

**FILED**

**FEB 04 2013**

SUPERIOR COURT OF CALIFORNIA,  
COUNTY OF SONOMA

BY \_\_\_\_\_ DEPUTY CLERK

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JANE DOE.

**IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF SONOMA**

JANE DOE an individual,

Plaintiff,

vs.

EDWARD A. ROSE, M.D., an individual,  
KAREN E. ROSE, M.D., an individual, KAISER  
FOUNDATION HOSPITALS, a California  
corporation, PERMANENTE MEDICAL  
GROUP, a California corporation, KAISER  
FOUNDATION HEALTH PLAN INC., a  
California corporation, and DOES 1-100,  
inclusive,

Defendants.

Case No: *SCV* **253165**  
**COMPLAINT FOR:**

- (1) Sexual Battery;
- (2) Sexual Harassment;
- (3) Negligent Hiring;
- (4) Negligent Supervision;
- (5) Negligent Retention;
- (6) Intentional Infliction of Emotional Distress;
- (7) Negligent Infliction of Emotional Distress;
- (8) Negligent Violation of Statutory Duties;
- (9) Intentional Violation of Statutory Duties;
- (10) General Negligence;
- (11) Professional Negligence;
- (12) Conversion;
- (13) Trespass to Chattels.

*Unlimited Civil Action*

1. Plaintiff Jane Doe files this action under a fictitious name in order to protect her privacy and to protect her identity pursuant to Government Code section 6254 and Penal Code section 293 (hereinafter, "Plaintiff" or "Jane Doe"), brings this Complaint against Defendants, and each of them, as follows.

Complaint

*Doe v. Rose, et al.*

## INTRODUCTION

1  
2 1. The acts and omissions of Edward Rose, M.D., and Karen Rose, M.D.  
3 (collectively, the "Roses"), with regard to their patient, Jane Doe, form the basis of the instant  
4 lawsuit.

5  
6 2. As set forth in detail below, the Roses, both Jane Doe's primary care physicians,  
7 intentionally mishandled the feelings predictably created by their Kaiser Permanente physician-  
8 patient relationships, inducing their patient to consume a significant quantity of alcohol and then  
9 submit to a sexual "threesome" with the Roses while under the influence. The Roses' seduction,  
10 inebriation and repeated sexual battery of their patient was a conscious exploitation of their  
11 status as physicians which they used to coerce and trick Jane Doe into becoming their sex toy,  
12 both on the Kaiser campus and off.

13  
14 3. Not only did the Roses engage in multiple acts of unprotected sex with their  
15 patient, Jane doe, these trained and experienced physicians knew that they were both infected  
16 with the genital herpes virus, yet they never informed Jane Doe they were infected with an  
17 incurable sexually transmitted disease, and never obtained Jane Doe's consent to expose her to  
18 this loathsome disease.

19  
20 4. Moreover, Karen Rose, M.D., formally designated as Jane Doe's "caregiver,"  
21 pursuant to Health & Safety Code section 11362.7, improperly retained several pounds of  
22 medical cannabis entrusted to her by Jane Doe  
23

24 5. **Phrased more simply, acting as Jane Doe's primary care physicians through**  
25 **Kaiser Permanente, the Roses got Jane Doe drunk, raped and sodomized her, exposed her**  
26 **to genital herpes, and then stole her weed.**

27 ///  
28

**THE PARTIES**

6. At all relevant times herein mentioned, Jane Doe was a competent adult resident of Sonoma County, California.

7. Jane Doe is informed and believes and based on that information and belief alleges that at all relevant times herein mentioned Defendant Edward A. Rose, M.D. (hereinafter, "Edward Rose, M.D.") was a competent adult resident of Sonoma County, California.

8. Jane Doe is informed and believes and based on that information and belief alleges that at all relevant times herein mentioned Defendant Karen E. Rose, M.D. (hereinafter, "Karen Rose, M.D.") was a competent adult resident of Sonoma County, California.

9. Karen Rose, M.D. and Edward Rose, M.D., shall be referred to hereinafter, collectively, as the "Roses."

10. Jane Doe is informed and believes and based on that information and belief alleges that at all relevant times herein mentioned Defendant KAISER FOUNDATION HOSPITALS was a California corporation which is authorized to conduct business and does conduct business in Sonoma County, California.

11. Jane Doe is informed and believes and based on that information and belief alleges that at all relevant times herein mentioned Defendant PERMANENTE MEDICAL GROUP was a California corporation which is authorized to conduct business and does conduct business in Sonoma County, California.

12. Jane Doe is informed and believes and based on that information and belief alleges that at all relevant times herein mentioned Defendant KAISER FOUNDATION HEALTH PLAN, INC. was a California corporation which is authorized to conduct business and does conduct business in Sonoma County, California.

1           13. Defendant KAISER FOUNDATION HOSPITALS, Defendant PERMANENTE  
2 MEDICAL GROUP, and Defendant KAISER FOUNDATION HEALTH PLAN, INC. shall be  
3 referred to hereinafter, collectively, as the "Kaiser Defendants."

4           14. Jane Doe is informed and believes and based on that information and belief  
5 alleges that at all relevant times herein mentioned the Kaiser Defendants employed Dr. Edward  
6 Rose as a medical doctor.

7           15. Jane Doe is informed and believes and based on that information and belief  
8 alleges that at all relevant times herein mentioned the Kaiser Defendants employed Dr. Karen  
9 Rose as a medical doctor.

10           16. The true names and capacities, whether individual, corporate, associate, or  
11 otherwise, of Defendants DOES 1 through 100 are unknown to Jane Doe at this time, who  
12 therefore sues said Defendants by such fictitious names. When the true names and capacities of  
13 said Defendants have been ascertained, Jane Doe will seek leave of this Court to amend this  
14 Complaint accordingly.

15           17. Jane Doe is informed and believes and thereupon alleges that each Defendant  
16 designated as a DOE is responsible negligently, intentionally, contractually, or in some other  
17 actionable manner for the events and happenings hereinafter referred to, and thereby proximately  
18 cause injuries and damages to Jane Doe as hereinafter alleged, either through said Defendant's  
19 own wrongful conduct or through the conduct of their agents, servants, employees,  
20 representatives, officers, or attorneys, or due to the ownership, lease or management of the  
21 property which is the subject of this litigation, or in some other manner.

22           18. Jane Doe is informed and believes and thereupon alleges that at all times herein  
23 mentioned Defendants, and each of them, were the agents, servants, employees, and/or joint  
24  
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28

1 venturers of their co-Defendants, and were, as such, acting within the scope, course, and  
2 authority of said relationship, and that each and every Defendant as aforesaid, when acting as a  
3 principal, was negligent and reckless in the selection and hiring of each and every other  
4 Defendant as an agent, servant, employee, and/or joint venturer, and that each and every  
5 Defendant ratified the acts of their co-Defendants.  
6

7 19. The totality of the DOE Defendants, the Kaiser Defendants, Edward Rose, M.D.,  
8 and Karen Rose, M.D. shall be referred to, hereinafter, collectively as "Defendants."

9 20. Jurisdiction in the County of Sonoma, State of California is proper as each of the  
10 acts, events, occurrences, omissions, and transactions referred to herein occurred in this County,  
11 and/or have the proximate effect of causing injury to Jane Doe in said County.  
12

13 **ALLEGATIONS COMMON TO ALL CAUSES OF ACTION**

14 21. Jane Doe is informed and believes and based on that information and belief  
15 alleges that Dr. Edward Rose and Dr. Karen Rose moved to Santa Rosa, California from Pontiac,  
16 Michigan some time in 2008.  
17

18 **Doctor-Patient Relationship Between Jane Doe And Karen Rose, M.D.**

19 22. Jane Doe began seeing Karen Rose, M.D. as her physician on the Kaiser  
20 Permanente Santa Rosa campus ("Santa Rosa Campus") in or around July, 2008 for a then-  
21 undiagnosed medical condition causing Jane Doe to suffer severe and persistent pain on the right  
22 side of her abdomen.  
23

24 23. Karen Rose, M.D. was unusually warm with Jane Doe, frequently embracing Jane  
25 Doe with hugs when Jane Doe had office visits.

26 **Karen Rose, M.D. Initiates Personal Friendship With Jane Doe**  
27  
28

1           24.     In fall 2010, Karen Rose, M.D., and Jane Doe, at the request of Karen Rose,  
2 M.D., began spending time together socially outside of the professional atmosphere of the Santa  
3 Rosa Campus.

4           25.     Jane Doe shared her history of childhood sexual abuse and physical abuse with  
5 Karen Rose, M.D. Karen Rose, M.D., in turn, told Jane Doe that she was also a survivor of  
6 childhood abuse.

7  
8           26.     Soon, Karen Rose, M.D., began sending text messages and emails to Jane Doe  
9 about how close she felt to Jane Doe

10          27.     Jane Doe thought these messages were odd, as if Karen Rose, M.D., were trying  
11 to initiate romantic relations with her.

12  
13          28.     At that time, Jane Doe had never had sexual contact with another female.

