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FILED

**Superior Court Of California,
Sacramento**

03/09/2016

amocanu

By _____, Deputy

Case Number:

34-2016-00191452

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA

10 FOR THE COUNTY OF SACRAMENTO

11 DANIEL BUCKLEY, by and through his
12 successor-in-interest, PAM HASKINS;
13 PAM HASKINS, individually; DENNIS
14 BUCKLEY, individually;

15 Plaintiffs,

16 vs.

17 KAISER FOUNDATION HOSPITALS;
18 THE PERMANENTE MEDICAL
19 GROUP, INC.; AZALEA HOLDINGS,
20 LLC dba MCKINLEY PARK CARE
21 CENTER; PLUM HEALTHCARE
22 GROUP, LLC; and DOES 1 through 100,
23 inclusive,

24 Defendants,

25 SANDRA MYLER,

Heir Defendant.

Case No.

**COMPLAINT FOR DAMAGES
ARISING OUT OF THE ABUSE AND
RECKLESS NEGLECT OF AN
ELDER**

1. Elder Abuse (W&I § 15600,
et seq.)
2. Elder Abuse (W&I § 15600,
et seq.)
3. NIED
4. NIED
5. Violation of Patients' Bill Of
Rights
6. Wrongful Death

Plaintiffs allege as follows:

PARTIES

1. Plaintiff Daniel Buckley was at all times material hereto a resident of Sacramento County. At all relevant times, Daniel Buckley was over the age of 65 years old and thus an "elder" within the meaning of Welfare and Institutions Code section 15600, *et seq.* Mr. Buckley suffered untold pain, suffering, injury and death as a result of all named defendants' reckless neglect and abuse.

2. Plaintiff Pam Haskins is the daughter and successor-in-interest to Daniel Buckley. She will comply with Welfare & Institutions Code section 15657.3(d) by filing a successor-in-interest affidavit pursuant to Code of Civil Procedure section 377.32. At all times relevant to this action, Pam Haskins was and is a resident of El Dorado County.

3. Plaintiff Dennis Buckley is the son of Daniel Buckley. At all times relevant to this action, Dennis Buckley was and is a resident of Sacramento County.

4. Heir defendant Sandra Myler is the daughter of Daniel Buckley. At all times relevant to this action, Sandra Myler was and is a resident of Sacramento County.

5. Plaintiffs are ignorant of the true names and capacities of those defendants named as Does 1 through 100 (hereafter "Doe Defendants"), and for that reason have sued these defendants by fictitious names. Plaintiffs are informed and believe on that basis allege that each of the fictitiously named Doe Defendants is in some way liable and legally responsible for the damages and injuries set forth in this complaint. Plaintiffs will seek leave of the Court to amend this complaint to identify these Doe Defendants when their identities are determined.

1 6. At all times mentioned herein, defendant Kaiser Foundation Hospitals was
2 and is in the business of providing acute patient care by and through a network of acute
3 care hospitals operating under a license issued by the California Department of Health
4 Services and similar regulatory agencies in other states across the country.

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6 7. At all times mentioned herein, The Permanente Medical Group, Inc. was and
7 is in the business of providing physician and physician related services to Kaiser members.
8 The Permanente Medical Group, Inc. hires as employees physicians and other health care
9 providers who provide health care services to Kaiser members. The Permanente Medical
10 Group, Inc.'s address is 2025 Morse Avenue, Sacramento, California 95825.

11 8. In this complaint, plaintiffs refer to Kaiser Foundation Hospitals, The
12 Permanente Medical Group, Inc. and Doe Defendants 1-50 collectively as "the Kaiser
13 Defendants." Plaintiffs maintain that each of the Kaiser Defendants played a role in the
14 development, implementation and execution of the plan to maximize profits at the expense
15 of patient care at Kaiser Foundation Hospitals. When plaintiffs use the phrase "the Kaiser
16 Defendants" in this complaint they refer to Kaiser Foundation Hospitals and The
17 Permanente Medical Group, Inc. as if they had individually named each of these
18 defendants.
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20 9. The Kaiser Defendants are engaged in a joint venture such that each of these
21 entities is legally responsible for the wrongful conduct of the other. Specifically, the Kaiser
22 Defendants have combined their property, skill and knowledge with the intent of carrying
23 out a single business undertaking -- to wit, the operation of a hospital in a manner that
24 maximizes profit at the expense of patient care. The entities have overlapping ownership.
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1 Joint control over the businesses exists as detailed in the foregoing paragraphs. The profits
2 and losses of the business are shared and commingled. Given the joint control and
3 operation of the Kaiser Defendants, they constituted a joint venture.

4 10. In addition, the Kaiser Defendants are liable for the wrongdoing of the
5 employees of Kaiser Hospital and employees of The Permanente Medical Group because
6 they acted as aiders and abettors of the hospital's egregious plan to maximize profits at the
7 expense of patient care. Specifically, the Kaiser Defendants were engaged in a plan to
8 maximize profits at the expense of patient care by, among other things, drawing in high
9 acuity patients and then severely understaffing its hospital. The Kaiser Defendants knew
10 that such a plan was substantially likely to result in significant harm to the hospital's
11 vulnerable patients including Daniel Buckley. The Kaiser Defendants gave substantial
12 assistance to this egregious plan by, among other things, controlling the budget that led to
13 the execution of the plan, giving financial incentives to hospital personnel to carry out the
14 plan, and otherwise creating a culture that encouraged and condoned this plan. Each of the
15 Kaiser Defendants' conduct was a substantial factor in causing harm to Mr. Buckley.

16 11. In addition, the Kaiser Defendants are liable for the wrongdoing as to Mr.
17 Buckley because these entities were co-conspirators in an egregious plan to maximize
18 profits at the expense of patient care. Specifically, the Kaiser Defendants were engaged in a
19 plan to maximize profits at the expense of patient care by, among other things, drawing in
20 high acuity patients and then severely understaffing their hospitals. The Kaiser Defendants
21 knew that such a plan was substantially likely to result in significant harm to the Kaiser
22 Morse's vulnerable patients including plaintiff Buckley. The Kaiser Defendants agreed with
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1 the egregious plan described above and intended that it be carried out. Indeed, the Kaiser
2 Defendants gave substantial assistance to this egregious plan by, among other things,
3 controlling the budget that led to the execution of the plan, giving financial incentives to
4 hospital personnel to carry out the plan, and otherwise creating a culture that encouraged
5 and condoned this egregiously dangerous plan. The Kaiser Defendants' conduct was a
6 substantial factor in causing harm to Mr. Buckley.
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8 12. At all times mentioned herein, Azalea Holdings, LLC dba McKinley Park
9 Care Center (hereafter "McKinley Park Care Center") was and is in the business of
10 providing long-term care as a skilled nursing facility as defined in section 1250(c) of the
11 Health and Safety Code and was subject to the requirements of federal and state law. At all
12 times relevant to this action, McKinley Park Care Center did business at 3700 H Street,
13 Sacramento, California 95816. In this complaint, plaintiffs refer to McKinley Park Care
14 Center, Plum Healthcare Group, and the Doe Defendants collectively as the "Plum
15 Defendants." Whenever plaintiffs refer to the "Plum Defendants" they are referring to
16 McKinley Park Care Center, Plum Healthcare Group, and Doe Defendants 51-75 as if they
17 had identified each of them individually. In doing the things alleged in this complaint, the
18 Plum Defendants, and each of them, acted as the agents, servants, employees and alter egos
19 of their co-defendants. The Plum Defendants, and each of them, acted within the course
20 and scope of their agency and employment, and acted with the knowledge, consent and
21 approval of their co-defendants. Their conduct was approved and ratified by their co-
22 defendants.
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1 13. At all times mentioned herein, Plum Healthcare Group, LLC ("Plum
2 Healthcare Group") was and is a corporation that owned, managed, controlled, maintained,
3 or operated McKinley Park Care Center. Plum Healthcare Group is a corporation qualified
4 to do business in, and subject to the jurisdiction of, the Superior Court of California. At all
5 times relevant to this action, Plum Healthcare Group did business at 100 E. San Marcos
6 Boulevard, Suite 200, San Marcos, California 92069.

