



PLD-PI-001

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Richard L. Richardson SBN: 250676 Law Office of Joel H. Siegal 235 Montgomery Street, Suite 800 San Francisco, CA 94104 TELEPHONE NO: 415.651.1949 FAX NO. (Optional): 415.777.5247 E-MAIL ADDRESS (Optional): richard@rrichardsonlaw.com ATTORNEY FOR (Name): Plaintiff		FOR COURT USE ONLY FILED ALAMEDA COUNTY MAR 23 2016 CLERK OF THE SUPERIOR COURT By <u>[Signature]</u> Deputy
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Alameda STREET ADDRESS: 1225 Fallon Street MAILING ADDRESS: CITY AND ZIP CODE: Oakland BRANCH NAME: Renee C. Davidson		
PLAINTIFF: Glendean Walker DEFENDANT: Yun Liu, individually and as an employee of Kaiser Foundation Hospitals; Kaiser Foundation Hospitals; <input checked="" type="checkbox"/> DOES 1 TO 100		
COMPLAINT—Personal Injury, Property Damage, Wrongful Death <input type="checkbox"/> AMENDED (Number): Type (check all that apply): <input type="checkbox"/> MOTOR VEHICLE <input type="checkbox"/> OTHER (specify): <input type="checkbox"/> Property Damage <input type="checkbox"/> Wrongful Death <input checked="" type="checkbox"/> Personal Injury <input type="checkbox"/> Other Damages (specify):		
Jurisdiction (check all that apply): <input type="checkbox"/> ACTION IS A LIMITED CIVIL CASE Amount demanded <input type="checkbox"/> does not exceed \$10,000 <input type="checkbox"/> exceeds \$10,000, but does not exceed \$25,000 <input checked="" type="checkbox"/> ACTION IS AN UNLIMITED CIVIL CASE (exceeds \$25,000) <input type="checkbox"/> ACTION IS RECLASSIFIED by this amended complaint <input type="checkbox"/> from limited to unlimited <input type="checkbox"/> from unlimited to limited		CASE NUMBER: RG16808730

1. Plaintiff (name or names): **Glendean Walker**
alleges causes of action against defendant (name or names):
Yun Liu, individually and as an employee of Kaiser Foundation Hospitals; Kaiser Foundation Hospital;
2. This pleading, including attachments and exhibits, consists of the following number of pages:
3. Each plaintiff named above is a competent adult
- a. ☐ except plaintiff (name):
- (1) ☐ a corporation qualified to do business in California
- (2) ☐ an unincorporated entity (describe):
- (3) ☐ a public entity (describe):
- (4) ☐ a minor ☐ an adult
- (a) ☐ for whom a guardian or conservator of the estate or a guardian ad litem has been appointed
- (b) ☐ other (specify):
- (5) ☐ other (specify):
- b. ☐ except plaintiff (name):
- (1) ☐ a corporation qualified to do business in California
- (2) ☐ an unincorporated entity (describe):
- (3) ☐ a public entity (describe):
- (4) ☐ a minor ☐ an adult
- (a) ☐ for whom a guardian or conservator of the estate or a guardian ad litem has been appointed
- (b) ☐ other (specify):
- (5) ☐ other (specify):

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

BY FAX

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4. ☐ Plaintiff (name):

is doing business under the fictitious name (specify):

and has complied with the fictitious business name laws.

5. Each defendant named above is a natural person

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

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

a. ☒ Doe defendants (specify Doe numbers): 1 to 100 were the agents or employees of other named defendants and acted within the scope of that agency or employment.b. ☐ Doe defendants (specify Doe numbers): are persons whose capacities are unknown to plaintiff.7. ☐ Defendants who are joined under Code of Civil Procedure section 382 are (names):

8. This court is the proper court because

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

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

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

Battery; Negligent Hire, Training, Retention, and Supervision; Breach of Contract;

11. Plaintiff has suffered

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

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

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

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

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

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

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

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

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

Date: 3/22/2016

Richard L. Richardson

(TYPE OR PRINT NAME)

(SIGNATURE OF PLAINTIFF OR ATTORNEY)

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1**CAUSE OF ACTION—General Negligence**

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(number)

ATTACHMENT TO ☒ Complaint ☐ Cross - Complaint

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

GN-1. Plaintiff (name): Glendean Walker

alleges that defendant (name): Kaiser Foundation Hospitals

☒ Does 1 to 100

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

on (date): 3/18/14 to 3/26/15

at (place): Kaiser- Stockton

(description of reasons for liability):

NEGLIGENT HIRE, TRAINING, RETENTION, AND SUPERVISION

Plaintiff is a health insurance consumer whom pays monthly premiums to Defendant Kaiser. Defendant Liu is and at all times was employed as a doctor working for Defendant Kaiser. As such, Defendant had a duty to properly hire, train, retain and supervise Defendant Liu.

