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Attorneys for Plaintiffs

FILED  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF RIVERSIDE

DEC 08 2016

M. Preciado

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF RIVERSIDE

BY FAX

ABIGAIL BORDERS, a minor, by and through  
her Guardian ad Litem KASEY BORDERS;  
KASEY BORDERS, KYLE BORDERS,

Plaintiffs,

vs.

KAISER FOUNDATION HOSPITALS, a  
Corporation; SOUTHERN CALIFORNIA  
PERMANENTE MEDICAL GROUP, a  
California Partnership; KAISER FOUNDATION  
HEALTH PLAN, INC., a Corporation; and  
DOES 1 through 250, inclusive,

Defendants.

Case No.

1616160

COMPLAINT FOR DAMAGES FOR  
MEDICAL MALPRACTICE:

1. Negligence
2. Negligence
3. Negligent Infliction  
of Emotional Distress
4. Negligent Infliction  
of Emotional Distress
5. Loss of Consortium

Plaintiffs, through Counsel, allege in their complaint for damages for medical  
malpractice, as follows:

1. The true names, identities or capacities, whether individual, associate,  
corporate or otherwise of Defendants DOES 1 through 250, inclusive, are unknown to  
Plaintiffs, who therefore, sues said Defendants by such fictitious names. When the true  
names, identities or capacities of such fictitiously-designated Defendants are ascertained,  
Plaintiffs will ask leave of Court to amend the Complaint to insert said true names,  
identities and capacities, together with the proper charging allegations.

2. Plaintiffs are informed and believe and thereon allege that each of the

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1 Defendants sued herein as a DOE is responsible in some manner for the events and  
2 happenings herein referred to, thereby legally causing the injuries and damages to the  
3 Plaintiffs as herein alleged.

4 3. All of the facts, acts, events and circumstances herein mentioned and  
5 described occurred in the County of RIVERSIDE, State of California, and all Defendants are  
6 residents of the County of RIVERSIDE, State of California, doing business in said County,  
7 State of California.

8 4. At all times herein mentioned, Defendants DOES 1 through 50, inclusive, were,  
9 and now are, physicians and surgeons, holding themselves out as duly licensed to practice  
10 their profession under and by virtue of the laws of the State of California and were, and now  
11 are, engaged in the practice of their profession in the State of California.

12 5. At all times herein mentioned, Defendants DOES 51 through 100, inclusive,  
13 were, and now are, registered nurses, nurse practitioners, nurse midwives, licensed  
14 vocational nurses, practical nurses, physician assistants, aids, technicians, attendants,  
15 students or other paramedical personnel, holding themselves out as duly able to practice  
16 their profession under and by virtue of the laws of the State of California and were, and now  
17 are, engaged in the practice of their profession in the State of California and acting as  
18 agents, employees and servants of some or all of the other Defendants within the course and  
19 scope of said agency or employment.

20 6. At all times herein mentioned, Defendants KAISER FOUNDATION HEALTH  
21 PLAN, INC., KAISER FOUNDATION HOSPITALS, SOUTHERN CALIFORNIA  
22 PERMANENTE MEDICAL GROUP, and DOES 101 through 150, and each of them, were  
23 corporations, partnerships, joint ventures, or other entities organized and existing under the  
24 laws of the State of California, with their principal place of business situated in the State of  
25 California and other States.

26 7. Defendants KAISER FOUNDATION HEALTH PLAN, INC., KAISER  
27 FOUNDATION HOSPITALS, and DOES 151 through 200, inclusive, were at all times herein  
28 mentioned duly organized California corporations or hospitals existing under and by virtue

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1 of the laws of the State of California and other States; that said Defendant corporations,  
2 hospitals and the remaining Defendants, and each of them, owned, operated, managed and  
3 controlled a general hospital facility within the County of RIVERSIDE, State of California,  
4 held out to the public at large and to the Plaintiffs herein, as properly equipped, fully  
5 accredited, competently staffed by qualified and prudent personnel and operating in  
6 compliance with the standard of due care maintained in other properly equipped, efficiently  
7 operated and administered, accredited hospitals in said community commonly known as  
8 KAISER PERMANENTE RIVERSIDE MEDICAL CENTER.

