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FILED
ALAMEDA COUNTY

JAN 15 2016

CLERK OF THE SUPERIOR COURT
 By Monica J. [Signature] Deputy

Attorneys for Plaintiffs,
 KRISTINA LUNDSTROM
 and GARY LUNDSTROM

**SUPERIOR COURT OF THE STATE OF CALIFORNIA, IN AND
 FOR THE COUNTY OF ALAMEDA, ^{Hayward} FREMONT HALL OF JUSTICE**

KRISTINA LUNDSTROM and GARY
 LUNDSTROM,

Case No.: **HG16800283**

Plaintiffs,

CIVIL COMPLAINT

vs.

FREMONT HOSPITAL, an unknown form of
 entity; POORYI S., aka POORVI S.; VASEEP
 S. KAHLON, M.D.; KAISER PERMANENTE
 REDWOOD CITY MEDICAL CENTER;
 KAISER PERMANENTE; THE
 PERMANENTE MEDICAL GROUP,
 INC.; KAISER FOUNDATION HOSPITALS;
 and DOES 1 through 40, Inclusive,

[Jury Demand]

Defendants.

Plaintiffs, KRISTINA LUNDSTROM (hereinafter referred to as "Plaintiff" or
 "Plaintiffs"), files their causes of action against defendants, Fremont HOSPITAL;
 POORYI S., aka POORVI S.; VASEEP S. KAHLON, M.D.; KAISER
 PERMANENTE REDWOOD CITY MEDICAL CENTER; KAISER
 PERMANENTE; THE PERMANENTE MEDICAL GROUP, INC.; KAISER
 FOUNDATION HOSPITALS; and DOES 1 through 40, Inclusive (hereinafter
 collectively referred to as "DEFENDANTS"); and would show unto the Court the
 following:

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I.

JURISDICTION AND VENUE

1. Venue with regard to this action is proper in that the injuries and damages sustained by Plaintiff occurred within the City of Fremont, County of Alameda, State of California.

2. Plaintiff, KRISTINA LUNDSTROM, is, and at all times herein mentioned was, a residents of the City of Redwood City, County of San Mateo County, State of California.

3. Plaintiff, GARY LUNDSTROM, is, and at all times herein mentioned was, a residents of the City of Redwood City, County of San Mateo County, State of California.

4. Plaintiff, GARY LUNDSTROM and KRISTINA LUNDSTROM, are, and at all times herein mentioned were, husband and wife.

II.

THE PARTIES

5. Plaintiffs are informed and believe and thereupon allege that:

a) Defendants, Fremont HOSPITAL, an unknown form of entity, and DOES 1 through 5, and each of them, are, and were, operating in the State of California, as subsidiaries of California corporations, or other forms of business entities, duly organized, licensed and existing under the laws of the State of California, licensed to do business in the State of California, and are and were doing business in the City of Fremont, County of Alameda. Plaintiffs pray leave of Court to amend and/or supplement this Complaint to include the exact form of defendant's public or business entity when ascertained, or to prove same at time of trial.

b) Defendants, POORYI S., aka POORVI S., and DOES 6 through 10, and each of them, are, and were, residents of the City of Fremont, County of Alameda, State of California. Plaintiffs pray leave of Court to amend and/or supplement this Complaint to include the exact form of name, or to prove same at

1 time of trial.

2 c) Defendants, VASEEP S. KAHLON, M.D., and DOES 11 through
3 15, and each of them, are, and were, residents of the City of Fremont, County of
4 Alameda, State of California. Plaintiffs pray leave of Court to amend and/or
5 supplement this Complaint to include the exact form of name, or to prove same at
6 time of trial.

