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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF CONTRA COSTA

TERRY RICHARDS,

Plaintiff,

vs.

KAISER FOUNDATION HEALTH PLAN, INC.,
a Corporation, KAISER FOUNDATION
HOSPITALS, a Corporation, THE
PERMANENTE MEDICAL GROUP, INC., a
Corporation and DOES 1 through 250,
inclusive,

Defendants.

Case No. **C 13-00631**

COMPLAINT FOR DAMAGES
FOR MEDICAL MALPRACTICE

PER LOCAL RULE 5 THIS
CASE IS ASSIGNED TO
DEPT **33**

Plaintiff, through counsel, alleges:

SUMMONS ISSUED

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

2. Plaintiff is informed and believes and thereon alleges

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

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

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

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

27 6. At all times herein mentioned, Defendants KAISER
28 FOUNDATION HEALTH PLAN INC., KAISER FOUNDATION HOSPITALS, THE

1 PERMANENTE MEDICAL GROUP, INC., and DOES 101 through 150, and each
2 of them, were corporations, partnerships, joint ventures, or other
3 entities organized and existing under the laws of the State of
4 California, with their principal place of business situated in the
5 State of California.

6 7. Defendants KAISER FOUNDATION HOSPITALS, and DOES 151
7 through 200, inclusive, were at all times herein mentioned duly
8 organized California corporations or hospitals existing under and
9 by virtue of the laws of the State of California, that said
10 Defendant corporations, hospitals and the remaining Defendants,
11 and each of them, owned, operated, managed and controlled a general
12 hospital facility within the County of CONTRA COSTA, State of
13 California, held out to the public at large and to the Plaintiffs
14 herein, as properly equipped, fully accredited, competently
15 staffed by qualified and prudent personnel and operating in
16 compliance with the standard of due care maintained in other
17 properly equipped, efficiently operated and administered,
18 accredited hospitals in said community, commonly known as KAISER
19 PERMANENTE ANTIOCH MEDICAL CENTER.

20 8. At all times herein mentioned Defendants DOES 201
21 through 250 were doing business as a district hospital, a hospital
22 operated by a government entity open to the public, or a medical
23 facility operated by a government entity open to the public
24 rendering medical, surgical, hospital, diagnostic, nursing and
25 other care to the general public for compensation.

26 9. Defendants KAISER FOUNDATION HOSPITALS and DOES 151
27 through 250, and each of them, at all times herein mentioned were
28 institutions or controlled institutions, duly accredited by the

1 Joint Commission on Hospital Accreditation, and assumed and held
2 themselves out to the public as in compliance with the minimum
3 standards required by said Joint Commission for such
4 accreditation.

5 10. Plaintiffs are informed and believe and upon such
6 information and belief allege that at all times herein mentioned,
7 Defendants, and each of them, were the agents, servants,
8 employees, joint-venturers, and copartners of their said co-
9 Defendants; and, as such, were acting within the course and scope
10 of such agency, service, partnership, venture, and employment at
11 all times herein mentioned; that each and every Defendant, as
12 aforesaid, when acting as a principal, was negligent in the
13 selection and hiring of each and every other Defendant, as its
14 agent, servant, employee, joint-venturer and partner. Further,
15 each and every Defendant ratified the conduct of the other
16 Defendants.

17 I.

18 PLAINTIFF TERRY RICHARDS ALLEGES FOR A CAUSE OF ACTION FOR
19 MEDICAL MALPRACTICE AND NEGLIGENCE AGAINST DEFENDANTS AND
20 EACH OF THEM, AS FOLLOWS:

21 11. Plaintiff TERRY RICHARDS , repeats and repleads each and
22 every allegation contained in all prior paragraphs and
23 incorporates the same herein by reference as to said Defendants and
24 each of them.

25 12. At all times herein mentioned, and prior thereto, the
26 Plaintiff was in the exclusive control of the Defendants, and each
27 of them, and that at no time prior to the events, conduct,
28 activities, care and treatment herein complained of did the

1 Defendants herein, or any of them, obtain knowledgeable, informed
2 consent for said care, treatment or conduct; that prior to the
3 initiation of or performance of said care, treatment, procedure or
4 conduct no opportunity was afforded the Plaintiff or any
5 authorized agent of the Plaintiff to exercise voluntary,
6 knowledgeable and informed consent to said care, treatment,
7 procedure or conduct.

8 13. From and after 2004, beginning when Plaintiff was 14
9 years old, and prior thereto, and continuing until the Plaintiff
10 was 22 years of age, Plaintiff TERRY RICHARDS employed Defendants,
11 and each of them, to diagnose and treat his medical condition of
12 severe knee pain, and to do all things necessary for his care,
13 including, but not limited to surgery and other medical care and
14 treatment.

15 14. While the Plaintiff was under the sole and exclusive care
16 and control of the Defendants, and each of them as aforesaid,
17 Defendants, and each of them, negligently, carelessly and
18 unskillfully selected various hospitals and physicians and other
19 health care providers, and negligently examined, treated, cared
20 for, diagnosed, operated upon, x-rayed, attended and otherwise
21 handled and controlled the Plaintiff herein, thereby proximately
22 causing injuries and damages to the Plaintiff, including but not
23 limited to failing to diagnose, treat, and care for his right leg
24 lesion which progressed to synovial sarcoma, which was first
25 diagnosed on July 26, 2012.

26 15. It was on July 26, 2012, Plaintiff first discovered his
27 injuries and the negligent cause of his injuries.

28 16. Defendants KAISER FOUNDATION HOSPITALS and DOES 151-

1 250, failed and neglected to adequately select a competent medical
2 staff and to periodically review the competency of its medical
3 staff, and failed to adequately monitor its staff such that the
4 minor Plaintiff was caused to, and did suffer injuries and damages
5 as herein alleged.

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

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

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

1 unknown to Plaintiff at present.

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

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

8 FOR THE CAUSE OF ACTION FOR NEGLIGENCE FOR PLAINTIFF TERRY
9 RICHARDS

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

17
18 DATED: March 12, 2013

Law Offices of Bruce G. Fagel &
Associates

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20 By: 

21 Bruce G. Fagel.
22 Attorneys for Plaintiff
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