

H12Michael Cohen - #98066
Law Offices of Bruce E. Krell, Inc.
2 Grove Law Building
345 Grove Street
3 San Francisco, CA 94102
415/861-4414
4 Fax: 415/431-4526

5 Attorney for Plaintiff

FILED

11/26/2013

C BANDA

**Superior Court of California
County of Riverside**

SUPERIOR COURT OF CALIFORNIA, COUNTY OF RIVERSIDE

9 ATTILA BRIZS,

No. **PSC 1302645**

10 Plaintiff,

**COMPLAINT FOR DAMAGES (PROFESSIONAL
NEGLIGENCE AND RELATED)**

11 vs.

12 KAISER FOUNDATION
HEALTH PLAN, INC.,
13 KAISER FOUNDATION
HOSPITALS, INC., SOUTHERN
14 CALIFORNIA PERMANENTE
MEDICAL GROUP, BAHRAM
15 MIRZA, M.D., and DOES 1-120,

16 Defendants.

17
18 Plaintiff alleges:

19 1. Plaintiff is an individual.

20 2. Defendants KAISER FOUNDATION HEALTH PLAN, INC. and KAISER

21 FOUNDATION HOSPITALS, INC., are corporations; Defendant SOUTHERN CALIFORNIA
22 PERMANENTE MEDICAL GROUP is a business organization, form unknown.

23 3. Defendant BAHRAM MIRZA, M.D., DOES 1 through 20, and each of them, at
24 all times herein mentioned were physicians and surgeons, licensed by the State of California to
25 practice medicine and surgery in California, with their principal place of practice located in the
26 Riverside County.

1 4. Plaintiff is informed, believes and thereon alleges that, at all times herein
2 mentioned, DOES 1 through 40, inclusive are licensed to provide hospital and other medical
3 facilities in California.

4 5. Plaintiff is informed, believes and thereon alleges that, at all times herein
5 mentioned, Defendants DOES 1 through 60, inclusive, and each of them, were and are medical
6 residents duly licensed as such under California laws and were engaged in the practice of
7 medicine in the Alameda County.

8 6. Plaintiff is informed, believes and thereon alleges, that, at all times herein
9 mentioned, Defendants DOES 1 through 80 inclusive, and each of them, were associates, agents,
10 employees, doctors of medicine and/or surgeons, nurses, nurse practitioners, medical technicians
11 and/or assistants, laboratory assistants and/or technicians, radiologists, pathologists,
12 anesthesiologists or other health care professionals, acting in the aid or assistance of the other
13 named Defendants, and each of them, and, at all times herein mentioned, were acting within the
14 course and scope of this agency and employment.

15 7. Plaintiff is informed, believes and thereon alleges, that, at all times herein
16 mentioned, Defendants DOES 1 through 100 inclusive, and each of them, were engaged and/or
17 employed in the development, manufacture, distribution, sale, supplying, furnishing, repair
18 and/or servicing of medical drugs, chemicals, supplies, devices and/or appliances, and, at all
19 times herein mentioned, were acting within the course and scope of this engagement, agency
20 and/or employment.

21 8. Plaintiff does not know the true names and capacities, whether corporate,
22 associate or individual, of all Defendants DOES 1 through 120, inclusive, and therefore sues
23 them by those fictitious names. Plaintiff is informed and believes, and thereon alleges, that each
24 of those Defendants was in some manner negligently and legally responsible for the events and
25 happenings alleged in this complaint and for plaintiff's injuries and damages.

26 9. Plaintiff is informed and believes, and thereon alleges, that, at all times

1 mentioned, each of the Defendants, named and DOES, was the agent and employee of each of
2 their codefendants, and in doing the things alleged in this complaint were acting within the
3 course and scope of that agency and employment. Moreover, the conduct of each Defendant
4 herein was authorized and/or ratified by each of the remaining Co-Defendants; and each
5 Defendant, when acting as a principal, was negligent in the selection and hiring of each other
6 Defendant as an agent or employee.

7 10. At all times herein mentioned, the events and happenings herein referred to
8 occurred in Riverside County, California.

9 11. Plaintiff employed Defendants, and each of them, to administer to his medical
10 needs for compensation. Plaintiff was to have been provided with complete and adequate
11 medical care and attention, as well as other necessary medical services and material. Said
12 Defendants, and each of them, promised and undertook to faithfully, skillfully and carefully treat,
13 advise, care for, and operate on Plaintiff in exchange for valuable remuneration.

14 12. Defendants, and each of them, did negligently and carelessly examine, diagnose,
15 treat, operate on, administer to, and care for Plaintiff, thus causing injuries to Plaintiff and
16 emotional distress. In their respective treatment, diagnosis, care and administration of medical
17 services and material to Plaintiff, Defendants, and each of them, failed to exercise that degree of
18 skill and care commonly required of doctors of medicine, other health care professionals and
19 others involved in the provision to patients of adequate medical care and materials.

20 13. At all times mentioned in this complaint, Defendants, and each of them,
21 negligently failed to possess and exercise, in both diagnosis and treatment, that reasonable degree
22 of knowledge and skill that is ordinarily possessed and exercised by other physicians, surgeons
23 and other health care professionals in the same or similar locality in similar circumstances, in
24 that, among other things, the work of Defendants and each of them resulted in unnecessary
25 permanent damage to Plaintiff which would not have occurred without the aforesaid failures, and
26 each of such failures.

