs' undesired and  
12 unauthorized injuries, and thereby Defendants' and each of them, purposefully and intentionally  
13 and despicably caused deceased and Plaintiffs injuries, and subjected deceased and Plaintiffs to  
14 cruel and unjust hardship in conscious and/or reckless and/or grossly negligent disregard of their  
15 rights and safety and well-being. By virtue of  
16 the aforesaid, Defendants have each acted with recklessness and/or oppression and/or malice,  
17 and their acts and omissions were despicable.

18 45. By virtue of the aforesaid, punitive damages should be assessed against Defendants  
19 and each of them, in a sum according to proof at trial.

## 21 FIFTH CAUSE OF ACTION

### 23 Breach of Fiduciary Duty against All Defendants

24 46. Plaintiffs re-allege and incorporate by reference all of the previous allegations and  
25 paragraphs contained in this Complaint as though fully set forth here.

26 47. By virtue of their "healthcare provider/patient" relationship with deceased, Defendants  
27 and each of them, had a fiduciary duty to deceased and Plaintiffs to act with the utmost  
28 good faith and in their best interests. Defendants, and each of them, breached their fiduciary duty



1 to deceased and Plaintiff in the ways set forth herein.

2 48. By virtue of the aforesaid, Defendants and each of them, acted grossly negligently,  
3 recklessly, oppressively, and/or intentionally in breach of their duties as healthcare providers.

4 49. As a direct and legal result of the aforesaid, Plaintiffs were injured and damaged.

5 50. By virtue of the aforesaid, Defendants and each of them, acted despicably and with  
6 gross negligence, and/or recklessness, and/or oppression, and/or malice, and punitive damages  
7 should be assessed for that reason along with the other damages set forth in the Complaint  
8 herein.

### 9 **SIXTH CAUSE OF ACTION**

#### 10 **Unfair Competition Against All Defendants**

11 51. Plaintiffs re-allege and incorporate by reference all of the previous allegations and  
12 paragraphs contained in this Complaint as though fully set forth here.

13 52. Defendants, and each of them, have violated the Unfair Competition Law, Business  
14 and Professions Code section 17200 et seq., by committing unlawful, unfair, and/or fraudulent  
15 business acts and practices and/or omissions. Those acts and omissions of Defendants,  
16 and each of them, were grossly negligent, and/or in conscious and/or reckless disregard of  
17 Plaintiffs and consumer rights and safety, and to the proximate injuries of Plaintiffs.

18 53. The said acts or practices and/or omissions include, but are not limited to, performing  
19 services pursuant to false and/or deceptive advertising, and/or pursuant to false and/or  
20 deceptive information provided to Plaintiff and the public and patients and customers  
21 of Defendants, and each of them, under circumstances more fully set forth herein and  
22 above. Defendants, and each of them, falsely and/or deceptively, held themselves  
23 out as competent and/or fully and unquestionably qualified to perform medical  
24 services and treatment and care, including mental health care and emergent mental health care.

25 54. Defendants were negligent and willfully failed to care and treat deceased, though falsely  
26 advertising and holding themselves out to be competent and caring.

27 55. That all the injuries and damages were caused solely and proximately by the negligence  
28 and wrongdoings as set forth, of the Defendants.

1 WHEREFORE, PLAINTIFFS pray for judgment against DEFENDANTS, and each of  
2 them, as follows and according to proof:

3 For general damages past and future;

4 For special damages past and future, including medical expenses and lost earnings;

5 For personal property damages according to proof;

6 For punitive damages and as to medical malpractice on the condition of moving the Court at a  
7 future time and obtaining an order amending this Complaint accordingly;

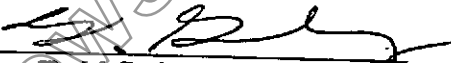
8 For attorneys fees;

9 For costs of suit, including experts costs;

10 For interest;

11 For such other and further relief as the court deems just and proper.

12 DATED: August 26, 2018

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14 Todd G. Glanz  
15 Attorney for Plaintiff  
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