8 14. At all times mentioned herein, Plum Healthcare Group owned, operated, and
9 controlled McKinley Park Care Center and the other facilities within its chain. Plum
10 Healthcare Group controlled all critical aspects of the operation of McKinley Park Care
11 Center to such a degree that it is directly liable for the wrongdoing that McKinley Park Care
12 Center perpetrated upon Daniel Buckley. Specifically, as further set forth below, Plum
13 Healthcare Group controlled staffing decisions at McKinley Park Care Center; received and
14 controlled all revenues generated by McKinley Park Care Center; knowingly and deliberately
15 understaffed and underfunded McKinley Park Care Center to the detriment of its residents;
16 and, more generally, created the overall plan to maximize profits at the expense of patient
17 care. Part and parcel of Plum Healthcare Group's plan was to cut staffing at its facilities,
18 including McKinley Park Care Center, despite knowing full well that it did not have enough
19 staff to take care of the residents at its facilities, including McKinley Park Care Center.

22 15. Numerous red flags put Plum Healthcare Group on notice of serious
23 problems at their California facilities, including McKinley Park Care Center. Plum
24 Healthcare Group has been the target of multiple civil lawsuits as well as state regulatory
25 actions arising from resident injuries and deaths resulting from its deliberate and habitual

1 understaffing of facilities, in particular Plum Healthcare Group's accepting high acuity
2 residents with insufficient staffing to meet these residents' care needs. Plum Healthcare
3 Group was aware of numerous complaints that the level of staffing was inadequate, and
4 that staff were so overburdened that they could not comply with state or federal mandates
5 or the standard of care. Plum Healthcare Group knew that its facilities, including McKinley
6 Park Care Center, were troubled (inadequate staff, insufficient training, DPH visits, fines,
7 civil lawsuits, staff turnover, etc.), but Plum kept admitting new residents without increasing
8 staffing and hid the problems from prospective families, including Mr. Buckley's. Despite
9 this knowledge, Plum Healthcare Group continued its profit-maximizing strategy and
10 jeopardized resident health and safety because profits were prioritized above resident well-
11 being.
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14 16. In addition to the foregoing direct liability of Plum Healthcare Group,
15 plaintiffs maintain that Plum Healthcare Group is liable for the wrongdoing of McKinley
16 Park Care Center because McKinley Park Care Center is an alter ego of Plum Healthcare
17 Group. In that connection, Plum Healthcare Group is a service organization that performs
18 all services for all Plum facilities, including McKinley Park Care Center. Plum Healthcare
19 Group owns all Plum facilities, including McKinley Park Care Center.
20

21 17. The allegations supporting Plum Healthcare Group's alter ego relationship
22 with McKinley Park Care Center are as follows. The officers, shareholders, and members
23 of the board of directors of each of Plum Healthcare Group and its various facilities,
24 including McKinley Park Care Center, are believed to be substantially identical. Plum
25 Healthcare Group performs all accounting functions for McKinley Park Care Center and

1 entirely controls its finances. The agent for service of process between these two entities is
2 the same. The corporate headquarters for these entities is the same. In addition, plaintiffs
3 are informed and believe that McKinley Park Care Center has limited assets with all profits
4 reaped from its operations flowing to its parent corporation, Plum Healthcare Group. As
5 alter egos, Plum Healthcare Group and McKinley Park Care Center both operate as care
6 custodians over the residents at McKinley Park Care Center and both are fully subject to
7 liability based on the reckless neglect that Daniel Buckley suffered at McKinley Park Care
8 Center. Plaintiffs are further informed and believe that McKinley Park Care Center has
9 intentionally been undercapitalized as a way of avoiding liability for the wrongdoing of its
10 employees. Upon information and belief, McKinley Park Care Center's Administrator
11 directly reports to individuals from Plum Healthcare Group.
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14 18. Given the alter ego relationship between and among Plum Healthcare Group
15 and McKinley Park Care Center, as a matter of law, each of the acts attributable to
16 McKinley Park Care Center also is legally attributable to Plum Healthcare Group.

17 19. In addition, Plum Healthcare Group and McKinley Park Care Center are
18 engaged in a joint venture such that each of these entities is legally responsible for the
19 wrongful conduct of the other. Specifically, Plum Healthcare Group and McKinley Park
20 Care Center have combined their property, skill and knowledge with the intent of carrying
21 out a single business undertaking -- to wit, the operation of a skilled nursing facility in a
22 manner that maximizes profit at the expense of patient care. The entities have overlapping
23 ownership. Joint control over the businesses exists as detailed in the foregoing paragraphs.
24 The profits and losses of the business are shared and commingled. Given the joint control
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1 and operation of the Plum Healthcare Group and McKinley Park Care Center, they
2 constituted a joint venture such that Plum Healthcare Group is legally liable for the
3 fraudulent and otherwise wrongful conduct of McKinley Park Care Center and vice versa.

4 20. In addition, Plum Healthcare Group is liable for the wrongdoing of
5 McKinley Park Care Center as to Mr. Buckley because it acted as an aider and abettor of the
6 facility's egregious plan to maximize profits at the expense of patient care. Specifically,
7 Plum Healthcare Group knew that its facility McKinley Park Care Center was engaged in a
8 plan to maximize profits at the expense of patient care by, among other things, drawing in
9 high acuity residents and then severely understaffing its facility. Plum Healthcare Group
10 knew that such a plan was substantially likely to result in significant harm to the facility's
11 vulnerable patients including Daniel Buckley. Plum Healthcare Group gave substantial
12 assistance to this egregious plan by, among other things, controlling the budget that led to
13 the execution of the plan, giving financial incentives to facility personnel to carry out the
14 plan, and otherwise creating a culture that encouraged and condoned this egregiously
15 dangerous plan. Both McKinley Park Care Center's conduct and Plum's conduct were
16 substantial factors in causing harm to Mr. Buckley.

