

SCANNED

FILED
SUPERIOR COURT
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

NOV - 8 2013

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9 MARTHA ELLEN ORM and GEORGE ORM

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11 SUPERIOR COURT OF THE STATE OF CALIFORNIA
12 COUNTY OF SAN BERNARDINO, CENTRAL DISTRICT

13 MARTHA ELLEN ORM; GEORGE ORM,
14 Plaintiffs,

15 vs.

16 KAISER FOUNDATION HEALTH PLAN,
17 INC.; ST. MARY MEDICAL CENTER; ST.
18 JOSEPH HEALTH SYSTEM; CITRUS
19 NURSING CENTER; RECHE CANYON
20 REHABILITATION & HEALTH CARE
21 CENTER, LLC; VISTA COVE CARE CENTER
22 AT RIALTO, INC.; and, DOES 1 to 50,
23 Inclusive,

24 Defendants.

CASE NO.

CIVDS1313680

COMPLAINT FOR DAMAGES:

- 1) MEDICAL MALPRACTICE
- 2) GENERAL NEGLIGENCE
- 3) LOSS OF CONSORTIUM

TRIAL SETTING CONFERENCE

Hearing Date 5/9/14
at 8:30 AM Dept 537

#435 #131108-2580/m

FIRST CAUSE OF ACTION FOR MEDICAL MALPRACTICE

Plaintiffs MARTHA ELLEN ORM and GEORGE ORM allege as follows:

1. Plaintiffs, MARTHA ELLEN ORM and GEORGE ORM hereinafter collectively referred to as "Plaintiffs" are, and all times herein mentioned were, residing in the County of San Bernardino, State of California.
2. Defendant, KAISER FOUNDATION HEALTH PLAN, INC. (hereinafter individually referred to as "KAISER"), is and at all times herein mentioned, was a corporation, operating in the State of California with its principal place of business in the City of Pasadena, County of Los

1 Angeles, State of California.

2 3. Defendant, ST. MARY MEDICAL CENTER (hereinafter individually referred to as
3 "ST. MARY"), is and at all times herein mentioned, was a medical center/hospital, operating in the
4 State of California with its principal place of business in the City of Apple Valley, County of San
5 Bernardino, State of California.

6 4. Defendant, ST. JOSEPH HEALTH SYSTEM(hereinafter individually referred to as
7 "ST. JOSEPH"), is and at all times herein mentioned, was a corporation, operating in the State of
8 California with its principal place of business in the City of Irvine, County of Orange, State of
9 California.

10 5. Defendant, CITRUS NURSING CENTER (hereinafter individually referred to as
11 "CITRUS"), is and at all times herein mentioned, was a corporation, operating in the State of
12 California with its principal place of business in the City of Fontana, County of San Bernardino, State
13 of California.

14 6. Defendant, RECHE CANYON REHABILITATION & HEALTH CARE CENTER,
15 LLC(hereinafter individually referred to as "RECHE CANYON"), is and at all times herein
16 mentioned, was a limited liability corporation, operating in the State of California with its principal
17 place of business in the City of Colton, County of San Bernardino, State of California.

18 7. Defendant, VISTA COVE CARE CENTER AT RIALTO, INC. (hereinafter
19 individually referred to as "VISTA COVE"), is and at all times herein mentioned, was a corporation,
20 operating in the State of California with its principal place of business in the City of Rialto, County
21 of San Bernardino, State of California.

22 8. Plaintiffs are informed and believe and thereupon allege that, at all times herein
23 mentioned, Defendants, KAISER, ST. MARY, ST. JOSEPH, CITRUS, RECHE CANYON, VISTA
24 COVE, and Does 1 to 50, Inclusive, were and are now medical care facilities, licensed by the State
25 of California to operate as medical facilities and, further, said medical facilities were and are now
26 doing business in the County of San Bernardino, State of California.