7 d) Defendants, KAISER PERMANENTE REDWOOD CITY
8 MEDICAL CENTER and DOES 16 through 20, and each of them; KAISER
9 PERMANENTE and DOES 21 through 25, and each of them; THE PERMANENTE
10 MEDICAL GROUP, INC. and DOES 26 through 30, and each of them; KAISER
11 FOUNDATION HOSPITALS; and DOES 31 through 40, and each of them, are, and
12 were, operating in the State of California, as subsidiaries of California corporations,
13 or other forms of business entities, duly organized, licensed and existing under the
14 laws of the State of California, licensed to do business in the State of California, and
15 are and were doing business in the City of Redwood City, County of San Mateo.
16 Plaintiffs pray leave of Court to amend and/or supplement this Complaint to include
17 the exact form of defendant's public or business entity when ascertained, or to prove
18 same at time of trial.

19 6. The true names and capacities, whether individual, corporate, associate,
20 partnership, agent, employee or otherwise of defendants herein named as DOES 1
21 through 40, inclusive, and each of them, are unknown to Plaintiffs, who therefore
22 sues said defendants, and each of them, by such fictitious names. Plaintiffs will
23 amend this Complaint to allege their true names and capacities when they have been
24 ascertained. Plaintiffs are informed and believe, and based thereupon alleges, that
25 each such fictitiously named defendant is responsible in some manner for the
26 occurrences herein alleged, and that Plaintiffs' injuries and damages, as herein
27 alleged, were proximately caused by said defendants, and each of them.

28 /////

1 7. Plaintiffs are informed and believe, and based thereupon alleges, that at
2 all times herein mentioned, DEFENDANTS, and each of them, were the agents,
3 servants, employees, joint venturers, contractors, partners, lessors, lessees, or
4 subsidiaries of their remaining co-defendants, and each of them, and as such, were
5 acting within the scope, course, and authority of such agency, employment, joint
6 venture and/or partnership, and with the permission, consent, authorization and
7 ratification of the remaining co-defendants and each of them.

8 8. Plaintiffs, GARY LUNDSTROM and KRISTINA LUNDSTROM, are
9 an otherwise qualified individuals with a disability as provided in the Americans with
10 Disabilities Act of 1990, 42 USC §12102 ("Americans with Disabilities Act"),
11 Section 504 of the Rehabilitation Act, 29 USC § 705 ("Rehabilitation Act"),
12 California Civil Code § 51, et seq. ("Unruh Civil Rights Act"), § 52, et. seq., and §
13 54, et seq. ("California Disabled Persons Act"), California Government Code §§
14 12926, et. seq., 12926.1, et. seq., and other statutory measures which refer to the
15 protection of the rights of "physically disabled persons."

16 9. Plaintiffs visited the places of public accommodation and/or public
17 accommodations/medical services/general acute care hospital/licensed general acute
18 care hospital, owned and operated by DEFENDANTS for the purpose of availing
19 herself and himself of, and to obtain the full and equal access to public programs,
20 activities, or services, goods, services, facilities, privileges, advantages, or
21 accommodations operated and/or owned by DEFENDANTS, and each of them. At
22 all times stated herein, Plaintiffs acted as a private attorney general by and through
23 her/his attorneys to enforce the Code of Federal Regulations and Title 24 of the
24 California Code of Regulations, and like statutes for the protection of disabled
25 persons, to ensure the DEFENDANTS' facilities, properties, business establishments
26 and services are accessible not only for herself; but for other persons with disabilities.

27 10. Plaintiffs are informed and believes and thereon alleges that the
28 DEFENDANTS, and each of them, provided Plaintiffs with public accommodations,

1 public services and/or medical services in accordance with the Americans with
2 Disabilities Act, and California Civil Code § 51, et. seq., and the California Health
3 and Safety Code.

4 11. Plaintiffs are informed and believes and thereon alleges that the
5 DEFENDANTS, and each of them, at all times relevant to this action, were recipients
6 of funding and/or financial assistance, including but not limited to funding from
7 Medicare, Medi-Cal (Medicaid) and County Medical Services (a grant of federal and
8 state monies), from the United States of America and the State of California within
9 the meaning the Rehabilitation Act and California Government Code § 11135, et. seq.