17 21. In addition, Plum Healthcare Group is liable for the wrongdoing of
18 McKinley Park Care Center as to Mr. Buckley because the two entities were co-conspirators
19 in an egregious plan to maximize profits at the expense of patient care. Specifically, Plum
20 Healthcare Group knew that its facility McKinley Park Care Center was engaged in a plan
21 to maximize profits at the expense of patient care by, among other things, drawing in high
22 acuity residents and then severely understaffing its facility. Plum Healthcare Group knew
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1 that such a plan was substantially likely to result in significant harm to the facility's
2 vulnerable patients including plaintiff Buckley. Plum Healthcare Group agreed with the
3 egregious plan described above and intended that it be carried out. Indeed, Plum
4 Healthcare Group gave substantial assistance to this egregious plan by, among other things,
5 controlling the budget that led to the execution of the plan, giving financial incentives to
6 facility personnel to carry out the plan, and otherwise creating a culture that encouraged and
7 condoned this egregiously dangerous plan. Both McKinley Park Care Center's conduct and
8 Plum Healthcare Group's conduct were substantial factors in causing harm to Mr. Buckley.
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10 **FACTUAL ALLEGATIONS**

11 22. All of the acts described herein constituted an ongoing practice and pattern
12 of neglect and abuse committed by the Kaiser Defendants and the Plum Defendants.
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14 23. Prior to March 24, 2014, Mr. Buckley, a World War II veteran, was a
15 relatively healthy 91 year old man who lived in his home with his granddaughter Nicole
16 Carson. Mr. Buckley had Parkinson's disease, which was managed with Sinemet, a
17 medication used to treat Parkinson's disease. He was able to perform all of his personal
18 activities of daily living. His granddaughter Nicole performed most of the household
19 cooking and cleaning. Mr. Buckley had a particular way he would get himself up out of bed
20 which he referred to as his wind up and "march." This routine served Mr. Buckley well for
21 many years. During a typical day, Mr. Buckley would eat breakfast while listening to
22 Japanese news broadcasts, a language he learned during his time in the service. He then
23 spent his time watching English news programs, reading newspapers and books as well as
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1 participating in the Sacramento Bonsai Club. Up until a few days prior to his death, Mr.
2 Buckley was completely oriented to person, place and time.

3 24. On March 23, 2014, Mr. Buckley fell in his kitchen. He was taken to the
4 Kaiser Morse emergency room where he was diagnosed with a left hip fracture. The
5 fracture was repaired with "intramedullary nailing." This procedure allowed him to bear
6 weight immediately after the surgery. The Kaiser Defendants were aware that a universally
7 accepted principle of recovery from hip repair surgery is the need to take aggressive steps to
8 mobilize a patient after surgery. Further, the Kaiser Defendants were aware that the need
9 to mobilize was even more essential for elderly patients with Parkinson's disease, like Mr.
10 Buckley. Despite the fact that the Kaiser Defendants understood that aggressive
11 mobilization was critical for Mr. Buckley's recovery, the Kaiser nursing staff made no effort
12 whatsoever to take basic custodial measures to ensure Mr. Buckley was up and mobilized.
13 Incredibly, the Kaiser nurses never even once got Mr. Buckley out of bed during his entire
14 first week at Kaiser. Despite the fact that the Kaiser nurses and doctors knew that Mr.
15 Buckley required mobilization to prevent him from a permanent and irreversible decline in
16 condition, they failed to monitor his condition and otherwise failed to care for him by
17 providing basic mobilization.

18 25. The Kaiser Defendants' plan was to provide therapy to Mr. Buckley after
19 "pre-medicating" him with pain medications and the medications he was taking for
20 Parkinson's. Despite this, the Kaiser Defendants failed to carry out their care plan in that
21 Mr. Buckley was not pre-medicated with either medication prior to his physical therapy
22 sessions. In complete disregard for Mr. Buckley's well-being, the nursing staff made no
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1 effort whatsoever to try to mobilize Mr. Buckley. Further, despite the fact that the Kaiser
2 Defendants knew that Mr. Buckley had Parkinson's disease, they failed to create a care plan
3 for his Parkinson's. Additionally, the Kaiser nurses and doctors knew that Mr. Buckley
4 required mobilization due to his Parkinson's, they failed to monitor his condition and
5 otherwise failed to provide custodial care for him by mobilizing him. These failures caused
6 Mr. Buckley to endure excruciating pain, increased rigidity, decreased lack of mobility and
7 deconditioning.

9 26. During Mr. Buckley's stay at Kaiser, his daughter, Pam Haskins, repeatedly
10 observed the lack of care her father received. In addition to the lack of mobilization and
11 pain control, Ms. Haskins witnessed the Kaiser Defendants' failure to place the call light
12 within his reach and failure to place the urinal within his reach such that he would become
13 incontinent of urine. On one occasion, Ms. Haskins' mother in law reported that she
14 observed urine streaming down his sheets. A nurse then came in and observed this, but did
15 nothing in response and allowed Mr. Buckley to lie in his urine.

17 27. Ms. Haskins complained to the Kaiser Defendants' physicians, nurses and
18 therapists that Mr. Buckley's pain was not controlled and that he was not being mobilized.
19 Instead of responding to her complaints, the Kaiser defendants did nothing and in fact did
20 not document her concerns. Thereafter, on March 28, 2014, the Kaiser Defendants made
21 the unilateral decision to discharge Mr. Buckley to a skilled nursing facility. Pam Haskins
22 appealed this decision to Medicare's quality improvement organization (QIO). The QIO
23 granted the appeal filed on behalf of Mr. Buckley, finding that "[Kaiser had] not given him a
24 'sufficient trial of physical therapy'." Mr. Buckley was discharged to McKinley Park Care
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1 Center on April 1, 2014. Because of the Kaiser Defendants' failures and neglect, Mr.
2 Buckley was discharged in a rigid and deconditioned state.

3 28. Mr. Buckley resided at McKinley Park Care Center from April 1, 2014 to May
4 8, 2014. Mr. Buckley went to McKinley Park for "rehab." On admission, Mr. Buckley's
5 skin was entirely intact. He had no open wounds anywhere on his body and had no history
6 of open wounds. During his stay at the Plum Defendants' facility, the Plum employees
7 repeatedly failed to mobilize Mr. Buckley, reposition Mr. Buckley or inspect his skin. As a
8 result, on April 30, 2014, the nurses "found" an unstageable pressure ulcer with black
9 eschar on his coccyx. There was no record in the chart of any prior concerns about the
10 condition of his coccyx. The wound never healed.

