

2016 JUL -8 | P 2: 33

BY: _____ DEPUTY CLERK

A. GRAHAM

PER LOCAL RULE 5 THIS
CASE IS ASSIGNED TO
DEPT 21

SUMMONS ISSUED

C16 - 0 1 3 0 4

Injury, Property Damage, Wrongful Death
(number):
:
☒ **OTHER (specify):** Premises Liability
☐ Wrongful Death
☐ Other Damages (specify):
t apply):
NO CIVIL CASE
☐ does not exceed \$10,000
☐ exceeds \$10,000, but does not exceed \$25,000
LIMITED CIVIL CASE (exceeds \$25,000)
UNLIMITED by this amended complaint
unlimited
no limited

1. **Plaintiff** (name or names): Brenda Mouton
alleges causes of action against **defendant** (name or names):
Kaiser Permanente Antioch Medical Center
2. This pleading, including attachments and exhibits, consists of the following number of pages: 6
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.

Facsimile Document
See Locals 100-27

SHORT TITLE:

Mouton v. Kaiser

CASE NUMBER:

- 4.
- ☐
- Plaintiff (name):

is doing business under the fictitious name (specify):

and has complied with the fictitious business name laws.

5. Each defendant named above is a natural person

- a.
- ☒
- except defendant (name): Kaiser et al

(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 through 25 were the agents or employees of other named defendants and acted within the scope of that agency or employment.b. ☒ Doe defendants (specify Doe numbers): 1 through 25 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, and

a. ☐ has complied with applicable claims statutes, orb. ☐ is excused from complying because (specify):

SHORT TITLE:

Mouton v. Kaiser

CASE NUMBER:

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

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

11. Plaintiff has suffered

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

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: June 20, 2016

David R. Shane, Esq.

(TYPE OR PRINT NAME)

(SIGNATURE OF PLAINTIFF OR ATTORNEY)

SHORT TITLE:

Mouton v. Kaiser

CASE NUMBER:

FIRST

(number)

CAUSE OF ACTION—General NegligencePage 4ATTACHMENT TO ☒ Complaint ☐ Cross - Complaint

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

GN-1. Plaintiff (name): Brenda Mouton

alleges that defendant (name): Kaiser Permanente Antioch Medical Center

☒ Does 1 to 25

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): August 21, 2015

at (place): 4501 Sand Creek Road, Antioch, California 94531

(description of reasons for liability):

Plaintiff Brenda Mouton was visiting with her sister who was a patient at defendant Kaiser Permanente Antioch Medical Center. Plaintiff went to use the bathroom. As she sat down on the toilet, her body came into contact with a fixed metal device that was positioned across the center of the toilet bowl. This fixed metal device apparently is used for cleaning and should have been removed after any cleaning. Plaintiff had no reason to expect such device positioned across the toilet bowl in such a dangerous position to anyone using the toilet. Defendant had a duty to provide a safe environment for patient visitors, and by leaving this metal object in position across the toilet, defendant breached its duty. Defendant knew or should have known of the danger of this object. Defendant's breach of this duty caused plaintiff physical and emotional harm and plaintiff has had to incur medical treatment and expenses.

SHORT TITLE:

Mouton v. Kaiser

CASE NUMBER:

SECOND

(number)

CAUSE OF ACTION—Premises Liability

Page 5

ATTACHMENT TO ☒ Complaint ☐ Cross - Complaint

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

Prem.L-1. Plaintiff (name): Kaiser Permanente Antioch Medical Center

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

On (date): August 21, 2015

plaintiff was injured on the following premises in the following

fashion (description of premises and circumstances of injury):

Plaintiff Brenda Mouton was visiting defendants Kaiser Permanente Antioch Medical Center located at 4501 Sand Hill, Antioch, CA 94531. Plaintiff went to use the bathroom. As she sat down on the toilet, her body came into contact with a fixed metal device that was positioned across the center of the toilet bowl. This fixed metal device apparently is used for cleaning and should have been removed after any cleaning. Defendant created this danger, and either knew or should have known of the danger.

Prem.L-2. ☒ **Count One—Negligence** The defendants who negligently owned, maintained, managed and operated the described premises were (names):
Kaiser Permanente Antioch Medical Center

☒ Does 1 to 25

Prem.L-3. ☒ **Count Two—Willful Failure to Warn** [Civil Code section 846] The defendant owners who willfully or maliciously failed to guard or warn against a dangerous condition, use, structure, or activity were (names):
Kaiser Permanente Antioch Medical Center

☒ Does 1 to 25Plaintiff, a recreational user, was ☐ an invited guest ☐ a paying guest.

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

☐ Does _____ to _____

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

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

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

☒ Does 1 to 25

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