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11 JOHN PARSONS, a minor, by and through his
12 Guardian Ad Litem, Heather Parsons

PER LOCAL RULE 5 THIS
CASE IS ASSIGNED TO
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COUNTY OF CONTRA COSTA, CA
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13 SUPERIOR COURT OF THE STATE OF CALIFORNIA
14 FOR THE COUNTY OF CONTRA COSTA

15 JOHN PARSONS, a minor, by and through his
16 Guardian Ad Litem, Heather Parsons,

Case No. **C-14-00251**

17 Plaintiff,

**COMPLAINT FOR DAMAGES FOR
MEDICAL NEGLIGENCE AND DEMAND
FOR JURY TRIAL**

18 vs.

19 KAISER FOUNDATION HEALTH PLAN,
20 INC., KAISER FOUNDATION HOSPITALS,
21 THE PERMANENTE MEDICAL GROUP, INC.
22 and DOES 1 through 50, inclusive,

23 Defendants.

24 Plaintiff, JOHN PARSONS, a minor, by and through his Guardian Ad Litem, Heather
25 Parsons ("Plaintiff") alleges as follows:

26 I.

27 **GENERAL ALLEGATIONS**

28 1. The true names, identities or capacities, whether individual, associate, corporate or
otherwise of Defendants DOES 1 through 50, inclusive, are unknown to Plaintiff who, therefore,
sues said Defendants by such fictitious names. When the true names, identities or capacities of such
fictitiously-designated Defendants are ascertained, Plaintiff will ask leave of Court to amend the
Complaint to insert said true names, identities and capacities, together with the proper charging
allegations.

BY FAX

1 2. Plaintiff is informed and believes and thereon alleges that each of the Defendants
2 sued herein as a DOE is responsible in some manner for the events and happenings herein referred
3 to, thereby legally causing the injuries and damages to the Plaintiff as herein alleged.

4 3. Plaintiff is informed and believes and thereon alleges that all of the facts, acts, events
5 and circumstances herein mentioned and described occurred in the County of Contra Costa, State of
6 California, and all Defendants are residents of the County of Contra Costa, State of California, doing
7 business in said County, State of California.

8 4. At all times herein mentioned, Defendants, and DOES 1 through 10, inclusive, were,
9 and now are, physicians and surgeons, holding themselves out as duly licensed to practice their
10 profession under and by virtue of the laws of the State of California and were, and now are, engaged
11 in the practice of their profession in the State of California and acting as agents, ostensible agents,
12 employees and servants of some or all of the other Defendants within the course and scope of said
13 agency or employment.

14 5. At all times herein mentioned, Defendants, and DOES 11 through 20, inclusive, were,
15 and now are, registered nurses, licensed vocational nurses, practical nurses, certified nurse
16 midwives, aids, technicians, attendants, students or other paramedical personnel, holding themselves
17 out as duly able to practice their profession under and by virtue of the laws of the State of California
18 and were, and now are, engaged in the practice of their profession in the State of California and
19 acting as agents, ostensible agents, employees and servants of some or all of the other Defendants
20 within the course and scope of said agency or employment.

21 6. At all times herein mentioned, Defendants, KAISER FOUNDATION HEALTH
22 PLAN, INC., KAISER FOUNDATION HOSPITALS, THE PERMANENTE MEDICAL GROUP,
23 INC., and DOES 21 through 30, inclusive, were corporations, partnerships, joint ventures, or other
24 entities organized and existing under the laws of the State of California, with their principal place of
25 business situated in the State of California and are the employees, partners, agents, ostensible agents,
26 principles of all other defendants, and each of them.