27 9. Plaintiffs are informed and believe and thereupon allege that, at all times herein
28 mentioned, Defendants, , KAISER, ST. MARY, ST. JOSEPH, CITRUS, RECHE CANYON,

1 VISTA COVE, and Does 1 to 50, Inclusive, were and are now licensed by the State of California, to
2 provide medical prescriptions to patients, and were and are now practicing the dispensary of medical
3 prescriptions in the County of San Bernardino, State of California.

4 10. The true names and capacities, whether individual, corporate, associate or otherwise of
5 defendants, named herein as DOES 1 to 50, Inclusive, and each of them are unknown to Plaintiffs.
6 Plaintiffs will ask leave of the Court to amend this complaint to show the true names and capacities
7 of the Doe Defendants if and when the same shall have been ascertained.

8 11. Plaintiffs are informed and believe and thereupon allege that each Defendant
9 designated herein as a Doe is responsible negligently, intentionally or in some other manner for the
10 events and happenings herein referred to which legally caused those injuries to Plaintiffs as is
11 hereinafter alleged.

12 12. Plaintiffs are informed and believe and thereupon allege that said defendant, and each
13 of them, were the agents, servants and were, as such, acting within the course, scope, purpose and
14 authority of said agency and employment; that each and every defendant, as aforesaid, when acting
15 as a principal, was negligent in the selection and hiring and continued employment of each and every
16 other defendant as an agent, servant and employee. Plaintiffs are further informed and believe and
17 thereupon allege that said defendants, and each of them, were joint ventures of each other and were
18 acting within the course and scope of said joint venture.

19 13. Plaintiffs are informed and believe and thereupon allege that, at all times herein
20 mentioned, Defendants DOES 1 to 50, Inclusive, and each of them, were doctors, surgeons, medical
21 facilities, nurses, technicians, attendants, aides, health care providers, agents or employees of
22 Defendants, KAISER, ST. MARY, ST. JOSEPH, CITRUS, RECHE CANYON, VISTA COVE, and
23 Does 1 to 50, Inclusive, and each of them holding themselves out as duly licensed to practice their
24 profession under and by virtue of the law of the State of California with the expertise, skill,
25 techniques, and experience consistent within the standards of the medical community.

26 14. Plaintiffs are informed and believe and thereupon allege that, at all times herein
27 mentioned, Defendants, KAISER, ST. MARY, ST. JOSEPH, CITRUS, RECHE CANYON, VISTA
28 COVE, and Does 1 to 50, Inclusive, held themselves out to possess a degree of skill, ability and

1 learning common to medical practitioners and medical care providers within the County of San
2 Bernardino, State of California.

3 15. Plaintiffs are informed and believe and thereupon allege that, at all times herein
4 mentioned Defendants, KAISER, ST. MARY, ST. JOSEPH, CITRUS, RECHE CANYON, VISTA
5 COVE, and Does 1 to 50, Inclusive, and each of them were and are health care providers within the
6 meaning of Section 1200 of the Health & Safety Code and within the meaning of Section 364(f) of
7 the Code of Civil Procedure. Plaintiffs served Defendants with a C.C.P. §364 Notice within one
8 year from the acts alleged hereinafter.

9 16. On or about May 30, 2012 and thereafter, Plaintiff MARTHA ELLEN ORM was a
10 resident and/or patient at Defendants' medical centers and/or hospitals, and, as such, was treated and
11 cared for by Defendants, KAISER, ST. MARY, ST. JOSEPH, CITRUS, RECHE CANYON, VISTA
12 COVE, and Does 1 to 50, Inclusive, and each of them, who agreed and undertook to care for, treat,
13 medically manage, and assist in the performance of such medical services and maintenance and all
14 other medical procedures medically necessary and proper to the health and well being of Plaintiff
15 MARTHA ELLEN ORM.

16 17. At all times herein mentioned, Plaintiff MARTHA ELLEN ORM was under the
17 exclusive control of Defendants, KAISER, ST. MARY, ST. JOSEPH, CITRUS, RECHE CANYON,
18 VISTA COVE, and Does 1 to 50, Inclusive, and each of them.