14          29.     As their friendship progressed, each woman shared deeply personal details about  
15 her life with the other.

16           Doctor-Patient Relationship With Edward Rose, M.D.

17  
18          30.     Jane Doe first saw Edward Rose, M.D., professionally in or around September  
19 2011.

20          31.     During her first visit with Edward Rose, M.D., he embraced her in an intimate  
21 hug, which Jane Doe found strange.

22          32.     Subsequently, Jane Doe and the Roses began spending more and more time  
23 together.

24           Personal Friendship With Both Roses

25  
26          33     The Doctors increasingly invited Jane Doe to spend time alone with them at their  
27 home.

34. Jane Doe acquiesced and became a regular visitor at the Rose residence. Jane Doe and the Doctors would often smoke cannabis together while at the Rose residence.

Karen Rose, M.D., Was Jane Doe's Caregiver For Medical Cannabis Purposes

35. On May 26, 2011 Karen Rose, M.D., signed a form entitled "Designation of Primary Caregiver" with regard to Jane Doe's recommendation for medical marijuana.

36. The signature of Karen Rose, M.D. on the form was witnessed by a notary public licensed in the State of California.

37. On a regular basis, Karen Rose, M.D. would obtain cannabis products on Jane Doe's behalf from a local dispensary.

Karen Rose, M.D.'s Unlawful Retention Of Jane Doe's Medical Cannabis

38. Jane Doe grew six marijuana plants pursuant to her medical marijuana recommendation.

39. Near the time the Roses left to visit Michigan in or around September, 2011, Jane Doe gave Karen Rose, M.D., three pounds of dried and processed medical marijuana to keep for Jane Doe at the Roses' home.

40. When Jane Doe eventually cut ties with the Roses, the doctors kept her three pounds medical marijuana and did not return it.

The "Drinking Bet" Terms

41. In October, 2011 Karen Rose, M.D. proposed a "drinking bet" with Jane Doe

42. The terms were as follows: Jane Doe would travel to the Roses' residence in the ritzy Santa Rosa neighborhood of Fountaingrove. Jane Doe would compete with the Roses to see which one of them could consume the most alcohol.

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1 43. The Roses, by their own admissions to Jane Doe, frequently consume alcohol in  
2 significant quantities.

3 44. Jane Doe does not usually consume alcohol.

4 45. The Roses knew that Jane Doe was not a regular user of alcohol by virtue of the  
5 physician-patient relationship.

6 46. The Roses reasonably knew or should have known that Jane Doe would be greatly  
7 affected by any alcohol she consumed.

8 47. The "drinking bet" took place on November 5, 2011.

9 48. Jane Doe and the Roses began drinking champagne.

10 49. Jane Doe has no way of knowing how much alcohol was given to her because the  
11 Roses kept refilling her glass before it was emptied.

12 50. Jane Doe began feeling the effects of the alcohol immediately and the room soon  
13 began to spin.

14 51. Jane Doe expressed her need to tend to a recent tattoo on her back by applying  
15 cream to the area in the presence of Karen Rose, M.D.

16 52. Edward Rose, M.D., offered to help, and the then-inebriated Jane Doe consented  
17 to allow Edward Rose, M.D., to apply the cream to her back.

18 Hours Of Sexual Abuse, Rape, And Sodomy While Jane Doe Was Unable To Consent

19 53. However, rather than apply the cream to Jane Doe's back, Edward Rose, M.D.,  
20 placed his hands in her vaginal area.

21 54. At this time, Jane Doe's memory of the events fades as a result of the quantity of  
22 alcohol she consumed. **At this time, Jane Doe was too intoxicated to consent to sexual**  
23 **activity.**



1 55. Jane Doe's next memory is being stark naked in the Roses' kitchen. Edward Rose,  
2 M.D. was also naked and positioned behind Jane Doe Karen Rose, M.D., was on the floor,  
3 positioned between Jane Doe's legs, and using her hands to sexually stimulate Jane Doe

4 56. The word used to describe sexual activities with three participants is "threesome."  
5 At this time, Jane Doe was engaged in a threesome with the Roses.  
6

7 57. Again, even if consent to sexual activity with her physicians were legally  
8 possible, at this time, **Jane Doe was too intoxicated to consent to sexual activity with anyone.**

9 58 The next thing Jane Doe recalls is lying naked on her back on the floor of the  
10 Roses' front room. Karen Rose, M.D., was kneeling on the floor and performed oral and digital  
11 sex on the barely-conscious Jane Doe  
12

13 59. Edward Rose, M.D., was on the floor behind Karen Rose, M.D. At this time,  
14 **Jane Doe was still too intoxicated to consent to sexual activity with anyone.**

15 60. Jane Doe then remembers being in the Roses' bed. There, Edward Rose, M.D.,  
16 penetrated Jane Doe vaginally and anally. Jane Doe is uncertain whether Edward Rose, M.D.,  
17 accomplished the vaginal and anal penetrations using his hands, his penis, or some other  
18 instrumentality.  
19

20 Edward Rose, M.D.'s Erectile Dysfunction

21 61. Jane Doe is informed and believes that Edward Rose, M.D. suffers from erectile  
22 dysfunction and takes medication in advance of sexual activities in order to perform.  
23

24 Jane Doe Never Consented To Sexual Contact With The Roses On November 5, 2011

25 62. Jane Doe never consented to sexual activities with Edward Rose, M.D., or Karen  
26 Rose, M.D., prior to the evening of November 5, 2011.

27 ///  
28

63. Jane Doe never consented to sexual activities with Edward Rose, M.D., or Karen Rose, M.D., during the evening of November 5, 2011.

64. Jane Doe was too intoxicated to consent to sexual activity on the evening of November 5, 2011.

65. The next morning Jane Doe awoke in the Roses' bed lying between them. Jane Doe felt dirty, her vagina hurt, and she was covered in bite marks. Jane Doe returned to her home alone.

Notice to Kaiser Defendants

66. At this time, the Kaiser Defendants, by and through their employee Edward Rose, M.D., had notice of the sexual relationship between Jane Doe and Karen Rose, M.D., and vice versa.

67. Even though the Kaiser Defendants had notice of the inappropriate sexual interactions between Jane Doe and the Roses, the Kaiser Defendants failed to respond in an appropriate fashion.

Continued Contact With The Roses

68. During a subsequent office visit on the Santa Rosa Campus, with Edward Rose, M.D., informed Jane Doe that she and Karen Rose, M.D., had each consumed two and a half bottles of champagne during the November 5, 2011 incident.

69. After the November 5, 2011 threesome, in their frequent and multiple encounters, at and away from the Kaiser campus, Edward Rose, M.D. was unfailingly demonstrative in a physical manner towards Jane Doe.

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1           70. For example, Edward Rose, M.D., would frequently kiss, touch, and grope Jane  
2 Doe when he was in her presence, whether during Jane Doe's visits to the Roses' home or in the  
3 professional setting of the Santa Rosa Campus.

4           71. Subsequent to the threesome, Edward Rose, M.D., gave the nickname "yoni" to  
5 Jane Doe's genitalia. Edward Rose, M.D., referred to "yoni" in his frequent text and email  
6 communications to Jane Doe  
7

8           72. In his writings, Edward Rose, M.D., also referred to his penis as "Joey" and  
9 referred to Jane Doe's vaginal secretions as "honey."

10           73. On or around November 11, 2011 Jane Doe had an appointment with Dr. Edward  
11 Rose to perform a PAP smear on Jane Doe Jane Doe did not want Dr. Edward Rose to perform  
12 the PAP smear. Instead, Jane Doe paid Dr. Karen Rose \$145.00 and Dr. Karen Rose performed  
13 the PAP smear and signed off on Jane Doe's medical record as if the PAP smear had been  
14 performed by Dr. Edward Rose.  
15

16 Oral Sex In The Examination Room On The Santa Rosa Campus  
17

18           74. During an appointment on December 13, 2011, Edward Rose, M.D., insisted that  
19 Jane Doe allow him to perform oral sex on her in an exam room at the Santa Rosa Campus.

20           75. After performing cunnilingus on Jane Doe in the exam room, Edward Rose, M.D.,  
21 bared his engorged member to Jane Doe, sought to have Jane Doe perform fellatio on him in his  
22 office. However, right then, a Kaiser staff member knocked on the office door and Jane Doe  
23 subsequently refused to fellate Edward Rose, M.D.  
24

25 Further Sexual Interactions  
26

27 ///  
28

1 76. During the time period between November 5, 2011 and January 20, 2012, at her  
2 doctors' request, Jane Doe engaged in sexual activities with Edward Rose, M.D., on multiple  
3 occasions, often spending the night in the Roses' bed lying between them.

4 77. On each of these occasions, Edward Rose, M.D. penetrated Jane Doe both anally  
5 and vaginally.

6  
7 Non-Consensual Exposure To Genital Herpes

8 78. On or around December 12, 2011 Edward Rose, M.D., informed Jane Doe by text  
9 message that he had exposed her to the genital herpes virus.

