

MAY 16 2014

R. Mc Elzea

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE

ASW

MAY 16 2014

R. Mc Elzea

MAY 16 2014

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4 Attorney for Plaintiff: PHYLLIS HARRIS and WILLIE HARRIS JR.

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 IN AND FOR THE COUNTY OF RIVERSIDE
10 CENTRAL JUDICIAL DISTRICT

11 PHYLLIS HARRIS, WILLIE HARRIS JR.)

CASE NO.

RIC 1405104

12 Plaintiffs,)

COMPLAINT FOR PROFESSIONAL
NEGLIGENCE - MEDICAL
MALPRACTICE; NEGLIGENT
INFLECTION OF EMOTIONAL
DISTRESS; LOSS OF
CONSORTIUM

14 -VS-)

15 DR. BETTY GRANT-ANDERSON; DR.)
16 DR. AREZOU AMANDA ARYAI; KAISER)
PERMANENTE; KAISER FOUNDATION)
17 HOSPITALS; SOUTHERN CALIFORNIA)
PERMANENTE MEDICAL GROUP;)
18 DOES 1 TO 100)

Defendants,)

20 FIRST CAUSE OF ACTION FOR PROFESSIONAL NEGLIGENCE -

21 MEDICAL MALPRACTICE AGAINST ALL DEFENDANTS BY

22 PLAINTIFF PHYLLIS HARRIS

23 Plaintiff Alleges:

24 1. Plaintiffs are ignorant of the true names and
25 capacities, whether individual, corporate, associate or
26 otherwise, of defendants sued herein as Does 1 through 100,
27 inclusive, and therefore sues such defendants by such fictitious
28 names. Plaintiffs will amend this complaint to allege their true

1 names and capacities when ascertained. Plaintiffs are informed
2 and believe and thereon allege that each of the fictitiously
3 named defendants herein is in some manner legally responsible for
4 the events and happenings described herein and caused damages to
5 plaintiffs as herein alleged.

6 2. Plaintiffs are further informed and believe and thereon
7 allege that at all relevant times herein, each of the defendants
8 was and is the agent, servant and employee of each of the other
9 defendants herein and that all of the things alleged to have been
10 done by defendants were done in the capacity of and as agent of
11 the other defendants.

12 3. Plaintiffs are informed and believe that KAISER
13 FOUNDATION HOSPITALS, is a corporation, doing business in the
14 County of Riverside, State of California and with a principal
15 business addresses of 27300 Iris Avenue, Moreno Valley,
16 California.

17 4. Plaintiffs are informed and believes that DR. BETTY
18 GRANT-ANDERSON is an individual, who works at the Kaiser
19 Foundation Hospital located at 27300 Iris Avenue, Moreno Valley,
20 California.

21 5. Plaintiffs are informed and believe that KAISER
22 PERMANENTE, is a business entity, form unknown. doing business in
23 the County of Riverside, State of California and with a principal
24 business addresses of 27300 Iris Avenue, Moreno Valley,
25 California.

26 6. Plaintiffs are informed and believe that SOUTHERN
27 CALIFORNIA PERMANENTE MEDICAL GROUP, is a business entity, form
28 unknown, doing business in the County of Riverside, State of

1 California and with a principal business addresses of 27300 Iris
2 Avenue, Moreno Valley, California.

3 7. Plaintiffs are informed and believe that DR. AREZOU
4 AMANDA ARYAI is an individual, who works at the Kaiser Foundation
5 Hospital located at 27300 Iris Avenue, Moreno Valley, California.

6 8. The injuries upon which this action is based on
7 occurred as a result of the actions of defendants and each of
8 them which took place at KAISER PERMANENTE, located at 27300
9 Iris Avenue, Moreno Valley, CA 92555.

10 9. At all times herein mentioned, the defendants, DR.
11 BETTY GRANT-ANDERSON, DR. AREZOU AMANDA ARYAI, and does 1
12 through 20, inclusive, and each of them, were, and now are,
13 physicians, surgeons, or other allied health personnel holding
14 themselves out to be duly licensed by the State of California to
15 practice medicine, surgery, and related medical and/or surgical
16 services in the State of California and to possess that degree of
17 skill, ability and expertise, knowledge, qualifications and
18 learning of similar practitioners in said community.