On or about 3/18/2014 Plaintiff underwent DSEK cornea transplant surgery performed by Kaiser and Defendant Liu. Kaiser knew and/or should have known from records and multiple follow up procedures that Dr. Liu was incompetent and unable to manage, operate, or otherwise care for Plaintiff. In spite of this knowledge, Defendant allowed Defendant Liu to perform an unsuccessful surgery on Plaintiff so as to lose the cornea specimen in Plaintiff's eye. By doing so, Defendant breached its duty to properly train or manage Dr. Liu so as to have her properly treat Plaintiff.

Defendant Kaiser further knew and/or should have known that Plaintiff needed a second professional opinion concerning her eye but that she could not afford such treatment without Kaiser authorization. Eventhough Defendant Kaiser knew and/or should have known that Dr. Liu was unavailable during this time due to being outside of the state of California, Defendant Kaiser refused to grant Plaintiff access to a second medical professional until March 26, 2015. Defendant also failed to have Dr. Liu provide proper follow up treatment for Plaintiff, such that the stitches remained in Plaintiff's eye an entire year, until approximately March 26, 2015.

As a result, Plaintiff suffered harm, including numerous follow up surgical procedures, stitches in her eye, lost vision, severe pain and emotional distress from March 18, 2014 through March 26, 2015 in an amount to be proven at trial.

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2**CAUSE OF ACTION—General Negligence**

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(number)

ATTACHMENT TO ☒ Complaint ☐ Cross - Complaint

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

GN-1. Plaintiff (name): Glendean Walker

alleges that defendant (name): Kaiser Foundation Hospitals; Yun Liu;

☒ Does 1 to 100

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

on (date): 3/18/14 to 3/26/15

at (place): Kaiser- Stockton

(description of reasons for liability):

NEGLIGENCE

Plaintiff is a health insurance consumer whom pays monthly premiums to Defendant Kaiser. Defendant Liu is and at all times was employed as a doctor working for Defendant Kaiser. Dr. Liu had a duty to perform Plaintiff's surgery, treatment, and care in a safe and reasonable manner. Defendant Kaiser had a duty to properly hire, train, retain and supervise Defendant Liu in this medical care. On or about 3/18/2014 Plaintiff underwent DSEK cornea transplant surgery performed by Kaiser and Defendant Liu. Defendant Liu breach her duties by performing the surgery in an unreasonable manner and losing the cornea specimen in Plaintiff's eye and then failing to disclose this fact to Plaintiff. Kaiser knew and/or should have known from records and multiple follow up procedures (3/18; 3/19; 3/25/14) that Dr. Liu was incompetent and unable to manage, operate, or otherwise properly care for Plaintiff. In spite of this knowledge, Defendant allowed Defendant Liu to perform an unsuccessful surgery on Plaintiff so as to lose the cornea specimen in Plaintiff's eye. By doing so, Defendant breached its duty to properly train or manage Dr. Liu so as to have her properly treat Plaintiff. Defendant Kaiser and Dr. Liu further knew and/or should have known that Plaintiff needed a second medical opinion concerning her eye. Nonetheless, Dr. Liu left for China in order to avoid Plaintiff's care. Dr. Liu failed to refer Plaintiff for a second opinion. Kaiser knew and/or should have known that Dr. Liu was unavailable and outside of California. Still Kaiser refused to grant Plaintiff access to a second medical professional until March 26, 2015. Defendant also failed to have Dr. Liu provide proper follow up treatment for Plaintiff, such that the stitches remained in Plaintiff's eye an entire year, until approximately March 26, 2015. As a result of the acts of each Defendant, Plaintiff suffered harm, including numerous follow up surgical procedures, stitches in her eye, lost vision, severe pain and emotional distress from March 18, 2014 through March 26, 2015 in an amount to be proven at trial. Defendants' actions were the proximate cause of said harm. Kaiser attempted to avoid this by not allowing Plaintiff to have a second opinion on 3/26/15. Thereafter, she discovered her claim and gave notice to Defendants per CCP s364. Dr. Liu attempted to avoid this action by immediately leaving for China for several months (CCPs 351).

