

PLD-PI-001

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| ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):<br><b>Micheal A. Thompson, Esq. (State Bar # 120424)</b><br><b>LAW OFFICE OF MICHEAL A. THOMPSON</b><br><b>410 Tuolumne Street</b><br><b>Vallejo, CA 94590</b><br><br>TELEPHONE NO: (707) 643-2122 FAX NO. (Optional): (707) 647-4314<br>E-MAIL ADDRESS (Optional):<br>ATTORNEY FOR (Name): <b>PLAINTIFF BRIDGETTE NELSON</b>  | FOR COURT USE ONLY<br><br><b>FILED BY FAX</b><br><b>ALAMEDA COUNTY</b><br><br><b>November 14, 2016</b><br><br><b>CLERK OF</b><br><b>THE SUPERIOR COURT</b><br><b>By Lynn Wiley, Deputy</b> |
| <b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA</b><br>STREET ADDRESS: <b>1221 OAK STREET</b><br>MAILING ADDRESS: <b>1221 OAK STREET</b><br>CITY AND ZIP CODE: <b>OAKLAND, CA 94612-4293</b><br>BRANCH NAME: <b>OAKLAND ADMINISTRATION BUILDING</b>   |  |
| PLAINTIFF: <b>BRIDGETTE NELSON</b><br><br>DEFENDANT: <b>JUAN CARLOS BULLER, M.D., THE KAISER PERMANENTE MEDICAL GROUP, KAISER FOUNDATION HEALTH PLAN, INC.</b><br><input checked="" type="checkbox"/> DOES 1 TO <b>50</b> <b>KAISER FOUNDATION HOSPITAL</b>  |  |
| <b>COMPLAINT—Personal Injury, Property Damage, Wrongful Death</b><br><input type="checkbox"/> <b>AMENDED (Number):</b><br>Type (check all that apply):<br><input type="checkbox"/> <b>MOTOR VEHICLE</b> <input checked="" type="checkbox"/> <b>OTHER (specify): SEXUAL ASSAULT &amp; BATTERY</b><br><input type="checkbox"/> <b>Property Damage</b> <input type="checkbox"/> <b>Wrongful Death</b><br><input checked="" type="checkbox"/> <b>Personal Injury</b> <input checked="" type="checkbox"/> <b>Other Damages (specify): PUNITIVE</b>  | <b>CASE NUMBER:</b><br><b>RG16838821</b>   |
| <b>Jurisdiction (check all that apply):</b><br><input type="checkbox"/> <b>ACTION IS A LIMITED CIVIL CASE</b><br>Amount demanded <input type="checkbox"/> <b>does not exceed \$10,000</b><br><input type="checkbox"/> <b>exceeds \$10,000, but does not exceed \$25,000</b><br><input checked="" type="checkbox"/> <b>ACTION IS AN UNLIMITED CIVIL CASE (exceeds \$25,000)</b><br><input type="checkbox"/> <b>ACTION IS RECLASSIFIED by this amended complaint</b><br><input type="checkbox"/> <b>from limited to unlimited</b><br><input type="checkbox"/> <b>from unlimited to limited</b> | CASE NUMBER:   |

1. **Plaintiff (name or names): BRIDGETTE NELSON**  
 alleges causes of action against **defendant (name or names): JUAN CARLOS BULLER, M.D., THE KAISER PERMANENTE MEDICAL GROUP, KAISER FOUNDATION HEALTH PLAN, INC., KAISER FOUNDATION HOSPITAL**
2. This pleading, including attachments and exhibits, consists of the following number of pages: **KAISER FOUNDATION HOSPITAL**
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.

PLD-PI-001

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| SHORT TITLE:<br><br>NELSON VS. DR. BULLER, ET AL | CASE NUMBER: |
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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 **Health Plan, Inc.**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): THE KAISER PERMANENTE Medical Group(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): KAISER FOUNDATION HOSPITALS 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):(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): 1-25 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): 26-50 are persons whose capacities are unknown to plaintiff.7. ☐ Defendants who are joined under Code of Civil Procedure section 382 are (names):

8. This court is the proper court because

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

PLD-PI-001

SHORT TITLE:

NELSON VS. DR. BULLER, ET AL

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):

SEXUAL ASSAULT AND BATTERY, INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

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):

PUNITIVE DAMAGES. CC 3288, 3291, et seq.

