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10 SUPERIOR COURT OF THE STATE OF CALIFORNIA

11 COUNTY OF SANTA CLARA

12 **ALI MOQADAM**, a minor, by and through his  
13 guardian ad litem **RAHMAN MOQADAM**,

14 Plaintiff,

15 vs.

16 **THE PERMANENTE MEDICAL GROUP**  
17 **INC.; KAISER FOUNDATION**  
18 **HOSPITALS; KAISER FOUNDATION**  
19 **HEALTH PLAN, INC.; MARYALICE**  
20 **AMBROSE, M.D.; an individual; ALMA**  
21 **VALENCIA, an individual; and DOES 1**  
22 **THROUGH 50,**

23 Defendants

Case No.: **114 CV 259326**

**COMPLAINT FOR DAMAGES:**

1. Medical Negligence
2. Negligence

**PLAINTIFF DEMANDS TRIAL BY JURY**

*(Amount demanded exceeds \$25,000)*

24 Comes Now ALI MOQADAM, by and through his guardian ad litem RAHMAN MOQADAM  
25 ("Plaintiff"), in this Complaint for causes of action against Defendants THE PERMANENTE  
26 MEDICAL GROUP, INC., KAISER FOUNDATION HOSPITALS, KAISER FOUNDATION  
27 HEALTH PLAN, INC., DR. MARYALICE AMBROSE, M.D., ALMA VALENCIA, and DOES  
28 1 THROUGH 50, Inclusive.

**BACKGROUND FACTS**

1. The true names and/or capacities and/or involvement in the subject events by DOES 1 through 50, inclusively, whether individuals, partnerships, companies, corporations, associations, governments, or otherwise, are unknown to Plaintiff at this time. Plaintiff therefore sues said Defendants by fictional names DOES 1 through 50. When Plaintiff ascertains the true names and/or capacities and/or involvement in the subject events of those Defendants, or any of them, Plaintiff will ask leave of this court to amend this complaint to show their true names, capacities, and the manner in which each fictitious Defendant was responsible, in not heretofore pleaded. The conduct of said DOE Defendants would arise out of the conduct, transaction, or sequelae of the conduct alleged herein.
2. Plaintiff is informed and believes and thereon alleges that at all times mentioned herein, Defendants THE PERMANENTE MEDICAL GROUP, INC., KAISER FOUNDATION HOSPITALS, KAISER FOUNDATION HEALTH PLAN, INC., MARYALICE AMBROSE, M.D., and DOES 1 through 10, and each of them, were the agents, servants, partners, joint venturers, joint enterprisers, civil conspirators, and employees of each of the other, and were acting within the course and scope of said agency, partnership, venture, enterprise, employment and relationship. Said Defendants were also the predecessors-in-interest and successors-in-interest to one another. Furthermore, each Defendant, while acting as a principal, expressly directed, consented to, approved, affirmed and ratified each and every act or omission of his or her co-Defendants as described below.
3. Plaintiff is informed and believes and thereon alleges that Defendants THE PERMANENTE MEDICAL GROUP, INC., KAISER FOUNDATION HOSPITALS, KAISER FOUNDATION HEALTH PLAN, INC., (hereinafter collectively referred to as "KAISER") are corporations authorized to, and in fact doing business in California. Said corporations are all believed to be medical corporations. Said corporations operate the Kaiser Permanente Santa Clara Medical Center, located at 700 Lawrence Expressway in