27 7. At all times herein mentioned, Defendants, KAISER FOUNDATION HEALTH
28 PLAN, INC., KAISER FOUNDATION HOSPITALS, THE PERMANENTE MEDICAL GROUP,

1 INC., and DOES 31 through 40, inclusive, were duly organized California corporations,
2 partnerships, hospitals or other entities, existing under and by virtue of the laws of the State of
3 California; that said Defendant corporations, hospitals and the remaining Defendants, and each of
4 them, owned, operated, managed and controlled a general hospital facility within the County of
5 Contra Costa, State of California, held out to the public at large and to the Plaintiff herein, as
6 properly equipped, fully accredited, competently staffed by qualified and prudent personnel and
7 operating in compliance with the standard of due care maintained in other properly equipped,
8 efficiently operated and administered, accredited hospitals in said community commonly.

9 8. At all times herein mentioned Defendants, and DOES 41 through 50, were doing
10 business as a district hospital, a hospital operated by a government entity open to the public, or a
11 medical facility operated by a government entity open to the public, or a physician, nurse midwife,
12 or nurse, or other health care professional employed by a government entity, rendering medical,
13 surgical, hospital, diagnostic, nursing and other care to the general public for compensation, existing
14 under and by virtue of the laws of the State of California; that said Defendant corporations, hospitals
15 and the remaining Defendants, and each of them, owned, operated, managed and controlled a general
16 hospital facility within the County of Fresno, State of California, held out to the public at large and
17 to the Plaintiff herein, as properly equipped, fully accredited, competently staffed by qualified and
18 prudent personnel and operating in compliance with the standard of due care maintained in other
19 properly equipped, efficiently operated and administered, accredited hospitals in said community
20 commonly.

21 9. Defendants, KAISER FOUNDATION HEALTH PLAN, INC., KAISER
22 FOUNDATION HOSPITALS, THE PERMANENTE MEDICAL GROUP, INC., and DOES 21
23 through 50, inclusive, at all times herein mentioned were institutions or controlled institutions, duly
24 accredited by the Joint Commission on Hospital Accreditation, and assumed and held themselves out
25 to the public and to Plaintiff as in compliance with the minimum standards required by said Joint
26 Commission for such accreditation.

27 10. Plaintiff is informed and believes and upon such information and beliefs alleges that
28 at all times herein mentioned, Defendants and other Defendants, including DOES 1 through 50,

1 named fictitiously, were the agents, ostensible agents, servants, employees, joint-venturers, and co-
2 partners of their said co-Defendants, including DOES 1 through 50, and, as such, were acting within
3 the course and scope of such agency, service, partnership, venture, and employment at all times
4 herein mentioned; that each and every Defendant, as aforesaid, when acting as a principal, was
5 negligent in the selection and hiring of each and every other Defendant, as its agent, ostensible
6 agent, servant, employee, joint-venturer and partner. Further, each and every Defendant ratified the
7 conduct of the other Defendants.

8 11. Plaintiff is informed and believes that at the time of judgment they will be entitled to
9 prejudgment interest because the Defendants will have rejected an offer pursuant to the terms of
10 Code of Civil Procedure Section 998 and will have failed to obtain a more favorable judgment.

11 II.

12 FIRST CAUSE OF ACTION FOR MEDICAL NEGLIGENCE

13 (BY JOHN PARSONS, a minor, by and through his Guardian Ad Litem, Heather Parsons,
14 AGAINST DEFENDANTS KAISER FOUNDATION HEALTH PLAN, INC., KAISER
15 FOUNDATION HOSPITALS, THE PERMANENTE MEDICAL GROUP, INC.; AND DOES
16 (THROUGH 50))

17 12. Plaintiff repeats and repleads each and every allegation contained in all prior
18 paragraphs and incorporates the same herein.

19 13. On or about the date of the filing of the complaint, Heather Parsons, mother of the
20 minor Plaintiff, was by order duly made and entered by the above entitled Court, appointed Guardian
21 ad Litem of Plaintiff JOHN PARSONS, a minor, born April 9, 2011.

22 14. Prior to April 9, 2011, the date of JOHN PARSONS' birth, and thereafter, Heather
23 Parsons employed Defendants, and each of them, to diagnose and treat her condition of pregnancy
24 and to do all things necessary for her care and the care of her baby, JOHN PARSONS, including, but
25 not limited to, pre-delivery care, delivery, and post-delivery care.

