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Guardian ad Litem, ESMERALDA SANDOVAL; and ESMERALDA SANDOVAL

**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF KERN**

AHTZIRI VALERIA SANDOVAL a minor, ) Case No.:  
by and through her Guardian ad Litem, )  
ESMERALDA SANDOVAL; and )  
ESMERALDA SANDOVAL, )  
Plaintiffs, )

vs. )

SAN JOAQUIN COMMUNITY HOSPITAL, )  
a California Corporation; ADVENTIST )  
HEALTH SOUTHERN CA MEDICAL )  
FOUNDATION, a California Corporation; )  
ADVENTIST HEALTH, a California Business )  
Entity, Form Unknown; ADVENTIST )  
HEALTH SYSTEM/WEST, a California )  
Corporation; KAISER FOUNDATION )  
HEALTH PLAN, INC., a California )  
Corporation; KAISER FOUNDATION )  
HOSPITALS, a California Corporation; THE )  
PERMANENTE MEDICAL GROUP, INC., a )  
California Corporation; BASEM Z. )  
BERNABA, M.D.; BHAVIN PANDYA, )

COMPLAINT FOR DAMAGES  
1. Medical Negligence  
2. Negligent Infliction of Emotional Distress

1 M.D.; RAMIN BIZHANG, M.D.; SUDHIR B. )  
2 PATEL, M.D.; SUDHIR PATEL, M.D., INC., )  
3 a California Corporation; SALMAN NISAR, )  
4 M.D.; BENJAMIN CHEN, M.D.; JOE )  
5 ANDRADE, CRNA; SHAUN LEA, CRNA; )  
6 SHAUN LEA CERTIFIED REGISTERED )  
7 NURSING ANESTHETIST, INC., a )  
8 California Corporation; EMILY RAMIREZ, )  
9 R.N.; AMANDA PINKHAM, R.N.; LAURA )  
10 RAMKISSOON, R.N.; SASHI KAPOOR, )  
11 R.N.; MELISSA WHEELER, R.N.; )  
12 BRITTANY L. BAUGHER; AMY HURST, )  
13 R.N.; KRISTA MALLOY; DONNA )  
14 COLEMAN; and )

15 Does 1 through 100, Inclusive  
16 Defendants

17 Plaintiffs, AHTZIRI VALERIA SANDOVAL, a minor, ("AHTZIRI") by and through  
18 her Guardian ad Litem, ESMERALDA SANDOVAL; and ESMERALDA SANDOVAL ("Ms.  
19 SANDOVAL"), allege as follows:

20 **FIRST CAUSE OF ACTION**

21 **MEDICAL NEGLIGENCE**

22 **(Against All Defendants and All DOES)**

23 I. The true names and capacities, whether individual, corporate, associate or  
24 otherwise of defendants sued herein as DOES 1 through 100, are presently unknown to plaintiffs,  
25 who, therefore, sue said defendants by such fictitious names.

26 2. Plaintiffs will ask leave of the Court to amend this Complaint to show such true  
27 names and capacities of such defendants when the names of such defendants have been  
28 ascertained. Plaintiffs are informed and thereon allege that each of the defendants designated

1 herein as a DOE is responsible in some manner and liable herein by reason of negligence and  
2 other actionable conduct, and by such conduct, proximately caused the injuries and damage to  
3 plaintiffs as hereinafter further alleged.

4  
5 3. Plaintiff is informed and believes, and based thereon alleges that defendants SAN  
6 JOAQUIN COMMUNITY HOSPITAL; ADVENTIST HEALTH SOUTHERN CA MEDICAL  
7 FOUNDATION; ADVENTIST HEALTH; ADVENTIST HEALTH SYSTEM/WEST; KAISER  
8 FOUNDATION HEALTH PLAN, INC.; KAISER FOUNDATION HOSPITALS; THE  
9 PERMANENTE MEDICAL GROUP, INC., and DOES 51 through 75, inclusive, and each of  
10 them, were and now are corporations or other entities authorized and licensed to conduct and did  
11 conduct a medical business in the state of California to which members of the public needing  
12 healthcare were invited, including the plaintiffs ESMERALDA SANDOVAL and AHTZIRI  
13 SANDOVAL, a minor herein. The exact form of business organization under which said  
14 defendants, and each of them, were and are organized and doing business is unknown to the  
15 plaintiff at the time of the filing of this complaint and plaintiff will ask leave of the court to  
16 amend the complaint when the same shall have been ascertained.