- 1 Santa Clara, in the County of Santa Clara. Defendant KAISER is believed to be a  
2 medical corporation operating under license issued by the Medical Board of the State of  
3 California.
- 4 4. Plaintiff is informed and believes and thereon alleges that Defendant MARYALICE  
5 AMBROSE, M.D. (hereinafter "DR. AMBROSE") is a licensed medical doctor and  
6 surgeon licensed to practice in the state of California and now resides, and at all relevant  
7 times resided in, the County of Santa Clara. At all times herein alleged, DR. AMBROSE  
8 acted within the employment of Defendant KAISER. DR. AMBROSE will also be  
9 included in the designation of Defendant KAISER.
- 10 5. Plaintiff is informed and believes and thereon alleges that Defendant ALMA  
11 VALENCIA now resides, and at all relevant times resided in, the County of Santa Clara.
- 12 6. Plaintiff ALI MOQADAM is a minor child who now resides, and at all relevant times did  
13 reside, in the County of Santa Clara.
- 14 7. Plaintiff's injuries occurred in the City of San Jose, which lies within the County of Santa  
15 Clara, and this Court is therefore the proper Court in which to bring this action.
- 16 8. Plaintiff is informed and believes and thereon alleges that Defendant ALMA  
17 VALENCIA was a patient of DR. AMBROSE at the Kaiser Permanente Santa Clara  
18 Medical Center in Santa Clara, and was examined, diagnosed, and treated by Defendant  
19 DR. AMBROSE for a seizure disorder at that facility in or around 2005, and continued to  
20 receive treatment there through all relevant times.
- 21 9. Plaintiff is informed and believes that in or about 2005, KAISER reported the diagnosis  
22 of the seizure disorder to the local health officer in the County of Santa Clara, and that  
23 based on a Driver Medical Evaluation ("DME") completed by DR. AMBROSE, the State  
24 of California Department of Motor Vehicles suspended the driver's license of Defendant  
25 ALMA VALENCIA, thereby prohibiting her from driving legally in the State of  
26 California.
- 27 10. Plaintiff is informed and believes and thereon alleges that in or around 2007, a new DME  
28 was completed by DR. AMBROSE for ALMA VALENCIA and delivered to the State of

1 California Department of Motor Vehicles, and that based on the advice and  
2 recommendation included in that new DME, the State of California Department of Motor  
3 Vehicles reinstated the driving privileges of Defendant ALMA VALENCIA without  
4 restriction, thereby permitting her to drive legally in the State of California.

5 11. Plaintiff is informed and believes and thereon alleges that at the time the new DME was  
6 completed for ALMA VALENCIA by DR. AMBROSE in or around 2007, KAISER and  
7 DR. AMBROSE knew or should have known ALMA VALENCIA was still suffering  
8 from a seizure disorder, was non-compliant with anti-seizure medications, and had  
9 suffered multiple lapse of consciousness episodes during the prior three years due to the  
10 seizure disorder, and should have included this information in their new DME.

11 12. Plaintiff is informed and believes and thereon alleges that the State of California  
12 Department of Motor Vehicles acted in reliance on the representations and  
13 recommendations contained in the new DME when they reinstated the driver's license of  
14 ALMA VALENCIA, and that without the new DME from KAISER and DR. AMBROSE,  
15 the State of California Department of Motor Vehicles would not have reinstated the  
16 driving privileges of ALMA VALENCIA.

17 13. Plaintiff is informed and believes and thereon alleges that ALMA VALENCIA continued  
18 to be under the care of KAISER and DR. AMBROSE for her seizure disorder from in or  
19 about 2007 through June 19, 2010, and that KAISER and DR. AMBROSE knew or  
20 should have known that ALMA VALENCIA continued to suffer from a seizure disorder  
21 during that time, was non-compliant with anti-seizure medications during that time, and  
22 had multiple lapses of consciousness during that time due to the seizure disorder, all of  
23 which affected her ability to safely operate a motor vehicle.

24 14. Plaintiff is informed and believes and thereon alleges that at all times mentioned herein  
25 Defendant ALMA VALENCIA was the operator and driver of a certain Honda Civic,  
26 License Plate Number 3LST957 (hereinafter referred to as "DEFENDANT'S  
27 VEHICLE").  
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1 15. Plaintiff is informed and believes and thereon alleges that Defendant ALMA

2 VALENCIA and Does 11 through 20, and each of them are, and at all times mentioned  
3 herein were, the registered owner of DEFENDANT'S VEHICLE.

4 16. Plaintiff is informed and believes and thereon alleges that Defendants DOES 11 through  
5 20 are the owners of DEFENDANT'S VEHICLE.

6 17. On or about June 19, 2010, at approximately 11:16 p.m., Plaintiff was a passenger in  
7 DEFENDANT'S VEHICLE as it traveled Eastbound on Capitol Expressway in the City  
8 of San Jose, County of Santa Clara.

9 18. On or about June 19, 2010, at approximately 11:16 p.m., Defendant ALMA VALENCIA  
10 suffered a seizure while driving DEFENDANT'S VEHICLE, which resulted in  
11 DEFENDANT'S VEHICLE being involved in a major traffic accident.

12 19. The impact from the collision resulted in personal injuries, including but not limited to  
13 traumatic brain injury, to Plaintiff.