10 12. Plaintiffs are informed and believes and thereon alleges that the
11 DEFENDANTS, and each of them, at all times relevant to this action, were recipients
12 of funding and/or financial assistance, including but not limited to funding from
13 Medicare, Medi-Cal and County Medical Services, from the United States of America
14 and the State of California within the meaning of various statutes written for the
15 benefit of disabled persons, including, but not limited to the United States Code, the
16 Code of Federal Regulations, the California Civil Code and the California
17 Government Code, and the regulations promulgated for each such code.

18 13. Plaintiffs are informed and believe and thereon alleges that the
19 DEFENDANTS, and each of them, have signed a written agreement and/or
20 agreements with the United States of America, the State of California, and/or their
21 authorized agents, whereby DEFENDANTS, and each of them, agree to comply with
22 various statutes written for the benefit of disabled persons, including, but not limited
23 to the Code of Federal Regulations, and the California Government Code. Plaintiffs
24 are further informed and believe, and thereon alleges, that the DEFENDANTS, and
25 each of them, have written reporting requirements pursuant to said agreement and/or
26 agreements with the United States of America, the State of California, and/or their
27 authorized agents, whereby DEFENDANTS, and each of them, agree to comply with
28 various statutes written for the benefit of deaf, hearing impaired and other disabled

1 persons, including, but not limited to the Code of Federal Regulations, the California
2 Health and Safety Code, the California Civil Code and the California Government
3 Code.

4 III.

5 FACTS

6 14. Plaintiffs, GARY LUNDSTROM and KRISTINA LUNDSTROM, are
7 deaf individuals who employs American Sign Language ("ASL") and other auxiliary
8 aids and services to effectively communicate. Moreover, Plaintiffs have had a history
9 of or has been classified as having a physical impairment, as required by 42 USC
10 §12102(2)(A), California Government Code §§ 12926, 12926.1, 11135, California
11 Health and Safety Code, and related statues, laws, regulations and ordinances
12 defining a disabled person.

13 15. On, before and after October 20, 2014, and continuing to the present
14 date, Plaintiffs, GARY LUNDSTROM and KRISTINA LUNDSTROM, were invitees
15 and guest of and upon the DEFENDANTS' public accommodations and licensed
16 general acute care hospital and acute care skilled health care facility. Plaintiff,
17 KRISTINA LUNDSTROM, was hospitalized in the DEFENDANTS' public
18 accommodations and hospital on each of the following dates; October 20, 2014,
19 through October 23, 2014. Plaintiff, GARY LUNDSTROM, visited his wife during
20 her hospitalization. At all times and at the place described herein, Plaintiffs were
21 denied full and equal access to public programs, activities, advantages, facilities,
22 privileges, or services and owned and/or operated by the DEFENDANTS, and each
23 of them, because the public programs, activities, advantages, facilities, privileges, or
24 services were inaccessible to members of the disabled community who use or employ
25 ASL and other auxiliary aids and services to effectively communicate. Said denial
26 of full and equal access occurred because of barriers which included, but were not
27 limited to, DEFENDANTS' failure to provide required sign language interpreters and
28 other auxiliary aids and services, upon Plaintiff's repeated requests, to effectively

1 communicate with her treating health care providers which rendered the public
2 programs, activities, advantages, facilities, privileges, or services not readily
3 accessible to Plaintiff and to persons with disabilities. Moreover, DEFENDANTS,
4 and each of them, refused to provide Plaintiffs with an ASL interpreter as required
5 by law. Each and every date listed above is a particular occasion giving rise to her
6 causes of action on said date or dates, including her/his claims for violations of
7 her/his legally protected interests, damages, injuries, loss or harm.

8 16. At all times stated herein, the existence of said barriers at and on
9 DEFENDANTS' public accommodations and/or hospital and places of public
10 accommodation evidenced "actual notice" of DEFENDANTS' intent not to comply
11 with the Americans with Disabilities Act, California Government Code § 11135, and
12 California Civil Code §§ 51, et. seq., 54 et. seq., either then, now, or in the future.