10 79. Edward Rose, M.D., informed Jane Doe that he had contracted the genital herpes  
11 virus from Karen Rose, M.D., approximately nine years before.

12 80. Edward Rose, M.D., had never disclosed that he suffered from a loathsome and  
13 incurable venereal disease prior to engaging in sexual activities with Jane Doe

14 81. Edward Rose, M.D., and Karen Rose, M.D., intentionally concealed their genital  
15 herpes infections from Jane Doe

16 82. Jane Doe never consented to exposure to the genital herpes virus.

17 83. When Jane Doe's ex-husband learned of her affair with the Roses on or around  
18 January 2, 2012 he became infuriated, grabbed her by her clothes, berated her, and struck her  
19 across the face.

20  
21  
22 The Roses' Victim Speaks Out, And Kaiser Fails To Take Appropriate Action

23 84. Jane Doe cut personal ties with the Roses on January 20, 2012.

24 85. On January 30, 2012, Jane Doe called the Santa Rosa Campus seeking a refill of  
25 pain medication. The Kaiser advice nurse initially refused to schedule Jane Doe to see anyone  
26  
27  
28

1 other than Edward Rose, M.D. After Jane Doe told the advice nurse that it was a legal issue, the  
2 advice nurse asked Jane Doe if the legal issue was sexual in nature.

3 86. At that time, the Kaiser Defendants were again on notice of the improper sexual  
4 relationship between Jane Doe and the Roses. However, the Kaiser Defendants failed to take  
5 appropriate action.

6 87. Jane Doe is informed and believes that the Kaiser Defendants failed to take  
7 appropriate action when they received notice of Edward Rose, M.D.'s work-related sexual  
8 misconduct prior to the date that Edward Rose, M.D., was discharged from his employment with  
9 the Kaiser Defendants.  
10

11 Registered Nurse Shipley Fails To Adhere To Mandatory Reporting Requirements

12 88. Jane Doe was seen at the Santa Rosa Campus on or around February 1, 2012 by  
13 Janice Lillian Shipley ("Shipley"), a nurse practitioner employed by the Kaiser Defendants.

14 89. Jane Doe revealed to Shipley that she had been sexually assaulted by Edward  
15 Rose, M.D. and Karen Rose, M.D. and that her x-husband had hit her when he found out  
16 about the threesome.  
17

18 90. Jane Doe showed Shipley explicit text messages from the Roses on her phone.

19 91. Shipley told Jane Doe that she would not report the domestic violence  
20 perpetrated by Jane Doe's then x-husband and that she would not report the sexual assault  
21 by the Roses.  
22

23 92. Shipley failed to make any notation in Jane Doe's medical record regarding the  
24 sexual assault and domestic violence.

25 93. At this time, the Kaiser Defendants, once again, had notice of the improper  
26 relationship between the Roses and Jane Doe by and through Shipley.  
27  
28

Testing For Genital Herpes And Further Notice To Kaiser

94. On or around February 3, 2012 Jane Doe sought testing for the genital herpes virus to which she had been exposed without her consent. At the subsequent February 6, 2012 appointment, Jane Doe explained to Kaiser employee Registered Nurse Judy M. Doyle-Davis ("Doyle-Davis") and Lisa Amalie Sorensen, M.D. how she had been exposed to the genital herpes virus by the Roses.

95. Once again, the Kaiser Defendants had notice of the improper sexual relationship between Jane Doe and the Roses through their employees. Once again, the Kaiser Defendants failed to respond in an appropriate manner.

96. While Jane Doe's test came back negative for the genital herpes virus, Jane Doe is informed and believes that the genital herpes virus can remain dormant in the body after infection and become active after a period of years. Jane Doe has lived, and continues to live, with the fear that she will develop an outbreak of genital herpes as a direct and proximate result of the Roses' conduct.

Edward Rose, M.D. Asks Jane Doe To Lie, Suggests Suing Kaiser And Splitting The Proceeds

97. Edward Rose, M.D., subsequently sent written communications to Jane Doe asking her to lie to others about what had transpired between Jane Doe and the Roses.

98. Edward Rose, M.D., suggested in a text message that after Jane Doe lied, he and Jane Doe could join forces and "sue the living shit out of Kaiser and split the proceeds! :-)"

99. Subsequent written communications were exchanged between Jane Doe and the Roses until Jane Doe informed the Roses to cease on June 14, 2012.

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**NOTICE PURSUANT TO CODE OF CIVIL PROCEDURE SECTION 364**

100. On November 2, 2012 Jane Doe sent notice of her intention to bring an action against a health care provider based on negligence to Defendants via certified mail in compliance with the strictures of Code of Civil Procedure section 364.

**FIRST CAUSE OF ACTION**  
**CAUSE OF ACTION**

**For Sexual Battery**

**(By Plaintiff Against the Roses, Kaiser Defendants and Does 1-100)**

101. Plaintiff restates and realleges each and every paragraph of this Complaint as though fully set forth at length and incorporates the same herein by reference.

**The Roses Intended To Cause Harmful And Offensive Sexual Contact**

102. Beginning no later than November 5, 2011, the Roses formed an intent to cause a harmful or offensive contact with Jane Doe's breasts, anus, groin area, buttocks, and/or breasts.

103. Jane Doe is informed and believes and based on that information and belief alleges that Edward Rose, M.D., suffers from erectile dysfunction and must take erectile dysfunction medication prior to sexual intercourse. Jane Doe is informed and believes and based on that information and belief alleges that Edward Rose, M.D., planned to have sexual intercourse with her on or around November 5, 2011 and intentionally took erectile dysfunction medication prior to her arrival at his home on November 5, 2012.

104. As set forth above, beginning on November 5, 2012, both of the Roses caused Jane Doe to become inebriated and, once inebriated, engaged in sex acts on Jane Doe, including while she was unconscious.

**Jane Doe Did Not Consent To The Sexual Contact**

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Complaint

*Doe v. Rose, et al.*

1 105. Inebriating Jane Doe through a drinking game, her physicians, the Roses,  
2 intentionally mishandled the feelings predictably created by their Kaiser-Permanente physician-  
3 patient relationships.

4 106. Jane Doe did not consent to the touching by the Roses. Not only was Jane Doe a  
5 patient, incapable of consenting to sexual relations with her physicians (Business & Professions  
6 Code section 726), but the Roses intentionally made Jane Doe too intoxicated to consent to the  
7 touching by the Roses.  
8

9 Jane Doe Was Harmed And Offended As A Result Of The Roses' Conduct

10 107. Jane Doe was offended by the conduct of Edward Rose, M.D. Jane Doe was  
11 harmed by the conduct of Edward Rose, M.D.  
12

13 108. Jane Doe was offended by the conduct of Karen Rose, M.D. Jane Doe was  
14 harmed by the conduct of Karen Rose, M.D.  
15

16 Jane Doe's Damages

17 109. As a result of the conduct of Edward Rose, M.D., as described hereinabove, Jane  
18 Doe has suffered general and special damages including, but not limited to, severe emotional  
19 distress.

20 110. As a result of the conduct of Edward Rose, M.D., as described hereinabove, Jane  
21 Doe has suffered general and special damages including, but not limited to, severe emotional  
22 distress.  
23

24 111. The physician-patient relationship between the Roses and Jane Doe that resulted  
25 in the Roses sexual battery on Jane Doe was foreseeable to the Kaiser Defendants and resulted  
26 from a conscious exploitation of the physicians' status, knowledge and power to coerce or trick  
27 the patient into allowing sexual contact. The improper contact resulted from an abuse of the  
28



1 Roses' job-created authority. Accordingly, Kaiser is vicariously liable for the actions of the  
2 Roses.

3 112. Because of the willful, outrageous, and intentional nature of the conduct of  
4 Edward Rose, M.D., as described hereinabove, Jane Doe seeks damages against Edward Rose,  
5 M.D., in a sum appropriate to punish and deter Edward Rose, M.D.

6 113. Because of the willful, outrageous, and intentional nature of the conduct of Karen  
7 Rose, M.D., as described hereinabove, Jane Doe seeks damages against Karen Rose, M.D., in a  
8 sum appropriate to punish and deter Karen Rose, M.D.

9 Wherefore, Plaintiff prays for judgment against Defendants, and each of them, as  
10 hereinafter set forth.

11 **SECOND CAUSE OF ACTION**

12 **For Sexual Harassment**

13 **(By Plaintiff Against the Roses, Kaiser Defendants and Does 1-100)**

14 114. Plaintiff restates and realleges each and every paragraph of this Complaint as  
15 though fully set forth at length and incorporates the same herein by reference.

16 **There Is A Professional Relationship Between Jane Doe And All Defendants**

17 115. The conduct of Edward Rose, M.D., and/or Karen Rose, M.D. as the employee(s)  
18 of the Kaiser Defendants violated Civil Code section 51.9 which safeguards persons such as Jane  
19 Doe from unwanted harassment by a physician, among others.

