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REGINA PORTER

FILED
Clerk of the Superior Court

JAN 01 2014

By phalamana
DEPUTY CLERK

IN THE SUPERIOR COURT OF CALIFORNIA
IN AND FOR THE COUNTY OF SOLANO
UNLIMITED CIVIL JURISDICTION

REGINA PORTER,

Plaintiff,

vs.

DR. MASOUD MEHRABAN, M.D.,
INDIVIDUALLY, AND IN HIS REPRESENTATIVE
CAPACITY AS STAFF PHYSICIAN/ KAISER
PERMANENTE VALLEJO MEDICAL CENTER,
E.R., KAISER PERMANENTE VALLEJO MEDICAL
CENTER, AND DOES 1 TO 20, INCLUSIVE

Defendants.

Case No.: FC042844

COMPLAINT FOR MONEY DAMAGES FOR
PROFESSIONAL NEGLIGENCE OF
EMERGENCY ROOM PHYSICIAN;
RESPONDEAT SUPERIOR

**ASSIGNED TO
JUDGE MICHAEL MATTICE
FOR ALL PURPOSES**

1. Plaintiff, REGINA PORTER resided at 165 Kathy Ellen Drive, Vallejo, California, County of Solano, at the time of the events about which she has herein complained. Plaintiff, REGINA PORTER presently resides at 254 Tapestry Lane, #900, American Canyon, California.

2. Defendant DR. MASOUD MEHRABAN, M.D., was a duly licensed medical doctor who was employed as an Emergency Room staff physician at Kaiser Permanente Vallejo Medical Center, at all relevant times herein mentioned, including January 2, 2011, the date upon which he examined Plaintiff PORTER.

3. Defendant Kaiser Permanente Vallejo Medical Center located at 975 Sereno Drive, California, Solano County. It is a duly licensed Medical Center facility, hospital and/or Health Care Provider, by which DR. MEHRABAN was employed on January 2, 2011.

4. Plaintiff does not know the true names or identities of DOES 1 through 20, inclusive, and

1 therefore sues them by those fictitious names. Plaintiff will amend this complaint to add the names and/or
2 identities of such parties as soon as they have been ascertained during the course of this proceeding.

3 5. Plaintiff is informed and believes, and on the basis of that information and belief alleges, that
4 each of those defendants was in some manner negligently and legally responsible for the events and
5 happenings alleged in this complaint and for Plaintiff's injuries and damages.

6 6. Plaintiff is informed and believes, and on that basis of that information and belief alleges, that at
7 all times mentioned in this complaint Defendant DR. MASOUD MEHRABAN, M.D., and DOES 1 through
8 20, were the agents and employees of their codefendants, and in doing the things alleged in this
9 complaint were acting within the course and scope of that agency and employment.

10 **FIRST CAUSE OF ACTION**
11 **(Professional Negligence)**
[DR. MASOUD MEHRABAN]

12 7. Plaintiff incorporates by reference the factual allegations contained in paragraphs 1 through 6
13 inclusive, as if fully set forth.

14 8. On October 2, 2013, Plaintiff served notice, pursuant to Code of Civil Procedure §364, to
15 Defendants, DR. MASOUD MEHRABAN, M.D., and Kaiser Permanente Vallejo Medical Center of her
16 intention to sue them for Professional Negligence.

17 9. Plaintiff has no medical background, education, or training, and had no means to discover and
18 misconduct, negligence, or culpability of Defendants during the times that Plaintiff was their patient.
19 Within one year last past, Plaintiff discovered, for the first time, that the Defendant was careless and
20 negligent, and that such carelessness and negligence caused the injuries and damages suffered by the
21 Plaintiff.

22 **STATEMENT OF FACTS**

23 10. On December 31, 2010, at approximately 11:35 p.m., Plaintiff REGINA PORTER, her two
24 daughters and their friend, and her 16 year old son and his friend were congregated in and around the
25 bottom of the stairs talking as they waited for whomever was on the way to her place in order to pick up
26 her son's friend, and take him home.

