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**ELLIS & ABOUEL SOOD**

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Luz Martinez

**FILED**  
SUPERIOR COURT  
COUNTY OF SAN BERNARDINO  
RANCHO CUCAMONGA DISTRICT

AUG 06 2013

BY Sugey Quintero  
SUGEY GUINTERO, DEPUTY

**SUPERIOR COURT OF THE STATE OF CALIFORNIA**

**FOR THE COUNTY OF SAN BERNARDINO – RANCHO CUCAMONGA DISTRICT**

LUZ MARTINEZ, an individual,

Plaintiff,

vs.

KAISER FOUNDATION HOSPITALS, a  
California Corporation; SOUTHERN  
CALIFORNIA PERMANENTE MEDICAL  
GROUP, INC., a California Corporation;  
MONICA L. LEUNG, an individual; PHILIP  
LUU, an individual; DAVID ANTHONY  
SANTOS, an individual; JOHN DAVID  
TUCKER, an individual; CHIH-CHENG  
CHEN, an individual; SUDHA SIDHAR, an  
individual; JANE ONG, an individual;  
JAMES JOHNSON, JR., an individual;  
CLIFFORD EKE, an individual; NINA  
BOWMAN, an individual; GARY  
MCLARTY, an individual; and DOES 1  
through 50, Inclusive.

Defendants.

Case No.: MC047785ENL

Hon.:

Dept:

**COMPLAINT FOR:**

- (1) Medical Malpractice
- (2) Negligent Infliction of Emotional Distress

\$43502

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Plaintiff Luz Martinez alleges as follows:

**GENERAL ALLEGATIONS**

1. Plaintiff LUZ MARTINEZ (hereinafter "Martinez" or "Plaintiff") is an individual who at all relevant times herein resided in the County of San Bernardino in the State of California.

2. Plaintiff is informed and believes, and thereon alleges, that Defendant MONICA L. LEUNG (hereinafter referred to as "Dr. Leung") is, and was at all relevant times hereto, a physician duly licensed to practice medicine in the State of California.

3. Plaintiff is informed and believes, and thereon alleges, that Defendant PHILIP LUU (hereinafter referred to as "Dr. Luu") is, and was at all relevant times hereto, a physician duly licensed to practice medicine in the State of California.

4. Plaintiff is informed and believes, and thereon alleges, that Defendant DAVID ANTHONY SANTOS (hereinafter referred to as "Dr. Santos") is, and was at all relevant times hereto, a physician duly licensed to practice medicine in the State of California.

5. Plaintiff is informed and believes, and thereon alleges, that Defendant JOHN DAVID TUCKER (hereinafter referred to as "Dr. Tucker") is, and was at all relevant times hereto, a physician duly licensed to practice medicine in the State of California.

6. Plaintiff is informed and believes, and thereon alleges, that Defendant CHIH-CHENG CHEN (hereinafter referred to as "Dr. Chen") is, and was at all relevant times hereto, a physician duly licensed to practice medicine in the State of California.

1           7. Plaintiff is informed and believes, and thereon alleges, that Defendant SUDHA  
2 SIDHAR (hereinafter referred to as "Dr. Sidhar") is, and was at all relevant times hereto, a  
3 physician duly licensed to practice medicine in the State of California.  
4

5           8. Plaintiff is informed and believes, and thereon alleges, that Defendant JANE  
6 ONG (hereinafter referred to as "Dr. Ong") is, and was at all relevant times hereto, a physician  
7 duly licensed to practice medicine in the State of California.  
8

9           9. Plaintiff is informed and believes, and thereon alleges, that Defendant JAMES  
10 JOHNSON, JR (hereinafter referred to as "Dr. Johnson") is, and was at all relevant times  
11 hereto, a physician duly licensed to practice medicine in the State of California.  
12

13           10. Plaintiff is informed and believes, and thereon alleges, that Defendant  
14 CLIFFORD EKE (hereinafter referred to as "Dr. Eke") is, and was at all relevant times hereto, a  
15 physician duly licensed to practice medicine in the State of California.  
16