17  
18 4. Plaintiffs are informed and believes and thereon alleges that at all times herein  
19 mentioned, defendants, BASEM Z. BERNABA, M.D.; BHAVIN PANDYA, M.D.; RAMIN  
20 BIZHANG, M.D.; SUDHIR B. PATEL, M.D.; SUDHIR PATEL, M.D., INC., a California  
21 Corporation; SALMAN NISAR, M.D.; BENJAMIN CHEN, M.D and DOES 1 through 50,  
22 inclusive, and each of them were and now are physicians and surgeons duly licensed to practice  
23 medicine in the State of California and are private practitioners, independent contractors or  
24 employees of one of the other defendants (or are their privately held corporation/alter ego).

1 Further, each of them holds themselves out as possessing the degree of skill, expertise, learning  
2 and ability ordinarily possessed and exercised by other practitioners engaged in health services;  
3 in providing services to persons, including plaintiff herein, under such license.

4  
5 5. Plaintiffs are informed and believes and thereon alleges that at all times herein  
6 mentioned, defendants, JOE ANDRADE, CRNA; SHAUN LEA, CRNA; SHAUN LEA  
7 CERTIFIED REGISTERED NURSING ANESTHETIST, INC., a California Corporation;  
8 EMILY RAMIREZ, R.N.; AMANDA PINKHAM, R.N.; LAURA RAMKISSOON, R.N.;  
9 SASHI KAPOOR, R.N.; MELISSA WHEELER, R.N.; BRITTANY L. BAUGHER; AMY  
10 HURST, R.N.; KRISTA MALLOY; DONNA COLEMAN and DOES 51 through 75, inclusive,  
11 and each of them were and now are registered nurses or certified registered nurse anesthetists or  
12 other types of healthcare providers; duly licensed to practice nursing or their specialty in the  
13 State of California and are private practitioners, independent contractors or employees of one of  
14 the other defendants (or are their privately held corporation/alter ego). Further, each of them  
15 holds themselves out as possessing the degree of skill, expertise, learning and ability ordinarily  
16 possessed and exercised by other practitioners engaged in health services; in providing services  
17 to persons, including plaintiff herein, under such license.

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20 6. At all times herein mentioned, defendants, DOES 76 through 100, inclusive, and  
21 each of them, were nurses, technicians, attendants, employees, assistants or consultants  
22 employed or retained by the remaining defendants, and each of them, and/or were registries,  
23 employers and/or principals of the remaining defendants, and each of them.

24  
25 7. Plaintiff is informed and believes, and thereon alleges, that at all times herein  
26 mentioned, Defendants, and each of them, were the agents, servants, employees and partners of  
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1 their co-defendants, and each of them and, as such, were acting within the course and scope of  
2 such agency and employment. Each and every defendant as aforesaid, when acting as a principal,  
3 was negligent in the selection and hiring of each and every other defendant, as its agent, servant,  
4 employee, and partner.  
5

6 8. All of the facts, acts, omissions, events and circumstances herein mentioned and  
7 described occurred in the County of Kern, State of California, and within the territorial  
8 jurisdiction of the within court, and the defendants are residents of the County of Kern, State of  
9 California and/or have their principal place of business in said County and State, and/or are  
10 legally doing business within said County and State.  
11

12 9. Each Defendant, whether named or designated as a DOE, was the agent, servant  
13 and/or employee of each of the remaining Defendants. Each Defendant acted within the course  
14 and scope of said agency, employment and service with the permission, consent and ratification  
15 of each of his co-Defendants in performing the acts herein alleged, with specificity, that gave rise  
16 to plaintiff's injuries.  
17