27 11. While they talked the door of the upstairs apartment (across from Plaintiff's apartment) opened
28 and a neighbor/resident of one of the two downstairs apartments of the four-plex, exited the upstairs unit

1 carrying a glass and a bottle of champagne. She was dressed nicely, and was wearing heels (as if she
2 was preparing to go out).

3 12. When she reached the bottom of the stairs and weaved her way around and/or through the
4 crowded common area walkway she ended up walking directly toward Plaintiff.

5 13. Plaintiff took three or four short steps backward in order to provide her neighbor with a clear
6 pathway to her apartment, and accidentally placed her leg over the border of the common area
7 platform/walkway; and resultantly, her leg unexpectedly plunged two and/or two and a half feet down to
8 the dirt surface adjacent to the concrete platform from which she had fallen.

9 14. Plaintiff's daughters helped her to get back in an upright position, and then helped her up the
10 stairs and back into her apartment. Plaintiff thought she had a sprained ankle, and she opted to wait a
11 day or two, instead of rushing over to an Emergency Room right away.

12 15. Plaintiff felt like her condition got worse rather than better over the next couple of days so she
13 went to the Emergency Room at the Kaiser Permanente Vallejo Medical Center at 975 Sereno Drive,
14 Vallejo, California.

15 16. Plaintiff PORTER was examined and/or evaluated on January 2, 2011 by DR. MASOUD
16 MEHRABAN, M.D., a Kaiser Permanente Vallejo Medical Center Emergency Room staff physician who
17 was on duty at the time Plaintiff sought a diagnosis and/or treatment of the injury she sustained on
18 December 31, 2010 when she accidentally fell at the property in which she had then resided.

19 17. After having examined Plaintiff, DR. MASOUD MEHRABAN diagnosed the injury she sustained
20 on December 31, 2010 as a sprained ankle, for the treatment of which he had prescribed bed rest,
21 Ibuprofen, and a pair of crutches.

22 18. During the course of the next couple of weeks the intense pain Plaintiff experienced in her lower
23 leg intensified instead of diminishing, and went from excruciating to unbearable, thus forcing Plaintiff to
24 return to Kaiser Emergency Room.

25 19. Plaintiff PORTER returned to the emergency room at Kaiser Permanente Vallejo Medical Center,
26 on January 18, 2011, and she was examined by another staff physician.

27 20. After DR. GRUNDAHL had examined Plaintiff and/or reviewed her case file and/or medical
28 records he diagnosed the lower leg injury she had suffered (as a result of her fall on December 31, 2010)

1 as a Ruptured Achilles Tendon, and he informed her that corrective surgery had to be performed
2 immediately.

3 21. Plaintiff underwent the surgery on January 26, 2011 and shortly thereafter, began a long,
4 extremely difficult course of rehabilitative therapy treatments at the direction and/or under the constant
5 supervision provided to her by DR. MAC LACHLAN, an orthopedic surgeon, and/or employee agent of
6 Kaiser Permanente Vallejo Medical Center that surgically repaired Plaintiff's Achilles tendon; and
7 moreover, who thereafter served as Plaintiff PORTER's attending physician.

8 22. At all relevant times mentioned herein Plaintiff periodically met with, and was examined by
9 DR. MAC LACHLAN, who constantly monitored her condition; and he continued to prescribe both
10 medicine as well as alternative courses of rehabilitation therapy for Plaintiff, including treatment in a
11 number of diverse disciplines (medically speaking), such as Physical Therapy and/or Acupuncture from
12 employees and/or agents of Kaiser Permanente Vallejo Medical Center; and additionally,
13 DR. MAC LACHLAN also authorized and/or prescribed a substantial number of chiropractic session with
14 a private, local practitioners whose services were recommended by DR. MAC LACHLAN.

15 23. In and around August, of 2011, Plaintiff PORTER unsuccessfully brought suit against
16 MS. ANRAE WINBERLY, owner of record title to those premises commonly known and described as 165
17 Kathy Ellen Drive, Vallejo, California, the address at when Plaintiff resided and the place where she had
18 accidentally fallen and injured her lower leg on December 31, 2010.