9 8. At all times herein mentioned Defendants DOES 201 through 250 were doing  
10 business as a district or County hospital or clinic, and DOES 240-250, a hospital operated by  
11 a government entity or medical clinic or hospital, open to the public, or a medical facility or  
12 clinic, operated by a government entity open to the public rendering medical, surgical,  
13 hospital, diagnostic, nursing and other care to the general public for compensation. All of the  
14 acts complained of herein by Plaintiffs against said Defendants were done and performed by  
15 said Defendants by and through their duly authorized agents, servants and employees, each  
16 of whom and all of whom were at all times mentioned herein acting within the course,  
17 purpose, and scope of their said agency, service and employment, and whose conduct was  
18 ratified by all Defendants, and each of them.

19 9. Each Defendant ratified and affirmed the conduct of each other Defendant. Each of  
20 the Defendants was the agent, servant, and employee of the other Defendants.

21 10. Plaintiffs are informed and believe and upon such information and belief allege  
22 that at all times herein mentioned, Defendants and other Defendants named fictitiously,  
23 were the agents, servants, employees, joint-venturers, and copartners of their said co-  
24 Defendants and, as such, were acting within the course and scope of such agency, service,  
25 partnership, venture, and employment at all times herein mentioned; that each and every  
26 Defendant, as aforesaid, when acting as a principal, was negligent in the selection and hiring  
27 of each and every other Defendant, as its agent, servant, employee, joint-venturer and  
28 partner. Further, each and every Defendant ratified the conduct of the other Defendants.

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1 10(a). On September 15, 2016, Plaintiffs KASEY BORDERS and KYLE BORDERS  
2 caused to be served upon said Defendants, and each of them, a Notice of Intent to Commence  
3 Action, pursuant to California Code of Civil Procedure section 364.

4 I.

5 PLAINTIFF ABIGAIL BORDERS A MINOR, BY AND THROUGH HIS GUARDIAN  
6 AD LITEM KASEY BORDERS ALLEGES FOR A CAUSE OF ACTION FOR  
7 NEGLIGENCE AGAINST DEFENDANTS AND EACH OF THEM AS FOLLOWS:

8 11. Plaintiff ABIGAIL BORDERS repeats and repleads each and every allegation  
9 contained each of the foregoing paragraphs, and incorporates the same herein by reference.

10 12. On or about the date of the filing of the complaint, KASEY BORDERS was by  
11 order duly made and entered by the above entitled Court, appointed Guardian ad Litem of  
12 Plaintiff ABIGAIL BORDERS a minor, born September 25, 2015 at KAISER PERMANENTE  
13 RIVERSIDE MEDICAL CENTER.

14 13. At all times herein mentioned, and prior thereto, the Plaintiff was in the  
15 exclusive control of the Defendants, and each of them, and that at no time prior to the  
16 events, conduct, activities, care and treatment herein complained of did the Defendants  
17 herein, or any of them, obtain knowledgeable, informed consent for said care, treatment or  
18 conduct; that prior to the initiation of or performance of said care, treatment, procedure or  
19 conduct no opportunity was afforded the Plaintiff or any authorized agent of the Plaintiff to  
20 exercise voluntary, knowledgeable and informed consent to said care, treatment, procedure  
21 or conduct.

22 14. Prior to September 25, 2015, the date of ABIGAIL BORDERS' birth, and  
23 thereafter, KASEY BORDERS employed Defendants, and each of them, to diagnose and  
24 treat her condition of pregnancy and to do all things necessary for her care and the care of  
25 her baby, ABIGAIL BORDERS including but not limited to, pre-delivery care, the delivery,  
26 and post-delivery care.

27 15. While minor Plaintiff ABIGAIL BORDERS was under the sole and exclusive  
28 care and control of the Defendants, and each of them, Defendants, and each of them

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1 negligently, carelessly and unskillfully selected various hospitals and physicians and other  
2 health care provides, negligently delivered, examined, treated, cared for, diagnosed, operated  
3 upon, attended and otherwise handled and controlled the minor Plaintiff herein, thereby  
4 proximately causing injuries and damages to the minor Plaintiff. Said acts of negligence  
5 include, but are not limited to, negligently failing to timely deliver plaintiff, negligently  
6 failing to diagnose or treat fetal distress, refusing to perform a requested Cesarean section.