17           11. Plaintiff is informed and believes, and thereon alleges, that Defendant NINA  
18 BOWMAN (hereinafter referred to as "Dr. Bowman") is, and was at all relevant times hereto, a  
19 physician duly licensed to practice medicine in the State of California.  
20

21           12. Plaintiff is informed and believes, and thereon alleges, that Defendant GARY  
22 MCLARTY (hereinafter referred to as "Dr. McLarty" and referred together with Dr. Leung, Dr.  
23 Luu, Dr. Santos, Dr. Tucker, Dr. Chen, Dr. Sidhar, Dr. Ong, Dr. Johnson, Dr. Eke and Dr.  
24 Bowman as the "Doctor Defendants") is, and was at all relevant times hereto, a physician duly  
25 licensed to practice medicine in the State of California.  
26

27           13. Plaintiff is informed and believes, and based thereon alleges, that Defendant  
28 KAISER FOUNDATION HOSPITALS (hereinafter known as "KFH") is, and was at all

1 relevant times hereto, a duly licensed and accredited medical center operating under the laws of  
2 the State of California.

3 14. Plaintiff is informed and believes, and based thereon alleges, that Defendant  
4 SOUTHERN CALIFORNIA PERMANENTE MEDICAL GROUP, INC. (hereinafter known  
5 as "SCPMG") is, and was at all relevant times hereto, a duly licensed and accredited medical  
6 center operating under the laws of the State of California.  
7

8 15. Plaintiff is informed and believes, and based thereon alleges, that each of the  
9 Doctor Defendants are, and were at all relevant times hereto, doing business as licensed  
10 physicians at KFH and SCPMG.  
11

12 16. Plaintiff is ignorant of the true names and capacities of Defendants sued herein  
13 as Does 1 through 50, inclusive, and therefore sues those Defendants by such fictitious names.  
14 Plaintiff will amend this complaint to allege their true names and capacities when ascertained.  
15

16 17. Plaintiff is informed and believes, and based thereon alleges, that each of the  
17 fictitiously named Defendants is responsible in some manner for the occurrences herein alleged,  
18 and for Plaintiff's damages herein alleged, and were acting as the employees, agents, or servants  
19 of each of the remaining Defendants, and that Plaintiff's damages herein were proximately  
20 caused by the wrongful acts of said fictitiously named Defendants.  
21

22 18. Plaintiff is informed and believes and thereon alleges that in or around May 16,  
23 2012, the Doctor Defendants, KFH and SCPMG undertook the care and treatment of Plaintiff in  
24 connection with treatment pertaining to abdomen and pelvic pain. The Doctor Defendants  
25 continued to oversee Plaintiff's condition through June 2012.  
26

27 19. Plaintiff is further informed and believed, and based thereon alleges, that on or  
28 about May 16, 2012, Defendants KFH, SCPMG and Does 1 through 50, in conjunction with the

1 Doctor Defendants, also undertook the care and treatment of Plaintiff and rendered professional  
2 services in the diagnosis, care and treatment of Ms. Martinez.

3 20. As a result of providing medical care and treatment during the aforesaid period  
4 of time, there existed between the Doctor Defendants, KFH, SCPMG and Does 1 through 50,  
5 and Ms. Martinez an express physician-patient relationship giving rise to a duty of care.

6 21. As a result of the aforesaid physician-patient relationship, Martinez had a right to  
7 expect that the Doctor Defendants, KFH, SCPMG and Does 1 through 50 would care for and  
8 treat her with proper professional skills and would exercise reasonable and ordinary care and  
9 diligence towards her.  
10

11 22. On or about May 16, 2013, Ms. Martinez was admitted to KFH and/or SCPMG  
12 for pain in her abdomen and pelvic regions. Plaintiff is informed and believes and thereon  
13 alleges, that while admitted, the Doctor Defendants, KFH, SCPMG and Does 1 through 50  
14 performed what they informed Plaintiff to be procedures relating to a cholecystectomy.  
15