13 17. As a result of DEFENDANTS' failure to remove said barriers, and to
14 ensure her/his full and equal access to public programs, activities, advantages,
15 facilities, privileges, or services, Plaintiffs were caused to be denied required sign
16 language interpreters and other auxiliary aids and services, upon repeated requests,
17 to effectively communicate with her treating health care providers thereby
18 unnecessarily prolonging her hospitalization, compelling her to incur unnecessary
19 medical expenses, and for them both to suffer physical and emotional injuries as a
20 direct result of the above mentioned incident, thus, causing they each humiliation,
21 fear, fright, anger, disappointment, embarrassment, exclusion, degradation and overall
22 emotional distress. The absence of accessible features and/or the existence of
23 inaccessible features caused Plaintiffs physical injury as detailed above in their
24 attempt to overcome said barriers, and to gain full and equal access to public
25 programs, activities, advantages, facilities, privileges, or services detailed herein.

26 18. The wrongful conduct of DEFENDANTS, did cause great and
27 irreparable injury to Plaintiffs in that DEFENDANTS' failure to provide full and
28 equal access to individuals with disabilities, including Plaintiffs, denies Plaintiffs

1 access to and use of the subject facilities, business establishment, services and
2 medical services in violation of the American with Disabilities Act, California Civil
3 Code §§ 51, et.seq., 54 et. seq., and/or other applicable Codes, statutes and/or
4 regulations. At all times stated herein, the existence of said barriers at
5 DEFENDANTS' places of public accommodation and in the provision of public
6 accommodations/medical services evidenced "actual notice" of DEFENDANTS'
7 intent not to comply with the Americans with Disabilities Act, California Civil Code
8 §§ 51, et.seq., 54 et. seq., and other similar rules, ordinances, regulations, statutes and
9 requirements, either then, now, or in the future.

10 19. DEFENDANTS were required to remove said barriers and barriers to
11 ensure full and equal access to public programs, activities, or services at their existing
12 facilities and/or services, including the site of the subject incident, as detailed herein.

13 20. As a result of DEFENDANTS' conduct and Plaintiffs' resulting injuries,
14 Plaintiffs suffered exclusion from participation in the economic and social life of this
15 state.

16 IV.

17 FIRST CAUSE OF ACTION

18 (ALL PLAINTIFFS v. ALL DEFENDANTS, and DOES 1-40;
19 VIOLATION OF CALIFORNIA CIVIL CODE)

20 21. Plaintiffs re-allege and incorporates by reference each and every
21 allegation contained in every paragraph herein, as though set forth fully herein.

22 22. Based on the facts plead herein above and elsewhere in this Complaint,
23 DEFENDANTS did, and continue to, discriminate against Plaintiffs and persons
24 similarly situated by denying disabled persons full and equal access to and enjoyment
25 of the subject facilities and of DEFENDANTS' goods, services, facilities, privileges,
26 advantages or accommodations within a public accommodation, in violation of 42
27 U.S.C. § 12182(a), 28 C.F.R. §§ 303(a)-(f), 42 U.S.C. § 12182(b)(2)(A)(iv), 42
28 U.S.C. § 12183(a)(1), 42 U.S.C. § 12183(a)(2), 42 U.S.C. § 12182(b)(2)(A)(ii),

1 California Civil Code §§ 51, et seq., 52, et seq. and/or sec. 54, et seq., and more
2 specifically at Civil Code §§ 51(f), 54(c), 54.1(a)(3) and (d), at her election.