19 10. At all times mentioned herein, the defendants, KAISER
20 PERMANENTE, KAISER FOUNDATION HOSPITALS, SOUTHERN
21 CALIFORNIA PERMANENTE MEDICAL GROUP, and does 41 through 50,
22 inclusive, and each of them were corporations, co-joint-
23 venturers, partnerships, associations, or other business entities
24 organized and existing under the laws of the State of California
25 and authorized to and doing business in the County of Riverside,
26 State of California. Said defendants were the alter ego of each
27 of the remaining defendants, and among other things, said
28 Defendants consisted of, owned, were involved with and or

1 operated a medical facility open to members of the general
2 public. Said defendants were the masters and employers of
3 defendants, DR. BETTY GRANT-ANDERSON, DR. AREZOU AMANDA ARYAI and
4 does 1 to 20, and 51 to 100, inclusive, who were at all times
5 herein mentioned, acting within the course and scope of there
6 employment, agency and or joint venture.

7 11. At all times mentioned herein, Defendants, Does 51 to
8 100, Inclusive, and each of them, were paramedics, aides,
9 attendants, technicians, nursing or medical personnel, acting as
10 agents, employees, or servants of some or all of the Defendants,
11 within the course and scope of said agency and employment.

12 12. Defendants, DR. BETTY GRANT-ANDERSON, DR. AREZOU
13 AMANDA ARYAI and does 1 through 20, and each of them, at all
14 times herein mentioned, held themselves out to the public at
15 large and to plaintiff, in particular, as fully qualified
16 physicians and surgeons, duly licensed to practice their
17 profession in the State of California, and exercising prudent,
18 reasonable judgment and care in their treatment of patients and
19 in the selection, employment and control of qualified, trained,
20 experienced nurses, nurse practitioners, nursing personnel,
21 orderlies, assistants, aides, and employees under their
22 supervision, control, direction, responsibility and authority
23 while performing services and caring for patients including, but
24 not limited to, plaintiff, PHYLLIS HARRIS.

25 13. Defendant, KAISER PERMANENTE, KAISER FOUNDATION
26 HOSPITALS, SOUTHERN CALIFORNIA PERMANENTE MEDICAL GROUP, and
27 defendant does 41 through 50, at all times herein mentioned,
28 owned, operated, managed, controlled and administered a general

1 medical facility in the Central District of this court and held
2 itself out to the public at large, and to plaintiff in
3 particular, as a properly equipped, fully accredited, competently
4 staffed medical facility with qualified and prudent personnel,
5 and operating in compliance with the standard of care maintained
6 in other properly and efficiently operated and administered,
7 accredited medical facilities in the Southern California medical
8 community and offering full, competent, and efficient medical,
9 surgical, laboratory, x-ray, paramedical and other services to
10 the general public and to plaintiff herein; and said defendant,
11 KAISER PERMANENTE, KAISER FOUNDATION HOSPITALS, SOUTHERN
12 CALIFORNIA PERMANENTE MEDICAL GROUP, and each of the defendants,
13 administered, governed, controlled, managed and directed all the
14 necessary functions, activities and operation of said medical
15 facility including its nursing care, training of interns,
16 residents and house staff, and the activities of physicians and
17 surgeons and all employees acting within said medical facility.

18 14. At all times mentioned herein, plaintiff PHYLLIS HARRIS
19 was under the exclusive control of the defendants and each of
20 them and at no time prior to the events, conduct, activity, care
21 and treatment as herein complained of did the defendants, or one
22 or more of them, obtain plaintiff PHYLLIS HARRIS's knowledgeable,
23 informed consent for said care, treatment, or conduct; that prior
24 to the initiation of the performance of said care, procedures, or
25 conduct, neither the Plaintiff, nor any authorized agent of the
26 Plaintiff exercised voluntary, knowledgeable, and/or informed
27 consent for said care, treatment or conduct.