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: \$

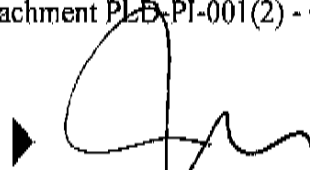
15. ☒ The paragraphs of this complaint alleged on information and belief are as follows (specify paragraph numbers):

Attachments: Intentional Tort PLD-PI-001(3) - Sexual Assault and Battery - Attachment IT-1; Attachment 2 - Intentional Infliction of Emotional Distress; Attachment PLD-PI-001(2) - General Negligence

Date: November 14, 2016

Micheal A. Thompson, Esq.

(TYPE OR PRINT NAME)



(SIGNATURE OF PLAINTIFF OR ATTORNEY)

PLD-PI-001(3)

SHORT TITLE:

NELSON VS. DR. BULLER, ET AL

CASE NUMBER

FIRST

(number)

**CAUSE OF ACTION—Intentional Tort**

Page 4

ATTACHMENT TO ☒ Complaint ☐ Cross - Complaint

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

IT-1. Plaintiff (name): BRIDGETTE NELSON

alleges that defendant (name):

JUAN CARLOS BULLER, M.D., AND ALL NAMED DEFENDANTS, AND

☒ Does 1 to 50

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): NOVEMBER 19, 2015

at (place): KAISER PERMANENTE

(description of reasons for liability):

See Attachment IT-1

## Attachments 1/2

### Attachment IT-1

#### SEXUAL ASSAULT AND BATTERY - California Civil Code Section 1708.5

1. On November 19, 2015, at approximately 1:30 p.m., Plaintiff Bridgette Nelson, age 35, acting upon the advice of Dr. Andrea Wong, her primary care physician, presented to Defendant Dr. Juan carlos Buller while employed as a licensed physician by Kaiser Permanente Medical Group, and Does 1-50, inclusive, with complaints of "hip pain."

2 Plaintiff is informed and believes, and thereon allege, that Defendant Dr. Juan carlos Buller acted with the intent to cause a harmful and/or offensive contact with Plaintiff's intimate part during his examination of Plaintiff, while she was disrobed and wearing "blue paper shorts" given to her by a Kaiser medical assistant.

3. Defendant Dr. Juan carlos Buller, with no female medical assistant present inside of the exam room as required by Kaiser procedures and policies, acted with the intent to cause, and did, in fact, perpetuate non-consensual sexually offensive contact with Plaintiff by instructing her to lay down first on her back, and then on her side, on his examination table, and place his fingers on, and inside, her vagina.

4. Defendant Dr. Juan carlos Buller inquired about Plaintiff's experience while having sexual intercourse and whether it (sex) cause her "hip pain." Thereafter, without any forewarning, Defendant Dr. Juan carlos Buller placed his hands, which were never washed while in the presence and/or preceding his examination of Plaintiff, and without any gloves or protective covering, underneath Plaintiff's "blue paper shorts" and inside of Plaintiff's underwear.

5. Defendant Dr. Juan carlos Buller then began rubbing and caressing Plaintiff's inner thighs close to her vagina in a slow up and down massaging fashion and then placed his fingers onto Plaintiff's labia, and thereafter into, and penetrating deep inside her vagina, in a "in and out" fashion multiple times, allowing his fingers to remain inside of Plaintiff's vagina for a unreasonable period of time while purportedly conducting an examination for the origin of Plaintiff's hip pain.

6. In doing the acts as alleged above, Defendant Dr. Juan carlos Buller acted with the intent to make a contact with Plaintiff's person.

7. Plaintiff is informed and believes, and thereon allege, that Defendant Dr. Juan carlos Buller intended to place Plaintiff in apprehension of offensive sexual contact with her person, and Plaintiff was, in fact, placed in apprehension of offensive sexual contact with her person.

8. As a result of Defendant Dr. Juan carlos Buller's unlawful acts as alleged above, Plaintiff, in fact, was placed in great apprehension of a harmful or an offensive contact with

## Attachments 2/2

Plaintiff's person.