3 23. DEFENDANTS' actions and inaction constitute a violation of Plaintiffs'
4 rights under 42 U.S.C. § 12182(a), 28 C.F.R. §§ 303(a)-(f), in so far as
5 DEFENDANTS failed to provide Plaintiff with "auxiliary aids" to ensure "effective
6 communication" as detailed above and incorporated into California Civil Code §§ 51,
7 et seq., 52, et seq. and/or 54, et seq., at their election, in detailed herein;

8 a) Defendants failed to provide Plaintiffs with an ASL interpreter,
9 as required by law, and therefore they are entitled to injunctive relief remedying all
10 such violations of California access laws and standards;
11 Plaintiff is informed and believes, and based thereupon alleges, that pursuant to
12 Government Code § 12926.1(a) and (b), the State of California sought to clarify
13 the means of providing "effective communication", after the passage of the
14 Americans with Disabilities Act, to mandate that DEFENDANTS offer effective
15 methods of making aurally delivered materials available to Plaintiff regarding her
16 right to obtain an interpreter, and provide her with an ASL interpreter.

17 24. Plaintiffs are informed and believes that any defendant that fails to
18 provide an ASL interpreter violates 42 U.S.C. § 12182(a), 28 C.F.R. §§ 303(a)-(f).

19 25. At no time during the Plaintiff's admission to the DEFENDANTS'
20 emergency room, licensed general acute care hospital, and/or business establishment,
21 did Plaintiffs or their (non-deaf) family members, who also complained to hospital
22 staff, charge nurses and DEFENDANTS' managers and supervisory agents about the
23 lack of an ASL interpreter on Plaintiffs' behalf, learn of the protections afforded to
24 Plaintiff by Health and Safety Code § 1259 to effectuate "effective communication"
25 with deaf persons.

26 26. The failure to comply with 42 U.S.C. § 12182(a), and 28 C.F.R. §§
27 303(a)-(f), was an unlawful invasion of Plaintiff's legally protected right to "full and
28 equal" access to the DEFENDANTS' medical facility and business establishment.

1 27. At all times herein, DEFENDANTS, were under a legal duty to review
2 existing policies regarding interpreters, and to annually review and adopt a policy for
3 providing language interpreters to patients with language or communication barriers
4 including the deaf and/or hard of hearing.

5 28. Moreover, Plaintiffs allege, based upon information and belief, that
6 DEFENDANTS' active failure or passive inaction to timely provide Plaintiffs with
7 an ASL interpreter, individually and both collectively, manifests a deliberate
8 indifference rising to the level of an intentional act to discriminate against Plaintiff
9 and persons similarly situated by denying disabled persons full and equal access to
10 and enjoyment of the subject facilities and of DEFENDANTS' goods, services,
11 facilities, privileges, advantages or accommodations within a public accommodation,
12 in violation of California Civil Code §§ 51, et seq., 52, et seq. and/or sec. 54, et seq.,
13 at her election.

14 29. Based upon the above and forgoing, Plaintiffs allege that there are,
15 therefore, entitled to injunctive relief remedying all such violations of California
16 access laws and standards.

17 30. In addition, at their election, Plaintiffs are entitled to damages for each
18 particular occasion they encountered a violation under California Civil Code § 54.3
19 for each offense. The amount of damages suffered by Plaintiffs is not yet determined.
20 When the amount is ascertained, they will ask the Court for leave to amend this
21 complaint to reflect this amount. Plaintiff is also entitled to attorneys' fees and costs.

22 31. The actions of DEFENDANTS were and are in violation of the Unruh
23 Civil Rights Act, California Civil Code §§ 51 et seq. and, therefore, Plaintiffs are
24 entitled to injunctive relief remedying all such violations of California access laws
25 and standards. In addition, they are entitled to damages for each particular occasion
26 they encountered a violation under California Civil Code Section 52(a) for each
27 offense. The amount of damages suffered by Plaintiff is not yet determined. When
28 the amount is ascertained, they will ask the Court for leave to amend this complaint

1 to reflect this amount. Plaintiffs are also entitled to attorneys' fees and costs.