28

1 15. On or about May 19, 2013, plaintiff PHYLLIS HARRIS,
2 consulted Defendants DR. BETTY GRANT-ANDERSON, DR. AREZOU
3 AMANDA ARYAI, KAISER PERMANENTE, KAISER FOUNDATION HOSPITALS,
4 SOUTHERN CALIFORNIA PERMANENTE MEDICAL GROUP, each of them, for
5 the purpose of obtaining medical care, diagnosis, and treatment.
6 At said time and place, Plaintiff employed said Defendants, and
7 each of them, to care for and treat her and to do all things
8 necessary in the diagnosis, care and treatment of her person.

9 16. At said time and place, the Defendants, DR. BETTY
10 GRANT-ANDERSON, DR. AREZOU AMANDA ARYAI, KAISER PERMANENTE,
11 KAISER FOUNDATION HOSPITALS, SOUTHERN CALIFORNIA PERMANENTE
12 MEDICAL GROUP, and each of them, undertook said employment and
13 undertook and agreed to care for and treat Plaintiff, and to do
14 all things necessary and proper in connection therewith, and said
15 Defendants, and each of them thereafter entered into such
16 employment individually and by and through their employees and
17 agents. Defendants, and each of them continued to render medical
18 care and treatment continuously thereafter.

19 17. On May 19, 2013, Defendants, DR. BETTY GRANT-ANDERSON,
20 DR. AREZOU AMANDA ARYAI, KAISER PERMANENTE, KAISER FOUNDATION
21 HOSPITALS, SOUTHERN CALIFORNIA PERMANENTE MEDICAL GROUP, and
22 each of them, individually and by and through their employees and
23 agents, negligently treated Phyllis Harris and negligently
24 administered medication and drugs to PHYLLIS HARRIS. Such
25 actions took place at 27300 Iris Avenue, Moreno Valley,
26 California.

27 18. As a result of the negligently administered treatment,
28 drugs and medication Phyllis Harris suffered terrible chest and

1 head pain and a drop in her blood pressure. She thought she was
2 going to die. To date, as a result of the negligently
3 administered treatment, medication and drugs, Phyllis Harris
4 still experiences shortness of breath, chest pain, and requires
5 an inhaler to help her breathe.

6 19. As a result of such negligently performed care, Phyllis
7 Harris has suffered pain, discomfort and emotional distress.
8 She has also expended large sums of money in order to correct the
9 situation and will have to pay more in the future. She has
10 undergone medical treatment to treat her injuries and is
11 presently undergoing treatment and will have future treatment to
12 correct the situation as well.

13 20. The above injuries were suffered as a direct, proximate
14 and legal result of the negligence of the defendants, and each of
15 them.

16 21. The care and treatment Plaintiff PHYLLIS HARRIS
17 received from defendants, and each of them, negligently failed to
18 conform to the standard of care both with respect to the care and
19 treatment rendered to plaintiff and with respect to providing to
20 plaintiff information about the risks and hazards, or other
21 harmful consequences, that might follow from the treatment, care
22 or diagnosis.

23 22. At all times herein mentioned, the defendants, DR.
24 BETTY GRANT-ANDERSON, DR. AREZOU AMANDA ARYAI, KAISER PERMANENTE,
25 KAISER FOUNDATION HOSPITALS, SOUTHERN CALIFORNIA PERMANENTE
26 MEDICAL GROUP, and each of the defendants, individually and by
27 and through their employees and agents, negligently and
28 carelessly failed to properly ensure the character, quality,

1 ability and competence of individuals, including the remaining
2 defendants, and each of them, treating PHYLLIS HARRIS for her
3 health and as a proximate result thereof, plaintiff was caused
4 to, and did, suffer the aforementioned damages and injuries
5 proximately thereby, as herein alleged.

6 23. As a proximate result of the said conduct of the
7 defendants, and each of them, plaintiff was injured in her body
8 and in her health, strength, and activities, and sustained injury
9 to her mental health and shock and injury to her nervous system,
10 all of which have caused and continue to cause, plaintiff great
11 mental, emotional, physical and nervous pain and suffering.
12 Plaintiff is informed and believes and thereon alleges that some
13 or all of said injuries will be of a permanent nature and will
14 result in some permanent disability to plaintiff, all to her
15 general damages in a sum in excess of the jurisdiction of this
16 court.