20 116. The Kaiser Defendants are business establishments engaged in providing  
21 professional healthcare services to the public.

22 117. Jane Doe was a patient of the Kaiser Defendants, Edward Rose, M.D., and Karen  
23 Rose, M.D., and had a professional relationship with Defendants, and each of them.

24 ///

The Roses Engaged In Sexual Conduct Based On Gender With Regard To Jane Doe

118. Edward Rose, M.D., and Karen Rose, M.D. engaged in conduct violative of Civil Code section 51.9 by engaging in conduct of a sexual nature, as described hereinabove, that was unwelcome, pervasive, and severe. Specifically, the Roses made sexual advances, solicitations, sexual requests, demands for sexual compliance by Jane Doe, and engaged in other verbal, visual, and physical conduct of a sexual nature based on Jane Doe's gender that was unwelcome, pervasive, and severe. The Roses' precise actions are set forth in adequate detail above, that they need not be repeated here with specificity.

Jane Doe Labored Under An Inability To Easily Terminate The Relationship

119. During the period of time when the Roses were engaging in the sexual conduct described hereinabove, Jane Doe was unable to terminate the relationship between herself and Defendants, and each of them, as the Kaiser Defendants were her healthcare providers and Edward Rose, M.D. and Karen Rose, M.D. were her primary care physicians.

Jane Doe Has Suffered Damages As A Result Of The Violation Of Civil Code Section 51.9

120. As a direct and proximate result of Defendants' breach, and each of them, Jane Doe was battered sexually, assaulted, raped, sodomized, harassed and suffered great injury including, but not limited to, severe and extreme emotional distress.

121. The severe and extreme emotional distress includes, but it not limited to, anguish, fright, horror, nervousness, grief, anxiety, guilt, worry, shock, humiliation, sleeplessness, loss of appetite, vomiting, and shame.

122. Further, Jane Doe remains unable to seek medical treatment for chronic conditions as a result of the severe emotional distress she has experienced and continues to experience – she cannot obtain treatment to aid the resolution of her conditions, and she cannot

1 obtain medication to control the constant pain she suffers as a result of her conditions. As a result  
2 of the severe and extreme emotional distress, Jane Doe has required and continues to require  
3 psychological treatment.

4 123. As a result of the Defendants' violation of Civil Code section 51.9, and each of  
5 them, Jane Doe has sustained general damages in an amount to be proved at trial.

6 124. As a direct further and proximate result of the Defendants' violation of Civil Code  
7 section 51.9, and each of them Jane Doe has incurred medical bills and related expenses all to her  
8 special damage in an amount to be proved at trial.

9 Wherefore, Plaintiff prays for judgment against Defendants, and each of them, as  
10 hereinafter set forth.

11  
12  
13 **THIRD CAUSE OF ACTION**  
14 **For Negligent Hiring**

15 **(By Plaintiff Against Kaiser Defendants, & DOES 1-100)**

16 125. Plaintiff restates and realleges each and every paragraph of this Complaint as  
17 though fully set forth at length and incorporates the same herein by reference.

18 **The Roses Were Unfit To Perform They Work For Which They Were Hired**

19 126. Defendants Edward Rose, M.D. and Karen Rose, M.D. were employed by the  
20 Kaiser Defendants at the Santa Rosa Campus.

21 127. On information and belief, prior to their employment by the Kaiser Defendants,  
22 and prior to the Roses' molestation, rape, and sodomization of Jane Doe, former patients to  
23 whom Edward Rose, M.D. and/or Karen Rose, M.D. had provided medical care had reported to  
24 appropriate agencies including, but not limited to, the Kaiser Defendants, that they had been  
25 assaulted, molested, and/or inappropriately touched by Edward Rose, M.D. and/or Karen Rose,  
26 M.D.  
27  
28

The Kaiser Defendants Knew/Should Have Known That The Roses Were Unfit And That The  
Roses' Unfitness Created A Particular Risk To Jane Doe

128. The Kaiser Defendants had a duty to protect Jane Doe from the foreseeable injury that Edward Rose, M.D. and/or Karen Rose, M.D. could cause Jane Doe based on the prior reports of assault, molestation, and inappropriate touching. This duty includes the duty not to hire employees who pose a particular risk to patients.

129. On information and belief, notwithstanding notice of the previous incidents involving their employee(s), the Kaiser Defendants nonetheless hired Edward Rose, M.D. and Karen Rose, M.D.; allowed them to perform their jobs after being notified of their tortious conduct, and allowed them to be alone with Jane Doe and to continue to be employed by them.

130. By and through these acts and omissions, the Kaiser Defendants ratified and condoned the actions of Edward Rose, M.D. and Karen Rose, M.D. despite the repeated acts of assault, molestation, and/or inappropriate touching of patients, including Jane Doe

131. By and through these acts and omissions, specifically, by and through the hiring of Edward Rose, M.D. and Karen Rose, M.D., the Kaiser Defendants breached their duty to Jane Doe

The Roses' Unfitness Harmed Jane Doe And The Kaiser Defendants' Negligence In Hiring The  
Roses Was A Substantial Factor In Causing Jane Doe Harm

132. As a direct and proximate result of the Kaiser Defendants' breach, Jane Doe was sexually battered, assaulted, raped, and sodomized repeatedly.

133. Jane Doe has suffered, and continues to suffer injury to her strength, activity, mental health, and severe and extreme emotional distress including, but not limited to anguish,

1 fright, horror, nervousness, grief, anxiety, guilt, worry, shock, humiliation, sleeplessness, loss of  
2 appetite, vomiting, and shame.

3 134. Further, Jane Doe remains unable to seek medical treatment for chronic  
4 conditions as a result of the severe emotional distress she has experienced and continues to  
5 experience – she cannot obtain treatment to aid the resolution of her conditions, and she cannot  
6 obtain medication to control the constant pain she suffers as a result of her conditions. As a result  
7 of the severe and extreme emotional distress, Jane Doe has had to begin seeing a therapist.  
8

9 135. As a result of the Kaiser Defendants' negligent hiring of the Roses, Jane Doe has  
10 sustained general damages in an amount to be proved at trial.

11 136. As a direct further and proximate result of the Kaiser Defendants' negligent hiring  
12 Jane Doe has incurred medical bills and related expenses all to her special damage in an amount  
13 to be proved at trial.  
14

15 Wherefore, Plaintiff prays for judgment against Defendants, and each of them, as  
16 hereinafter set forth.  
17

#### 18 **FOURTH CAUSE OF ACTION**

##### 19 **For Negligent Supervision**

20 **(By Plaintiff Against Kaiser Defendants, & DOES 1-100)**

21 137. Plaintiff restates and realleges each and every paragraph of this Complaint as  
22 though fully set forth at length and incorporates the same herein by reference.

#### 23 **The Roses Were Unfit To Perform They Work For Which They Were Hired**

24 138. Defendants Edward Rose, M.D. and Karen Rose, M.D. were employed by the  
25 Kaiser Defendants at the Santa Rosa Campus.

26 139. On information and belief, prior to the Roses' molestation, rape, and  
27 sodomization of Jane Doe, prior patients to whom Edward Rose, M.D. and/or Karen Rose, M.D.  
28

1 had provided medical care had reported to appropriate agencies including, but not limited to, the  
2 Kaiser Defendants, that they had been assaulted, molested, and/or inappropriately touched by  
3 Edward Rose, M.D. and/or Karen Rose, M.D.

4 The Kaiser Defendants Knew/Should Have Known That The Roses Were Unfit And That The  
5 Roses' Unfitness Created A Particular Risk To Jane Doe

6  
7 140. The Kaiser Defendants had a duty to protect Jane Doe from the foreseeable injury  
8 that Edward Rose, M.D. and/or Karen Rose, M.D. could cause Jane Doe based on the prior  
9 reports of assault, molestation, and inappropriate touching.

10 141. On information and belief, notwithstanding notice of the previous incidents  
11 involving their employee(s), the Kaiser Defendants failed to use reasonable care to supervise  
12 Edward Rose, M.D. and/or Karen Rose, M.D.; refused to remove them from their jobs after  
13 being notified of their tortious conduct, and allowed them to be alone with Jane Doe and to  
14 continue to be employed by them.

15  
16 142. By and through these acts and omissions, the Kaiser Defendants ratified and  
17 condoned the actions of Edward Rose, M.D. and Karen Rose, M.D. despite the repeated acts of  
18 assault, molestation, and/or inappropriate touching of patients, including Jane Doe By and  
19 through these acts and omissions the Kaiser Defendants breached their duty to Jane Doe

20  
21 The Roses' Unfitness Harmed Jane Doe And The Kaiser Defendants' Negligence In Supervising  
22 The Roses Was A Substantial Factor In Causing Jane Doe Harm

23  
24 143. As a direct and proximate result of the Kaiser Defendants' breach, Jane Doe was  
25 sexually battered, assaulted, raped, and sodomized repeatedly. Jane Doe has suffered, and  
26 continues to suffer injury to her strength, activity, mental health, and severe and extreme  
27  
28

1 emotional distress including, but not limited to anguish, fright, horror, nervousness, grief,  
2 anxiety, guilt, worry, shock, humiliation, sleeplessness, loss of appetite, vomiting, and shame.