16 23. Plaintiff is informed and believes; and based thereon alleges, that the  
17 procedure(s) resulted in perforations to her bowel, sepsis, severe pain and discomfort.  
18

19 24. Plaintiff is informed and believes, and based thereon alleges, that she received  
20 additional follow up treatment from the Doctor Defendants, KFH; SCPMG and Does 1 through  
21 50 until she was formally discharged on June 1, 2012.  
22

23 25. In or around June 2013, Plaintiff was informed and advised that the care and  
24 treatment she received from the Doctor Defendants, KFH, SCPMG and Does 1 through 50 were  
25 careless and negligent.  
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**FIRST CAUSE OF ACTION**  
(Medical Malpractice against All Defendants)

26. Plaintiff hereby incorporates by reference Paragraphs 1 through 25, inclusive, of this Complaint as though fully set forth herein.

27. Plaintiff is informed and believes, and based thereon alleges, that during May and June 2012, the Doctor Defendants, KFH, SCPMG and Does 1 through 50 each failed to exercise the proper degree of knowledge and skill and so negligently, carelessly, recklessly and wantonly treated, provided care, monitoring, examination, and other medical professional services to Plaintiff Martinez.

28. Plaintiff is informed and believes, and based thereon alleges, that among other things, Doctor Defendants, KFH, SCPMG and Does 1 through 50 failed to adequately and properly examine and treat Martinez during the procedures relating to cholecystectomy and failed to adequately and properly diagnose and treat Martinez for her injuries thereby resulting in perforations to her bowel, sepsis, severe pain and discomfort.

29. Plaintiff is informed and believes, and based thereon alleges, that notice pursuant to California Code of Civil Procedure §364 was served on the Defendants.

30. As a direct and proximate result of the negligence, carelessness, recklessness, and wantonness of Doctor Defendants, KFH, SCPMG and Does 1 through 50 and the resulting injuries, as aforesaid, Plaintiff Martinez sustained severe and serious injury to her person, all to Plaintiff's damages in a sum within the jurisdiction of this court.

31. As a further, direct and proximate result of the negligence, carelessness, and recklessness of the Defendants, Plaintiff Martinez has been required to employ the services of hospitals, physicians, surgeons, nurses and other professional services and Plaintiff has been compelled to incur expenses for medicines, x-rays, and other medical supplies and services. Plaintiff is informed and believes, based thereon alleges, that further services of said nature will be required by Plaintiff in an amount according to proof.

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1 32. At the time of the injury, as aforesaid, Plaintiff Martinez was regularly and  
2 gainfully employed. By reason of the foregoing, Martinez has been unable to engage in her  
3 employment for a time subsequent to said incident, and Plaintiff is informed and believes, and  
4 thus alleges, that she will be forced to miss periods of work in said employment for an indefinite  
5 period, all to Martinez's damage.  
6

7 **SECOND CAUSE OF ACTION**

8 (Negligent Infliction of Emotional Distress against All Defendants)

9 33. Plaintiff hereby incorporates by reference Paragraphs 1 through 32, inclusive, of  
10 this Complaint as though fully set forth herein.

11 34. As a direct and proximate result of the negligence of the Defendants, and each of  
12 them, as hereinabove alleged, Plaintiff Martinez has suffered severe, substantial and enduring  
13 emotional distress all to Plaintiff's damage in a sum within the jurisdiction of this Court and to  
14 be shown according to proof.

15 WHEREFORE, Plaintiff prays for judgment against Defendants, as follows:

- 16 1. For general damages according to proof;  
17 2. For economic damages, including but not limited to sums incurred and to be  
18 incurred for services of hospitals, physicians, surgeons, nurse and other medical supplies and  
19 services;  
20 3. For lost earnings, both past and future, in an amount to be determined;  
21 4. For an award of actual attorney's fees in an amount according to proof;  
22 5. For an award of costs according to proof; and  
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1 6. For any other and further relief this Court deems appropriate.  
2

3 Dated: August 5, 2013

ELLIS & ABOUEL SOOD

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6 By: 

Ryan A. Ellis, Esq.

Attorneys for Plaintiff Luz Martinez  
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