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7 SUPERIOR COURT OF CALIFORNIA
8 COUNTY OF ORANGE - CENTRAL

9 ISAAK BARNES, an individual)
10 and minor,)

Case No. 30-2016-00842820-CU-MM-CJC

Judge Randall J. Sherman

[UNLIMITED JURISDICTION]

11)
12)
13 Plaintiff,

vs.

COMPLAINT FOR DAMAGES

14 KAISER FOUNDATION HEALTH)
15 PLAN, INC., a corporation;)
16 KAISER FOUNDATION HOSPITALS,)
a corporation; SOUTHERN)
17 CALIFORNIA PERMANENTE)
MEDICAL GROUP, INC., a)
18 corporation; LYNN HOANG,)
M.D., an individual;)
19 SURESH G. GURBANI, M.D., an)
individual; ALTAF MOHAMMED)
20 KAZI, M.D., an individual;)
ANDREW SONG, D.O., an)
21 individual, DAN H. CHIKAMI,)
O.D., an individual, and)
DOES 1 -50,)

(NEGLIGENCE, AND BREACH OF
FIDUCIARY DUTY)

22)
23)
24 Defendants.)

1
2 Plaintiff ISAAK BARNES alleges in this Complaint as follows:

3 **ALLEGATIONS COMMON TO ALL CAUSES OF ACTION**

4 1. Plaintiff ISAAK BARNES ("BARNES") is an individual, and
5 a minor whose date of birth is March 25, 2008.

6 2. Defendant KAISER FOUNDATION HEALTH PLAN, INC. ("KAISER
7 HEALTH PLAN") is a hospital, medical clinic, and/or medical
8 facility maintained pursuant to a license existing under and by
9 virtue of the laws of the state of California, and a California
10 corporation duly existing under and by virtue of the laws of the
11 State of California, and authorized to and engaged in doing
12 business in the State of California.

13 3. Defendant KAISER FOUNDATION HOSPITALS ("KAISER
14 HOSPITALS") is a hospital, medical clinic, and/or medical
15 facility maintained pursuant to a license existing under and by
16 virtue of the laws of the state of California, and a California
17 corporation duly existing under and by virtue of the laws of the
18 State of California, and authorized to and engaged in doing
19 business in the State of California.

20 4. Defendant SOUTHERN CALIFORNIA PERMANENTE MEDICAL GROUP,
21 INC. ("KAISER PERMANENTE") is a hospital, medical clinic, and/or
22 medical facility maintained pursuant to a license existing under
23 and by virtue of the laws of the state of California, and a
24 California corporation duly existing under and by virtue of the
25 laws of the State of California, whose status as of March 17,
26 2016 is dissolved.

5. Defendants KAISER FOUNDATION HEALTH PLAN, INC., KAISER FOUNDATION HOSPITALS, and SOUTHERN CALIFORNIA PERMANENTE MEDICAL GROUP, INC. are collectively referred to as "Defendant KAISER".

6. Defendant LYNN HOANG, M.D., ("HOANG") is an individual, and was a physician duly licensed to practice medicine in the state of California at all times relevant hereto, and doing business at Lakeview Medical Offices, located at 441 N. Lakeview Ave., Anaheim, California.

7. Defendant SURESH G. GURBANI, M.D. ("GURBANI") is an individual, and was a physician duly licensed to practice medicine in the state of California at all times relevant hereto, and doing business at the KAISER medical facility, located at 3460 E. La Palma Ave., Anaheim, California

8. Defendant ALTAF MOHAMMED KAZI, M.D., ("KAZI") is an individual, and was a physician duly licensed to practice medicine in the state of California at all times relevant hereto, and doing business at Lakeview Medical Offices, located at 411 N. Lakeview Ave., Anaheim, California.

9. Defendant ANDREW SONG, D.O. ("SONG") is an individual, and was a physician duly licensed to practice medicine in the state of California at all times relevant hereto, and doing business at Lakeview Medical Offices, located at 411 N. Lakeview Ave., Anaheim, California.

10. Defendant DAN H. CHIKAMI, O.D., ("CHIKAMI") is an individual, and was a optometrist duly licensed to practice optometry in the state of California at all times relevant

1 hereto, and doing business at Yorba Linda Medical Offices,
2 located at 22550 E. Savi Ranch Parkway, Yorba Linda, California.