11
12 29. On April 7, 2014, Ms. Haskins visited her father and noted dark patches on
13 the base of his tongue and reported it to the nursing staff. The McKinley staff knew that
14 because Mr. Buckley was diagnosed with a urinary tract infection on April 2, and was
15 treated with antibiotics, he was at risk for contracting oral thrush. Oral thrush is also
16 referred to as black tongue and is a fungal infection of the mouth that is caused when
17 candida (yeast) overgrows the mouth and causes extreme pain. Even with knowledge of
18 this risk, the McKinley staff failed to monitor Mr. Buckley for signs and symptoms of oral
19 thrush. After Ms. Haskins reported the black patches on her father's tongue to the nursing
20 staff, a lozenge was ordered to treat the condition. Even so, thereafter, not a single nurse
21 documented inspecting Mr. Buckley's tongue or recorded its condition. The oral thrush led
22 Mr. Buckley to have extreme pain while eating and drinking and decreased appetite, which,
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1 among other aspects of neglect, caused him to lose 14 pounds, eight percent of his total
2 body weight, during his 38 day stay at McKinley.

3 30. Mr. Buckley had documented swallowing problems prior to his admission to
4 McKinley. At Kaiser a bedside swallow test revealed he had dysphagia and a speech
5 language pathologist from McKinley documented that "safe swallowing precautions" were
6 to be followed for Mr. Buckley. Despite this recommendation, the nursing staff failed to
7 create a care plan for Mr. Buckley's difficulty swallowing. Even though the staff knew that
8 Mr. Buckley had swallowing difficulties and it was essential that he be provided with
9 assistance to tolerate food and liquids without choking episodes, the nursing staff failed to
10 provide assistance to Mr. Buckley with eating and drinking and failed to assess him for signs
11 and symptoms of aspiration. Mr. Buckley was often left in his room while eating or
12 drinking alone with no supervision or monitoring. As a result, the Plum Defendants were
13 aware Mr. Buckley had worsening swallowing complications, that he was at "high risk" for
14 aspiration and choking, and that he needed to be closely monitored for aspiration
15 precautions and any choking episodes while eating and drinking. Despite such knowledge,
16 the Plum Defendants withheld this necessary care and failed in each of these responsibilities
17 and as a direct result, Mr. Buckley developed aspiration pneumonia.

18 31. During Mr. Buckley's stay at McKinley, his pain was unmanaged. In his last
19 days, Mr. Buckley was placed on hospice care and Ms. Haskins visited him frequently. Up
20 until the time her father passed away, Ms. Haskins observed that Mr. Buckley was fully alert
21 and oriented. During her visits with her father, Ms. Haskins directly witnessed him writhing
22 in pain. She frequently asked the nursing staff to administer pain medications to her father.
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1 The nursing staff would ignore her requests. In particular, on one occasion after Ms.
2 Haskins requested pain medications for her father, a nurse staff member told her that Mr.
3 Buckley had already received oral tablet pain medication prior to her arrival. Ms. Haskins
4 then informed the nurse that her father could not swallow and it was therefore impossible
5 for him to have taken the oral pain tablet medication by mouth. Incredibly, the nurse stated
6 that she chopped up the pill into applesauce and "massaged it down his neck" which is
7 impossible and patently fraudulent.

9 32. As a result of the reckless neglect of the Kaiser Defendants and the Plum
10 Defendants, Mr. Buckley died on May 8, 2014.

11 **COUNT ONE**

12 **[Elder Abuse (Welfare and Institutions Code Section 15600, *et seq.*)**
13 **Plaintiff Daniel Buckley, By And Through His Successor-In-Interest,**
14 **Pam Haskins vs. The Kaiser Defendants]**

15 33. Plaintiffs hereby incorporate the allegations asserted in paragraphs 1 through
16 32 above as though fully set forth at length below.

17 34. The Kaiser Defendants had care or custody over Daniel Buckley from March
18 24, 2014 through April 1, 2014. At the time of his admission, Mr. Buckley was 91 years of
19 age and thus an "elder" and within the class of persons protected by Welfare and
20 Institutions Code section 15600, *et seq.* Additionally, Mr. Buckley was an inpatient at Kaiser
21 Morse Sacramento, a 24-hour health facility as defined in Section 1250 of the Health and
22 Safety Code.

23 35. The Kaiser Defendants neglected Daniel Buckley within the meaning of
24 Welfare and Institutions Code section 15610.57 in numerous respects. First, the Kaiser
25 Defendants neglected Mr. Buckley by failing to mobilize him after his hip surgery. A

1 universally accepted principle of recovery from hip repair surgery is the need to take
2 aggressive steps to mobilize and rehabilitate the patient immediately after surgery. This is
3 even more essential for elderly patients with Parkinson's disease, like Mr. Buckley. Thus,
4 the Kaiser Defendants understood that aggressive mobilization and rehabilitation was
5 critical for Mr. Buckley's recovery. Yet, in complete disregard for Mr. Buckley's well-being,
6 the staff made no effort whatsoever to take basic custodial measures to ensure Mr. Buckley
7 was up and mobilized -- they never even once got him up out of bed his entire first week at
8 Kaiser. Despite the fact that the Kaiser nurses and doctors knew that Mr. Buckley required
9 mobilization due to his Parkinson's, they failed to monitor his condition and otherwise
10 failed to care for him by providing basic mobilization and pain control before attempting
11 therapy services. This caused Mr. Buckley to endure excruciating pain, develop increased
12 rigidity and become significantly deconditioned.

15 36. Second, the Kaiser Defendants failed to administer medications to Mr.
16 Buckley, including pain medications and the medication Mr. Buckley took for Parkinson's
17 disease. In addition, the Kaiser Defendants utterly failed to create a care plan for Mr.
18 Buckley's Parkinson's disease. These failures caused Mr. Buckley to endure excruciating
19 pain, increased rigidity, decreased lack of mobility and deconditioning.

21 37. Further, the Kaiser Defendants' neglect of Mr. Buckley was reckless,
22 oppressive and malicious. Specifically, the individuals who cared for Mr. Buckley knew that
23 mobilizing him, medicating him for pain, providing pain management and care planning for
24 his Parkinson's disease, among other things, were each individually critical Mr. Buckley's
25 health, well-being, and prognosis. Further, the Kaiser Defendants knew that the failure to

1 perform any of these obligations would create a high probability that Mr. Buckley would
2 suffer severe and lasting injuries, if not death. In the face of their knowledge as to how
3 critical the above patient care issues were to Mr. Buckley's life, the Kaiser Defendants
4 ignored these patient care issues. By failing to address Mr. Buckley's patient care issues, the
5 Kaiser Defendants knew that it was highly probable that their conduct would cause Mr.
6 Buckley harm and they knowingly disregarded this risk.

8 38. Further, the Kaiser Defendants' neglect of Mr. Buckley was reckless,
9 oppressive, and malicious, in that their failures were not merely isolated to one area of
10 patient care, but extended to numerous patient care issues, which collective failures they
11 clearly understood would cause Mr. Buckley either serious harm or death, or both.

