

Superior Court of California

County of Orange



Case Number : 30-2012-00593353-CU-MM-CJC

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ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Marshall Silberberg, Esq. #58303 LAW OFFICES OF MARSHALL SILBERBERG 3333 Michelson Drive, Suite 710 Irvine, CA 92612 TELEPHONE NO: (949) 718-0960 FAX NO. (Optional): (949) 266-5811 E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name): Plaintiff, JAIME U. ESPARZA	FOR COURT USE ONLY FILED SUPERIOR COURT OF CALIFORNIA COUNTY OF ORANGE CENTRAL JUSTICE CENTER AUG 23 2012 ALAN CARLSON, Clerk of the Court
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Orange STREET ADDRESS: 700 Civic Center Drive West MAILING ADDRESS: --- CITY AND ZIP CODE: Santa Ana, CA 92705 BRANCH NAME: Central Justice Center	
PLAINTIFF: JAIME U. ESPARZA DEFENDANT: KAISER FOUNDATION HEALTH PLAN, INC.; KAISER FOUNDATION HOSPITALS; SOUTHERN CALIFORNIA PERMANENTE MEDICAL GROUP; and <input checked="" type="checkbox"/> DOES 1 TO 100, inclusive.	
COMPLAINT—Personal Injury, Property Damage, Wrongful Death <input type="checkbox"/> AMENDED (Number): Type (check all that apply): <input type="checkbox"/> MOTOR VEHICLE <input checked="" type="checkbox"/> OTHER (specify): Medical malpractice <input type="checkbox"/> Property Damage <input type="checkbox"/> Wrongful Death <input type="checkbox"/> Personal Injury <input type="checkbox"/> Other Damages (specify):	30-2012
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 00593353 JUDGE ROBERT J. MOSS DEPT. C23

1. Plaintiff (name or names): JAIME U. ESPARZA

alleges causes of action against defendant (name or names): KAISER FOUNDATION HEALTH PLAN, INC.; KAISER FOUNDATION HOSPITALS; SOUTHERN CALIFORNIA PERMANENTE MEDICAL GROUP; and DOES 1 - 100, inclusive

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.

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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 HEALTH PLAN, INC.

(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): SOUTHERN CALIFORNIA 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

(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): 1-100, inclusive 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): 1-100, inclusive 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, or

b. ☐ is excused from complying because (specify):

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HEALTH PLAN, INC., et al., Defendants.

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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*): Medical malpractice

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)*):

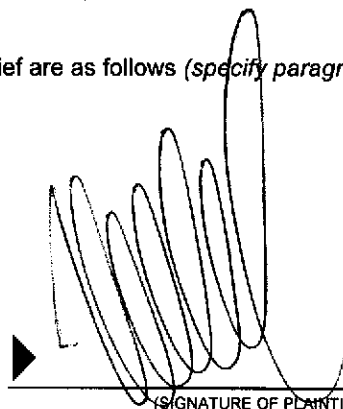
- (1) ☒ according to proof
- (2) ☐ in the amount of: \$

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

Date: August 10, 2012

Marshall Silberberg, Esq.

(TYPE OR PRINT NAME)



(SIGNATURE OF PLAINTIFF OR ATTORNEY)

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FOUNDATION HEALTH PLAN, INC., etc., et al., Defendants

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FIRST _____ CAUSE OF ACTION—General Negligence
(number)

Page _____

ATTACHMENT TO ☒ Complaint ☐ Cross - Complaint

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

GN-1. Plaintiff (name): JAIME U. ESPARZA

alleges that defendant (name): KAISER FOUNDATION HEALTH PLAN, INC.; KAISER
FOUNDATION HOSPITALS; SOUTHERN CALIFORNIA PERMANENTE MEDICAL GROUP; and

☒ Does 1 _____ to 100, inclusive.

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): September, 2011

at (place): Anaheim, California

(description of reasons for liability):

1. Plaintiff, JAIME U. ESPARZA, is informed, believes and hereby alleges that defendants, KAISER FOUNDATION HEALTH PLAN, INC.; KAISER FOUNDATION HOSPITALS; SOUTHERN CALIFORNIA PERMANENTE MEDICAL GROUP, and DOES 1-100, inclusive, hold themselves out as licensed health care plans, hospitals, and medical groups providing medical services to member patients. Said defendants, and each of them, were all licensed to do business in the State of California. Each defendant, and DOES 1-100, inclusive, were and are engaged in the owning, operating, maintaining, and managing of medical, surgical, hospital, diagnostic, nursing, and other care to the general public for compensation in the County of Orange. All of the acts complained herein by plaintiff against said defendants were done and performed by said defendants by and through their duly authorized agents, joint venturers, and employees, each of whom, and all of whom, were at all times mentioned herein acting within the course and scope and purpose of their joint venture and employment and their conduct was ratified by defendants, and each of them, and DOES 1-100, inclusive.

2. At all times mentioned herein, defendants, and DOES 1-100, inclusive, and each of them, held themselves out to the general public and to plaintiff as skilled health care professionals in the science of medicine, surgery, neurosurgery, neurology, internal medicine, hospital care, medical attendant, and related care, and in possession that degree of knowledge and skill customarily possessed and exercised by other health care plans, hospitals, physicians, surgeons, nurses, and hospital attendants engaged in the same or similar locality as that of the defendants, and each of them.

3. Plaintiff contends that defendants, KAISER FOUNDATION HEALTH PLAN, INC.; KAISER FOUNDATION HOSPITALS; SOUTHERN CALIFORNIA PERMANENTE MEDICAL GROUP; and DOES 1-100, exclusively, fell below the standard of care by negligently and carelessly performing surgery to remove a colloid cyst on September 28, 2011 at the KAISER FOUNDATION HOSPITAL located in Anaheim, California. As a result of such negligently performed surgery, plaintiff developed a severe neurologic injury including, but not limited to, quadriplegia, brain damage, meningitis, hydrocephalus, leakage of cerebral spinal fluid, a collapsed lung,

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— PLAN, INC., etc., et al., Defendants.

ATTACHMENT (Number): ONE

(This Attachment may be used with any Judicial Council form.)

pneumonia, pulmonary embolism, thrombocytopenia, and inability to swallow. Plaintiff further contends that defendants, and each of them, were negligent and careless with regard to the post-operative management of plaintiff's condition and discharged him too early from the facility on or about September 30, 2011 which prevented a timely diagnosis of his neurologic injuries.

4. As a result of said negligence, plaintiff has sustained profound and permanent neurologic injuries which required tracheostomy tube for breathing, a G-tube for feeding and a permanent Foley catheter. As a result of plaintiff's catastrophic injuries, he will require full time, 24-hour skilled nursing care for the remainder of his life, along with evaluation and treatments by physicians in multiple specialities. He has further suffered from emotional, physical and mental injuries due to his current medical condition, and will be seeking both general and special damages according to proof.

(If the item that this Attachment concerns is made under penalty of perjury, all statements in this Attachment are made under penalty of perjury.)

Page ____ of ____

(Add pages as required)