7 16. Defendants KAISER FOUNDATION HOSPITALS, and DOES 151-200, failed  
8 and neglected to adequately select a competent medical staff and to periodically review the  
9 competency of its medical staff, and failed to adequately monitor its staff such that the minor  
10 Plaintiff was caused to, and did suffer injuries and damages as herein alleged.

11 17. As a legal result of the negligence of the Defendants, and each of them, the  
12 minor Plaintiff was injured in health, strength and activity, sustaining severe shock, and  
13 injury to the body, all of which said injuries have caused and continue to cause Plaintiff great  
14 physical, emotional, and nervous pain and suffering, and which said injuries Plaintiff is  
15 informed and believes, and thereon alleges, will result in loss of earnings, permanent  
16 disability, loss of enjoyment of life, and impairment of earning capacity all to Plaintiff's  
17 damage in a sum in excess of the jurisdiction of the Municipal Court.

18 18. As a further legal result of the negligence of the Defendants, and each of them,  
19 and the resulting injuries to the Plaintiff, said Plaintiff was compelled to, and did, incur  
20 expenses for medical and surgical attention, hospitalization, nursing, medication and  
21 incidentals for said Plaintiff in an amount unknown to Plaintiff at present.

22 19. As a further legal result of the negligence of the Defendants, and each of them,  
23 and of the resulting injuries, Plaintiff will be obliged to incur expenses for medical care and  
24 hospitalization for an indefinite period in the future and to pay for these expenses in the  
25 treatment and relief of injuries for medical and surgical attention, hospitalization, nursing,  
26 medication, and incidentals for said Plaintiff in an amount unknown to Plaintiff at present.

27 20. As a further legal result of the negligence of the Defendants, and each of them,  
28 Plaintiff will suffer a decreased earnings and earning capacity in the future and future

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1 earnings to Plaintiff's further damage in a sum unknown at present.

2 II.

3 PLAINTIFF KASEY BORDERS ALLEGES FOR A SEPARATE AND  
4 DISTINCT CAUSE OF ACTION FOR NEGLIGENCE AGAINST DEFENDANTS  
5 AND EACH OF THEM:

6 21. Plaintiff KASEY BORDERS repeats and repleads each and every allegation  
7 contained in each of the preceding paragraphs and incorporates the same herein by  
8 reference.

9 22. At all times herein mentioned, the Plaintiff was in the exclusive control of the  
10 said Defendants and that at no time prior to the events, conduct, activities, care and  
11 treatment herein complained of did the said Defendants obtain knowledgeable, informed  
12 consent for said care, treatment or conduct; that prior to the initiation of or performance of  
13 said care, treatment, procedure or conduct no opportunity was afforded the Plaintiff or any  
14 authorized agent of the Plaintiff to exercise voluntary, knowledgeable and informed consent  
15 to said care, treatment, procedure or conduct.

16 23. Prior to September 25, 2015, the date of ABIGAIL BORDERS's birth, and  
17 thereafter, KASEY BORDERS employed said Defendants, to diagnose and treat her  
18 condition of pregnancy and to do all things necessary for her care, including, but not limited  
19 to, pre-delivery care, the delivery and post-delivery care.

20 24. While Plaintiff KASEY BORDERS was under the sole and exclusive care and  
21 control of the said Defendants, Defendants, negligently, carelessly and unskillfully delivered,  
22 examined, treated, cared for, diagnosed, operated upon, attended and otherwise handled and  
23 controlled the Plaintiff herein, thereby proximately causing injuries and damages to  
24 Plaintiff.

25 25. As a legal result of the negligence of the Defendants, and each of them,  
26 Plaintiff was injured in her health, strength and activity, sustaining severe shock, and injury  
27 to Plaintiff's body, all of which said injuries have caused and continue to cause Plaintiff great  
28 physical, emotional, and nervous pain and suffering, and which said injuries Plaintiff is

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1 informed and believes, and thereon alleges, will result in loss of earnings, permanent  
2 disability, loss of enjoyment of life, and impairment of earning capacity all to Plaintiff's  
3 damage in a sum in excess of the jurisdiction of the Municipal Court.

