

1 James L. Meier (SBN 167483)
2 **LAW OFFICES OF JAMES L. MEIER**
3 2023 Greenleaf Street
4 Santa Ana, California 92706
5 Telephone: 800-655-9001
6 Facsimile: 714-242-7559
7 Email: jim@jmeierlawoffice.com

8 Attorney for Plaintiff
9 CAROL COLEMAN

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF RIVERSIDE

CAROL COLEMAN,
Plaintiff,

v.

ROBERT A. HARDESTY, MD; KAISER
FOUNDATION HOSPITALS; SOUTHERN
CALIFORNIA PERMANENTE MEDICAL
GROUP, and DOES 1 through 20 inclusive,
Defendants.

Case No.: **RIC 1405318**

COMPLAINT FOR DAMAGES

(Medical Malpractice)

Plaintiff alleges:

1. The true names, capacities or involvement of defendants DOES 1 through 20 are unknown to plaintiff who sues said defendants as authorized by *Code of Civil Procedure section 474*. Each defendant, whether specifically named or identified as a DOE, owed duties to plaintiff and legally caused the injuries and damages to plaintiff alleged in this complaint.

2. Each of the defendants is a person or entity either subject to the laws of vicarious liability, e.g., agent, employee, partner, etc., or in a contractual relationship, with the other defendants, and was at all times acting within the purpose, authority and scope of such relationship so that each defendant is liable for the actions of each other defendant.

3. Plaintiff CAROL COLEMAN is an individual, and at all times a resident of Menifee Riverside County, State of California.

REB

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE

MAY 27 2014

C. Carlton

MAY 28 2014

R

1 4. Defendants, and each of them, are health care providers including hospitals, health care
2 organizations, physicians, their partners and partnerships, professional corporations, independent
3 practice associations, employed nurses and health care providers, all duly licensed to practice their
4 profession in Riverside County, as provided by the laws of the State of California, who were
5 providing medical diagnosis, care and treatment to Carol Coleman, and who owed a duty of care
6 to her.

7 5. In July 2008, defendant Dr. Robert Hardesty, MD left a catheter tube in plaintiff's
8 abdomen following her abdominoplasty in his office. Since then, she has had progressively worse
9 pain, inflammation, swelling, soft tissue masses, and recurrent infections in the area since 2009.
10 In January 2009, under local anesthesia, defendant Dr. Hardesty performed scar revision and
11 attempted minor liposuction, but the liposuction had to be halted because she couldn't endure the
12 pain. In October 2009, she consulted with defendant Hardesty again due to persistent pain. Dr.
13 Hardesty ordered lab work and the lab result was: "Heavy growth of staphylococcus lugdunensis."
14 This should have alerted him that there was a foreign object left inside of plaintiff. Defendant
15 Hardesty did not order an ultrasound or any diagnostics to rule out a foreign object.

16 6. In 2006, plaintiff had a vaginal hysterectomy (without the use of a laparoscope)
17 performed by Dr. Darcy Bryan - Riverside Medical Clinic. Following surgery, she bled internally
18 for 16 hours and was rushed back to the O.R. Dr. Bryan performed emergency abdominal
19 surgery; where she received 4 units of blood. A few months later, she developed a weakened
20 fascia above the incision. The discomfort and unsightliness prompted her to seek the surgical
21 expertise of plastic surgeon, defendant Hardesty.

22 7. Defendant KAISER FOUNDATION HOSPITALS; SOUTHERN CALIFORNIA
23 PERMANENTE MEDICAL GROUP ("Kaiser") was negligent because three Kaiser radiologists
24 neglected to observe and document several images of the retained object that should have been
25 obvious in three separate diagnostic imaging events performed at Kaiser. The first time the
26 foreign object should have been diagnosed was an ultrasound on 09-21-2011, but radiologist, Dr.
27 George Hsieh, failed to observe the foreign body. Plaintiff then had a CT Scan performed in
28 January 2012. Kaiser radiologist, Dr. Edgar Lai, failed to observe to the foreign object, and
plaintiff was assured by Kaiser physicians that there was "no foreign body". Dr. Tara Wilson, a
Kaiser surgeon, continued to assure plaintiff that the soft tissue mass (below the scar that remained
for months beginning in 2011), was merely a "lymph node" or "scar tissue". In January 2013,
after enduring more pain and another round of cellulitis, plaintiff went back to Kaiser for another

1 ultrasound. Radiologist, Dr. Peter Wong, reviewed the pictures and produced a report stating he
2 found "fluid collection" above the scar – but he neglected to report that there was a foreign body
3 inside the fluid collection.

4 8. As a direct result of defendant Hardesty failing to remove the catheter, and Kaiser's
5 failure to discover and diagnosis the object, plaintiff has had to deal with recurrent bouts of
6 infection, pain, cycles of heavy dosage antibiotics, loss of energy, and loss of accrued sick pay that
7 reduced her teacher retirement benefits.