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(number)

CAUSE OF ACTION—Intentional Tort

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6ATTACHMENT TO ☒ Complaint ☐ Cross - Complaint

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

IT-1. Plaintiff (name): Glendean Walker

alleges that defendant (name): Yun Liu; Does 1 to 100.

☒ Does 1 to 100

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

on (date): 3/18/14 - 3/26/2015

at (place): Kaiser Stockton Medical facility

(description of reasons for liability):

BATTERY

On 3/18/14, Plaintiff received a DSEK cornea transplant from Kaiser and Dr. Liu. Defendant Liu failed to fully disclose to Plaintiff that Defendant had lost the cornea specimen in Plaintiff's eye. Thereafter, Defendant informed Plaintiff to leave the operating room and follow Defendant back to Defendant's office, which was not prepared or equipped for a surgical procedure. Defendant dismissed the staff that was present during the surgery. Defendant did not inform Plaintiff that she would be performing a follow up surgery. Defendant did not obtain consent to perform a follow up surgery. Defendant did not inform any staff members of any need for emergency care, treatment, or procedures.

Instead, in Defendant's administrative office, outside of the presence of the operating staff, Defendant proceeded to pull, push, and otherwise perform undisclosed medical procedures on Plaintiff in order to find and reset Plaintiff displaced cornea. Defendant did this procedure without proper sedatives or tools, which were left in the surgery room. Defendant even placed stitches in Plaintiff's eye without informed consent. Thus, Defendant's action exceed the scope of any lawful consent.

Defendant's actions were harmful and offensive touching to Plaintiff that caused severe pain and damages to Plaintiff's left eye. As a result, Plaintiff suffered damages in an amount to be proven at trial, including pain, suffering, and emotional distress; loss of vision; additional medical costs; lost ability to operate an automobile.

Due to Defendant's negligence in leaving to China and not recommending Plaintiff be allowed a second opinion, Plaintiff did not discover that Defendant's acts were prohibited acts. Defendant Liu attempted to avoid Plaintiff's claim by immediately leaving for China (CCP s351) for several months. Kaiser attempted to avoid Plaintiffs claims by not allowing her to obtain a second opinion until March 26, 2015.

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CAUSE OF ACTION—Breach of Contract

(number)

ATTACHMENT TO ☒ Complaint ☐ Cross - Complaint

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

BC-1. Plaintiff (name): Glendean Walker

alleges that on or about (date): 3/18/14 - 3/26/15

a ☒ written ☐ oral ☐ other (specify):

agreement was made between (name parties to agreement):

Plaintiff; Defendant Liu; Defendant Kaiser Foundation Hospital;

☐ A copy of the agreement is attached as Exhibit A, or☒ The essential terms of the agreement ☐ are stated in Attachment BC-1 ☒ are as follows (specify):

Plaintiff paid a monthly premium and deductibles to Defendants. In return, Defendants were to provide medical insurance coverage and medical care, treatment, and diagnosis to Plaintiff through Defendants network of healthcare providers and Defendant's hospitals.

BC-2. On or about (dates): 3/18/2014 through 3/26/2015

defendant breached the agreement by ☐ the acts specified in Attachment BC-2 ☒ the following acts (specify):

Defendants failed to provide Plaintiff medical care, treatment, and diagnosis pursuant to the agreement. Defendants knew and/or should have known that Plaintiff needed to treat with a doctor in order to have stitches removed from her eye. Nonetheless, Defendants refused to allow Plaintiff to seek a second opinion from a doctor within or outside of its network. As a result, Plaintiff was unable to receive treatment for a botched cornea transplant.

BC-3. Plaintiff has performed all obligations to defendant except those obligations plaintiff was prevented or excused from performing.

BC-4. Plaintiff suffered damages legally (proximately) caused by defendant's breach of the agreement

☐ as stated in Attachment BC-4 ☒ as follows (specify):

Plaintiff experienced foreseeable pain, suffering, and emotional distress. Plaintiff suffered diminished vision and lost the ability to drive an automobile.