4 26. As a further legal result of the negligence of the Defendants, and each of them,  
5 and the resulting injuries to the Plaintiff, said Plaintiff was compelled to, and did, incur  
6 expenses for medical and surgical attention, hospitalization, nursing, medication and  
7 incidentals for said Plaintiff in an amount unknown to Plaintiff at present.

8 27. As a further legal result of the negligence of the Defendants, and each of them,  
9 and of the resulting injuries, Plaintiff will be obliged to incur expenses for medical care and  
10 hospitalization for an indefinite period in the future and to pay for these expenses in the  
11 treatment and relief of injuries for medical and surgical attention, hospitalization, nursing,  
12 medication, and incidentals for said Plaintiff in an amount unknown to Plaintiff at present.

13 28. As a further legal result of the negligence of the Defendants, and each of them,  
14 Plaintiff KASEY BORDERS has suffered loss of earnings and will suffer a decreased earning  
15 capacity in the future and future earnings to Plaintiff's further damage in a sum unknown at  
16 present.

17 III.

18 PLAINTIFF KASEY BORDERS ALLEGES FOR A SEPARATE AND  
19 DISTINCT CAUSE OF ACTION FOR NEGLIGENT INFLICTION OF EMOTIONAL  
20 DISTRESS AGAINST DEFENDANTS AND EACH OF THEM AS FOLLOWS:

21 29. Plaintiff KASEY BORDERS repeats and repleads each and every allegation  
22 contained in the preceding paragraphs and incorporates the same herein by reference.

23 30. At all times herein mentioned, KASEY BORDERS was the mother of ABIGAIL  
24 BORDERS the minor Plaintiff, and was and is under a duty to care for the minor child  
25 herein. Plaintiff KASEY BORDERS employed said Defendants to care for and treat herself  
26 and her minor child, ABIGAIL BORDERS during the pregnancy.

27 31. At all times mentioned, said Defendants were under a legal duty to Plaintiff  
28 with respect to the care and treatment of the child, ABIGAIL BORDERS while the child was

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1 a patient in the said hospital and under the care of the said Defendants. Said Defendants  
2 treated and cared for both the minor and KASEY BORDERS during the labor and delivery of  
3 KASEY BORDERS and thereafter.

4 32. At all times mentioned, there existed a close relationship between Plaintiff  
5 KASEY BORDERS and ABIGAIL BORDERS namely, mother and child, and said  
6 Defendants were aware of this close relationship when they agreed to care for the child. It  
7 was foreseeable that Plaintiff KASEY BORDERS would be damaged directly by negligent  
8 acts or omissions to act and committed upon the child. Said Defendants were aware that  
9 Plaintiff KASEY BORDERS was concerned about the physical well being of her child when  
10 Defendants agreed to treat both the child and mother.

11 33. It was reasonably foreseeable and easily predictable that any acts of  
12 negligence by these Defendants that would injure the child would lead to serious emotional  
13 distress in Plaintiff KASEY BORDERS. Because the risk of harm to the Plaintiff was  
14 reasonably foreseeable and easily predictable, Defendants owed Plaintiff a duty to exercise  
15 due care in diagnosing, caring for, and treating Plaintiff's child, ABIGAIL BORDERS. This is  
16 especially true as Defendants agreed to and did treat both KASEY BORDERS and ABIGAIL  
17 BORDERS at the same time.

18 34. Said Defendants in disregard of the probability that their actions would cause  
19 severe emotional distress, in failing to provide the necessary medical treatment to Plaintiff  
20 KASEY BORDERS and her child, caused Plaintiff KASEY BORDERS severe emotional  
21 distress arising from the abnormal event of participating in a negligent delivery and reacting  
22 to the tragic outcome with fright nervousness and shock, grief, anxiety, worry, mortification,  
23 shock, humiliation and indignity.