1 14. As a legal result of the negligence of Defendants, and each of them, Plaintiff, on
2 January 6, 2011, underwent an un-necessary and un-justified thyroidectomy, thereby suffering
3 unnecessary permanent injuries and complications which would not have occurred without the
4 above-mentioned failures, and each of them, all of which required additional medical treatment;
5 and Plaintiff suffered great physical and emotional pain and suffering.

6 15. As a legal result of the negligence of Defendants, and each of them, Plaintiff
7 suffered unnecessary injuries to his health strength and activity, which would not have occurred
8 without the above-mentioned failures, and each of them, all of which injuries have caused and
9 continue to cause Plaintiff great mental, physical and nervous pain and suffering. Plaintiff is
10 informed, believes, and thereon alleges that such injuries have resulted and will continue to result
11 in some unnecessary permanent disability to him, all to his general damage in an amount to be
12 determined.

13 16. As a further, direct and legal result of said matters and of said injuries, Plaintiff
14 has been compelled to and did incur various costs and expenses for hospital, medical, nursing,
15 and laboratory care, attention, and services rendered to said Plaintiff. Plaintiff is informed,
16 believes and thereon alleges that he will continue to incur such costs and expenses from the same
17 cause for the balance of his life, all to his further damage according to proof in an amount within
18 the jurisdiction of this Court.

19 17. As a further direct and legal result of said matters and said injuries, Plaintiff will
20 be prevented from attending to his usual occupation, or any occupation, all to his further damage
21 according to proof within the jurisdiction of this Court.

22 WHEREFORE, plaintiff demands judgment against Defendants, and each of them, for the
23 following:

- 24 A. General damages according to proof;
25 B. Special Damages according to proof;
26 C. Loss of earnings and loss of earning capacity according to proof;

- 1 D. Pre-Judgment Interest according to law;
2 E. Costs of this action; and
3 F. Any other and further relief that the court considers proper.

4 DATED: November 26, 2013

LAW OFFICES OF BRUCE E. KRELL, INC.

5
6
7
8 By _____
9 Michael Cohen
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Michael Cohen - 98066 LAW OFFICES OF BRUCE E. KRELL, INC. Grove Law Building, 345 Grove Street San Francisco, CA 94102 TELEPHONE NO.: 415/861-4414 FAX NO.: 415/431-4526 ATTORNEY FOR (Name): Attila Brizs		FOR COURT USE ONLY	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Riverside STREET ADDRESS: 3255 E. Tahquitz Canyon Way MAILING ADDRESS: 3255 E. Tahquitz Canyon Way CITY AND ZIP CODE: Palm Springs, Ca. 92262 BRANCH NAME: Palm Springs Courthouse		CASE NUMBER: <div style="font-size: 1.5em; font-weight: bold;">PSC 1302645</div>	
CASE NAME: Brizs v. Kaiser			
CIVIL CASE COVER SHEET <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000) <input type="checkbox"/> Limited (Amount demanded is \$25,000 or less)		Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)	
		JUDGE: DEPT:	

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

1. Check **one** box below for the case type that best describes this case:

Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input checked="" type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PI/PD/WD (23) Non-PI/PD/WD (Other) Tort <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PI/PD/WD tort (35) Employment <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	Contract <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) Real Property <input type="checkbox"/> Eminent domain/Inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (38) <input type="checkbox"/> Other real property (26) Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) Judicial Review <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400–3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20) Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)
---	--	--

2. This case ☐ is ☒ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- | | |
|--|--|
| a. <input type="checkbox"/> Large number of separately represented parties | d. <input type="checkbox"/> Large number of witnesses |
| b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court |
| c. <input type="checkbox"/> Substantial amount of documentary evidence | f. <input type="checkbox"/> Substantial postjudgment judicial supervision |
3. Remedies sought (check all that apply): a. ☒ monetary b. ☐ nonmonetary; declaratory or injunctive relief c. ☐ punitive
4. Number of causes of action (specify): **ONE**
5. This case ☐ is ☒ is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: 11/26/13

LAW OFFICES OF BRUCE E. KRELL, INC., By

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

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

Page 1 of 2

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

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

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

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

CASE TYPES AND EXAMPLES

Auto Tort

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

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

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

Non-PI/PD/WD (Other) Tort

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

Employment

- Wrongful Termination (36)
- Other Employment (15)

Contract

- Breach of Contract/Warranty (06)
- Breach of Rental/Lease Contract (*not unlawful detainer or wrongful eviction*)
- Contract/Warranty Breach—Seller Plaintiff (*not fraud or negligence*)
- Negligent Breach of Contract/Warranty
- Other Breach of Contract/Warranty
- Collections (e.g., money owed, open book accounts) (09)
- Collection Case—Seller Plaintiff
- Other Promissory Note/Collections Case
- Insurance Coverage (*not provisionally complex*) (18)
 - Auto Subrogation
 - Other Coverage
- Other Contract (37)
 - Contractual Fraud
 - Other Contract Dispute

Real Property

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

Unlawful Detainer

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

Judicial Review

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

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

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

Enforcement of Judgment

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

Miscellaneous Civil Complaint

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

Miscellaneous Civil Petition

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