2 32. Plaintiffs seeks all of the relief available to them under Civil Code §§ 51,
3 52 et seq., and/or, at their election, §§ 54 et. seq., including, 54.1, 54.3, 55, 55.1 and
4 any other Civil Code Sections which provide relief for the discrimination suffered by
5 Plaintiff, including damages and attorneys fees.

6 V.

7 **SECOND CAUSE OF ACTION**

8 **(ALL PLAINTIFFS v. ALL DEFENDANTS v. ALL DEFENDANTS,
9 and DOES 1-40; NEGLIGENCE PER SE)**

10 33. Plaintiffs re-alleges and incorporates by reference each and every
11 allegation contained in every paragraph herein, as though set forth fully herein.

12 34. At all times relevant hereto, there was in effect the Americans with
13 Disabilities Act, and California Civil Code §§ 51, et.seq., 54 et. seq., all of which
14 require that places of public accommodation and facilities provide goods, facilities,
15 advantages, benefits and services to people with disabilities which are equal to, and
16 are not inferior to, the goods, facilities, advantages, benefits and services provided to
17 patrons who are not physically disabled.

18 35. DEFENDANTS, owed Plaintiffs a mandatory statutory duty to provide
19 her full and equal access to goods, accommodations, advantages, facilities, privileges
20 and services of all business establishments. Plaintiffs are members of the class which
21 these statutes are designed to protect.

22 36. The DEFENDANTS' acts or omissions as alleged herein are a violation
23 of statutory requirements including, but not limited to, Americans with Disabilities
24 Act, and California Civil Code §§ 51, et.seq., 54 et. seq., and public policy, and
25 therefore constitute negligence per se.

26 37. As a proximate result of the action or inaction of DEFENDANTS,
27 Plaintiffs suffered the harm these statutes are designed to prevent, to wit, exclusion
28 from and/or unequal access to goods, services and facilities provided by

1 DEFENDANTS to the general public, as well as other injuries.

2 38. Plaintiffs seek special and general damages and statutory damages
3 according to proof, as described more fully herein above.

4 VI.

5 THIRD CAUSE OF ACTION

6 (ALL PLAINTIFFS v. ALL DEFENDANTS v. ALL DEFENDANTS;
7 and DOES 1 through 40 - NEGLIGENCE)

8 39. Plaintiffs re-alleges and incorporates by reference each and every
9 allegation contained in every paragraph herein, as though set forth fully herein.

10 40. DEFENDANTS, had a duty to exercise a duty of due care, as set forth
11 more specifically above.

12 41. DEFENDANTS, failed to exercise their duty of due care, as set forth
13 more specifically above.

14 42. As an actual and proximate result of DEFENDANTS, failure to exercise
15 their duty of due care, Plaintiffs suffered general and special damages, as described
16 more fully herein above.

17 VII.

18 FOURTH CAUSE OF ACTION

19 (ALL PLAINTIFFS v. ALL DEFENDANTS, and DOES 1-40;
20 NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS)

21 43. Plaintiffs re-alleges and incorporates by reference each and every
22 allegation contained in every paragraph herein, as though set forth fully herein.

23 44. At all times herein mentioned, Plaintiffs, was and is, the spouse of the
24 other Plaintiff.

25 45. Plaintiffs while in close proximity, near their spouse,
26 contemporaneously, sensorially and simultaneously perceived the injury causing
27 events to his/her spouse directly and proximately caused by the conduct of the
28 Defendants and DOES 1 through 40, and each of them, as herein alleged, and as a
result thereof, has suffered severe and debilitating injuries and damages, as

1 hereinafter alleged.

2 46. As a direct and proximate result of the negligence and carelessness of
3 Defendants, and DOES 1 through 40, and each of them, as hereinabove alleged,
4 Plaintiffs were hurt and injured in their health, strength and activity, in all parts of
5 their bodies, and sustained shock and injury to their nervous system and person, all
6 of which injuries have caused and continue to cause Plaintiff great mental, physical
7 and nervous anxiety, and pain and suffering. Plaintiffs are informed and believe, and
8 based thereupon alleges, that said injuries will result in some permanent disability to
9 Plaintiffs, all to their general damage, in an amount to be proven at time of trial.
10 Plaintiffs are informed and believe, and based thereupon alleges, that the amount in
11 controversy herein is not in excess of Twenty-Five Thousand Dollars (\$25,000.00)
12 and is within the jurisdiction of this Court.