26 15. While Heather Parsons and minor Plaintiff JOHN PARSONS were under the sole and
27 exclusive care and control of the Defendants, and each of them, Defendants, and each of them
28 negligently, carelessly and unskillfully delivered, examined, treated, cared for, diagnosed, operated

1 upon, attended and otherwise handled and controlled the minor Plaintiff herein, thereby proximately
2 causing injuries and damages to the minor Plaintiff.

3 16. Defendants neglected to adequately select a competent medical staff and to
4 periodically review the competency of its medical staff and failed to adequately monitor its staff
5 such that the minor Plaintiff was caused to, and did suffer damages.

6 17. At all times herein mentioned, the Plaintiff, JOHN PARSONS, a minor, and Heather
7 Parsons, were in the exclusive control of the Defendants, and each of them, and that at no time prior
8 to the events, conduct, activities, care and treatment herein complained of did the Defendants herein,
9 or any of them, obtain knowledgeable, informed consent for said care, treatment or conduct; that
10 prior to the initiation of or performance of said care, treatment, procedure or conduct no opportunity
11 was afforded the Plaintiffs or any authorized agent of the Plaintiffs to exercise voluntary,
12 knowledgeable and informed consent to said care, treatment, procedure or conduct.

13 18. As a legal result of the negligence of the Defendants, and each of them, the minor
14 Plaintiff was injured in health, strength and activity, sustaining severe shock, and injury to the body,
15 including, but not limited to, severe Erb's Palsy and neurological damage, all of which said injuries
16 have caused and continue to cause the minor Plaintiff great physical, emotional, and nervous pain
17 and suffering, and which said injuries the minor Plaintiff is informed and believes, and thereon
18 alleges, will result in loss of earnings, permanent disability, loss of enjoyment of life, and
19 impairment of earning capacity all to Plaintiff's damage in a sum in excess of the jurisdiction of this
20 Court.

21 19. As a further legal result of the negligence of the Defendants, and each of them, and
22 the resulting injuries to the minor Plaintiff, said minor Plaintiff was compelled to, and did, incur
23 expenses for medical and surgical attention, hospitalization, nursing, medication and incidentals for
24 said Plaintiff in an amount to be proven at trial.

25 20. As a further legal result of the negligence of the Defendants, and each of them, and of
26 the resulting injuries, the minor Plaintiff will be obliged to incur expenses for medical care and
27 hospitalization for an indefinite period in the future and to pay for these expenses in the treatment
28 and relief of injuries for medical and surgical attention, hospitalization, nursing, medication, and

1 incidentals for said minor Plaintiff in an amount unknown to Plaintiff at present and to be proven at
2 trial.

3 21. As a further legal result of the negligence of the Defendants, and each of them,
4 Plaintiff will suffer a decreased earning capacity in the future and future earnings to Plaintiff's
5 further damage in a sum unknown at present and to be proven at the trial in this matter.

6 WHEREFORE, Plaintiff prays for judgment against Defendants, and each of them as
7 follows:

8 FOR THE FIRST CAUSE OF ACTION FOR MEDICAL NEGLIGENCE FOR PLAINTIFF
9 JOHN PARSONS, A MINOR:

- 10 1. Economic and non-economic damages according to proof;
11 2. Past and future medical expenses, according to proof;
12 3. For loss of future earning and earning capacity, according to proof;
13 4. Prejudgment interest;
14 5. Costs of suit incurred herein, and
15 6. For such other and further relief as to the Court appears just and proper.

16 DATED: February 5, 2014

DONAHUE & HORROW, LLP

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19 THOMAS E. DONAHUE
NICHOLE D. PODGURSKI
Attorneys for Plaintiff

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21 **DEMAND FOR JURY TRIAL**

22 Plaintiff hereby demands a trial by jury.

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24 DATED: February 5, 2014

DONAHUE & HORROW, LLP

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27 THOMAS E. DONAHUE
NICHOLE D. PODGURSKI
Attorneys for Plaintiff
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