3 144. Further, Jane Doe remains unable to seek medical treatment for chronic  
4 conditions as a result of the severe emotional distress she has experienced and continues to  
5 experience – she cannot obtain treatment to aid the resolution of her conditions, and she cannot  
6 obtain medication to control the constant pain she suffers as a result of her conditions. As a result  
7 of the severe and extreme emotional distress, Jane Doe has had to begin seeing a therapist.  
8

9 145. As a result of the Kaiser Defendants' negligent supervision, Jane Doe has  
10 sustained general damages in an amount to be proved at trial.

11 146. As a direct further and proximate result of the Kaiser Defendants' negligent  
12 supervision Jane Doe has incurred medical bills and related expenses all to her special damage in  
13 an amount to be proved at trial.  
14

15 Wherefore, Plaintiff prays for judgment against Defendants, and each of them, as  
16 hereinafter set forth.  
17

18 **FIFTH CAUSE OF ACTION**

19 **For Negligent Retention**

20 **(By Plaintiff Against Kaiser Defendants, & DOES 1-100)**

21 147. Plaintiff restates and realleges each and every paragraph of this Complaint as  
22 though fully set forth at length and incorporates the same herein by reference.

23 **The Roses Were Unfit To Perform They Work For Which They Were Hired**

24 148. On information and belief, prior to the Roses' molestation, rape, and  
25 sodomization of Jane Doe, prior patients to whom Edward Rose, M.D. and/or Karen Rose, M.D.  
26 had provided medical care had reported to appropriate agencies including, but not limited to, the  
27 Kaiser Defendants, that they had been assaulted, molested, and/or inappropriately touched by  
28

Edward Rose, M.D. and/or Karen Rose, M.D.

The Kaiser Defendants Knew/Should Have Known That The Roses Were Unfit And That The Roses' Unfitness Created A Particular Risk To Jane Doe

149. The Kaiser Defendants had a duty to protect Jane Doe from the foreseeable injury that Edward Rose, M.D. and/or Karen Rose, M.D. could cause Jane Doe based on the prior reports of assault, molestation, and inappropriate touching.

150. On information and belief, notwithstanding notice of the previous incidents involving their employee(s), the Kaiser Defendants failed to use reasonable care to investigate the allegations and continued to employ Edward Rose, M.D. and Karen Rose, M.D.

151. By and through these acts and omissions, the Kaiser Defendants ratified and condoned the actions of Edward Rose, M.D. and Karen Rose, M.D. despite the repeated acts of assault, molestation, and/or inappropriate touching of patients, including Jane Doe By and through these acts and omissions the Kaiser Defendants breached their duty to Jane Doe

The Roses' Unfitness Harmed Jane Doe And The Kaiser Defendants' Negligence In Retaining The Roses Was A Substantial Factor In Causing Jane Doe Harm

152. As a direct and proximate result of the Kaiser Defendants' breach, Jane Doe was sexually battered, assaulted, raped, and sodomized repeatedly. Jane Doe has suffered, and continues to suffer injury to her strength, activity, mental health, and severe and extreme emotional distress including, but not limited to anguish, fright, horror, nervousness, grief, anxiety, guilt, worry, shock, humiliation, sleeplessness, loss of appetite, vomiting, and shame.

153. Further, Jane Doe remains unable to seek medical treatment for chronic conditions as a result of the severe emotional distress she has experienced and continues to experience – she cannot obtain treatment to aid the resolution of her conditions, and she cannot



1 obtain medication to control the constant pain she suffers as a result of her conditions. As a result  
2 of the severe and extreme emotional distress, Jane Doe has had to begin seeing a therapist.

3 154. As a result of the Kaiser Defendants' negligent retention of Edward Rose, M.D.  
4 and/or Karen Rose, M.D., Jane Doe has sustained general damages in an amount to be proved at  
5 trial.

6  
7 155. As a direct further and proximate result of the Kaiser Defendants' negligent  
8 retention Jane Doe has incurred medical bills and related expenses all to her special damage in an  
9 amount to be proved at trial.

10 Wherefore, Plaintiff prays for judgment against Defendants, and each of them, as  
11 hereinafter set forth.

### 12 **SIXTH CAUSE OF ACTION**

#### 13 **For Intentional Infliction of Emotional Distress**

14 **(By Plaintiff Against Dr. Edward Rose, Dr. Karen Rose, & DOES 1-100)**

15 156. Plaintiff restates and realleges each and every paragraph of this Complaint as  
16 though fully set forth at length and incorporates the same herein by reference.

#### 17 **Outrageous Conduct**

18  
19 157. The conduct of Edward Rose, M.D., as described above, was outrageous conduct.  
20 Factors establishing the outrageous character of Edward Rose, M.D.,'s conduct include, but are  
21 not limited to, engaging in sexual relations with Jane Doe while acting as her physician,  
22 exposing Jane Doe to the genital herpes virus without her consent, performing oral sex on Jane  
23 Doe while in an examination room at the Kaiser Permanente Santa Rosa campus, engaging in  
24 sexual activities with Jane Doe when she was too intoxicated to consent to sexual activities, and  
25 failing to report the sexual interactions between Karen Rose, M.D., and Jane Doe to the Kaiser  
26 Defendants.  
27  
28

1 158. The conduct of Karen Rose, M.D., as described above, was outrageous conduct.  
2 Factors establishing the outrageous nature of Karen Rose, M.D.,’s conduct include, but are not  
3 limited to, engaging in sexual relations with Jane Doe while acting as her physician, exposing  
4 Jane Doe to the genital herpes virus without her consent, engaging in sexual activities with Jane  
5 Doe when she was too intoxicated to consent to sexual activities, and failing to report the sexual  
6 interactions between Edward Rose, M.D., and Jane Doe to the Kaiser Defendants.

7  
8 159. Karen Rose, M.D., as Jane Doe’s physician and confidante, knew that Jane Doe  
9 was particularly vulnerable to emotional distress as a result of the physical and sexual abuse Jane  
10 Doe had suffered in the past. Karen Rose, M.D., who purports to be a survivor of child abuse  
11 herself, and as a trained physician, is in a unique situation to understand the devastating effects  
12 emotional and sexual abuse would undoubtedly work on Jane Doe

13  
14 160. Karen Rose, M.D., knew that the threesome, sexual interactions with treating  
15 physicians, and exposure to the genital herpes virus would likely result in severe emotional  
16 distress.

17  
18 The Roses’ Conduct Was Intentional

19 161. The Roses intentionally engaged in the outrageous conduct set forth above.  
20 Reckless Disregard Of The Probability That Jane Doe Would Suffer Emotional Distress

21 162. Edward Rose, M.D., engaged in the conduct described in this Complaint with  
22 reckless disregard for the probability that Jane Doe would suffer severe emotional distress.

23  
24 163. Karen Rose, M.D., engaged in the conduct described in this Complaint with  
25 reckless disregard for the probability that Jane Doe would suffer severe emotional distress.

26 Jane Doe Suffered Severe Emotional Distress  
27  
28

1           164.     As a direct and proximate result of Edward Rose, M.D.,’s conduct, as  
2     hereinbefore described, Jane Doe has suffered severe emotional distress.

3           165.     As a direct and proximate result of Karen Rose, M.D.,’s conduct, as hereinbefore  
4     described, Jane Doe has suffered severe emotional distress.

5           166.     The severe and extreme emotional distress which Jane Doe has suffered includes,  
6     but is not limited to, anguish, fright, horror, nervousness, grief, anxiety, guilt, worry, shock,  
7     humiliation, sleeplessness, loss of appetite, vomiting, and shame. More specifically, Jane Doe  
8     has had to begin seeing a therapist to deal with the psychological fallout caused by the Roses’  
9     actions and omissions, as set forth *supra*.

10          167.     Further, Jane Doe remains unable to seek medical treatment for chronic  
11     conditions as a result of the severe emotional distress she has experienced and continues to  
12     experience – she cannot obtain treatment to aid the resolution of her conditions, and she cannot  
13     obtain medication to control the constant pain she suffers as a result of her conditions.

14          168.     The severe and extreme emotional distress suffered by Jane Doe is not mild or  
15     brief. Rather, the severe emotional distress which Jane Doe has endured, and continues to endure  
16     daily, is so substantial, long-lasting, and horrific that no ordinary, reasonable person in any  
17     society, civilized or otherwise, should be expected to bear it.

18          169.     Additionally, Jane Doe is not required to prove physical damages to recover for  
19     the severe and extreme emotional distress inflicted upon her by the Roses.

20     The Roses’ Conduct Was A Substantial Factor In Causing Jane Doe Emotional Distress

21          170.     The conduct of Edward Rose, M.D., as hereinbefore described was a substantial  
22     factor in causing Jane Doe’s severe emotional distress.