13 47. As a further direct and proximate result of the negligence and carelessness
14 of Defendants, and DOES 1 through 40, and each of them, as hereinabove alleged,
15 Plaintiffs, were required to, and did, employ physicians, and therapists to treat and
16 care for their injuries and did sustain an expense for said medical treatment and care,
17 medicines and for other and further medical and incidental care, for which Plaintiffs
18 have incurred liability in an amount as yet unascertained. Plaintiffs pray leave of
19 Court to amend and/or supplement this Complaint to insert the actual and reasonable
20 value of all medical and incidental expenses when same have been ascertained, or to
21 prove same at time of trial.

22 48. Plaintiffs are informed and believe, and based thereupon alleges, that as
23 a further direct and proximate result of the negligence and carelessness of
24 Defendants, and DOES 1 through 40, and each of them, as hereinabove alleged, they
25 will necessarily require additional medical care, hospitalization, medicines, and other
26 and further medical attention in the future and will incur liability therefrom.
27 Plaintiffs, pray leave of Court to amend and/or supplement this Complaint to insert
28 the actual and reasonable value of all said additional medical and incidental expenses

1 when same have been ascertained, or to prove same at time of trial.

2 **VIII.**

3 **FIFTH CAUSE OF ACTION**

4 **(ALL PLAINTIFFS v. ALL DEFENDANTS; and DOES 1 through 40;**
5 **LOSS OF CONSORTIUM)**

6 49. Plaintiffs re-alleges and incorporates by reference each and every
7 allegation contained in every paragraph herein, as though set forth fully herein.

8 50. At all times herein mentioned, Plaintiffs were, and are, husband and
9 wife.

10 51. Prior to the injuries proximately caused by the negligence and
11 carelessness of Defendants, and each of them, as herein alleged, Plaintiffs were able
12 to and did perform their duties as a spouse. Subsequent to said injuries and as a
13 proximate result thereof, Plaintiffs have been unable to perform their necessary duties
14 as a spouse, and the work and services usually performed in the care, maintenance
15 and management of the family home, and they will be unable to perform such work,
16 services and duties in the future. By reason thereof, Plaintiffs have been, and will be
17 permanently deprived of the consortium of their spouse, including but not limited to,
18 the performance of their necessary duties, obligations and responsibilities, and the
19 services, love, companionship, comfort, affection, society, sexual relations and solace
20 of Plaintiffs, all to their damage in an amount in excess of Twenty-Five Thousand
21 Dollars (\$25,000.00) within the jurisdiction of this Court and to be determined at time
22 of trial.

23 **IX.**

24 **SIXTH CAUSE OF ACTION**

25 **(ALL PLAINTIFFS v. ALL DEFENDANTS; and DOES 1 through 40 –**
26 **UNFAIR BUSINESS PRACTICES (CALIFORNIA BUSINESS AND**
27 **PROFESSIONS CODE §§ 17200, *et seq.*)**

28 **//////**

1 52. Plaintiffs re-alleges and incorporates by reference each and every
2 allegation contained in every paragraph herein, as though set forth fully herein.