12 39. Further, the Kaiser Defendants' neglect of Mr. Buckley was reckless,
13 oppressive and malicious, because it was the product of an intentional plan by the Kaiser
14 Defendants to maximize profits at the expense of patient care. Specifically, the Kaiser
15 Defendants knew that their hospital would receive seriously ill patients who required
16 immediate attention and careful monitoring on a 24 hours, 7 days per week basis. To
17 ensure appropriate care they knew that they needed to hire sufficient staff to ensure careful
18 attention to these patients. However, in an effort to save money and maximize profits, the
19 Kaiser Defendants deliberately understaffed their Hospital despite knowing full well that
20 such understaffing put patients, including Mr. Buckley, at severe risk of unnecessary injury
21 and death.

24 40. Further, the Kaiser Defendants are legally responsible for the widespread
25 neglect Mr. Buckley suffered for numerous independent reasons. First, managing agents of

1 the Kaiser Defendants, and each of them, directly participated in the neglect of Mr.
2 Buckley. Personnel who the Kaiser Defendants, and each of them, vested with
3 discretionary decision-making authority relating to patient care issues involving Mr. Buckley
4 were part of the team that utterly failed to provide appropriate care to Mr. Buckley, as
5 described more specifically above. Such individuals were officers, directors, and/or
6 managing agents of the Kaiser Defendants and each of them. The direct participation of
7 these individuals in the abysmal care provided to Mr. Buckley subjects the Kaiser
8 Defendants, and each of them, to liability under the Elder Abuse Act.

10 41. Further, the Kaiser Defendants are legally responsible for the egregious
11 neglect Mr. Buckley suffered, because their officers, directors and/or managing agents both
12 directly and indirectly authorized the reckless neglect that Mr. Buckley suffered. Officers,
13 directors and/or managing agents directly authorized the reckless neglect at issue by
14 specifically knowing that Mr. Buckley was being neglected by Kaiser and The Permanente
15 Medical Group personnel, allowing such neglect to continue to occur, and failing to take
16 any action to prevent the reckless neglect from further occurring.

18 42. Further, the Kaiser Defendants are legally responsible for the egregious
19 neglect Mr. Buckley suffered, because their officers, directors and/or managing agents
20 directly approved of the reckless neglect at issue by specifically not taking any adverse
21 employment action against any individual in any way relating to the care that Mr. Buckley
22 received, not terminating any individual as a result of the care that Mr. Buckley received,
23 and not disciplining any individual as a result of the care that Mr. Buckley received at
24 Kaiser.
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1 43. The conduct of the Kaiser Defendants, as detailed above, resulted in physical
2 harm and mental harm to Mr. Buckley. In addition to the physical harm caused by the
3 Kaiser Defendants' flagrant disregard for Daniel Buckley's health and well-being, the Kaiser
4 Defendants' conduct caused Mr. Buckley to suffer horrific mental pain and suffering.

5 44. Under Welfare and Institutions Code sections 15657(a) and (b), the Kaiser
6 Defendants are liable to Daniel Buckley for damages for Daniel Buckley's pain and
7 suffering, medical expenses, and attorneys' fees and costs.

8 45. Further, under California Civil Code section 3345, the Kaiser Defendants are
9 liable to plaintiffs for a trebling of the damages awarded under the Elder Abuse Act because
10 (1) the Kaiser Defendants knew or should have known that their conduct was directed
11 toward an elder and/or (2) Mr. Buckley was substantially more vulnerable to defendants'
12 conduct because of his infirmities and he actually suffered substantial physical, emotional,
13 or economic damages resulting from the Kaiser Defendants' conduct.

14 46. The Kaiser Defendants' violations of the various provisions of the Elder
15 Abuse Act, which provisions embody a substantial public policy to protect the health and
16 welfare of elderly and dependent persons, was despicable and in conscious disregard of
17 Daniel Buckley's rights, health and welfare.

18 47. As is discussed more fully above, the Kaiser Defendants acted with fraud,
19 malice, oppression and recklessness in doing so, thereby entitling plaintiffs to punitive
20 damages in connection with the Kaiser Defendants' conduct.

21 Wherefore, plaintiffs pray for damages as set forth below.
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1 **COUNT TWO**

2 **[Elder Abuse (Welfare and Institutions Code Section 15600, et seq.)**
3 **Plaintiff Daniel Buckley, By And Through His Successor-In-Interest, Pam Haskins**
4 **vs. The Plum Defendants]**

5 48. Plaintiffs hereby incorporate the allegations asserted in paragraphs 1 through
6 47 above as though fully set forth at length below.

7 49. Defendants had care or custody over Daniel Buckley from April 1, 2014
8 through May 8, 2014. At the time of his admission, Mr. Buckley was over the age of 65 and
9 thus an "elder" and within the class of persons protected by Welfare and Institutions Code
10 section 15600, et seq.

11 50. The Plum Defendants neglected Daniel Buckley within the meaning of
12 Welfare and Institutions Code section 15610.57 in numerous respects. First, defendants
13 neglected Mr. Buckley by failing to take all necessary measures to prevent Mr. Buckley from
14 developing a severe, unstageable pressure sore with black eschar on his coccyx. During the
15 course of Mr. Buckley's time at McKinley Park Care Center, defendants failed to take
16 appropriate custodial measures to ensure that Mr. Buckley remained free of pressure sores.
17 Defendants failed to consistently reposition Mr. Buckley. Defendants failed to consistently
18 inspect Mr. Buckley's skin. Defendants failed to ensure that other appropriate
19 interventions, such as providing appropriate nutrition and hydration, were undertaken to
20 ensure that Mr. Buckley did not develop pressure sores. As a result, Mr. Buckley developed
21 a pressure sore that caused Mr. Buckley severe and permanent injury, debility and pain.
22

23 51. Second, the Plum Defendants neglected Mr. Buckley by failing to take all
24 necessary measures to properly care for Mr. Buckley's pressure sore once it was identified.
25 The Plum Defendants failed to carefully monitor the wound, failed to provide ordered

1 treatment for the wound, failed to report the true status of the wound to his physician,
2 failed to secure the correct order for treatment relating to the wound, continued to fail to
3 consistently reposition and mobilize Mr. Buckley, and otherwise failed to take all necessary
4 measures to ensure that the wounds on his coccyx healed. As a result of the Plum
5 Defendants' widespread failures, Mr. Buckley's pressure ulcer progressed to a point where it
6 was unstageable and Mr. Buckley suffered untold pain and suffering as a result.