14 **FIRST CAUSE OF ACTION**

15 **(MEDICAL NEGLIGENCE – AGAINST DEFENDANTS THE PERMANENTE**  
16 **MEDICAL GROUP, KAISER FOUNDATION HOSPITALS, KAISER FOUNDATION**  
17 **HEALTH PLAN, INC., and DR. MARYALICE AMBROSE, M.D.)**

18 20. Plaintiff re-alleges and incorporates paragraphs 1 through 17 of this Complaint as if fully  
19 set forth herein.

20 21. Plaintiff is informed and believes and thereon alleges that Pursuant to California Health  
21 & Safety Code §103900, Defendant KAISER had a duty to report to the local health  
22 officer and the State of California Department of Motor Vehicles the seizure disorder  
23 suffered by its patient Defendant ALMA VALENCIA, when requested to complete a  
24 driver medical evaluation (DME) in or about 2007. Plaintiff alleges that KAISER and  
25 DR. AMBROSE knew or should have known in or about 2007 that ALMA VALENCIA  
26 continued to suffer from a seizure disorder at that time, was non-compliant with anti-  
27 seizure medications at that time, and had suffered multiple lapse of consciousness  
28 episodes in the three year period prior to 2007, all of which was, or should have been,

1 evidence to be included in the DME that Defendant ALMA VALENCIA was not able to  
2 safely operate a motor vehicle. Defendant KAISER failed to report ALMA  
3 VALENCIA'S true and accurate medical condition during this time to the local health  
4 officer as required by law. This fell below the applicable standard of care of health care  
5 professionals in the community.

6 22. Plaintiff is informed and believes and thereon alleges that Pursuant to California Health  
7 & Safety Code §103900, Defendant KAISER had a duty to report to the local health  
8 officer the seizure disorder suffered by its patient Defendant ALMA VALENCIA as  
9 KAISER and DR. AMBROSE knew or should have known that ALMA VALENCIA  
10 continued to suffer from a seizure disorder from in or about 2007 through June 19, 2010,  
11 was non-compliant with anti-seizure medications during that time, and had suffered  
12 multiple lapse of consciousness episodes over the time period from 2007 through June 19,  
13 2010, all of which impacted her ability to safely operate a motor vehicle. This fell below  
14 the applicable standard of care of health care professionals in the community.

15 23. As a proximate result of the negligence of Defendant KAISER, Plaintiff was injured in  
16 his health, strength, and activity, sustaining injuries to his brain, nervous system and  
17 person, all of which injuries have caused and continue to cause Plaintiff great mental,  
18 physical, and nervous pain and suffering. Plaintiff is informed and believes, and thereon  
19 alleges that such injuries will result in some permanent disability to him. As a result of  
20 such injuries, Plaintiff has suffered general damages in an amount according to proof.

21 24. As a further proximate result of the negligence of Defendant KAISER, Plaintiff has  
22 incurred, and will continue to incur, medical and related expenses in an amount according  
23 to proof.

24 25. As a further proximate result of the negligence of Defendant KAISER, Plaintiff has  
25 incurred, and will incur, further and future medical, psychological and incidental  
26 expenses, bills, and costs for the care and treatment for his injuries, the exact amount of  
27 which is unknown at the present time and to be determined at trial.  
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1 **PRAYER FOR DAMAGES**

2 WHEREFORE, PLAINTIFF ALI MOQADAM, by and through his guardian ad litem  
3 RAHMAN MOQADAM, prays judgment against NORTHERN CALIFORNIA PERMANENTE  
4 MEDICAL GROUP, KAISER FOUNDATION HOSPITALS, DR. MARYALICE AMBROSE,  
5 M.D., ALMA VALENCIA, and DOES 1 THROUGH 50, jointly and severally as indicated  
6 above, as follows:

7 **FOR ALL CAUSES OF ACTION**

- 8 1. For general damages according to proof at time of trial;  
9 2. For medical and related expenses according to proof;  
10 3. For loss of income and earning ability according to proof;  
11 4. For costs of suit herein incurred; and  
12 5. For such other and further relief as the court may deem proper.  
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14  
15 Dated this <sup>17<sup>th</sup></sup> ~~16~~ of January, 2014.

16 Respectfully submitted,  
17 KARNs & KARNs, LLP

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20 By: 

21 Michael Karns, Esq.  
22 Attorney for Plaintiff  
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