17 24. As a further proximate result of the misconduct of the
18 defendants, and each of them, plaintiff was required to, and did,
19 employ physicians, surgeons, hospitals and other medical care
20 providers to examine, treat, and care for her, and did incur, and
21 will in the future incur, medical and other related expenses
22 including but not limited to medications, in connection herewith,
23 the exact amount of which costs, fees and expenses are unknown to
24 plaintiff at this time, but will be shown according to the proof
25 at the time of trial.

26 25. As a further proximate result of the misconduct of the
27 defendants, and each of them, plaintiff was prevented from
28 attending to her usual occupation and has thereby suffered a loss

1 of income and loss of earning opportunity; and she is informed
2 and believes and thereon alleges that by reason of said injuries
3 as herein alleged, she has suffered and will continue in the
4 future to suffer, a loss of earning capacity, the exact amount of
5 which shall be shown, at the time of trial, during the course of
6 plaintiff's evidence.

7 26. Defendants, and each of them, owed a duty to Plaintiff
8 to do, among other things: provide medical care and treatment to
9 her; obtain informed consent; protect her records and documents,
10 exercise due care in screening, hiring, supervision, retaining
11 employees, agents and representatives acting on said Defendants'
12 behalf; meeting acceptable standards in continuing medical
13 education; meeting accepted standards for patient medical
14 treatment; providing proper medical care, treatment and services
15 to Plaintiff, all within the applicable standards of care in the
16 community.

17 27. Defendants, and each of them, breached their respective
18 duties of care and were negligent by, among other things, failing
19 to properly treat Phyllis Harris and to properly administer
20 medication and drugs to Phyllis Harris. Defendants and each of
21 them also were guilty of failing to obtain informed consent,
22 spoliation of records and documents, failing to properly and
23 adequately screen, hire, supervise, manage and retain employees,
24 agents, and representatives acting on defendants' behalf, failing
25 to meet accepted standards in continuing medical education,
26 failing to meet accepted standards for patient medical care and
27 treatment, and failing to provide proper medical services within
28 the applicable standard of care in the community.

1 28. As a direct and legal result of the negligent conduct
2 of the Defendants, and each of them, plaintiff suffered the
3 aforementioned injuries.

4 29. In compliance with California Code of Civil Procedure
5 section 364, on April 8, 2014, Plaintiff served on the
6 defendants, a Notice of Intent to File Suit.

7
8 **SECOND CAUSE OF ACTION FOR NEGLIGENT INFLICTION OF**
9 **EMOTIONAL DISTRESS BY PLAINTIFF WILLIE HARRIS JR.**
10 **AND AGAINST DR. BETTY GRANT-ANDERSON, DR. AREZOU**
11 **AMANDA ARYAI, KAISER PERMANENTE,**
12 **KAISER FOUNDATION HOSPITALS,**
13 **SOUTHERN CALIFORNIA PERMANENTE MEDICAL GROUP,**
14 **AND DOES 1 TO 100.**

15 30. Plaintiff WILLIE HARRIS JR. hereby incorporates the
16 allegations contained in paragraphs 1 through 29, inclusive, of
17 this Complaint, as though fully set forth herein.

18 31. Willis Harris Jr., was at the time of the incident, and
19 still is, Phyllis Harris' husband. Willie Harris Jr. was at
20 Phyllis Harris side when the negligent treatment, medication and
21 drugs were administered to Phyllis Harris and watched in horror
22 as his wife suffered through the pain and a near death
23 experience. The conduct of defendants, and each of them, was a
24 substantial factor in causing Willie Harris Jr. emotional
25 distress including anguish, fright, horror, nervousness, grief,
26 anxiety, worry and shock such that an ordinary, reasonable person
27 would be unable to cope with it.