18 10. Prior to commencement of this action, on December 1, 2, 3, 17 and 18, 2014,  
19 Plaintiffs served notices upon Defendants regarding Plaintiffs' intentions to sue pursuant to Code  
20 of Civil Procedure §364.  
21

22 11. On or about January 1st, 2014, Ms. SANDOVAL gave birth to her daughter,  
23 Plaintiff AHTZIRI SANDOVAL, a minor, while being attended by Defendants, and each of  
24 them, so negligently examined and treated plaintiffs, Ms. SANDOVAL and AHTZIRI  
25 SANDOVAL, a minor, and diagnosed and failed to diagnose their conditions and so negligently  
26 treated them and cared for them, rendered surgical services and operated their premises and  
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1 equipment, and said business entity Defendants so negligently selected and reviewed its staff, all  
2 in a manner which was below the standard of care accepted in the community, so as to  
3 proximately cause the injuries and damages to the plaintiffs as hereinafter alleged.

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5 12. As a proximate result of the conduct of the Defendants, and each of them, the true  
6 condition of the plaintiff, AHTZIRI VALERIA SANDOVAL, a minor, went undiagnosed and  
7 untreated. The true condition of the plaintiff was neonatal hypoxic ischemic encephalopathy  
8 resulting in severe permanent brain injury, and as a result of the failure of Defendants, and each  
9 of them, to timely diagnose and treat his condition, plaintiff ATZHIRA VALERIA  
10 SANDOVAL, a minor, has been rendered seriously injured. All of the above has caused  
11 plaintiff, AHTZIRI VALERIA SANDOVAL, a minor, severe permanent brain injury, severe  
12 shock and injury to her nervous system, pain and suffering, all causing disability, intense anxiety,  
13 emotional, mental and physical distress, and other distress secondary to the aforementioned  
14 injuries and damages, the exact nature and extent of which are not known to plaintiff, all to her  
15 damage in an amount to be set forth in accordance with Code of Civil Procedure §425.11.  
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18 13. In holding themselves out as possessing that degree of skill, knowledge and  
19 ability normally exercised by competent physicians, surgeons and health care practitioners in the  
20 community, Defendants, and each of them, owed plaintiff a legal duty to use care in their  
21 respective medical responsibilities and treatment of the plaintiffs, ESMERALDA SANDOVAL  
22 and AHTZIRI VALERIA SANDOVAL, a minor, as their patients.  
23

24 14. In performing the aforesaid medical treatment upon plaintiffs, ESMERALDA  
25 SANDOVAL and AHTZIRI VALERIA SANDOVAL, a minor, which Defendants agreed to and  
26 undertook to do for compensation, Defendants, and each of them, failed to exercise that degree  
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1 of skill, ability and learning normally possessed and exercised by competent physicians,  
2 surgeons, hospitals, clinics and healthcare facilities in the said community, thus breaching such  
3 legal duty to provide competent care to the plaintiff, AHTZIRI VALERIA SANDOVAL, a  
4 minor.  
5