8 9. On or about March 21, 2013, plaintiff consulted with the head of surgery at Kaiser -
9 Dr. Michael Lawrence. Initially, he read the radiology reports as "fluid collection", but then
10 reviewed the images from the ultrasounds, and informed plaintiff that "you have a catheter in
11 you." Dr. Lawrence removed the catheter on May 1, 2013.

12 10. As a direct, legal and actual result of the conduct of defendants, and each of them,
13 plaintiff's health, strength and activity has been severely injured; and has sustained, and will
14 sustain in the future, severe pain, disfigurement, maiming, suffering, injury to her body, and
15 severe shock and injury to her nervous system and various other injuries to the person. Such
16 injuries and disabilities have caused and will cause plaintiff general and non-economic damages,
17 in a sum within the unlimited jurisdiction of this Superior Court.

18 11. As a direct, legal and actual result of the acts and conduct of defendants, and each of
19 them, and of said injuries, plaintiff was compelled to, did incur and will in the future incur, inter
20 alia, obligations, bills, expenditures and other economic damages for dental and health services of
21 all kinds, including, but not limited to the care, attention and services of dentists, physicians,
22 nurses, therapists, rehabilitation services, attendants, incidental services, prescriptions, prosthetics,
23 health devices, and other services. The exact amount of such obligations, expenditures and
24 economic damages so incurred and to incurred is not known to plaintiff at this time, and plaintiff
25 will ask leave of court, orally or in writing, to amend this complaint to insert such amount when
26 the same is fully ascertained.

27 12. That as a direct and legal result of the conduct of defendants, and each of them, and
28 of said injuries, plaintiff has been and will be damaged by the loss of wages, income, dividends
and profits in an amount presently unascertained; plaintiff will ask leave of court, orally or in

1 writing, to amend this complaint to insert said amount when the same has been ascertained.

2 13. As a legal and proximate result of the negligence of defendants, plaintiffs have
3 sustained economic and non-economic damages, all of which will be shown, according to proof at
4 trial.

5
6 WHEREFORE, plaintiff prays for judgment against defendants, and each of them, for the
7 following:

- 8 1. Economic damages according to proof;
- 9 2. Non- economic damages according to proof;
- 10 3. Costs of suit;
- 11 4. Attorney's fees;
- 12 5. Pre judgment interest and post judgment interest according to law; and
- 13 6. Such other and further relief s the court may deem proper.

14
15 Dated: May 25 , 2014

LAW OFFICES OF JAMES L. MEIER

16
17
18 By:

JAMES L. MEIER
Attorneys for Plaintiffs
CAROL COLEMAN

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): James L Meier (SBN 167483) LAW OFFICES OF JAMES L MEIER 2023 Greenleaf Street Santa Ana, CA 92706 TELEPHONE NO.: 800.655.9001 FAX NO.: 714.242.7559 ATTORNEY FOR (Name): jim@jmeierlawoffice.com		FOR COURT USE ONLY	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF RIVERSIDE STREET ADDRESS: 4050 Main Street MAILING ADDRESS: CITY AND ZIP CODE: Riverside CA 92501 BRANCH NAME: Historic		CASE NUMBER: <div style="font-size: 1.5em; font-weight: bold;">RIC 1405318</div>	
CASE NAME: Coleman v. Hardesty			
CIVIL CASE COVER SHEET <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000) <input type="checkbox"/> Limited (Amount demanded is \$25,000 or less)		Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)	
JUDGE:		DEPT:	

Items 1–6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input checked="" type="checkbox"/> Other PI/PD/WD (23) Non-PI/PD/WD (Other) Tort <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PI/PD/WD tort (35) Employment <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	Contract <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) Real Property <input type="checkbox"/> Eminent domain/Inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) Judicial Review <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400–3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20) Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)
---	--	--

2. This case ☐ is ☒ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- | | |
|--|--|
| a. <input type="checkbox"/> Large number of separately represented parties | d. <input type="checkbox"/> Large number of witnesses |
| b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court |
| c. <input type="checkbox"/> Substantial amount of documentary evidence | f. <input type="checkbox"/> Substantial postjudgment judicial supervision |
3. Remedies sought (check all that apply): a. ☒ monetary b. ☐ nonmonetary; declaratory or injunctive relief c. ☐ punitive
4. Number of causes of action (specify): 1
5. This case ☐ is ☒ is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: May 27, 2014

James L Meier

(TYPE OR PRINT NAME)

SIGNATURE OF PARTY OR ATTORNEY FOR PARTY

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

To Plaintiffs and Others Filing First Papers. If you are filing a first paper (for example, a complaint) in a civil case, you **must** complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check **one** box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the **primary** cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties in Complex Cases. In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES

Auto Tort

Auto (22)—Personal Injury/Property Damage/Wrongful Death
Uninsured Motorist (46) (*if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto*)

Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

Asbestos (04)
Asbestos Property Damage
Asbestos Personal Injury/Wrongful Death
Product Liability (*not asbestos or toxic/environmental*) (24)
Medical Malpractice (45)
Medical Malpractice—Physicians & Surgeons
Other Professional Health Care Malpractice
Other PI/PD/WD (23)
Premises Liability (e.g., slip and fall)
Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)
Intentional Infliction of Emotional Distress
Negligent Infliction of Emotional Distress
Other PI/PD/WD