171. The conduct of Karen Rose, M.D., as hereinbefore described was a substantial factor in causing Jane Doe's severe emotional distress.

Wherefore, Plaintiff prays for judgment against Defendants, and each of them, as hereinafter set forth.

**SEVENTH CAUSE OF ACTION**  
**For Negligent Infliction of Emotional Distress**  
**(By Plaintiff Against All Defendants)**

172. Plaintiff restates and realleges each and every paragraph of this Complaint as though fully set forth at length and incorporates the same herein by reference.

**Duty**

173. At all times relevant to this Complaint, there existed the special preexisting physician-patient relationship between Defendants, and each of them, and Jane Doe

174. Defendants, and each of them, had a duty to employ ordinary care or skill in the management of their persons to avoid causing injury to others. Defendants, and each of them, owed this duty to Jane Doe – that is, Defendants, and each of them, were legally required to exercise ordinary skill in the management of their persons so as to avoid injuring Jane Doe

**Breach**

175. Defendants breached the duty owed to Jane Doe by the conduct alleged herein, including, but not limited to engaging in non consensual sexual activity, abuse of the physician-patient relationship, exposing her to herpes without disclosure, failure to adhere to mandatory reporting requirements of Penal Code section 11160.

176. Defendants, and each of them, had notice (whether actual or constructive) of the sexual misconduct of Dr. Edward Rose and Dr. Karen Rose.

177. Defendants, and each of them, knew or reasonably should have known that Jane

Doe would suffer extreme mental distress, frustration, annoyance, sorrow, grief, guilt, embarrassment, physical injuries, and discomfort as a result of the sexual misconduct of Dr. Edward Rose and Dr. Karen Rose.

#### Harm To Jane Doe

178. As a direct and proximate result of the conduct of Defendants, and each of them, as described hereinabove, Jane Doe has suffered extreme emotional distress, all to her general damage in an amount that will be ascertained according to proof at time of trial.

#### Defendants' Conduct Was A Substantial Factor In Causing Harm To Jane Doe

179. The conduct of Defendants, and each of them, as set forth above, was a substantial factor in causing the severe and extreme emotional distress suffered by Jane Doe

#### Jane Doe's Damages

180. The severe and extreme emotional distress which Jane Doe has suffered includes, but is not limited to, anguish, fright, horror, nervousness, grief, anxiety, guilt, worry, shock, humiliation, sleeplessness, loss of appetite, vomiting, and shame. More specifically, Jane Doe has had to see, and continues to see, a therapist to deal with the psychological fallout caused by the Defendants' actions and omissions, as set forth *supra*.

181. Jane Doe is unable to seek medical treatment for her chronic medical conditions as a result of the severe emotional distress she has experienced and continues to experience – she cannot obtain treatment to aid the resolution of her conditions and she cannot obtain medication to control the constant pain she suffers as a result of her conditions.

182. The severe and extreme emotional distress suffered by Jane Doe is not mild or brief. Rather, the severe emotional distress which Jane Doe has endured, and continues to endure

1 daily, is so substantial, long-lasting, and horrific that no ordinary, reasonable person in any  
2 society, civilized or otherwise, should be expected to bear it.

3 183. Additionally, Jane Doe is not required to prove physical damages to recover for  
4 the severe and extreme emotional distress inflicted upon her by the Roses.

5 Wherefore, Plaintiff prays for judgment against Defendants, and each of them, as  
6 hereinafter set forth.  
7

8 **EIGHTH CAUSE OF ACTION**  
9 **For Negligent Violation of Statutory Duties**  
10 **(By Plaintiff Against All Defendants)**

11 184. Plaintiff restates and realleges each and every paragraph of this Complaint as  
12 though fully set forth at length and incorporates the same herein by reference.

13 **Penal Code section 11160**

14 185. The laws and regulations of the State of California, including, but not limited to  
15 Penal Code section 11160, impose a statutory duty on Defendants, and each of them, to report to  
16 a local law enforcement agency within two working days of receiving information from a person  
17 that the person has suffered, among other things, "any wound or other physical injury inflicted  
18 on the person where the injury is the result of assaultive or abusive conduct."  
19

20 186. "Assaultive or abusive conduct" as defined by Penal Code section 11160, includes  
21 (but is not limited to) sexual battery, battery, abuse of a spouse or cohabitant, and sexual  
22 penetration in violation of Penal Code section 289.

23 187. As a direct and proximate result of the negligence of Defendants, and each of  
24 them, in failing to adhere to the mandatory reporting requirements set forth in Penal Code section  
25 11160, failed to exercise ordinary and reasonable care in complying with the aforementioned  
26 statutory and regulatory obligations and duties, and therefore breached same and violated said  
27  
28

1 regulations and statutes, which are intended to protect victims such as Jane Doe herein.

2 188. The laws and regulations of the State of California, including, but not limited to  
3 Business & Professions Code section 729, statutorily prohibits a physician from engaging in any  
4 act of sexual intercourse, sodomy, oral copulation, or sexual contact with a patient and provides  
5 that physician violating this statute is "guilty of sexual exploitation."

6 189. As set forth above, the Roses violated B&P § 729 and are guilty of sexual  
7 exploitation.  
8

9 190. These violations were done within the course and scope of the Roses'  
10 employment.  
11

12 191. Jane Doe was damaged as a result of the violation of statutory duties by  
13 Defendants, and each of them, and suffered damages in an amount to be proved at trial.

14 Wherefore, Plaintiff prays for judgment against Defendants, and each of them, as  
15 hereinafter set forth.  
16

17 **TENTH CAUSE OF ACTION**  
18 **For Intentional Violation of Statutory Duties**  
19 **(By Plaintiff Against All Defendants)**

20 192. Plaintiff restates and realleges each and every paragraph of this Complaint as  
21 though fully set forth at length and incorporates the same herein by reference.

22 193. Defendants', and each of their, violations of statutory duties described  
23 hereinabove, were knowing, intentional, willful, and furthermore were oppressive and malicious.

24 194. Jane Doe is therefore entitled to punitive damages in an amount according to  
25 proof at trial, and which sum shall be adequate to punish and make an example of Defendants,  
26 and each of them.

27 195. Jane Doe was damaged by Defendants, and each of their, violations of statutory  
28

1 duties.

2 Wherefore, Plaintiff prays for judgment against Defendants, and each of them, as  
3 hereinafter set forth.

4 **TENTH CAUSE OF ACTION**  
5 **For General Negligence**  
6 **(By Plaintiff Against the Roses)**

7 196. Plaintiff restates and realleges each and every paragraph of this Complaint as  
8 though fully set forth at length and incorporates the same herein by reference.

9 Negligence Alleged Pursuant To This Cause Of Action Is Ordinary Negligence

10 197. The negligence alleged pursuant to this cause of action is ordinary  
11 negligence. The negligence alleged pursuant to this cause of action is not to be construed as  
12 “a negligent act or omission to act by a health care provider in the rendering of  
13 professional services” as set forth in Code of Civil Procedure section 340.5(2).

14 Duty

15 198. The Roses and each of them owed certain duties to Jane Doe, including, but not  
16 limited to the duty to use ordinary care or skill in the management of his or her property or  
17 person so as to avoid causing injury to others.

18 199. The Roses and each of them owed breached such duty to Jane Doe by among  
19 other things, having unprotected sexual relations with her while knowingly suffering from herpes  
20 and not disclosing to her that they were infected with this sexually transmitted diseases.

21 200. The Roses and each of them owed were expressly and constructively aware that  
22 they were exposing their patient to herpes and made no reasonable attempts to ameliorate this  
23 exposure.

24 201. Defendants, and each of their, breaches of duty directly and proximately caused  
25  
26  
27  
28



1 damages to Jane Doe including, but not limited to, physical injury, illness, discomfort,  
2 sleeplessness, mental distress, frustration, annoyance, sorrow, grief, guilt, anxiety, worry, shock,  
3 humiliation, nervousness, embarrassment, shame, anguish, fright, horror, and shock to Jane  
4 Doe's nervous system.

5 Causation

6  
7 202. Such injuries directly and proximately caused Jane Doe great physical and mental  
8 pain and suffering, all to Jane Doe's damage in an amount which will be proved at trial.

9 203. The negligence alleged pursuant to this cause of action is ordinary negligence.  
10 The negligence alleged pursuant to this cause of action is not alleged to be "a negligent act or  
11 omission to act by a health care provider in the rendering of professional services" as set forth in  
12 Code of Civil Procedure section 340.5(2).  
13

14 Damages To Jane Doe

15 204. The damages suffered by Jane Doe as a result of the Roses' negligence include,  
16 but are not limited to, physical injury, illness, discomfort, sleeplessness, mental distress,  
17 frustration, annoyance, sorrow, grief, guilt, anxiety, worry, shock, humiliation, nervousness,  
18 embarrassment, shame, anguish, fright, horror, and shock to Jane Doe's nervous system.  
19

20 205. Such injuries directly and proximately caused, and continue to cause, Jane Doe  
21 great physical and mental pain and suffering, all to Jane Doe's damage, in an amount to be  
22 proved at trial.  
23

24 The Roses' Knowing, Intentional, Willful, Oppressive, And Malicious Conduct

25 206. The Roses breaches of the duty they owed to Jane Doe, described hereinabove,  
26 were knowing, intentional, willful, and furthermore were oppressive and malicious.  
27  
28

207. Because of the willful, outrageous, and intentional nature of the conduct of the Roses, and each of them, as described hereinabove, Jane Doe seeks damages against Dr. Edward Rose in a sum appropriate to punish and deter Defendants, and each of them.

