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FILED
 ALAMEDA COUNTY

MAY 15 2014

CLERK OF THE SUPERIOR COURT

By [Signature] Deputy

Attorney for Plaintiff
 JESUS MALDONADO

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA

UNLIMITED JURISDICTION

JESUS MALDONADO, a minor, by and)	CASE NO. RG14725443
through his Guardian ad Litem,)	
TERESA HERNANDEZ)	COMPLAINT FOR DAMAGES
	(MEDICAL NEGLIGENCE)
Plaintiff,)	(Damages exceed \$25,000)

v.

KAISER FOUNDATION HOSPITALS,)
 KAISER FOUNDATION HEALTH)
 PLAN, INC., and THE PERMANENTE)
 MEDICAL GROUP, INC.,)

Defendants.

Plaintiff, a minor, by and through his Guardian ad Litem, Teresa Hernandez, alleges as follows:

1. This Complaint is filed to permit the ex parte appointment of a Guardian ad Litem in and for an arbitration action brought under contract within the Kaiser Permanente Member Arbitrations system and administered by the Office of Independent Administrator: Jesus Maldonado, et al. v. Kaiser/Permanente, et al., Arbitration No. 12090. CCP Sections 372, 373.

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1 2. The named defendants/Respondents Kaiser Foundation Hospitals and Kaiser
2 Foundation Health Plan Inc. are non-profit corporations and defendant The Permanente
3 Medical Group Inc. is a professional corporation.

4 3. Defendants' principal place of business is Alameda County.

5 4. Plaintiff/Claimant was required to provide defendants/respondents with notice
6 of their claims under the Rules of the Kaiser Permanente Arbitration System and did so timely.
7 The arbitration is proceeding through discovery. An Arbitration Hearing is scheduled to
8 commence June 4, 2014 before neutral arbitrator the Hon. Robert A. Baines (Judge Ret.) at
9 JAMS, Inc. in Walnut Creek, CA.

10 5. Jesus Maldonado, a minor, born July 5, 1996, by and through his mother and
11 Guardian ad Litem, Teresa Hernandez, contends as follows:

12 A. On February 3, 2011, claimant Jesus Maldonado (then age 14) injured his left
13 hand and wrist playing soccer at Alhambra High School in Martinez. He first
14 presented to Kaiser Hospital-Walnut Creek the next day, Friday, February 4.
15 X-rays of the wrist showed a scaphoid fracture. A splint was applied and he
16 was discharged home.

17 B. Later that day, February 4, he was returned to Kaiser in the early evening,
18 complaining of left wrist pain. He was administered two intra muscular
19 injections into his buttocks, one on the right side and the other on the left.
20 Hydromorphone (Dilaudid) was injected into the right buttock; Promethasene
21 was injected into the left buttock. The injection in the right buttock was
22 painful and the site bled freely. The left buttock injection was uneventful.
23 Maldonado's parents, Jose Conchas and Teresa Hernandez, were both
24 present when the injections were administered. The splint was replaced and
25 the patient discharged to the care of his parents. Jesus was unable to walk out
26

1 of the Emergency Department following the injections, with almost
2 immediate pain in his right buttock and in his right foot.

3 C. On Saturday, February 5, 2011, Jesus stayed at home. His right buttock hurt,
4 he could barely walk; he felt shaky, hallucinating at times and his right foot
5 was painful.

6 D. On Sunday, February 6, 2011, Jesus returned to Kaiser-Walnut Creek. The
7 history provided included fever/chills, body aches, tachycardia to the 140's,
8 chest pain, right foot pain and swelling of the left fingers. He was febrile with
9 a temperature of 102.9. The examination showed the right upper gluteal
10 region was erythematous with induration of tissue. It was very tender with
11 movement and to touch. With a sepsis-like picture, Jesus was admitted.
12 Blood cultures were drawn and proved positive for Group A Beta Hemolytic
13 Streptococcus (strep pyogenes) isolated.

14 E. On February 7, Jesus was transferred to Kaiser Hospital-Oakland. A central
15 line had been placed. He was receiving Vancomycin/Clindamycin. It was
16 noted the patient had an obvious cellulitis at his right buttock and
17 clinical/radiographic suspicion for hematogenous osteomyelitis of the right
18 first metatarsal base/growth plate. (Formation of pus within the bones.)

19 F. There was a pediatric infectious disease consult by Dr. Tara Greenhow on
20 February 7, 2011. Her thought was that the likely introduction of the Group
21 A Streptococcus toxic shock was at the site of injection into the right buttock,
22 given the time course and surrounding erythema.

23 G. MRIs of the left forearm and hand were performed on February 10 and 12,
24 2011, suggestive of probable wrist joint sepsis, probable osteomyelitis and
25 abscesses of the hand/wrist. Surgery was recommended.
26

1 6. Treatment for the wrist joint sepsis, osteomyelitis included multiple
2 orthopedic surgical procedures, six or seven in total, all performed at Kaiser Hospital,
3 Oakland, CA.

4 7. Plaintiff contends his medical care, treatment, monitoring, and management
5 on February 4, 2011 and thereafter was done negligently and carelessly, resulting in the
6 serious infectious process described above, requiring multiple surgeries, antibiotic treatments
7 and the need for future surgery.

8 8. As a result of the afore-described negligent care and treatment,
9 plaintiff/claimant requests economic damages for medical/hospital/rehabilitative costs and
10 expenses, loss of earning capacity, in a sum to be shown according to proof and other special
11 damages. He also seeks non-economic damages to compensate for his pain, suffering, disability
12 and disfigurement, past and future, to be shown according to proof.

13 9. The Plaintiff/Claimant seeks to preserve his right to the jurisdiction of this
14 Court over an action, if any, to confirm/correct/vacate the award of arbitrator in the arbitration.
15 It is necessary to have the Guardian ad Litem appointed for that purpose and for other purposes
16 within the arbitration action.

17 10. The Plaintiff/Claimant prays for all relief to be requested in any later action, if
18 any, to confirm/correct/vacate the award of arbitrator action, which is within the jurisdiction of
19 this Court.

20 11. The allegations contained in this complaint are alleged on information and
21 belief.

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23 Date: May 8, 2014

LAW OFFICES OF MICHAEL J. MANDEL

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MICHAEL J. MANDEL

Attorney for Plaintiff/Claimant

JESUS MAIDONALDO, a minor, by and through his
Guardian ad Litem, Teresa Hernandez