24 35. These damages for emotional distress accrued separately, consist of different  
25 acts, and at separate times, from Plaintiff KASEY BORDERS's previous cause of action for  
26 negligence from which she suffered physical injuries and pain and suffering during the  
27 negligently conducted labor and delivery.

28 36. As a further legal result of the negligence of the Defendants, and of the

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1 resulting injuries, Plaintiff will be obliged to incur expenses for medical care and  
2 hospitalization for an indefinite period in the future and to pay for these expenses in the  
3 treatment and relief of injuries for medical and surgical attention, hospitalization, nursing,  
4 medication, and incidentals for said Plaintiff in an amount unknown to Plaintiff at present.

5 37. As a further legal result of the negligence of the Defendants, Plaintiff has  
6 suffered loss of earnings and will suffer a decreased earning capacity in the future and  
7 future earnings to Plaintiff's further damage in a sum unknown at present.

8 38. By reason of the negligence of said Defendants, Plaintiff KASEY BORDERS  
9 suffered severe and serious emotional distress and shock and injury to her nervous system  
10 and body, all to her general damage in a sum within the jurisdiction of this Court and  
11 pursuant to *Burgess v. Superior. Court* (1992) 2 Cal.4th 1064.

12 IV.

13 PLAINTIFF KYLE BORDERS ALLEGES FOR A SEPARATE AND  
14 DISTINCT CAUSE OF ACTION FOR NEGLIGENT INFLICTION OF  
15 EMOTIONAL DISTRESS AGAINST DEFENDANTS AND EACH OF THEM AS  
16 FOLLOWS:

17 39. Plaintiff KYLE BORDERS repeats and repleads each and every allegation  
18 contained in all prior paragraphs and incorporates the same herein by reference.

19 40. At all times herein mentioned, Plaintiff KYLE BORDERS was the father of  
20 ABIGAIL BORDERS the minor plaintiff and husband of Plaintiff KASEY BORDERS.

21 41. At all times mentioned, said Defendants were under a legal duty to the  
22 plaintiff with respect to the care and treatment of the minor ABIGAIL BORDERS and his  
23 wife KASEY BORDERS, while they were patients in the said hospital and under the care of  
24 the said Defendants.

25 42. That said defendants negligently caused injury to the plaintiff minor ABIGAIL  
26 BORDERS and his wife plaintiff KASEY BORDERS during her labor, as hereinafter alleged.

27 43. Plaintiff KYLE BORDERS was present at the scene of the injury to his child and  
28 wife when it occurred and at that time and place in the labor room and other areas of the

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1 hospital, and had contemporaneous sensory awareness of the causal connection between the  
2 negligent conduct of the Defendants and was reasonably certain that his child was being  
3 injured

4 (a) Mr. Borders was present during the entire labor and delivery of his daughter  
5 Abigail. Mr. Borders had been educated by the hospital staff and midwives with regard to  
6 the fetal monitor tracing that the normal range of fetal heart rates was 110/120-160 beats  
7 per minute, and that said heart rate range was evidence that the fetus was being provided  
8 with adequate supplies of blood and oxygen to his son's brain. Mr. Borders witnessed the  
9 fetal heart rate drop below the normal range and was immediately aware, perceived and  
10 understood that his daughter was receiving an inadequate supply of blood and oxygen to his  
11 brain, thereby causing brain damage.

12 (b) Mrs. Borders and Mr. Borders were informed that their daughter had a facial  
13 presentation and that a vaginal delivery would result in head swelling, bruising, eye  
14 bruising, and other head trauma.

15 (c) Mrs. Borders requested a Cesarean-section but the Kaiser providers denied her  
16 request in front of Mr. Borders, and despite the request for a Cesarean-section forced Mrs.  
17 Borders to go forward with a vaginal delivery attempt.

18 (d) Mr. Borders knew and understood that the defendants' refusal to allow Mrs.  
19 Borders to participate in the plan of care, and deny her request for a Cesarean-section, and  
20 failing to obtain Mrs. Borders' consent to a vaginal delivery, was causing harm to his  
21 daughter Abigail.