Wherefore, Plaintiff prays for judgment against the Roses, and each of them, as hereinafter set forth.

**ELEVENTH CAUSE OF ACTION**  
**For Professional Negligence**  
**(By Plaintiff Against All Defendants)**

208. Plaintiff restates and realleges each and every paragraph of this Complaint as though fully set forth at length and incorporates the same herein by reference.

Duty

209. Jane Doe consulted, retained, and/or employed Defendants and each of them as physicians, surgeons, medical doctors, specialists, medical facilities, and/or medical practitioners to examine, diagnose, advise, care, treat and administer to her for compensation which was paid by Jane Doe to Defendants.

210. Jane Doe placed herself under the care and attention of the Defendants and each of them and was to be provided with complete and adequate medical care and treatment, as well as other medical services.

211. Defendants, and each of them promised and undertook to faithfully, skillfully and carefully test, advise, diagnose, treat and care for Plaintiff.

212. A health care professional is negligent if he or she fails to use the level of skill, knowledge, and care in the diagnosis and treatment that other reasonably careful health care professionals would use in the same or similar circumstances. This level of skill, knowledge, and care is commonly designated the "standard of care."

1           213. A health care professional has a duty to exercise in diagnosis and treatment that  
2 reasonable degree of skill, knowledge, and care ordinarily possessed and exercised by members  
3 of the medical profession under similar circumstances.

4           214. Defendants, and each of them, are legally bound to adhere to this duty.

5           215. At all times mentioned herein, Defendants and each of them held themselves out  
6 as skilled medical professionals who were qualified as practitioners to skillfully and faithfully  
7 perform medical services, including maintaining professional interpersonal relationships with  
8 their patients and efforts to improve, not injure their physical and psychological health.

9           216. At all times mentioned herein, Defendants and each of them breached their duty  
10 of due care to skillfully perform said medical care and treatment for Jane Doe by, among other  
11 things, causing her to become intoxicated and performing nonconsensual sexual acts on her.

12           215. As a direct and proximate result of Defendants' failure to honor the duty they  
13 collectively owed to Jane Doe, Jane Doe has suffered significant damages, as set forth in detail  
14 below.

15           216. A skilled medical professional's duties require him/her/it to report assaultive or  
16 abusive conduct. Despite such knowledge of such conduct, all Defendants failed to perform this  
17 duty.

18           217. A skilled medical professional has a duty to treat, care and cure patients. This  
19 essential duty is entirely the essence of professional medical service. Nevertheless, the Roses, as  
20 Jane Doe's health care providers, instead of treating and curing Jane Doe, intentionally exposed  
21 her to genital herpes without disclosing the exposure to her. This behavior is so opposite to and  
22 in such contravention to their duty as physicians that it must be considered per se professional  
23 negligence.

Damage To Jane Doe

218. Defendants, and each of their, breaches of duty directly and proximately caused damages to Jane Doe including, but not limited to, physical injury, illness, discomfort, sleeplessness, mental distress, frustration, annoyance, sorrow, grief, guilt, anxiety, worry, shock, humiliation, nervousness, embarrassment, shame, anguish, fright, horror, and shock to Jane Doe's nervous system.

219. Such injuries directly and proximately caused Jane Doe great physical and mental pain and suffering, all to Jane Doe's damage in an amount which will be proved at trial.

Defendants' Knowing, Intentional, Willful, Oppressive, And Malicious Breach(es)

220. Defendants', and each of their, breaches of the duty they owed to Jane Doe, described hereinabove, were knowing, intentional, willful, and furthermore were oppressive and malicious.

Physicians' Inability To Properly Contain And Control Emotional Involvement With Patient

221. The misconduct, as hereinabove alleged, arose from the physicians' inability to properly contain and control their emotional involvement with the patient.

Wherefore, Plaintiff prays for judgment against Defendants, and each of them, as hereinafter set forth.

**TWELFTH CAUSE OF ACTION**

**For Conversion**

**(By Plaintiff Against Dr. Karen Rose & DOES 1-100)**

220. Plaintiff restates and realleges each and every paragraph of this Complaint as though fully set forth at length and incorporates the same herein by reference.

///

///

Jane Doe Had A Right To Possess Her Medical Cannabis

221. In or around 2011, Jane Doe owned certain personal property. Specifically, Jane Doe was the owner of approximately three pounds of medical cannabis which she grew pursuant to her recommendation for medical cannabis.

222. As a result of her physician's recommendation for medical cannabis, Jane Doe had the right to possess the cannabis.

Karen Rose, M.D. Was Jane Doe's Caregiver For Purposes Of Medical Cannabis

223. On May 26, 2011 Karen Rose, M.D., signed a form entitled "Designation of Primary Caregiver" with regard to Jane Doe's recommendation for medical cannabis.

224. The signature of Karen Rose, M.D. on the form was witnessed by a notary public licensed in the State of California.

Jane Doe Entrusted Her Medical Cannabis To Karen Rose, M.D. As Her Designated Caregiver

225. Jane Doe entrusted Karen Rose, M.D., as her physician and as her designated caregiver for purposes of Jane Doe's medical cannabis recommendation, with possession of the cannabis.

226. Karen Rose, M.D., was in possession of Jane Doe's cannabis at her home in Fountaingrove, Santa Rosa, California.

Karen Rose, M.D., Intentionally And Substantially Interfered With Jane Doe's Medical Cannabis

227. Karen Rose, M.D., substantially and intentionally interfered with Jane Doe's cannabis by taking and maintaining possession of Jane Doe's cannabis and failing to return Jane Doe's cannabis.

228. Karen Rose, M.D., substantially and intentionally interfered with Jane Doe's medical cannabis by destroying the item, whether in whole or in part.

1           229     Jane Doe is informed and believes and based on that information and belief  
2 alleges that Karen Rose, M.D., along with Edward Rose, M.D., have consumed (in one form or  
3 another) some or all of Jane Doe's cannabis.

4           230.     Jane Doe is informed and believes and based on that information and belief  
5 alleges that Karen Rose, M.D., destroyed Jane Doe's medical cannabis by burning, smoking,  
6 inhaling, or otherwise consuming the medical cannabis for personal enjoyment.

7  
8           231.     Karen Rose, M.D., is not believed to have a doctor's recommendation to use  
9 medical cannabis and, in any case, the cannabis left in Karen Rose, M.D.'s, possession did not  
10 belong to her.

11 Jane Doe Did Not Consent To Karen Rose, M.D.'s Interference With Her Medical Cannabis

12  
13           232.     Jane Doe did not consent to Karen Rose, M.D.'s actions.

14           233.     While Jane Doe and Karen Rose, M.D., smoked cannabis together several times  
15 during 2011, Jane Doe never consented to allow Karen Rose, M.D., to retain the cannabis and to  
16 smoke the cannabis which was meant for treatment of Jane Doe's medical conditions.

17 Jane Doe Was Harmed By Karen Rose, M.D.'s Interference With Her Medical Cannabis

18  
19           234.     Jane Doe was harmed as a result of Karen Rose, M.D.'s actions.

20           235.     Jane Doe has been deprived of her medical cannabis and has been forced to  
21 replace the approximately three pounds of cannabis unlawfully converted by Karen Rose, M.D.

22 The Conduct of Karen Rose, M.D., Was A Substantial Factor In Causing Jane Doe's Harm

23  
24           236.     Karen Rose, M.D.'s actions were a substantial factor in causing Jane Doe harm.  
25 Indeed, there are no other factors contributing to the harm suffered by Jane Doe as a result of the  
26 conversion of her medical cannabis by Karen Rose, M.D.

Damages Suffered By Jane Doe As A Result Of Karen Rose, M.D.'s Conversion Of Medical

Marijuana

**Special Damages**

237. As a result of Karen Rose, M.D.'s actions as hereinbefore described, Jane Doe has suffered general and special damages including, but not limited to, severe emotional distress and deprivation of the beneficial use and enjoyment of her medical cannabis.

238. The egregious, retaliatory, and outrageous circumstances surrounding Karen Rose, M.D.'s actions require a measure of damages in excess of the fair market value of the cannabis converted by Karen Rose, M.D.

239. It was reasonably foreseeable to Karen Rose, M.D., that Jane Doe would suffer special injury as a result of Karen Rose, M.D.'s, conversion of Jane Doe's cannabis.

240. As Jane Doe's physician, confidante, and designated caregiver for purposes of medical cannabis, Karen Rose, M.D., was uniquely situated to understand the special injuries that Jane Doe would suffer as a result of the deprivation of her medical cannabis.

