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PLD-PI-001

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): DAN L. RAINSBURY SBN: 210193 David Allen & Associates 5230 Folsom Boulevard Sacramento, CA 95819 TELEPHONE NO: 916-455-4800 FAX NO. (Optional): E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name): Plaintiff, ANDREW P. BANDUCCI		FOR COURT USE ONLY FILED ALAMEDA COUNTY MAR 16 2015 Exec. Off/Clerk <i>[Signature]</i> BY FAX
SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA STREET ADDRESS: 24405 Amador Street MAILING ADDRESS: CITY AND ZIP CODE: Hayward, CA 94544 BRANCH NAME: Hayward Hall of Justice		
PLAINTIFF: ANDREW P. BANDUCCI DEFENDANT: KAISER FOUNDATION HEALTH PLAN, INC., a California non-profit public benefit corporation; <input checked="" type="checkbox"/> DOES 1 TO 50 (See Additional Parties Attachment)		
COMPLAINT—Personal Injury, Property Damage, Wrongful Death <input type="checkbox"/> AMENDED (Number): Type (check all that apply): <input type="checkbox"/> MOTOR VEHICLE <input checked="" type="checkbox"/> OTHER (specify): <input type="checkbox"/> Property Damage <input type="checkbox"/> Wrongful Death <input checked="" type="checkbox"/> Personal Injury <input type="checkbox"/> Other Damages (specify): Jurisdiction (check all that apply): <input type="checkbox"/> ACTION IS A LIMITED CIVIL CASE Amount demanded <input type="checkbox"/> does not exceed \$10,000 <input type="checkbox"/> exceeds \$10,000, but does not exceed \$25,000 <input checked="" type="checkbox"/> ACTION IS AN UNLIMITED CIVIL CASE (exceeds \$25,000) <input type="checkbox"/> ACTION IS RECLASSIFIED by this amended complaint <input type="checkbox"/> from limited to unlimited <input type="checkbox"/> from unlimited to limited		
		CASE NUMBER: AG 15 76 25 37

1. Plaintiff (name or names): ANDREW P. BANDUCCI
alleges causes of action against defendant (name or names):
Defendants, and each of them.
2. This pleading, including attachments and exhibits, consists of the following number of pages:
3. Each plaintiff named above is a competent adult
a. ☐ except plaintiff (name):
 - (1) ☐ a corporation qualified to do business in California
 - (2) ☐ an unincorporated entity (describe):
 - (3) ☐ a public entity (describe):
 - (4) ☐ a minor ☐ an adult
 - (a) ☐ for whom a guardian or conservator of the estate or a guardian ad litem has been appointed
 - (b) ☐ other (specify):
 - (5) ☐ other (specify):
- b. ☐ except plaintiff (name):
 - (1) ☐ a corporation qualified to do business in California
 - (2) ☐ an unincorporated entity (describe):
 - (3) ☐ a public entity (describe):
 - (4) ☐ a minor ☐ an adult
 - (a) ☐ for whom a guardian or conservator of the estate or a guardian ad litem has been appointed
 - (b) ☐ other (specify):
 - (5) ☐ other (specify):

☐ Information about additional plaintiffs who are not competent adults is shown in Attachment 3.

ATTACHMENT TO COMPLAINT

ALAMEDA COUNTY SUPERIOR COURT

ANDREW P. BANDUCCI v. KAISER FOUNDATION HEALTH PLAN, INC., et al.

Additional defendant(s):

ORACLE CORPORATION, a California corporation; and DOES 1 to 50,

Courthouse News Service

SHORT TITLE:

BANDUCCI v. KAISER

CASE NUMBER:

4. ☐ Plaintiff (name):

is doing business under the fictitious name (specify):

and has complied with the fictitious business name laws.