22 (e) Mr. Borders could see the trauma being caused to Abigail's head during the forced  
23 vaginal delivery that occurred after 2.5 hours of pushing. Mr. Borders contemporaneously  
24 witnessed and perceived that his daughter was receiving traumatic head injuries as he  
25 witnessed his daughter's face become increasingly bruised during the delivery process, finally  
26 to the point where her head was black and blue. Simultaneously, Mr. Borders witnessed his  
27 daughter's heart rate drop well below the normal range that Kaiser had taught him.

28 (f) Mr. Borders contemporaneously knew and understood that his daughter was

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1 receiving a decreased supply of blood and oxygen to her brain, and that she was receiving  
2 brain injury as a result of the delayed delivery and failure and refusal to perform the  
3 c-section that his wife requested and to which she was entitled.

4 (g) At delivery., Mr. Borders saw that his daughter's head was entirely black and blue  
5 and he contemporaneously knew and perceived and witnessed that this head trauma was the  
6 direct result of Kaiser's refusal to perform the c-section tat his wife and requested, and that  
7 the trauma was the result of defendants forcing Mrs. Borders to vaginally deliver Abigail in  
8 a facial presentation that Kaiser had expressly told Mr. Borders and his wife would cause  
9 their daughter head trauma.

10 44. Plaintiff was contemporaneously aware that his daughter was being injured  
11 during the labor and delayed delivery. As a result of witnessing his child and wife being  
12 injured, Plaintiff suffered severe emotional distress

13 45. Said Defendants in disregard of the probability that their actions, in failing to  
14 provide the necessary medical treatment to ABIGAIL BORDERS and his wife KASEY  
15 BORDERS and child, were a substantial factor in causing Plaintiff KYLE BORDERS to  
16 suffer severe emotional distress.

17 46. By reason of the negligence of said Defendants in failing to treat his wife and  
18 son timely, Plaintiff KYLE BORDERS suffered severe and serious emotional distress and  
19 shock and injury to his nervous system and body, all to his general damage in a sum within  
20 the jurisdiction of this Court and pursuant to *Thing v. LaChusa* (1989) 48 Cal.3d 644.

21 47. As a further legal result of the negligence of the Defendants, and each of them,  
22 and of the resulting injuries, Plaintiff will be obliged to incur expenses for medical care and  
23 hospitalization for an indefinite period in the future and to pay for these expenses in the  
24 treatment and relief of injuries for medical and surgical attention, hospitalization, nursing,  
25 medication, and incidentals for said Plaintiff in an amount unknown to Plaintiff at present.

26 48. As a further legal result of the negligence of the Defendants, and each of them,  
27 Plaintiff has suffered loss of earnings and will suffer a decreased earning capacity in the  
28 future and future earnings to Plaintiff's further damage in a sum unknown at present.

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V.

PLAINTIFF KYLE BORDERS ALLEGES FOR A SEPARATE AND  
DISTINCT CAUSE OF ACTION FOR LOSS OF CONSORTIUM AGAINST  
DEFENDANTS AND EACH OF THEM AS FOLLOWS:

49. Plaintiff KYLE BORDERS repeats and repleads each and every allegation contained in all prior paragraphs and incorporates the same herein by reference as to said Defendants and each of them.

50. At all times herein mentioned, KASEY BORDERS and KYLE BORDERS were married and are husband and wife.

51. As a direct and proximate result of the aforesaid conduct of Defendants, and each of them, and the resultant injuries to Plaintiff KASEY BORDERS, Plaintiff KYLE BORDERS has suffered and is reasonably certain to suffer in the future the loss of consortium, love, companionship, comfort, affection, society, solace, moral support, enjoyment of sexual relations and physical assistance in the operation and maintenance of the home, causing damage in a sum in excess of the jurisdiction of the Municipal Court.

WHEREFORE, Plaintiffs pray for damages against the Defendants, and each of them, as follows:

FOR THE CAUSE OF ACTION FOR NEGLIGENCE FOR PLAINTIFF ABIGAIL  
BORDERS A MINOR:

1. General damages, according to proof;
2. Past and future medical expenses, according to proof;
3. For loss of future earning and earning capacity, according to proof;
4. Costs of suit incurred herein, and
5. For such other and further relief as to the Court appears just and proper.