8 52. Third, the Plum Defendants neglected Mr. Buckley by entirely ignoring their
9 obligations to perform basic assessments and to provide custodial care with respect to Mr.
10 Buckley's oral thrush. As discussed above, oral thrush is a fungal infection of the mouth
11 that is caused when yeast (candida) overgrows the mouth and causes extreme pain. The
12 Plum Defendants' nurses had 24-hour custodial responsibility for Mr. Buckley and as part
13 of that responsibility they had a duty to monitor and observe Mr. Buckley around-the-clock
14 on a daily shift-by-shift basis, and specifically defendants' nurses were responsible for
15 around-the-clock monitoring and observing all aspects of Mr. Buckley's health and to
16 provide appropriate care accordingly. The Plum Defendants knew that Mr. Buckley had
17 taken antibiotics and that he therefore required careful monitoring for adverse reactions to
18 antibiotics such as oral thrush and that he required regular and consistent oral care. Even
19 so, it was his daughter Pam Haskins who first noticed the black patches on her father's
20 tongue and reported them to the facility. Thereafter, the Plum Defendants failed to
21 monitor the oral thrush or document the condition of Mr. Buckley's mouth. The oral
22 thrush led Mr. Buckley to have extreme pain while eating and drinking and decreased
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1 appetite, which, among other aspects of neglect, caused him to lose 14 pounds, eight
2 percent of his total body weight, during his 38 day stay at McKinley.

3 53. Fourth, defendants neglected Mr. Buckley by failing to implement safe
4 swallowing precautions. The Plum Defendants knew that Mr. Buckley had swallowing
5 difficulties when he arrived at their facility. At Kaiser, a swallowing test revealed that Mr.
6 Buckley had "dysphagia. The Plum Defendants knew that it was therefore essential that
7 Mr. Buckley be provided with assistance to tolerate food and liquids without choking
8 episodes. Additionally, they knew that these swallowing difficulties required safe swallowing
9 precautions, yet failed to create a care plan for this condition and failed to implement any
10 precautions. Even though the staff knew that Mr. Buckley had swallowing difficulties and it
11 was essential that he be provided with assistance, the nursing staff failed to provide
12 assistance to Mr. Buckley with eating and drinking and failed to assess him for signs and
13 symptoms of aspiration. Mr. Buckley was often left in his room while eating or drinking
14 alone with no supervision or monitoring. As a direct result of these custodial failures, the
15 Plum Defendants were aware that Mr. Buckley's swallowing complications worsened and
16 that he required even closer monitoring. Despite this knowledge, the Plum Defendants
17 withheld this necessary care and failed in each of these responsibilities and as a direct result,
18 Mr. Buckley developed aspiration pneumonia.

19 54. Fifth, defendants neglected Mr. Buckley by failing to ensure that he was free
20 from unnecessary pain and by failing to ensure that he was being maintained at his highest
21 practicable level of physical, emotional and psychosocial functioning. Specifically, during
22 his time at McKinley Park Care Center, Mr. Buckley suffered unnecessary pain relating to
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1 an unstageable pressure sore on his coccyx, oral thrush and aspiration pneumonia, among
2 other things. Clearly, Mr. Buckley was not maintained at his highest practicable level of
3 functioning because in the short period that he resided at McKinley Care Center,
4 Mr. Buckley's condition dramatically deteriorated. All of this was unnecessary and only
5 occurred because of the abject failures by the Plum Defendants to perform basic
6 assessments and to provide appropriate custodial care.

8 55. The Plum Defendants' neglect of Mr. Buckley was reckless, oppressive and
9 malicious. Specifically, the Plum Defendants knew that ignoring their obligations to
10 perform basic assessments and to provide custodial care with respect to preventing pressure
11 sores, properly caring for the pressure sores once they were observed, preventing infection
12 such as oral thrush, following swallowing precautions and ensuring that Mr. Buckley was
13 free from unnecessary pain and was being maintained at his highest practicable level of
14 physical, emotional and psychosocial functioning would cause Mr. Buckley to suffer
15 substantial injuries and that there was a high probability that he would suffer severe and
16 lasting injuries. Further, defendants knew that each of the aforementioned care issues were
17 individually critical to Mr. Buckley's health, well-being, and prognosis. In the face of their
18 knowledge as to how critical each of the above patient care issues were to Mr. Buckley's life,
19 the Plum Defendants ignored these patient care issues, and each of them, providing
20 abysmal care that fell far below how reasonable persons in their position would have
21 performed. By failing to address Mr. Buckley's patient care issues, the Plum Defendants
22 knew that it was highly probable that their conduct would cause him harm or death, or both
23 and they knowingly disregarded this risk.

1 56. Further, the Plum Defendants' neglect of Mr. Buckley was reckless,
2 oppressive, and malicious, in that their failures were not merely isolated to one area of
3 patient care, but extended to numerous patient care issues, which collective failures they
4 clearly understood would cause Mr. Buckley either serious harm or death, or both.

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6 57. The Plum Defendants, and each of them, are legally responsible for the
7 widespread neglect Mr. Buckley suffered for numerous independent reasons. First,
8 managing agents of the Plum Defendants, and each of them, directly participated in the
9 neglect of Mr. Buckley. Personnel whom the Plum Defendants, and each of them, vested
10 with discretionary decision-making authority relating to patient care issues involving Mr.
11 Buckley were part of the team that ignored their obligations to perform basic assessments
12 and to provide custodial care with respect to preventing pressure sores, properly caring for
13 the pressure sores once they were observed, preventing infection such as oral thrush,
14 following swallowing precautions and ensuring that he was free from unnecessary pain and
15 was being maintained at his highest practicable level of physical, emotional and psychosocial
16 functioning, among other things. Such individuals were officers, directors, and/or
17 managing agents of the Plum Defendants and each of them. The direct participation of
18 these individuals in the abysmal care provided to Mr. Buckley subjects the Plum
19 Defendants, and each of them, to liability under the Elder Abuse and Dependent Adult
20 Civil Protection Act (hereafter "Elder Abuse Act").
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23 58. Further, the Plum Defendants, and each of them, are legally responsible for
24 the egregious neglect Mr. Buckley suffered, because their officers, directors and/or
25 managing agents both directly and indirectly authorized the reckless neglect that Mr.

1 Buckley suffered. These offers, directors and/or managing agents directly authorized the
2 reckless neglect at issue by specifically knowing that Mr. Buckley was being neglected by
3 McKinley Park Care Center personnel, allowing such neglect to continue to occur, and
4 failing to take any action to prevent the reckless neglect from further occurring.
5

6 59. Further, the Plum Defendants, and each of them, are legally responsible for
7 the reckless neglect Mr. Buckley suffered because their officers, directors and/or managing
8 agents were responsible for creating a patient care environment that inevitably led to the
9 reckless neglect of Mr. Buckley and other similarly situated nursing home patients under the
10 care of the Plum Defendants. Specifically, the Plum Defendants and their officers,
11 directors and managing agents purposely utilized insufficient staff, underpaid staff, and
12 insufficiently supervised staff as part of an overall plan, design, and scheme to maximum
13 their profits at the expense of patient care and well-being.
14