5. Each defendant named above is a natural person

a. ☒ except defendant (name): (See Attachment)(1) ☐ a business organization, form unknown(2) ☐ a corporation(3) ☐ an unincorporated entity (describe):(4) ☐ a public entity (describe):(5) ☒ other (specify):

a California non-profit public benefit corporation

b. ☒ except defendant (name): ORACLE CORP.(1) ☐ a business organization, form unknown(2) ☒ a corporation(3) ☐ an unincorporated entity (describe):(4) ☐ a public entity (describe):(5) ☐ other (specify):c. ☐ except defendant (name):(1) ☐ a business organization, form unknown(2) ☐ a corporation(3) ☐ an unincorporated entity (describe):(4) ☐ a public entity (describe):(5) ☐ other (specify):d. ☐ except defendant (name):(1) ☐ a business organization, form unknown(2) ☐ a corporation(3) ☐ an unincorporated entity (describe):(4) ☐ a public entity (describe):(5) ☐ other (specify):☐ Information about additional defendants who are not natural persons is contained in Attachment 5.

6. The true names of defendants sued as Does are unknown to plaintiff.

a. ☒ Doe defendants (specify Doe numbers): 1 to 50 were the agents or employees of other named defendants and acted within the scope of that agency or employment.b. ☒ Doe defendants (specify Doe numbers): 1 to 50 are persons whose capacities are unknown to plaintiff.7. ☐ Defendants who are joined under Code of Civil Procedure section 382 are (names):

8. This court is the proper court because

a. ☐ at least one defendant now resides in its jurisdictional area.b. ☐ the principal place of business of a defendant corporation or unincorporated association is in its jurisdictional area.c. ☒ injury to person or damage to personal property occurred in its jurisdictional area.d. ☐ other (specify):9. ☐ Plaintiff is required to comply with a claims statute, anda. ☐ has complied with applicable claims statutes, orb. ☐ is excused from complying because (specify):

SHORT TITLE: BANDUCCI v. KAISER	CASE NUMBER:
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ATTACHMENT (Number): 5*(This Attachment may be used with any Judicial Council form.)*

5. Each defendant named above is a natural person

a. except defendant (name): KAISER FOUNDATION HEALTH PLAN, INC., a California non-profit public benefit corporation

Courthouse News Service

(If the item that this Attachment concerns is made under penalty of perjury, all statements in this Attachment are made under penalty of perjury.)

Page 4 of *(Add pages as required)*

SHORT TITLE:

BANDUCCI v. KAISER

CASE NUMBER:

10. The following causes of action are attached and the statements above apply to each (each complaint must have one or more causes of action attached):

- a. ☐ Motor Vehicle
- b. ☒ General Negligence
- c. ☐ Intentional Tort
- d. ☐ Products Liability
- e. ☒ Premises Liability
- f. ☐ Other (specify):

11. Plaintiff has suffered

- a. ☒ wage loss
- b. ☐ loss of use of property
- c. ☒ hospital and medical expenses
- d. ☒ general damage
- e. ☐ property damage
- f. ☒ loss of earning capacity
- g. ☒ other damage (specify):

Pre and post judgment interest.

12. ☐ The damages claimed for wrongful death and the relationships of plaintiff to the deceased are

- a. ☐ listed in Attachment 12.
- b. ☐ as follows:

13. The relief sought in this complaint is within the jurisdiction of this court.

14. Plaintiff prays for judgment for costs of suit, for such relief as is fair, just, and equitable; and for

- a. (1) ☒ compensatory damages
- (2) ☐ punitive damages

The amount of damages is (in cases for personal injury or wrongful death, you must check (1)):

- (1) ☒ according to proof
- (2) ☐ in the amount of: \$

15. ☐ The paragraphs of this complaint alleged on information and belief are as follows (specify paragraph numbers):

Date: March 13, 2015

DAN L. RAINSBURY

(TYPE OR PRINT NAME)



(SIGNATURE OF PLAINTIFF OR ATTORNEY)

SHORT TITLE:
BANDUCCI v. KAISER

CASE NUMBER:

ONE

(number)

CAUSE OF ACTION—General NegligencePage 6ATTACHMENT TO ☒ Complaint ☐ Cross - Complaint

(Use a separate cause of action form for each cause of action.)