6 15. SAN JOAQUIN COMMUNITY HOSPITAL; ADVENTIST HEALTH  
7 SOUTHERN CA MEDICAL FOUNDATION; ADVENTIST HEALTH; ADVENTIST  
8 HEALTH SYSTEM/WEST; KAISER FOUNDATION HEALTH PLAN, INC.; KAISER  
9 FOUNDATION HOSPITALS; THE PERMANENTE MEDICAL GROUP, INC., and DOES 51  
10 through 75, inclusive, and each of them, breached their duty to assure the competence of their  
11 staff physicians and/or failed to exercise ordinary care under the doctrine of corporate liability  
12 and the circumstances, to evaluate and to assure the quality of their medical staff and resultant  
13 medical care by their staff physicians, and breached their duty of selecting, reviewing, and  
14 periodically evaluating the competency of their staff physicians. This breach of duty of careful  
15 selection, review, and periodic evaluation of the competency of their staff physicians created an  
16 unreasonable risk of harm to their patients. Defendants, and DOES 51 through 75, inclusive,  
17 breached their duty in that they failed to assure quality medical care by the lack of prudent  
18 selection, review, and continuing evaluation of the physicians who were granted staff privileges.  
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22 16. As a direct and proximate result of the Defendants' breaches of duty and failure to  
23 adhere to the standard of practice in the community with respect to medical treatment rendered to  
24 plaintiffs, ESMERALDA SANDOVAL and AHTZIRI VALERIA SANDOVAL, a minor,  
25 plaintiff AHTZIRI VALERIA SANDOVAL, a minor, was caused resulting permanent damage  
26 and she sustained and suffered the following injuries and damages:  
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- 1 a. General damages for injuries to plaintiff's body and nervous system, including  
2 severe permanent brain injury, pain and suffering, fear, and mental and  
3 physical distress, in a sum in excess of the minimum jurisdiction of this Court,  
4 according to proof;  
5  
6 b. Hospital, medical, and incidental expenses necessarily incurred and to be  
7 incurred in the future in an amount according to proof;  
8  
9 c. Future loss of earnings and earning capacity.

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11 **SECOND CAUSE OF ACTION**

12 **NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS**

13 **(Against all Defendants and all DOES, by all Plaintiffs)**

14 17. Plaintiffs reallege and incorporate by this reference herein Paragraphs 1-16 above.

15 18. Defendants, and each of them, owed a duty of care for the emotional well-being  
16 of Ms. SANDOVAL. Ms. SANDOVAL had formed a pre-existing relationship with the  
17 healthcare facility to which she presented in expectation of her baby there.

18 19. Defendant's negligent failures in medical and custodial care of Ms. SANDOVAL,  
19 and the resultant injury to her baby, directly caused serious and extreme emotional distress for  
20 the plaintiff.  
21

22 20. As a result of negligent care and treatment during the birth of her daughter, Ms.  
23 SANDOVAL suffered severe emotional distress as well as her own injuries. When Ms.  
24 SANDOVAL arrived at the hospital, she explained that the baby was not moving. Despite an  
25 initial reading of a strong heartbeat, the baby went into fetal distress two times. After the second  
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1 episode, an emergency caesarean section was performed. When the baby was born, Ms.  
2 SANDOVAL could see that the baby was purple and floppy. The baby was not breathing and  
3 manually given oxygen. Ms. SANDOVAL was a witness to this, was at all times aware that the  
4 negligence of the Defendants had caused this situation and was aware of what was happening.  
5 She suffered severe shock and emotional distress. She has suffered and will continue to suffer  
6 both general damages for pain and suffering as well as special damages, according to proof.  
7

8 21. The hospital and health care provider Defendants herein had a duty to the mother  
9 Ms. SANDOVAL arising from their contract for services, to provide care for the mother and  
10 child during the birthing process. The mother's emotional well-being and the health of the child  
11 are inextricably intertwined. The negligence during delivery caused injury to the child and  
12 emotional anguish to the mother. The duty owed directly to the mother Ms. SANDOVAL was  
13 breached. Ms. SANDOVAL as a result suffered and continues to suffer serious emotional  
14 distress. This emotional distress is reasonable under the circumstances.  
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20 **WHEREFORE**, Plaintiffs pray for judgment against Defendants, and each of them, as  
21 follows:  
22


- 23 1. General and non-economic damages according to proof;
- 24 2. Hospital, medical and incidental expenses incurred and expected to be incurred in the  
25 future, according to proof;
- 26 3. Loss of earnings and earning capacity, according to proof;
- 27 4. Prejudgment interest;
- 28

1 5. Costs of suit; and

2 6. For such other and further relief as the Court deems just and proper.

3  
4 Date: Dec. 19, 2014

RODRIGUEZ & ASSOCIATES

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8 Daniel Rodriguez, Esq.  
9 AHTZIRI VALERIA SANDOVAL, a minor, by  
10 and through her Guardian ad Litem,  
11 ESMERALDA SANDOVAL; and  
12 ESMERALDA SANDOVAL  
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