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 ATTORNEY FOR (Name): Plaintiff, ROBERT DE LA RIVA

FOR COURT USE ONLY

SUPERIOR COURT OF CALIFORNIA, COUNTY OF Sonoma

STREET ADDRESS: 600 Administration Drive

MAILING ADDRESS: Same as above

CITY AND ZIP CODE: Santa Rosa, CA 95403

BRANCH NAME: Civil

PLAINTIFF: ROBERT DE LA RIVA

DEFENDANT: KAISER FOUNDATION HEALTH PLAN, INC., et al.

☒ DOES 1 TO 50

COMPLAINT-Personal Injury, Property Damage, Wrongful Death

☐ AMENDED (Number):

Type (check all that apply):

- ☐ MOTOR VEHICLE ☒ OTHER (specify): Medical Malpractice
☐ Property Damage ☐ Wrongful Death
☐ Personal Injury ☒ Other Damages (specify): W&I \$15600 et seq.
 Dependent adult abuse

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

Clerk of the Superior Court of California
County of Sonoma

Deputy Clerk

FILED

AUG 12 2014

CASE NUMBER:

255892

1. Plaintiff (name or names): ROBERT DE LA RIVA

alleges causes of action against defendant (name or names): KAISER FOUNDATION HEALTH PLAN, INC., KAISER FOUNDATION HOSPITALS, THE PERMANENTE MEDICAL GROUP, INC., SHARON MARIE WILES, D.P.M.

2. This pleading, including attachments and exhibits, consists of the following number of pages: and DOES 1-50

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.

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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 FOUNDATION HEALTH PLAN, INC

- (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):

THE PERMANENTE MEDICAL GROUP, INC.

- (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):

KAISER FOUNDATION HOSPITALS

- (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):

SHARON MARIE WILES, D.P.M.

- (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): 1-25 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): 26-50 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):

9. ☐ Plaintiff is required to comply with a claims statute, and

- a. ☐ has complied with applicable claims statutes, or

- b. ☐ is excused from complying because (specify):

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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*) :

Welfare & Institutions section 15600, et seq. Dependent adult abuse and abandonment, enhanced remedies including attorney fees and non-MICRA limited compensation for reckless neglect.

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 and attorney fees per W&I §15600, et seq.

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: August 12, 2014

DOUGLAS C. FLADSETH

(TYPE OR PRINT NAME)

(SIGNATURE OF PLAINTIFF OR ATTORNEY)

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E NUMBER:

FIRST

CAUSE OF ACTION- General Negligence

Page _____

(number)

ATTACHMENT TO ☒ Complaint ☐ Cross-Complaint

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

GN-1. Plaintiff (name): ROBERT DE LA RIVA

alleges that defendant (name): KAISER FOUNDATION HEALTH PLAN, INC.,
 KAISER FOUNDATION HOSPITALS,
 THE PERMANENTE MEDICAL GROUP, INC.
 SHARON MARIE WILES, D.P.M. and

☒ Does 1 to 50

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): or about May 21, 2013 and thereafter. [Plaintiff timely filed & served
 at (place): Santa Rosa, Sonoma County, CA CCP §364 notice to Kaiser

Defendants on May 16, 2014.]

(description of reasons for liability) :

Defendants and each of them are the actual and ostensible agents of each other.

Defendants and each of them failed to obtain Plaintiff's fully informed consent.

Defendants and each of them breached the medical standard of care and were negligent and failed to timely and properly diagnose and treat Plaintiff ROBERT DE LA RIVA'S medical conditions.

Defendants and each of them negligently screened and reviewed their employee and agent SHARON MARIE WILES, D.P.M., due to SHARON WILES, M.D.'S history of neglect and abandonment and breaches of the standard of care with regard to one or more previous patients.

Defendants and each of them failed to provide standard of care pre and post operative care and intraoperative surgical care all intended to save KAISER money and to enhance KAISER'S income and profits while putting at risk their patient, ROBERT DE LA RIVA'S health, safety and welfare and particularly so since he was not a regular KAISER member.

Plaintiff ROBERT DE LA RIVA has suffered physical, mental and emotional distress including but not limited to pain loss of earnings and earning capacity. This includes but is not limited to gangrene and amputation following a simple bunionectomy procedure, and despite his physical fitness and relatively young age of 48.

PLEASE SEE ATTACHMENT TO CAUSE OF ACTION

SHORT TITLE:

MC-025

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ATTACHMENT (Number) : TO FIRST CAUSE OF ACTION

(This Attachment may be used with any Judicial Council form.)

Defendants and each of their reckless neglect and abandonment includes but is not limited to failing to even see Plaintiff the first day post operatively when ROBERT DE LA RIVA called reporting severe pain and instead merely telling him to increase his pain medications, which he did. This also includes but is not limited to reckless failure to provide any care or instructions regarding swelling and treatment by icing. Defendants and each of them compounded such reckless neglect by seeking to blame Plaintiff for purportedly "excessive" icing.

Defendants and each of them intentionally caused severe emotional distress to ROBERT DE LA RIVA by seeking to blame him for the failures of Defendants and each of them including but not limited to "icing," going to a Giants game, smoking and other erroneous and unfounded criticisms.

Courthouse News Service

(If the item that this Attachment concerns is made under penalty of perjury, all statements in this Attachment are made under penalty of perjury.)

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(Add pages as required)