15 60. Specifically as to McKinley Park Care Center, it was the 24-hour health
16 facility that had care and custody over Mr. Buckley at all relevant times. McKinley Park
17 Care Center is legally responsible for the widespread neglect of Mr. Buckley because the
18 personnel who it vested with discretionary decision-making authority relating to patient care
19 issues involving Mr. Buckley were part of the team at the facility that ignored their
20 obligations to perform basic assessments and to provide custodial care. Such individuals
21 had first-hand knowledge of the failures with respect to preventing pressure sores, properly
22 caring for the pressure sores once they were observed, preventing infection such as oral
23 thrush, following swallowing precautions and ensuring that Mr. Buckley was free from
24 unnecessary pain and was being maintained at his highest practicable level of physical,
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1 emotional and psychosocial functioning, among other things, yet allowed such neglect to
2 continue to occur, failed to take any action to prevent the reckless neglect from further
3 occurring, and otherwise purposely utilized insufficient staff, underpaid staff, and
4 insufficiently supervised staff as part of an overall plan, design, and scheme to maximum
5 their profits at the expense of patient care and well-being.
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7 61. In choosing to maximize profits at the expense of patient care, Plum
8 Defendants knew that their plan posed a substantial and imminent danger to the health,
9 safety and well-being of the patients they provided services to. Indeed, Plum Defendants,
10 and their officers, directors and managing agents had specifically been put on notice of the
11 egregious failures of their personnel to provide adequate patient care by, among other
12 things, the numerous deficiencies and citations imposed by the California Department of
13 Public Health, the public entity statutorily entrusted with providing regulatory oversight of
14 these facilities. Further, plaintiffs are informed and believe that the Plum Defendants have
15 been subjected to numerous civil lawsuits for which they have been forced to pay millions
16 of dollars in settlements relating specifically to the abysmal patient care provided by the
17 Plum Defendants. Despite being placed on specific notice of the repeated and significant
18 shortcomings of patient care at McKinley Park Care Center, the Plum Defendants have
19 continued to operate McKinley Park Care Center without making the necessary changes to
20 address identified shortcomings in patient care.
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23 62. The conduct of the Plum Defendants, and each of them, as detailed above
24 resulted in enormous physical and mental harm to Mr. Buckley. In addition to the physical
25 and mental harm caused by the Plum Defendants' flagrant disregard for Mr. Buckley's

1 health and well-being, the Plum Defendants' conduct caused Mr. Buckley to suffer horrific
2 mental pain and suffering.

3 63. Under Welfare and Institutions Code sections 15657(a) and (b), the Plum
4 Defendants are liable to plaintiffs for damages for Mr. Buckley's pain and suffering, injuries,
5 medical expenses, and attorneys' fees and costs.

6 64. Further, under Civil Code section 3345, the Plum Defendants are liable to
7 plaintiff for a trebling of the damages awarded under the Elder Abuse Act because (1) the
8 Plum Defendants knew or should have known that their conduct was directed toward an
9 elder and/or (2) Mr. Buckley was substantially more vulnerable to defendants' conduct
10 because of his infirmities and he actually suffered substantial physical, emotional, or
11 economic damages resulting from the Plum Defendants' conduct.
12

13 65. The Plum Defendants' violations of the various provisions of the Elder
14 Abuse Act, which provisions embody a substantial public to protect the health and welfare
15 of elderly and dependent persons, was despicable and in conscious disregard of Mr.
16 Buckley's rights, health and welfare.
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18 66. As is discussed more fully above, defendants acted with fraud, malice,
19 oppression and recklessness in doing so, thereby entitling plaintiffs to punitive damages in
20 connection with defendants' conduct.
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22 Wherefore, plaintiffs pray for damages as set forth below.
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COUNT THREE

[Violation of Patients' Bill Of Rights

**Plaintiff Daniel Buckley, By And Through His Successor-In-Interest, Pam Haskins
vs. The Plum Defendants]**

67. Plaintiffs hereby incorporate the allegations asserted in paragraphs 1 through 66 above as though set forth fully below.

68. Daniel Buckley was a resident at McKinley Park Care Center, a skilled nursing facility as defined in subdivision (c) of Health and Safety Code Section 1250, from April 1, 2014 through May 8, 2014. As a resident at a skilled nursing facility, Mr. Buckley had certain patient rights as enumerated in various statutes and regulations under the law of the State of California. In particular, and without limiting the generality of the foregoing, under Title 22, California Code of Regulations section 72527 *et seq.*, which includes by reference Health and Safety Code section 1599.1, Mr. Buckley had the following rights, among others:

- (a) To be fully informed by a physician of his or her total health status and to be afforded the opportunity to participate on an immediate and ongoing basis in the total plan of care including the identification of medical, nursing, and psychosocial needs and the planning of related services;
- (b) To receive all information that is material to an individual patient's decision concerning whether to accept or refuse any proposed treatment or procedure;
- (c) To be free from mental and physical abuse;
- (d) To be treated with consideration, respect and full recognition of dignity and individuality, including privacy in treatment and in care of personal needs;
- (e) To have the facility employ an adequate number of qualified personnel to carry out all of the functions of the facility;

1 (f) Each patient shall show evidence of good personal hygiene and be given
2 care to prevent bedsores, and measures shall be used to prevent and
3 reduce incontinence for each patient;

4 (g) The facility shall provide an activity program staffed and equipped to
5 meet the needs and interests of each patient and to encourage self-care
6 and resumption of normal activities. Patients shall be encouraged to
7 participate in activities suited to their individual needs;

8 (h) To be free from psychotherapeutic drugs used for the purpose of resident
9 discipline or staff convenience;

10 (i) To have a physician notified promptly of all changes in condition.

11 69. As set forth above, defendants violated Mr. Buckley's legal rights as a resident
12 by, among other things, failing to inform him and his family of available services and care
13 he should have received; failing to keep him and his family informed of his total health
14 status; failing to involve him and his family in his plan of care on an ongoing basis; abusing
15 and neglecting him as set forth above; failing to treat him with consideration, dignity,
16 respect, and privacy; failing to employ an adequate number of trained personnel to meet his
17 needs; and failing to notify his physician of changes in condition.

18 70. As a result of the Plum Defendants' violations of his patient rights, Mr.
19 Buckley suffered avoidable injuries, endured great pain and died. Pursuant to Health and
20 Safety Code Section 1430(b), the Plum Defendants are civilly liable to Mr. Buckley for each
21 and every violation of his patient's rights.

22 Wherefore, plaintiffs pray for damages as set forth below.
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COUNT FOUR
[Negligent Infliction Of Emotional Distress
Plaintiffs Pam Haskins vs. Kaiser Defendants]

71. Plaintiffs hereby incorporate the allegations asserted in paragraphs 1 through 70 above as though set forth fully below.

72. Pam Haskins is the daughter of Daniel Buckley and she was extremely close to her father. As Mr. Buckley's daughter, Pam Haskins was very much attuned to her father's needs and to the Kaiser Defendants' utter failure to attend to those needs. After Daniel Buckley was admitted to Kaiser Sacramento on March 24, 2014, Ms. Haskins visited her father daily.