9. At no time did Plaintiff consent to any of the acts of Defendant Dr. Juan carlos Buller alleged above.

10. As a proximate result of the acts of Defendant Dr. Juan carlos Buller as alleged herein, Plaintiff was hurt and injured in her health, strength, and activity sustaining injury to her nervous system and person, all of which have caused, and continue to cause, Plaintiff great mental, physical, and nervous pain and suffering. As a result of these injuries, plaintiff has suffered general damages.

11. As a further proximate result of the acts of Defendant Dr. Juan carlos Buller, Plaintiff has incurred, and will continue to incur, medical and related expenses. The full amount of these expenses is not known to plaintiff at this time.

12. Further, Defendant Dr. Juan carlos Buller recklessly performed, provided and/or administered the same and/or failing and/or omitting to do so; that such examination and related procedures and services, diagnosis, treatment, and/or other services, care and treatment, were and are all below the standard of care of the community in which the same occurred.

13. The aforementioned conduct of Defendant Dr. Juan carlos Buller was willful and malicious and was intended to oppress and cause injury to Plaintiff.

14. As a proximate result of the intentional, reckless, malicious, fraudulent and unlawful acts and omissions of Defendant Dr. Juan carlos Buller, Plaintiff suffered, and continues to suffer, psychological trauma, personal injuries and damages, and that such intentional, reckless, fraudulent, and malicious acts was, and is, the legal cause of said injuries and damages. Plaintiff is therefore entitled to an award of punitive damages.

Law Offices of Micheal A. Thompson  
**MICHEAL A. THOMPSON, ESQ.**  
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 Telephone: (707) 643-2122  
 Facsimile: (707) 647-4314

Attorneys for Plaintiff  
**BRIDGETTE NELSON**

**IN THE SUPERIOR COURT OF CALIFORNIA**  
**IN AND FOR THE COUNTY OF ALAMEDA**

**BRIDGETTE NELSON**

Plaintiff

v.

**JUAN CARLOS BULLER, M.D., THE  
 KAISER PERMANENTE MEDICAL  
 GROUP, KAISER FOUNDATION  
 HEALTH PLAN, INC., KAISER  
 FOUNDATION HOSPITAL, AND DOES  
 1 - 50, inclusive,**

Defendants.

Case No:

**ATTACHMENT 2 - TO THE COMPLAINT**

**JURY TRIAL DEMANDED**

**UNLIMITED CIVIL ACTION**

**SECOND CAUSE OF ACTION**

**INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

***(Against Defendant JUAN CARLOS BULLER, M.D. and Does 1-50, Inclusive)***

1. Plaintiff re-alleges and incorporates into this cause of action each and every allegation contained in the previous paragraphs of this Complaint as though fully set forth.

2. Defendant Dr. Juan Carlos Buller conduct as described above was done with the intention to cause Plaintiff emotional distress.
3. Defendant Dr. Juan Carlos Buller's actions were done recklessly in deliberate disregard of a high degree of probability that Plaintiff would suffer from extreme emotional distress.
4. Defendant Dr. Juan Carlos Buller did not act with reasonable care and in accordance with applicable codes, laws, ordinances, regulations and statutes.
5. At all relevant times herein, the conduct of Defendant Dr. Juan Carlos Buller and Does 1-50 was despicable, outrageous and demonstrated conscious disregard for Plaintiff's health and welfare.
6. Because of the intentional and outrageous conduct of Defendant Dr. Juan Carlos Buller, Plaintiff sustained severe emotional distress and mental suffering, all of which has caused, and continues to cause, and will cause Plaintiff great physical and mental pain and suffering, all to Plaintiff's damage in an amount as yet unascertained, but subject to proof. Accordingly, Plaintiff will seek prejudgment interest, pursuant to the provisions of California Civil Code §3291.
7. The outrageous conduct of Defendant Dr. Juan Carlos Buller was intended to injure Plaintiff and to cause Plaintiff to suffer emotional distress. .
8. The conduct of Defendant Dr. Juan Carlos Buller was outrageous and done with conscious disregard of Plaintiff's rights and with the intent to vex, injure or annoy Plaintiff. Said conduct was such as to constitute oppression, fraud, malice under §3294 of the California Civil Code entitling Plaintiff to punitive damages in an amount sufficient to punish Defendant Dr. Juan Carlos Buller and to deter him and others from engaging in such reckless and intentional conduct in the future.