19 18. At all times herein mentioned, the injuries of Plaintiff MARTHA ELLEN ORM are the
20 kind of injuries that ordinarily did not occur in the absence of someone's negligence.

21 19. At all times herein mentioned, Plaintiff MARTHA ELLEN ORM did not volitionally
22 or knowingly contribute to her injury, and at no time prior to the events, conduct, activities, care and
23 treatment herein complained of by the Plaintiff MARTHA ELLEN ORM did Defendants, KAISER,
24 ST. MARY, ST. JOSEPH, CITRUS, RECHE CANYON, VISTA COVE, and Does 1 to 50,
25 Inclusive, and each of them obtain knowledge or informed consent for said conduct.

26 20. Defendants, KAISER, ST. MARY, ST. JOSEPH, CITRUS, RECHE CANYON,
27 VISTA COVE, and Does 1 to 50, Inclusive, and each of them failed to possess and to exercise that
28 degree of knowledge and skill ordinarily possessed and exercised by other physicians, surgeons,

1 medical facilities, nurses, aides, attendants, technicians, health care providers, and other such styled
2 personnel and employees in the same professions as said defendants, and each of them, in that said
3 defendants, and each of them, so negligently, wrongfully, and unlawfully cared for, treated, and
4 medically managed the care of Plaintiff MARTHA ELLEN ORM when, among other actions, they
5 provided her with incorrect and/or insufficient medication, which at all times fell below the standard
6 of care in the community, and failed to properly diagnose and provide the appropriate treatment for
7 her condition.

8 21. Plaintiff MARTHA ELLEN ORM'S injuries were suffered because Defendants and
9 each of them failed to exercise the proper degree of knowledge and skill in caring for Plaintiff
10 MARTHA ELLEN ORM in that of Defendants and each of them negligently fell below the standard
11 of care in the community by failing to properly care for Plaintiff MARTHA ELLEN ORM when
12 Defendants, KAISER, ST. MARY, ST. JOSEPH, CITRUS, RECHE CANYON, VISTA COVE, and
13 Does 1 to 50, Inclusive, allowing the above to take place.

14 22. As a legal and proximate result of the negligence of Defendants, KAISER, ST. MARY,
15 ST. JOSEPH, CITRUS, RECHE CANYON, VISTA COVE, and Does 1 to 50, Inclusive, and each
16 of them, Plaintiff MARTHA ELLEN ORM sustained significant injuries, including, but not limited
17 to, paralysis.

18 23. As a further, direct, legal and proximate cause of the negligence of Defendants,
19 KAISER, ST. MARY, ST. JOSEPH, CITRUS, RECHE CANYON, VISTA COVE, and Does 1 to
20 50, Inclusive, and each of them, Plaintiff MARTHA ELLEN ORM has incurred medical and other
21 expenses. The full amount of such expenses is not known to Plaintiff MARTHA ELLEN ORM at
22 this time. However, Plaintiff MARTHA ELLEN ORM has incurred a sum to be set forth at the time
23 of trial and within the jurisdictional limits of this court, or, if requested by this Court, Plaintiff
24 MARTHA ELLEN ORM will amend her complaint to include the amounts thereof when the same
25 shall have been ascertained by Plaintiff MARTHA ELLEN ORM.

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1 **SECOND CAUSE OF ACTION FOR GENERAL NEGLIGENCE**

2 24. Plaintiffs incorporate herein by reference paragraphs 1 through 23 and all of the
3 allegations contained in the first cause of action as set forth herein at length.

4 25. Defendants, KAISER, ST. MARY, ST. JOSEPH, CITRUS, RECHE CANYON,
5 VISTA COVE, and Does 1 to 50, Inclusive, and each of them were the agents and/or employees of
6 defendants and each of them owned, controlled, operated, managed, supervised, and/or profited from
7 the subject facility.