FOR THE CAUSE OF ACTION FOR NEGLIGENCE FOR PLAINTIFF KASEY  
BORDERS:

1. General damages, according to proof;

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2. Past and future medical expenses, according to proof;
3. For loss of past and future earning and earning capacity, according to proof;
4. Costs of suit incurred herein, and
5. For such other and further relief as to the Court appears just and proper.

FOR THE CAUSE OF ACTION FOR NEGLIGENT INFLECTION OF EMOTIONAL  
DISTRESS FOR PLAINTIFF KASEY BORDERS:

1. General damages, according to proof;
2. Special damages, according to proof;
3. Costs of suit incurred herein, and
4. For such other and further relief as to the Court appears just and proper.

FOR THE CAUSE OF ACTION FOR NEGLIGENT INFLECTION OF  
EMOTIONAL DISTRESS FOR PLAINTIFF KYLE BORDERS:

1. General damages, according to proof;
2. Special damages, according to proof;
3. Costs of suit incurred herein, and
4. For such other and further relief as to the Court appears just and proper.

FOR THE CAUSE OF ACTION FOR LOSS OF CONSORTIUM FOR PLAINTIFF  
KYLE BORDERS:

1. General damages, according to proof;
2. Special damages, according to proof;
3. Costs of suit incurred herein, and
4. For such other and further relief as to the Court appears just and proper.

DATED: December 6, 2016

Law Offices of Bruce G. Fagel and Associates

By: 

Bruce G. Fagel.  
Attorneys for Plaintiffs

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BY FAX

Items 1-6 below must be completed (see instructions on page 2).

2. This case ☐ is ☒ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- a. ☐ Large number of separately represented parties d. ☐ Large number of witnesses
- b. ☐ Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve e. ☐ Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
- c. ☐ Substantial amount of documentary evidence f. ☐ Substantial postjudgment judicial supervision
3. Remedies sought (check all that apply): a. ☒ monetary b. ☐ nonmonetary: declaratory or injunctive relief c. ☐ punitive

4. Number of causes of action (specify): 5

5. This case ☐ is ☒ is not a class action suit.

6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: December 7, 2016

Bruce G. Fagel, State Bar No. 103674

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

## NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

# INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

CM-010

**To Plaintiffs and Others' Filing First Papers.** If you are filing a first paper (for example, a complaint) in a civil case, you must complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check one box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the **primary** cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

**To Parties in Rule 3.740 Collections Cases.** A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

**To Parties in Complex Cases.** In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

## CASE TYPES AND EXAMPLES

### Auto Tort

Auto (22)—Personal Injury/Property Damage/Wrongful Death  
Uninsured Motorist (46) (*if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto*)

### Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

Asbestos (04)  
Asbestos Property Damage  
Asbestos Personal Injury/Wrongful Death  
Product Liability (*not asbestos or toxic/environmental*) (24)  
Medical Malpractice (45)  
Medical Malpractice—Physicians & Surgeons  
Other Professional Health Care Malpractice  
Other PI/PD/WD (23)  
Premises Liability (e.g., slip and fall)  
Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)  
Intentional Infliction of Emotional Distress  
Negligent Infliction of Emotional Distress  
Other PI/PD/WD

### Non-PI/PD/WD (Other) Tort

Business Tort/Unfair Business Practice (07)  
Civil Rights (e.g., discrimination, false arrest) (*not civil harassment*) (08)  
Defamation (e.g., slander, libel) (13)  
Fraud (16)  
Intellectual Property (19)  
Professional Negligence (25)  
Legal Malpractice  
Other Professional Malpractice (*not medical or legal*)  
Other Non-PI/PD/WD Tort (35)  
**Employment**  
Wrongful Termination (36)  
Other Employment (15)