1
2 **THIRD CAUSE OF ACTION FOR LOSS OF CONSORTIUM**

3 **BY PLAINTIFF WILLIE HARRIS JR. AND AGAINST**

4 **DR. BETTY GRANT-ANDERSON, DR. AREZOU**

5 **AMANDA ARYAI, KAISER PERMANENTE,**

6 **KAISER FOUNDATION HOSPITALS, SOUTHERN CALIFORNIA PERMANENTE**

7 **MEDICAL GROUP; AND DOES 1 TO 100.**

8 32. Plaintiff WILLIE HARRIS JR. hereby incorporates the
9 allegations contained in paragraphs 1 through 29, inclusive, of
10 this Complaint as though fully set forth herein.

11 33. Willis Harris Jr., was at the time of the incident, and
12 still is, Phyllis Harris' husband. Willie Harris Jr. was at
13 Phyllis Harris side when the negligent medication was
14 administered and watched in horror as his wife suffered through
15 the pain and a near death experience. By reason of the
16 negligence of defendants, and each of them, Willie Harris Jr.
17 has been deprived of the care, comfort, protection, society,
18 support, services, and consortium of Phyllis Harris.

19 WHEREFORE, plaintiffs pray judgment against defendants, and
20 each of them, as follows:

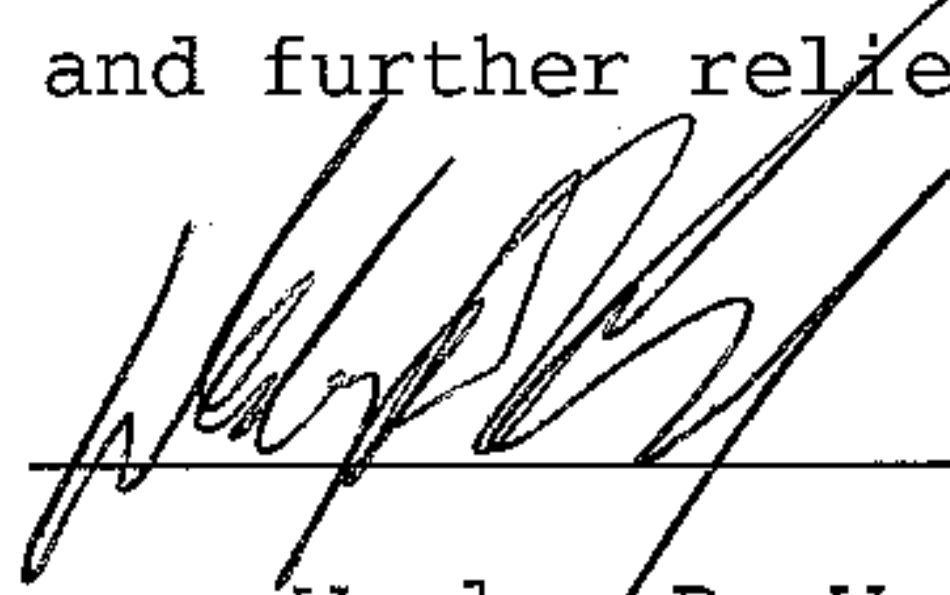
21 (1) For non-economic damages within this court's
22 jurisdiction;

23 (2) For costs of hospital and medical expenses according to
24 proof;

25 (3) For loss of earnings and earning capacity according to
26 proof;

27 (4) For costs of suit herein incurred; and
28

1 (5) For such other and further relief as the Court may deem
2 proper.



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4 Wesley B. Westphal,
5 Attorney for Plaintiffs
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Courthouse News Service

FOR COURT USE ONLY

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

WESLEY B. WESTPHAL (BAR NUMBER 150237)
 WESTPHAL LAW GROUP
 1881 Commercenter East, Suite 210

San Bernardino, California 92408

TELEPHONE NO.: (909) 890-0465 FAX NO.:

ATTORNEY FOR (Name): PHYLLIS HARRIS, WILLIE HARRIS JR.