3 53. Plaintiffs are informed and believes, and based thereupon alleges, that
4 beginning at an exact date which is unknown to Plaintiffs, but from at least October
5 20, 2014, and continuing to the present day, DEFENDANTS, have committed
6 unlawful and unfair business practices as defined by Business and Professions Code
7 Sections 17200 *et seq.*, by engaging in the unlawful and unfair business practices set
8 forth below:

- 9 a. Violating disabled access laws of the United States and of the State of
10 California;
11 b. Failing to ensure that communications with Plaintiffs were as effective
12 as communications with non-disabled patients;
13 c. Failing to provide auxiliary aids and services, including a qualified
14 interpreter, and to modify policies and procedures to prevent
15 discrimination against Plaintiffs;
16 d. Failing to establish effective self-evaluations and/or provide notice of
17 Plaintiffs' rights as an individual with a disability under the Americans
18 with Disabilities Act, as detailed herein and above;
19 e. Excluded Plaintiffs from services of the facility and denied Plaintiffs the
20 benefit of those services due to their disabilities.
21

22 54. DEFENDANTS, by their continuous violations of statutes and common
23 law as alleged herein, have engaged in *per se* unlawful business practices constituting
24 unfair competition in violation of Business and Professions Code Sections 17200, *et*
25 *seq.*
26

27 55. As a proximate result of the conduct of DEFENDANTS as described
28 herein, Plaintiffs suffered and continues to suffer irreparable harm.

1. 56. Plaintiffs are informed and believes, and based thereupon alleges that,
2 unless DEFENDANTS, are restrained from doing so, defendants will continue to
3 engage in said unlawful and unfair business practices.

4 57. An action for injunctive relief and restitution against DEFENDANTS,
5 under the Unfair Practices Act is specifically authorized by Business and Professions
6 Code Section 17203.

7 58. Continuing commissions and omissions by the DEFENDANTS, and
8 DOES 1 through 40, and each of them, as alleged above will irreparably harm
9 Plaintiffs for which harm they have no plain, speedy, or adequate remedy at law.

10 X.

11 **JURY DEMAND**

12 59. Plaintiff hereby request a jury trial.

13 WHEREFORE, Plaintiffs, pray for judgment against the DEFENDANTS,
14 and DOES 1 through 40, as follows:

- 15 1. For a declaration that Defendants have violated the disabled access
16 laws of the United States of America and of the State of California;
- 17 2. An order enjoining Defendants from violating the disabled access
18 laws of the United States of America and of the State of California.
- 19 3. For a declaration that Defendants have violated the Rehabilitation
20 Act.
- 21 4. An order enjoining Defendants from violating the Rehabilitation Act.
- 22 5. For a declaration that Defendants have violated California Business &
23 Professions Code §17200 *et seq.*
- 24 6. An order enjoining Defendants from violating California Business &
25 Professions Code §17200 *et seq.*

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- 1 7. That the Court declare the respective rights and duties of
2 Plaintiff and Defendants as to the removal of barriers to
3 access upon and within the Defendants' public
4 accommodations;
- 5 8. An order awarding Plaintiffs actual, special and/or statutory damages
6 for each and every violation of Plaintiffs' civil rights, per each
7 particular occasion, and for restitution including, an award of up to
8 three times the amount of Plaintiffs' actual damages, but not less than
9 \$4,000 per offense in damages, pursuant to the applicable Civil Code
10 Sections including, but not limited to, §§52 and 54.3 for each and
11 every offense of Civil Code §§51 and 54, at her election;
- 12 9. An award of compensatory damages, general damages and
13 non-economic damages, according to proof;
- 14 10. For Plaintiffs' special damages, all in an amount to be
15 proven at trial;
- 16 11. For Plaintiffs' medical and related expenses, past, present and future,
17 all in an amount to be proven at trial;
- 18 12. For Plaintiffs' loss of earnings and earning capacity past, present, and
19 future, and other financial losses, all in an amount to be proven at
20 trial;
- 21 13. For punitive damages, according to proof, as allowed by law;
- 22 14. For Restitution and other equitable relief according to proof;
- 23 15. An order awarding Plaintiffs reasonable attorneys' fees and costs;
- 24 16. Interest as allowed by law; and,
- 25 17. Such other and further relief as the Court deems proper.
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1 DATED: January 14, 2015

LAW OFFICES OF CHARLES S. ROSEMAN
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2
3 By: 

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