19 24. The relationship between Plaintiff and DR. MAC LACHLAN (as described previously,
20 hereinabove) continued up to, and/or including the point in time at which then Defendant WINBERLY's
21 Motion for Non-Suit was granted at the conclusion of the Plaintiff's case, at trial, on February 7, 2013.

22 25. On or about January 2, 2011, Plaintiff employed Defendants DR. MASOUD MEHRABAN, Kaiser
23 Permanente Vallejo Medical Center, Emergency Room, and DOES 1 through 20, having previously
24 retained them for compensation (as her personal healthcare provider and/or insurer) to examine,
25 diagnose, prescribe medicine, treat and care for a problem involving her well-being and to perform any
26 necessary surgery in the treatment of this problem.

27 26. After having accidentally fallen, on December 31, 2010, from a common area platform/walkway
28 located in the front of the four-plex at which she then resided, Plaintiff waited until January 2, 2011 to visit

1 the Emergency Room at Kaiser Permanente Vallejo Medical Center in order to have the leg injury (she
2 has sustained two days before her visit to the Emergency Room) examined, diagnosed, and/or treated.

3 27. At all times mentioned in this complaint, Defendant DR. MASOUD MEHRABAN, and DOES 1
4 through 20, negligently failed to possess and exercise, in both diagnosis and treatment, that reasonable
5 degree of knowledge and skill that is ordinarily possessed and exercised by other physicians in the same
6 or similar locality in similar circumstances, in that, among other things, Defendant DR. MASOUD
7 MEHRABAN, and DOES 1 through 20, failed to correctly diagnose the nature of the lower leg injury
8 Plaintiff suffered on December 31, 2010, and/or to properly treat said injury.

9 28. As a direct result of the negligence of Defendant DR. MASOUD MEHRABAN, and DOES 1
10 through 20, Plaintiff was injured in her body and in her health, strength and activities, and sustained injury
11 to her mental health and shock and injury to nervous system, all of which have caused and continued to
12 cause, Plaintiff great mental, physical and nervous pain and suffering. Plaintiff is informed and believes
13 and thereon alleges that some or all of said injuries will be of a permanent nature and will result in some
14 permanent disability to Plaintiff, all to her general damages in the sum within the jurisdiction of this court.

15 WHEREFORE, Plaintiff prays for Judgment in an amount according to proof at trial.

16 **SECOND CAUSE OF ACTION**
17 **(Respondeat Superior)**

18 **[Defendant Kaiser Permanente Vallejo Medical Center]**

19 29. Plaintiff incorporates by reference the factual allegations contained in paragraphs 8 through 28
20 inclusive, as if fully set forth.

21 30. Plaintiff PORTER herein avers that, at all relevant times herein mentioned, the conduct of
22 DR. MASOUD MEHRABAN about which Plaintiff has herein complained took place while he was on duty
23 as an Emergency Room staff/employee at Kaiser Permanente Vallejo Medical Center, 975 Sereno Drive,
24 Vallejo, California.

25 31. Since, said conduct occurred during the course of and/or within the scope of DR. MEHRABAN's
26 employment his employer (Kaiser Permanente Vallejo Medical Center) may be held vicariously liable for
27 Plaintiff's injuries, and/or the damages "proximately caused" by DR. MEHRABAN's Professional
28 Negligence under the legal doctrine of "Respondeat Superior". WHEREFORE, Plaintiff prays for
Judgment in an amount according to proof at trail.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays judgment against Defendants, and each of them, as follows:

- (1) For non-economic damages within this court's jurisdiction;
- (2) For costs of hospital and medical expenses according to proof;
- (3) For employer KAISER PERMANENTE VALLEJO MEDICAL CENTER to be held vicariously liable for the negligent of its agent, employee DR. MASOUD MEHRABAN;
- (4) For costs of suit herein incurred; and
- (5) For such other and further relief as the court may deem proper.

Dated: 1/02/14

Theodore R. Johnson
THEODORE R. JOHNSON
Attorney for Plaintiff
REGINA PORTER