8 26. Defendants, KAISER, ST. MARY, ST. JOSEPH, CITRUS, RECHE CANYON,
9 VISTA COVE, and Does 1 to 50, Inclusive, and each of them failed and neglected their duties and
10 responsibilities to Plaintiff MARTHA ELLEN ORM while acting within the course and scope of
11 his/her employment on behalf of Defendants, KAISER, ST. MARY, ST. JOSEPH, CITRUS,
12 RECHE CANYON, VISTA COVE, and Does 1 to 50, Inclusive, and each of them,

13 27. As a legal and proximate result of the negligence of Defendants and each of them,
14 Plaintiff MARTHA ELLEN ORM suffered serious injuries, including, but not limited to, paralysis.

15 28. As a further, direct, legal and proximate cause of the negligence of Defendants,
16 KAISER, ST. MARY, ST. JOSEPH, CITRUS, RECHE CANYON, VISTA COVE, and Does 1 to
17 50, Inclusive, and each of them, as aforesaid, Plaintiff MARTHA ELLEN ORM has incurred
18 medical and other expenses. The full amount of such expenses is not known to Plaintiff MARTHA
19 ELLEN ORM at this time; however, Plaintiff MARTHA ELLEN ORM has incurred a sum to be set
20 forth at the time of trial and within the jurisdictional limits of this court, or, if requested by this
21 Court, Plaintiff MARTHA ELLEN ORM will amend her complaint to include the amounts thereof
22 when the same shall have been ascertained by Plaintiff MARTHA ELLEN ORM.

23
24 **THIRD CAUSE OF ACTION FOR LOSS OF CONSORTIUM**

25 29. Plaintiffs, MARTHA ELLEN ORM and GEORGE ORM, incorporate herein by
26 reference paragraphs 1 through 28 and all of the allegations contained in the First and Second Causes
27 of Action as set forth herein at length.

28 30. Plaintiffs, MARTHA ELLEN ORM and GEORGE ORM, alleged that Defendants,

1 KAISER, ST. MARY, ST. JOSEPH, CITRUS, RECHE CANYON, VISTA COVE, and Does 1 to
2 50, Inclusive, and each of them, were the legal and direct cause of the injuries and damage to
3 Plaintiffs by the aforesaid acts or omissions to act.

4 31. At all times herein mentioned, Plaintiffs MARTHA ELLEN ORM and GEORGE
5 ORM were wife and husband.

6 32. Prior to the physical and emotional injuries sustained by Plaintiff MARTHA ELLEN
7 ORM, she was able to and did perform her duties as wife. Subsequent to the injuries and as a
8 proximate result thereof, Plaintiff MARTHA ELLEN ORM has been unable to perform her
9 necessary duties as wife and work/services usually performed in the care, maintenance, and
10 management of her family and home. Plaintiff MARTHA ELLEN ORM will be unable to perform
11 said work, services, and duties for a period of time in the future. By reason thereof, Plaintiff
12 GEORGE ORM has been deprived and will be deprived in the future of the consortium of his spouse,
13 Plaintiff MARTHA ELLEN ORM, including the performance of her necessary duties, all to Plaintiff
14 GEORGE ORM'S damage in an amount to be determined at trial.

15
16 **PRAYER**

17 WHEREFORE, Plaintiffs, MARTHA ELLEN ORM and GEORGE ORM, pray for judgment
18 as follows:

19
20 **FIRST, SECOND AND THIRD CAUSE OF ACTION**

21 **(MEDICAL MALPRACTICE, GENERAL NEGLIGENCE AND LOSS OF CONSORTIUM)**

- 22 1. For general damages according to proof;
23 2. For past and future medical and incidental expenses, according to proof;
24 3. For all loss of earnings, according to proof;
25 4. For prejudgment interest, according to law;
26 5. For costs of suit incurred herein; and
27 6. For such other and further relief as this Court may deem just and proper.
28

1 DATED: November 6, 2013

RUSSELL & LAZARUS

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3 By:

4 CHRISTOPHER E. RUSSELL, ESQ.
5 Attorneys for Plaintiff, MARTHA ELLEN ORM
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