Non-PI/PD/WD (Other) Tort

Business Tort/Unfair Business Practice (07)
Civil Rights (e.g., discrimination, false arrest) (*not civil harassment*) (08)
Defamation (e.g., slander, libel) (13)
Fraud (16)
Intellectual Property (19)
Professional Negligence (25)
Legal Malpractice
Other Professional Malpractice (*not medical or legal*)
Other Non-PI/PD/WD Tort (35)

Employment

Wrongful Termination (36)
Other Employment (15)

Contract

Breach of Contract/Warranty (06)
Breach of Rental/Lease Contract (*not unlawful detainer or wrongful eviction*)
Contract/Warranty Breach—Seller Plaintiff (*not fraud or negligence*)
Negligent Breach of Contract/Warranty
Other Breach of Contract/Warranty
Collections (e.g., money owed, open book accounts) (09)
Collection Case—Seller Plaintiff
Other Promissory Note/Collections Case
Insurance Coverage (*not provisionally complex*) (18)
Auto Subrogation
Other Coverage
Other Contract (37)
Contractual Fraud
Other Contract Dispute

Real Property

Eminent Domain/Inverse Condemnation (14)
Wrongful Eviction (33)
Other Real Property (e.g., quiet title) (26)
Writ of Possession of Real Property
Mortgage Foreclosure
Quiet Title
Other Real Property (*not eminent domain, landlord/tenant, or foreclosure*)

Unlawful Detainer

Commercial (31)
Residential (32)
Drugs (38) (*if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential*)

Judicial Review

Asset Forfeiture (05)
Petition Re: Arbitration Award (11)
Writ of Mandate (02)
Writ—Administrative Mandamus
Writ—Mandamus on Limited Court Case Matter
Writ—Other Limited Court Case Review
Other Judicial Review (39)
Review of Health Officer Order
Notice of Appeal—Labor
Commissioner Appeals

Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)

Antitrust/Trade Regulation (03)
Construction Defect (10)
Claims Involving Mass Tort (40)
Securities Litigation (28)
Environmental/Toxic Tort (30)
Insurance Coverage Claims (*arising from provisionally complex case type listed above*) (41)

Enforcement of Judgment

Enforcement of Judgment (20)
Abstract of Judgment (Out of County)
Confession of Judgment (*non-domestic relations*)
Sister State Judgment
Administrative Agency Award (*not unpaid taxes*)
Petition/Certification of Entry of Judgment on Unpaid Taxes
Other Enforcement of Judgment Case

Miscellaneous Civil Complaint

RICO (27)
Other Complaint (*not specified above*) (42)
Declaratory Relief Only
Injunctive Relief Only (*non-harassment*)
Mechanics Lien
Other Commercial Complaint Case (*non-tort/non-complex*)
Other Civil Complaint (*non-tort/non-complex*)

Miscellaneous Civil Petition

Partnership and Corporate Governance (21)
Other Petition (*not specified above*) (43)
Civil Harassment
Workplace Violence
Elder/Dependent Adult Abuse
Election Contest
Petition for Name Change
Petition for Relief From Late Claim
Other Civil Petition

SUPERIOR COURT OF CALIFORNIA, COUNTY OF RIVERSIDE
4050 Main Street
Riverside, CA 92501
www.riverside.courts.ca.gov

NOTICE OF DEPARTMENT ASSIGNMENT FOR CASE MANAGEMENT PURPOSES
AND CASE MANAGEMENT CONFERENCE (CRC 3.722)

COLEMAN VS HARDESTY, KAISER FOUNDATION HOSPITALS

CASE NO. RIC1405318

This case is assigned to the Honorable Judge John W Vineyard in Department 07 for case management purposes. The Case Management Conference is scheduled for 12/01/14 at 8:30 in Department 07.

Case is Assigned to Department 11 for Law and Motion Purposes.

The plaintiff/cross-complainant shall serve a copy of this notice on all defendants/cross-defendants who are named or added to the complaint and file proof of service.

Any disqualification pursuant to CCP section 170.6 shall be filed in accordance with that section.

Requests for accommodations can be made by submitting Judicial Council form MC-410 no fewer than five court days before the hearing. See California Rules of Court, rule 1.100.

CERTIFICATE OF MAILING

I certify that I am currently employed by the Superior Court of California, County of Riverside, and that I am not a party to this action or proceeding. In my capacity, I am familiar with the practices and procedures used in connection with the mailing of correspondence. Such correspondence is deposited in the outgoing mail of the Superior Court. Outgoing mail is delivered to and mailed by the United States Postal Service, postage prepaid, the same day in the ordinary course of business. I certify that I served a copy of the foregoing NOTICE on this date, by depositing said copy as stated above.

Court Executive Officer/Clerk

Date: 05/27/14

by: 

CYNTHIA CARLTON, Deputy Clerk