SUPERIOR COURT OF CALIFORNIA, COUNTY OF RIVERSIDE

STREET ADDRESS: 4050 MAIN STREET

MAILING ADDRESS: SAME

CITY AND ZIP CODE: RIVERSIDE, CA 92501-3704

BRANCH NAME: RIVERSIDE BRANCH

CASE NAME: HARRIS V. KAISER

CIVIL CASE COVER SHEET

☒ **Unlimited** ☐ **Limited**
 (Amount (Amount
 demanded demanded is
 exceeds \$25,000) \$25,000 or less)

Complex Case Designation

☐ **Counter** ☐ **Joinder**
 Filed with first appearance by defendant
 (Cal. Rules of Court, rule 3.402)

CASE NUMBER

RIG 1405104

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

☐ Auto (22)
☐ Uninsured motorist (46)

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

☐ Asbestos (04)
☐ Product liability (24)
☒ Medical malpractice (45)
☐ Other PI/PD/WD (23)

Non-PI/PD/WD (Other) Tort

☐ Business tort/unfair business practice (07)
☐ Civil rights (08)
☐ Defamation (13)
☐ Fraud (16)
☐ Intellectual property (19)
☐ Professional negligence (25)
☐ Other non-PI/PD/WD tort (35)

Employment

☐ Wrongful termination (36)
☐ Other employment (15)

Contract

☐ Breach of contract/warranty (06)
☐ Rule 3.740 collections (09)
☐ Other collections (09)
☐ Insurance coverage (18)
☐ Other contract (37)

Real Property

☐ Eminent domain/Inverse condemnation (14)
☐ Wrongful eviction (33)
☐ Other real property (26)

Unlawful Detainer

☐ Commercial (31)
☐ Residential (32)
☐ Drugs (38)

Judicial Review

☐ Asset forfeiture (05)
☐ Petition re: arbitration award (11)
☐ Writ of mandate (02)
☐ Other judicial review (39)

Provisionally Complex Civil Litigation
(Cal. Rules of Court, rules 3.400-3.403)

☐ Antitrust/Trade regulation (03)
☐ Construction defect (10)
☐ Mass tort (40)
☐ Securities litigation (28)
☐ Environmental/Toxic tort (30)
☐ Insurance coverage claims arising from the above listed provisionally complex case types (41)

Enforcement of Judgment

☐ Enforcement of judgment (20)

Miscellaneous Civil Complaint

☐ RICO (27)
☐ Other complaint (not specified above) (42)

Miscellaneous Civil Petition

☐ Partnership and corporate governance (21)
☐ 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. ☐ Large number of separately represented parties d. ☐ Large number of witnesses
 b. ☐ Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve e. ☐ Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
 c. ☐ Substantial amount of documentary evidence f. ☐ 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): THREE

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: MAY 16, 2014

WESLEY B. WESTPHAL (BAR NUMBER 150237)

(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

SUPERIOR COURT OF CALIFORNIA, COUNTY OF RIVERSIDE
4050 Main Street - 2nd Floor
Riverside, CA 92501
www.riverside.courts.ca.gov

NOTICE OF DEPARTMENT ASSIGNMENT FOR CASE MANAGEMENT PURPOSES
AND CASE MANAGEMENT CONFERENCE (CRC 3.722)

HARRIS VS. GRANT-ANDERSON

CASE NO. RIC1405104

This case is assigned to the Honorable Judge John D. Molloy in Department 10 for case management purposes. The Case Management Conference is scheduled for 11/14/14 at 8:30 in Department 10.

Case is Assigned to Department 11 for Law and Motion Purposes.

The plaintiff/cross-complainant shall serve a copy of this notice on all defendants/cross-defendants who are named or added to the complaint and file proof of service.

Any disqualification pursuant to CCP section 170.6 shall be filed in accordance with that section.

Requests for accommodations can be made by submitting Judicial Council form MC-410 no fewer than five court days before the hearing. See California Rules of Court, rule 1.100.

CERTIFICATE OF MAILING

I certify that I am currently employed by the Superior Court of California, County of Riverside, and that I am not a party to this action or proceeding. In my capacity, I am familiar with the practices and procedures used in connection with the mailing of correspondence. Such correspondence is deposited in the outgoing mail of the Superior Court. Outgoing mail is delivered to and mailed by the United States Postal Service, postage prepaid, the same day in the ordinary course of business. I certify that I served a copy of the foregoing NOTICE on this date, by depositing said copy as stated above.

Court Executive Officer/Clerk

by:

RICQUEL MCCELVEA, Deputy Clerk

Date: 05/16/14