241. Reasonable care on Jane Doe's part would not have prevented the loss of Jane Doe's cannabis.

242. Jane Doe reasonably entrusted the approximately three pounds of medical cannabis to her designated caregiver and physician, Karen Rose, M.D.

243. Jane Doe reasonably expected that Karen Rose, M.D., would honorably fulfill her role as Jane Doe's designated caregiver for purposes of medical cannabis.

244. Jane Doe could not have reasonably foreseen that Karen Rose, M.D., would improperly retain and, in all probability, consume for recreational purposes, the medical cannabis entrusted to her by her patient, Jane Doe.

1 245. As a result, Jane Doe seeks special damages in excess of the fair market value of  
2 the cannabis at the time Karen Rose, M.D., illegally and improperly converted the cannabis.

3 246. Jane Doe further seeks reasonable compensation for the time and money  
4 expended attempting to recover the cannabis from Karen Rose, M.D.

5 247. Finally, Jane Doe seeks compensation for the severe emotional distress she has  
6 suffered, and continues to suffer, as a result of the conversion of her medical cannabis by Karen  
7 Rose, M.D., her former physician, friend, and designated caregiver.

8 Wherefore, Plaintiff prays for judgment against Defendants, and each of them, as  
9 hereinafter set forth.  
10

11 **THIRTEENTH CAUSE OF ACTION**  
12 **For Trespass to Chattels**  
13 **(By Plaintiff Against Dr. Karen Rose & DOES 1-100)**

14 248. Plaintiff restates and realleges each and every paragraph of this Complaint as  
15 though fully set forth at length and incorporates the same herein by reference.

16 **Jane Doe Had A Right To Possess Her Medical Cannabis**

17 249. In or around 2011, Jane Doe owned certain personal property. Specifically, Jane  
18 Doe was the owner of approximately three pounds of medical cannabis which she grew pursuant  
19 to her recommendation for medical cannabis.  
20

21 250. As a result of her physician's recommendation for medical cannabis, Jane Doe  
22 had the right to possess the cannabis.  
23

24 **Karen Rose, M.D. Was Jane Doe's Caregiver For Purposes Of Medical Cannabis**

25 251. On May 26, 2011 Karen Rose, M.D., signed a form entitled "Designation of  
26 Primary Caregiver" with regard to Jane Doe's recommendation for medical cannabis.  
27  
28



1           252.     The signature of Karen Rose, M.D. on the form was witnessed by a notary public  
2 licensed in the State of California.

3 Jane Doe Entrusted Her Medical Cannabis To Karen Rose, M.D. As Her Designated Caregiver

4           253.     Jane Doe entrusted Karen Rose, M.D., as her physician and as her designated  
5 caregiver for purposes of Jane Doe's medical cannabis recommendation, with possession of the  
6 cannabis.

7  
8           254.     Karen Rose, M.D., was in possession of Jane Doe's cannabis at her home in  
9 Fountaingrove, Santa Rosa, California.

10 Karen Rose, M.D., Intentionally And Substantially Interfered With Jane Doe's Medical Cannabis

11           255.     Karen Rose, M.D., substantially and intentionally interfered with Jane Doe's  
12 cannabis by taking and maintaining possession of Jane Doe's cannabis and failing to return Jane  
13 Doe's cannabis.

14           256.     Karen Rose, M.D., substantially and intentionally interfered with Jane Doe's  
15 medical cannabis by destroying the item, whether in whole or in part.

16           257.     Jane Doe is informed and believes and based on that information and belief  
17 alleges that Karen Rose, M.D., along with Edward Rose, M.D., have consumed (in one form or  
18 another) some or all of Jane Doe's cannabis.

19           258.     Jane Doe is informed and believes and based on that information and belief  
20 alleges that Karen Rose, M.D., destroyed Jane Doe's medical cannabis by burning, smoking,  
21 inhaling, or otherwise consuming the medical cannabis for personal enjoyment.

22           259.     Karen Rose, M.D., is not believed to have a doctor's recommendation to use  
23 medical cannabis and, in any case, the cannabis left in Karen Rose, M.D.'s, possession did not  
24 belong to her.

Jane Doe Did Not Consent To Karen Rose, M.D.'s Interference With Her Medical Cannabis

260. Jane Doe did not consent to Karen Rose, M.D.'s actions.

261. While Jane Doe and Karen Rose, M.D., smoked cannabis together several times during 2011, Jane Doe never consented to allow Karen Rose, M.D., to retain the cannabis and to smoke the cannabis which was meant for treatment of Jane Doe's medical conditions.

Jane Doe Was Harmed By Karen Rose, M.D.'s Interference With Her Medical Cannabis

262. Jane Doe was harmed as a result of Karen Rose, M.D.'s actions.

263. Jane Doe has been deprived of her medical cannabis and has been forced to replace the approximately three pounds of cannabis unlawfully retained by Karen Rose, M.D.

The Conduct of Karen Rose, M.D. Was A Substantial Factor In Causing Jane Doe's Harm

264. Karen Rose, M.D.'s actions were a substantial factor in causing Jane Doe harm. Indeed, there are no other factors contributing to the harm suffered by Jane Doe as a result of the conversion of her medical cannabis by Karen Rose, M.D.

Damages Suffered By Jane Doe As A Result Of Karen Rose, M.D.'s Conversion Of Medical Marijuana

**Special Damages**

265. As a result of Karen Rose, M.D.'s actions as hereinbefore described, Jane Doe has suffered general and special damages including, but not limited to, severe emotional distress and deprivation of the beneficial use and enjoyment of her medical cannabis.

266. The egregious, retaliatory, and outrageous circumstances surrounding Karen Rose, M.D.'s actions require a measure of damages in excess of the fair market value of the cannabis converted by Karen Rose, M.D.

1           267.     It was reasonably foreseeable to Karen Rose, M.D., that Jane Doe would suffer  
2 special injury as a result of Karen Rose, M.D.'s, conversion of Jane Doe's cannabis.

3           268.     As Jane Doe's physician, confidante, and designated caregiver for purposes of  
4 medical cannabis, Karen Rose, M.D., was uniquely situated to understand the special injuries  
5 that Jane Doe would suffer as a result of the deprivation of her medical cannabis.

6           269.     Reasonable care on Jane Doe's part would not have prevented the loss of Jane  
7 Doe's cannabis.

8           270.     Jane Doe reasonably entrusted the approximately three pounds of medical  
9 cannabis to her designated caregiver and physician, Karen Rose, M.D.

10           271.     Jane Doe reasonably expected that Karen Rose, M.D., would honorably fulfill her  
11 role as Jane Doe's designated caregiver for purposes of medical cannabis.

12           272.     Jane Doe could not have reasonably foreseen that Karen Rose, M.D., would  
13 improperly retain and, in all probability, consume for recreational purposes, the medical cannabis  
14 entrusted to her by her patient, Jane Doe

15           273.     As a result, Jane Doe seeks special damages in excess of the fair market value of  
16 the cannabis at the time Karen Rose, M.D., illegally and improperly converted the cannabis.

17           274.     Jane Doe further seeks reasonable compensation for the time and money  
18 expended attempting to recover the cannabis from Karen Rose, M.D.

19           275.     Finally, Jane Doe seeks compensation for the severe emotional distress she has  
20 suffered, and continues to suffer, as a result of the conversion of her medical cannabis by Karen  
21 Rose, M.D., her former physician, friend, and designated caregiver.

22           Wherefore, Plaintiff prays for judgment against Defendants, and each of them, as  
23 hereinafter set forth.  
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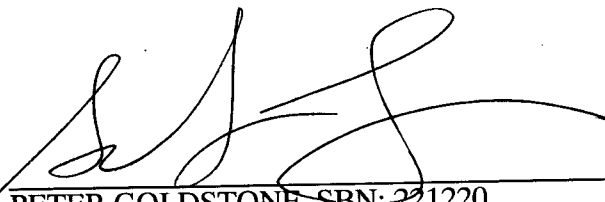
**PRAYER**

Wherefore, Plaintiff prays for judgment as follows:

1. For special, general, and consequential damages against all named and DOE Defendants in an amount according to proof;
  2. For reasonable attorneys' fees from all named and DOE Defendants pursuant to provisions of the Kaiser contract and statutory provisions;
  4. For costs of suit from all named and DOE Defendants;
  5. For exemplary/punitive damages against all named and DOE Defendants on all causes of action with the exception of the Eleventh Cause of Action for Professional Negligence.
- Should Plaintiff seek exemplary or punitive damages with regard to her Cause of Action for Professional Negligence, she will timely move for an order granting her leave to amend pursuant to the strictures of Code Civil Procedure section 425.13
6. For such other relief as the Court may deem just and proper.

Date: February 4, 2013

THE LAW OFFICES OF PETER GOLDSTONE

  
PETER GOLDSTONE, SBN: 221220  
SARAH LEWERS, SBN: 277181  
Attorneys for Plaintiff, JANE DOE