### Contract

Breach of Contract/Warranty (06)  
Breach of Rental/Lease Contract (*not unlawful detainer or wrongful eviction*)  
Contract/Warranty Breach—Seller Plaintiff (*not fraud or negligence*)  
Negligent Breach of Contract/Warranty  
Other Breach of Contract/Warranty  
Collections (e.g., money owed, open book accounts) (09)  
Collection Case—Seller Plaintiff  
Other Promissory Note/Collections Case  
Insurance Coverage (*not provisionally complex*) (19)  
Auto Subrogation  
Other Coverage  
Other Contract (37)  
Contractual Fraud  
Other Contract Dispute

### Real Property

Eminent Domain/Inverse Condemnation (14)  
Wrongful Eviction (33)  
Other Real Property (e.g., quiet title) (26)  
Writ of Possession of Real Property  
Mortgage Foreclosure  
Quiet Title  
Other Real Property (*not eminent domain, landlord/tenant, or foreclosure*)

### Unlawful Detainer

Commercial (31)  
Residential (32)  
Drugs (38) (*if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential*)

### Judicial Review

Asset Forfeiture (05)  
Petition Re: Arbitration Award (11)  
Writ of Mandate (02)  
Writ—Administrative Mandamus  
Writ—Mandamus on Limited Court Case Matter  
Writ—Other Limited Court Case Review  
Other Judicial Review (39)  
Review of Health Officer Order  
Notice of Appeal—Labor Commissioner Appeals

### Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)

Antitrust/Trade Regulation (03)  
Construction Defect (10)  
Claims Involving Mass Tort (40)  
Securities Litigation (28)  
Environmental/Toxic Tort (30)  
Insurance Coverage Claims (*arising from provisionally complex case type listed above*) (41)

### Enforcement of Judgment

Enforcement of Judgment (20)  
Abstract of Judgment (Out of County)  
Confession of Judgment (*non-domestic relations*)  
Sister State Judgment  
Administrative Agency Award (*not unpaid taxes*)  
Petition/Certification of Entry of Judgment on Unpaid Taxes  
Other Enforcement of Judgment Case

### Miscellaneous Civil Complaint

RICO (27)  
Other Complaint (*not specified above*) (42)  
Declaratory Relief Only  
Injunctive Relief Only (*non-harassment*)  
Mechanics Lien  
Other Commercial Complaint Case (*non-tort/non-complex*)  
Other Civil Complaint (*non-tort/non-complex*)

### Miscellaneous Civil Petition

Partnership and Corporate Governance (21)  
Other Petition (*not specified above*) (43)  
Civil Harassment  
Workplace Violence  
Elder/Dependent Adult Abuse  
Election Contest  
Petition for Name Change  
Petition for Relief from Late Claim  
Other Civil Petition

SUPERIOR COURT OF CALIFORNIA, COUNTY OF RIVERSIDE  
4050 Main Street  
Riverside, CA 92501  
[www.riverside.courts.ca.gov](http://www.riverside.courts.ca.gov)

NOTICE OF DEPARTMENT ASSIGNMENT FOR ALL PURPOSES

BORDERS VS KAISER FOUNDATION HOSPITALS

CASE NO. RIC1616160

This case is assigned to the Honorable Judge Daniel A Ottolia in Department 04 for all purposes.

The Case Management Conference is scheduled for 06/06/17 at 8:30 in Department 04.

The plaintiff/cross-complainant shall serve a copy of this notice on all defendants/cross-defendants who are named or added to the complaint and file proof of service.

Any disqualification pursuant to CCP Section 170.6 shall be filed in accordance with that section.

Requests for accommodations can be made by submitting Judicial Council form MC-410 no fewer than five court days before the hearing. See California Rules of Court, rule 1.100.

CERTIFICATE OF MAILING

I certify that I am currently employed by the Superior Court of California, County of Riverside, and that I am not a party to this action or proceeding. In my capacity, I am familiar with the practices and procedures used in connection with the mailing of correspondence. Such correspondence is deposited in the outgoing mail of the Superior Court. Outgoing mail is delivered to and mailed by the United States Postal Service, postage prepaid, the same day in the ordinary course of business. I certify that I served a copy of the foregoing NOTICE on this date, by depositing said copy as stated above.

Court Executive Officer/Clerk

Date: 12/08/16

by: \_\_\_\_\_

MARIA M PRECIADO, Deputy Clerk