BC-5. ☒ Plaintiff is entitled to attorney fees by an agreement or a statute☐ of \$☒ according to proof.BC-6. ☐ Other:

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(number)

CAUSE OF ACTION—Intentional Tort

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8ATTACHMENT TO ☒ Complaint ☐ Cross - Complaint

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

GN-1. Plaintiff (name): Glendean Walker

alleges that defendant (name): Kaiser Foundation Hospitals; Yun Liu;

☒ Does 1 to 100

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

on (date): 3/18/14 to 3/26/15

at (place): Kaiser- Stockton

(description of reasons for liability):

FRAUD

On or about 3/18/2014 Plaintiff underwent DSEK cornea transplant surgery performed by Kaiser and Defendant Liu. Defendant Liu performed the surgery in an unreasonable manner by losing the cornea specimen in Plaintiff's eye and placing stitches in Plaintiff's eye in an unsafe manner. Kaiser knew and/or should have known from records and multiple follow up procedures (3/18; 3/19; 3/25/14) that Dr. Liu was incompetent and unable to manage, operate, or otherwise properly care for Plaintiff. Defendants thereby had a duty to disclose to Plaintiff that her surgery was unsuccessful and that she needed to seek the opinion of a second medical professional. Defendant Liu breached this duty by performing follow up surgeries on Plaintiff without disclosing that she needed a second opinion or follow up care and leaving for China in order to avoid Plaintiff's care. Kaiser knew and/or should have known that Dr. Liu failed to disclose pertinent facts to Plaintiff. Kaiser concealed Dr. Liu's fraud by refusing to grant Plaintiff access to a second medical professional whom would have revealed Dr. Liu's mistakes. Defendant's thereby showed reckless and wanton disregard for Plaintiff's health an entire year, until approximately March 26, 2015. Plaintiff justifiably relied upon Defendants' representations since they were her medical providers whom she reasonably trusted and was contractually obligated to trust with her care for several years.

As a result of the acts of each Defendant, Plaintiff suffered actual harm, including numerous follow up surgical procedures, stitches in her eye, lost vision, severe pain and emotional distress from March 18, 2014 through March 26, 2015 in an amount to be proven at trial. Defendants' actions were the proximate cause of said harm. Kaiser attempted to avoid this claim by not allowing Plaintiff to have a second opinion until 3/26/15. Thereafter, she discovered her claim and gave notice to Defendants per CCP s364. Dr. Liu attempted to avoid this action by immediately leaving for China for several months (CCPs 351).

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Exemplary Damages Attachment

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9ATTACHMENT TO ☒ Complaint ☐ Cross - ComplaintEX-1. As additional damages against defendant (*name*):

Yun Liu, M.D.; Kaiser Foundation Hospital

Plaintiff alleges defendant was guilty of

☒ malice☒ fraud☒ oppression

as defined in Civil Code section 3294, and plaintiff should recover, in addition to actual damages, damages to make an example of and to punish defendant.

EX-2. The facts supporting plaintiff's claim are as follows:

On or about 3/18/14, Plaintiff received a DSEK cornea transplant from Defendant Liu. After surgery, Defendant Liu failed to disclose to Plaintiff that the surgery was unsuccessful and that Dr. Liu had lost the cornea specimen in Plaintiff's eye. Defendant then deliberately failed to inform Plaintiff or the operating staff that Plaintiff needed follow up diagnosis, treatment, and care. Instead, Defendant Liu informed Plaintiff to follow her to Defendant's administrative office, a room that was not prepared with proper surgical tools or staff. Defendant then proceeded to push, pull, and perform an undisclosed procedure on Plaintiff's eye without consent. As Defendant performed an undisclosed procedure that was substantially different from what Plaintiff agreed to, Defendant's action exceeded the lawful scope and consent, her actions constitute battery. Thereafter, Defendant left stitches in Plaintiff's eye until March 26, 2015 and otherwise deliberately failed to refer Plaintiff to any other physician for treatment or care.

Defendant's action were fraudulent, in that she misled Plaintiff about the condition of her eye and otherwise disregarded the health risk posed to Plaintiff. As a result, Plaintiff sustained irreparable injury to her eye, in addition to severe pain and emotional distress in an amount to be proven at trial.

Defendant Kaiser is a corporation that sanctioned and otherwise adopted Defendant Liu's behavior because they knew and/or should have known by Defendant scheduling follow up procedures for 3/19 and 3/25/2016 that the first operation was unsuccessful and that Plaintiff could not afford to seek a second opinion from a medical professional other than Dr. Liu. Nonetheless, until March 26, 2015, Defendant Kaiser refused Plaintiff access to another medical professional other than Defendant Liu. In doing, Kaiser deliberately disregarded Plaintiff's health and caused Plaintiff to suffer irreparable injury to her eye and person.

EX-3. The amount of exemplary damages sought is

a. ☐ not shown, pursuant to Code of Civil Procedure section 425.10.b. ☒ \$ 1 million