GN-1. Plaintiff (name): ANDREW P. BANDUCCI

alleges that defendant (name): KAISER FOUNDATION HEALTH PLAN, INC.; ORACLE CORP

☒ Does 1 to 50

was the legal (proximate) cause of damages to plaintiff. By the following acts or omissions to act, defendant negligently caused the damage to plaintiff

on (date): or about 3/27/2013

at (place): 5820 Owens Drive, Pleasanton, CA 94588, County of Alameda

(description of reasons for liability):

Andrew Banducci is an HVAC construction technician and employee of Matrix H.G., Inc. ("Matrix"). Matrix was hired by Kaiser Permanente to complete an "O" ring retrofit project throughout an office building located at 5820 Owens Drive, Pleasanton, CA 94588 (Building E). On March 27, 2013 Mr. Banducci was replacing "O" ring gaskets in a heating/cooling system at a specific location in Building E known as "VAV 23."

As Mr. Banducci worked, two pipes suddenly separated at the junction of a 5/8" copper line and a live 3" main hot water line. When the weld broke, 150 degree pressurized water sprayed onto Mr. Banducci's hands, arms and neck which caused second and third degree burns.

The incident was investigated thoroughly by OSHA as well as the involved companies. During the investigation it was determined that the broken weld was below industry standards and not properly "seated" into the "T" fitting which made the weld susceptible to failure. Specifically, the solder depth was only .23" but was supposed to be at least .69" per relevant regulations.

Plaintiff alleges that the property owner, Kaiser Permanente, knew or should have known of a concealed, pre-existing hazardous condition (pipes vulnerable to failure due to faulty welds) on its premises and failed to warn Mr. Banducci or his employer about this hazard prior to Mr. Banducci commencing his work. Mr. Banducci further alleges that he did not know and could not have reasonably ascertained the hazard prior to his injury.

Plaintiff also alleges that the damages occurred as a result of defendants' negligence in installing, constructing, maintaining or repairing the faulty weld which caused plaintiff's injuries.

The negligence described above caused significant damages to plaintiff including over \$58,000 paid to date for medical treatment. Mr. Banducci also suffered permanent scarring and lost income as a result of his injuries.

SHORT TITLE:
BANDUCCI v. KAISER

CASE NUMBER:

Two

(number)

CAUSE OF ACTION—Premises Liability

Page 7

ATTACHMENT TO ☒ Complaint ☐ Cross - Complaint

(Use a separate cause of action form for each cause of action.)

Prem.L-1. Plaintiff (name): ANDREW P. BANDUCCI

alleges the acts of defendants were the legal (proximate) cause of damages to plaintiff.

On (date): or about 3/27/2013 plaintiff was injured on the following premises in the following

fashion (description of premises and circumstances of injury):

See Attachment

Prem.L-2. ☒ **Count One—Negligence** The defendants who negligently owned, maintained, managed and operated the described premises were (names):
KAISER FOUNDATION HEALTH PLAN, INC.; ORACLE CORPORATION

☒ Does 1 to 50

Prem.L-3. ☒ **Count Two—Willful Failure to Warn** [Civil Code section 846] The defendant owners who willfully or maliciously failed to guard or warn against a dangerous condition, use, structure, or activity were (names):
KAISER FOUNDATION HEALTH PLAN, INC.; ORACLE CORPORATION

☒ Does 1 to 50

Plaintiff, a recreational user, was ☒ an invited guest ☐ a paying guest.

Prem.L-4. ☐ **Count Three—Dangerous Condition of Public Property** The defendants who owned public property on which a dangerous condition existed were (names):

☐ Does to

a. ☐ The defendant public entity had ☐ actual ☐ constructive notice of the existence of the dangerous condition in sufficient time prior to the injury to have corrected it.

b. ☐ The condition was created by employees of the defendant public entity.

Prem.L-5. a. ☐ **Allegations about Other Defendants** The defendants who were the agents and employees of the other defendants and acted within the scope of the agency were (names):

☐ Does to

b. ☐ The defendants who are liable to plaintiffs for other reasons and the reasons for their liability are ☐ described in attachment Prem.L-5.b ☐ as follows (names):

SHORT TITLE:

BANDUCCI v. KAISER

CASE NUMBER:

ATTACHMENT (Number): Prem.L-1

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(Add pages as required)