73. On multiple occasions, Ms. Haskins directly witnessed the maltreatment and neglect of her father by the Kaiser Defendants, including but not limited to, the Kaiser Defendants' utter failure to timely mobilize her father, medicate him and provide rehabilitation services. As a result of seeing her father in this condition, Ms. Haskins asked nursing personnel about her father's condition repeatedly, but, as alleged above, but the Kaiser Defendants took no action. During this time, Ms. Haskins continued to witness her father's worsening physical condition due to Kaiser's failure to mobilize, medicate and provide rehabilitation services to her father and, through these direct observations, she gained enough of an understanding of the maltreatment and neglect of her father at the time it was occurring to have contemporary sensory awareness that the Kaiser Defendants' conduct was in fact maltreatment and neglect and that it was causing her father injury.

74. As a result of being present and observing the horrendous consequences of the Kaiser Defendants' utter neglect, indifference, and inhumane treatment toward her

1 father, Ms. Haskins experienced anguish, shock, disgust, horror, anxiety and grief. Ms.
2 Haskins suffered and continues to suffer severe and substantial emotional distress, beyond
3 that which would be anticipated in a disinterested witness. The Kaiser Defendants' neglect
4 and maltreatment of Mr. Buckley directly caused the emotional distress suffered by Ms.
5 Haskins, which continues to this day. Ms. Haskins had enough understanding of the Plum
6 Defendants' maltreatment and neglect, and its effect on her father, Mr. Buckley, to have a
7 contemporary sensory awareness that the Kaiser Defendants' conduct caused Mr. Buckley's
8 pain, suffering and injuries, which realization led to Ms. Haskins to suffer severe emotional
9 distress.
10

11 Wherefore, plaintiffs pray for damages as set forth below.

12 **COUNT FIVE**

13 **[Negligent Infliction of Emotional Distress**

14 **Plaintiffs Pam Haskins and Dennis Buckley vs. The Plum Defendants]**

15 75. Plaintiffs hereby incorporate the allegations asserted in paragraphs 1 through
16 74 above as though set forth fully below.

17 76. As set forth more fully above, the Plum Defendants, and each of them,
18 neglected Daniel Buckley by ignoring their obligations to perform basic assessments and to
19 provide custodial care with respect to preventing pressure sores, properly caring for the
20 pressure sores once they were observed, preventing infection such as oral thrush, following
21 swallowing precautions and failing to ensure that he was free from unnecessary pain and
22 otherwise maintaining him at his highest practicable level.
23

24 77. Pam Haskins is the daughter of Daniel Buckley and she was extremely close
25 to her father. As Mr. Buckley's daughter, Pam Haskins was very much attuned to her

1 father's needs and to the Plum Defendants' utter failure to attend to those needs. After
2 Daniel Buckley was admitted to McKinley Care Center on April 1, 2014, Pam Haskins
3 frequently visited her father. Each and every time Ms. Haskins witnessed the Plum
4 Defendants' abysmal care of Mr. Buckley, Ms. Haskins suffered severe emotional distress.

5
6 78. As a result, Ms. Haskins directly witnessed the maltreatment and neglect of
7 her father by the Plum Defendants, including but not limited to, the Plum Defendants' utter
8 failure to timely medicate her father, prevent him from developing a pressure sore, provide
9 basic oral care, monitor him for signs and symptoms of oral thrush and implement
10 precautions for aspiration pneumonia. As a result of seeing her father in this condition, Ms.
11 Haskins asked nursing personnel about her father's condition repeatedly, but, as alleged
12 above, the Plum Defendants took no action. During this time, Ms. Haskins continued to
13 witness her father's worsening physical condition due to the Plum Defendants' failure to
14 care for her father by failing to provide custodial care such that he developed an
15 unstageable pressure sore on his coccyx, developed oral thrush and aspiration pneumonia.
16 Through these direct observations, Ms. Haskins gained enough of an understanding of the
17 maltreatment and neglect of her father at the time it was occurring to have contemporary
18 sensory awareness that the Kaiser Defendants' conduct was in fact maltreatment and
19 neglect and that it was causing her father injury.
20
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22 79. As a result of being present and observing the horrendous consequences of
23 the Kaiser Defendants' utter neglect, indifference, and inhumane treatment toward her
24 father, Ms. Haskins experienced anguish, shock, disgust, horror, anxiety and grief. Ms.
25 Haskins suffered and continues to suffer severe and substantial emotional distress, beyond

1 that which would be anticipated in a disinterested witness. The Kaiser Defendants' neglect
2 and maltreatment of Mr. Buckley directly caused the emotional distress suffered by Ms.
3 Haskins, which continues to this day. Ms. Haskins had enough understanding of the Plum
4 Defendants' maltreatment and neglect, and its effect on her father, Mr. Buckley, to have a
5 contemporary sensory awareness that the Kaiser Defendants' conduct caused Mr. Buckley's
6 pain, suffering and injuries, which realization led to Ms. Haskins to suffer severe emotional
7 distress.
8

9 Wherefore, plaintiffs pray for damages as set forth below

10 **COUNT SIX**
11 **[Wrongful Death]**
12 **Plaintiffs Pam Haskins and Dennis Buckley vs.**
13 **The Plum Defendants And The Kaiser Defendants]**

14 80. Plaintiffs hereby incorporate the allegations asserted in paragraphs 1 through
15 79 above as though set forth fully below.

16 81. As a proximate result of the reckless neglect and abuse perpetrated by the
17 Plum Defendants and the Kaiser Defendants as set forth above, Daniel Buckley died on
18 May 8, 2015.

19 82. Prior to the death of Daniel Buckley, Pam Haskins and Dennis Buckley
20 enjoyed the love, society, comfort and attention of their father Daniel Buckley. As a
21 proximate result of the reckless neglect, abuse and fraud perpetrated by defendants, and
22 each of them, Pam Haskins and Dennis Buckley are no longer able to enjoy the love,
23 society, comfort and attention of their father Daniel Buckley.

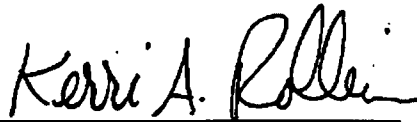
24 Wherefore, plaintiffs pray for damages as set forth below.
25

1 **WHEREFORE**, plaintiffs pray for judgment as follows:

- 2 1. For general damages according to proof;
- 3 2. For special damages according to proof;
- 4 3. For attorneys' fees against all defendants pursuant to Welfare and Institutions
- 5 Code section 15657(a) and Code of Civil Procedure section 1021.5;
- 6 4. For treble damages pursuant to Civil Code section 3345;
- 7 5. For punitive damages against all defendants;
- 8 6. For costs of suit against all defendants, and
- 9 7. For such other and further relief as the Court deems just and proper.
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13 Date: March 7, 2016

The Law Office

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15 Kerri A. Rollins
16 Attorney for Plaintiffs
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