

SECTION FOR COURT USE ONLY

13 JAN 25 AM 10:27

CLERK-SUPERIOR COURT
SAN DIEGO COUNTY, CA

JAN 25 '13 AM 10:18

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):

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ATTORNEY FOR (Name): Plaintiff, LEAHLISA MAGERS and AARON MAGER

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO

STREET ADDRESS: 250 East Main Street

MAILING ADDRESS: 250 East Main Street

CITY AND ZIP CODE: El Cajon, California 92020

BRANCH NAME: East County Division

PLAINTIFF: LEAHLISA MAGERS and AARON MAGERS

DEFENDANT: KAISER HEALTH PLAN ASSET MANAGEMENT,
INC., et al.

☒ DOES 1 TO 20 Inclusive

COMPLAINT—Personal Injury, Property Damage, Wrongful Death

☐ AMENDED (Number):

Type (check all that apply):

☐ MOTOR VEHICLE ☒ OTHER (specify):

☐ Property Damage ☐ Wrongful Death

☒ Personal Injury ☐ Other Damages (specify):

Jurisdiction (check all that apply):

☐ ACTION IS A LIMITED CIVIL CASE

Amount demanded ☐ does not exceed \$10,000

☐ exceeds \$10,000, but does not exceed \$25,000

☒ ACTION IS AN UNLIMITED CIVIL CASE (exceeds \$25,000)

☐ ACTION IS RECLASSIFIED by this amended complaint

☐ from limited to unlimited

☐ from unlimited to limited

CASE NUMBER:

37-2013-00031798-CU-PO-CTL

1. Plaintiff (name or names): LEAHLISA MAGERS and AARON MAGERS

alleges causes of action against defendant (name or names):

KAISER HEALTH PLAN ASSET MANAGEMENT, INC., and DOES 1 TO 20, Inclusive.

2. This pleading, including attachments and exhibits, consists of the following number of pages: 5

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.

SHORT TITLE:

MAGERS v. KAISER HEALTH PLAN ASSET MANAGEMENT, INC.

CASE NUMBER:

4. ☐ Plaintiff (name):

is doing business under the fictitious name (specify):

and has complied with the fictitious business name laws.

5. Each defendant named above is a natural person

a. ☒ except defendant (name): KAISER HEALTH(1) ☐ a business organization, form unknown(2) ☒ a corporation(3) ☐ an unincorporated entity (describe):(4) ☐ a public entity (describe):(5) ☐ other (specify):c. ☐ except defendant (name):(1) ☐ a business organization, form unknown(2) ☐ a corporation(3) ☐ an unincorporated entity (describe):(4) ☐ a public entity (describe):(5) ☐ other (specify):b. ☐ except defendant (name):(1) ☐ a business organization, form unknown(2) ☐ a corporation(3) ☐ an unincorporated entity (describe):(4) ☐ a public entity (describe):(5) ☐ other (specify):d. ☐ except defendant (name):(1) ☐ a business organization, form unknown(2) ☐ a corporation(3) ☐ an unincorporated entity (describe):(4) ☐ a public entity (describe):(5) ☐ other (specify):☐ Information about additional defendants who are not natural persons is contained in Attachment 5.

6. The true names of defendants sued as Does are unknown to plaintiff.

a. ☒ Doe defendants (specify Doe numbers): 1-20 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): 1-20 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):

Defendant's medical office building is located in this court's jurisdictional area.

9. ☐ Plaintiff is required to comply with a claims statute, anda. ☐ has complied with applicable claims statutes, orb. ☐ is excused from complying because (specify):

SHORT TITLE:

CASE NUMBER:

MAGERS v. KAISER HEALTH PLAN ASSET MANAGEMENT, INC.

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

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

11. Plaintiff has suffered

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

Loss of consortium.

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: January 24, 2013

DOUGLAS H. SWOPE, ESQ.

(TYPE OR PRINT NAME)



(SIGNATURE OF PLAINTIFF OR ATTORNEY)

SHORT TITLE:

MAGERS v. KAISER HEALTH PLAN ASSET MANAGEMENT

CASE NUMBER:

FIRST

CAUSE OF ACTION—Premises LiabilityPage 4

(number)

ATTACHMENT TO ☒ Complaint ☐ Cross - Complaint

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

Prem.L-1. Plaintiff (name): **LEALISA MAGERS**

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

On (date): **February 9, 2011**

plaintiff was injured on the following premises in the following

fashion (description of premises and circumstances of injury):

Plaintiff slipped, tripped and/or fell at defendant's place of business and sustained significant personal injuries. Plaintiff was descending stairs at defendant's place of business and trip and fell due to the lack of a handrail, rise and run discrepancies, appropriate lighting and/or warning signs. Defendant is per se negligent for violating the California Building Code (1998, 2001, 2007 and 2010) for failing to have a handrail on the subject matter stair case.

Prem.L-2. ☒ **Count One—Negligence** The defendants who negligently owned, maintained, managed and operated the described premises were (names):
KAISER HEALTH PLAN ASSET MANAGEMENT, INC.

☒ Does 1 to 20

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

☐ Does _____ to _____Plaintiff, a recreational user, was ☐ an invited guest ☐ a paying guest.

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

☐ Does _____ to _____

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

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

☒ Does 1 to 20

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

SHORT TITLE:
MAGERS v. KAISER

CASE NUMBER:

SECOND
(number)

CAUSE OF ACTION—General NegligencePage 5

ATTACHMENT TO ☒ Complaint ☐ Cross - Complaint

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

GN-1. Plaintiff (name): LEAHLISA MAGERS AND AARON MAGERS

alleges that defendant (name): KAISER HEALTH PLAN ASSET MANAGEMENT, INC.

☒ Does 1 to 20

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): February 9, 2011

at (place): 3875 Avocado Boulevard, La Mesa, California 91941

(description of reasons for liability):

At said time and place, defendants, and each of them, negligently, carelessly, recklessly and unlawfully maintained the premises and failed to take reasonable steps to maintain, prevent, warn or to correct a dangerous condition on the premises (lack of handrail on stairs) to make it safe for plaintiff and for other persons coming onto the premises.

At the aforementioned date, time and place, plaintiff LEAHLISA MAGERS came upon said premises. As a direct and proximate result of the aforementioned negligence, carelessness, recklessness, and unlawfulness of defendants, and each of them, plaintiff LEAHLISA MAGERS was caused to trip and fall while on said premises.

On February 9, 2011, and at all times mentioned in this complaint, plaintiffs, LEAHLISA MAGERS and AARON MAGERS, were husband and wife.

Before suffering these injuries, plaintiff LEAHLISA MAGERS was able to and did perform all the duties of a wife and did perform all these duties, including assisting in maintaining the home, and providing love, companionship, affection, society, sexual relations, moral support, and solace to plaintiff AARON MAGERS.

Due to the nature of the injuries sustained by plaintiff LEAHLISA MAGERS and the severe physical, emotional and psychological strains they cause her, she is no longer able to provide plaintiff AARON MAGERS with love, companionship, affection, society, moral support, and solace. Because of these injuries, plaintiff LEAHLISA MAGERS will be unable to perform these duties in the future. Plaintiff AARON MAGERS is therefore deprived and will be permanently deprived of his spouse's consortium, all to his damage, in a total amount to be established by proof at trial.