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**PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff prays for judgment against Defendant Dr. Juan Carlos Buller and Does 1-50, as follows:

1. For compensatory damages according to proof;
2. For reasonable attorneys' costs and fees according to proof;
3. For costs of suit incurred;
4. For general and special damages according to proof;
5. For punitive damages;
6. For the interest provided by law including, but not limited to, Sections 3288 and 3291 of the California Civil Code; and
7. For such other relief as the Court deems just and proper.

**DATED:** November 4, 2016

**THE LAW OFFICES OF MICHEAL A. THOMPSON**

By: 

MICHEAL A. THOMPSON, ESQ.  
Attorneys for Plaintiff Bridgette Nelson

PLD-PI-001(2)

|  |              |
|--|--------------|
| SHORT TITLE:<br><br>NELSON V. DR. BULLER | CASE NUMBER: |
|--|--------------|

THIRD

(number)

**CAUSE OF ACTION—General Negligence**

Page 10

ATTACHMENT TO ☒ Complaint ☐ Cross - Complaint

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

GN-1. Plaintiff (name): BRIDGETTE NELSON

alleges that defendant (name): JUAN CARLOS BULLER, M.D., KAISER PERMANENTE MEDICAL GROUP, INC., KAISER FOUNDATION HEALTH PLAN, INC., KAISER FOUNDATION HOSPITAL

☒ Does 1 to 50

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

on (date): NOVEMBER 19, 2015

at (place): KAISER PERMANENTE

(description of reasons for liability):

See Attachment GN-1

## Attachments

### Attachment GN-1

1. Plaintiff re alleges and incorporates into this cause of action each and every allegation contained in the previous paragraphs of this complaint as though fully set forth herein.
2. Plaintiff is informed and believes, and thereon allege that all relevant times herein mentioned, Defendants Kaiser Permanente Medical Group, Kaiser Foundation Health Plan, Inc., Kaiser Foundation Hospital, and Does 1-50, inclusive, is and was "managed care entity," as defined by California Health and Safety Code Section 1345(f).
3. Plaintiff is informed and believes, and thereon allege that all relevant times herein mentioned, that Defendants Kaiser Permanente Medical Group, Kaiser Foundation Health Plan, Inc., Kaiser Foundation Hospital, and Does 1-50, inclusive, breached its duty to exercise reasonable care in selecting, reviewing, inspecting, supervising and monitoring Defendant Dr. Buller's conduct in fulfillment of it's responsibility to Plaintiff, and to protect Plaintiff against a sexual assault and battery while being treated and examined by Defendant Dr. Buller at a Kaiser Permanente facility.
4. Plaintiff is informed and believes, and thereon allege that all relevant times herein mentioned, that Defendants Kaiser Permanente Medical Group, Kaiser Foundation Health Plan, Inc., Kaiser Foundation Hospital, and Does 1-50, inclusive, lack appropriate policies and protocols to protect Plaintiff against sexual assault and battery, who on November 19, 2015, failed to have appropriate and adequate supervision of their medical support staff to insure that a female medical assistant was in the examination room when Defendant Dr. Buller conducted his unlawful examination of Plaintiff.
5. Plaintiff is informed and believes, and thereon allege that all relevant times herein mentioned, that Defendants Kaiser Permanente Medical Group, Kaiser Foundation Health Plan, Inc., Kaiser Foundation Hospital, and Does 1-50, inclusive, negligently and carelessly managed, supervised, reviewed, monitored, performed, provided appropriate oversight over Defendant Dr. Buller's and/or failing and/or omitting to do so; that such related procedures, personnel policies, and services, were and are all below the standard of care of the community in which the same occurred.
6. Plaintiff is informed and believes, and thereon allege that all relevant times herein mentioned, that as a proximate result of the negligent acts, and omissions, and negligence and carelessness of Defendants Kaiser Permanente Medical Group, Kaiser Foundation Health Plan, Inc., Kaiser Foundation Hospital, and Does 1-50, inclusive, Plaintiff suffered, and continues to suffer, psychological trauma, personal injuries and damages, and that such acts, negligence and carelessness was and is the legal cause of said injuries and damages, which include general and special damages.