3 11. Stephen Jermaine Barnes ("Stephen Barnes"), is an
4 individual, and the father of Plaintiff ISAAK BARNES.

5 12. Leandra Navarro ("Leandra Navarro"), is an individual,
6 and the mother of Plaintiff ISAAK BARNES.

7 13. Shawn Barnes ("Shawn Barnes"), is an individual, and
8 the twin brother of Plaintiff ISAAK BARNES.

9 14. Plaintiff is ignorant of the true names and capacities
10 of defendants sued as Does 1 through 50, inclusive, and therefore
11 sues these defendants by these fictitious names. Plaintiff will
12 amend this complaint to allege their true names and capacities
13 when they have been ascertained. Plaintiff is informed and
14 believes and thereon alleges that each of the fictitiously named
15 defendants is in breach of some contract or is tortiously or
16 otherwise legally responsible in some manner for the occurrences
17 alleged in this complaint for plaintiff's damages.

18 15. Plaintiff is informed and believes and thereon alleges
19 that, at all relevant times, each of the defendants, including
20 Does 1 through 50, inclusive, was the agent or employee of each
21 of the remaining defendants, and, in doing the things alleged,
22 was acting within the scope of that agency or employment.

23 16. On February 28, 2012 Plaintiff ISAAK BARNES' father
24 Stephen Barnes brought Plaintiff ISAAK BARNES to Lakeview Medical
25 Offices, located at 411 N. Lakeview Ave., Anaheim, California
26 because Plaintiff had a spell the previous night when he wasn't
27

1 himself, as he was staring and repeating himself when asked
2 questions; stuck in a position of staring to the side; had a
3 temperature of 101; and vomited. Plaintiff BARNES was seen by Dr.
4 ALTAF MOHAMMED KAZI for assessment and possible treatment.
5 [Exhibit ("Ex.") "1" : KAISER PERMANENTE records pg. 44.]

6 17. After assessing Plaintiff ISAAK BARNES, Defendant
7 KAZI's PLAN states : "Advise good hydration with clear liquids,
8 rest, have Plaintiff breath clean humidified air and may elevate
9 the head of the bed up to 30 degrees, and acetaminophen prn for
10 fever or pain. For infants and toddlers, may gently suction the
11 nares after inserting a few drops of nasal saline in each
12 nostril. For an older child, have the child blow the nose after
13 inserting a few drops of nasal saline in each nostril. For
14 children >: 2 years of age, may also give 1-2 tsp of honey at
15 bedtime to help with cough. Advised to not give OTC cough and
16 cold preparations in children < 4yrs age due to safety and lack
17 of proven efficacy." [Ex. "1" : KAISER PERMANENT records pg. 51.]
18 Plaintiff's parents were provided with "Your Kaiser Permanent
19 Care Instructions" for "Cold (Upper Respiratory Infection), 3 to
20 6 Years: After Your Child's Visit". [Ex. "1" : KAISER PERMANENTE
21 records pgs. 52-53.]

22 18. On March 13, 2012 Plaintiff ISAAK BARNES' mother
23 Leandra Navarro brought Plaintiff ISAAK BARNES to Lakeview
24 Medical Offices because Plaintiff BARNES was vomiting, having
25 headaches, and experiencing sensitivity to light. Plaintiff
26 BARNES was seen by DR. ANDREW SONG, whose "ASSESSMENT" states
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28

1 "NAUSEA", and "HEADACHE"; and "PLAN: No orders of the defined
2 types were placed in this encounter; -possible abdominal
3 migraine?, doubt meningitis, bleed, mass -> neuro exam normal; -
4 family hx of migraines, and child has symptoms only early AM or
5 late at night; -trial of NSAID's; -RTC pm; -F/U with PMD." [Ex.
6 "1" : KAISER PERMANENT records pgs. 60-62.] Plaintiff's parents
7 were provided with "Your Kaiser Permanent Care Instructions" for
8 "Migraine Headaches: After Your Child's Visit". [Ex. "1" :
9 KAISER PERMANENTE records pgs. 63 - 64.]

10 19. Thereafter, Plaintiff BARNES symptoms, including
11 vomiting, headaches, sensitivity to light and vision problems,
12 continued and increased; and Plaintiff BARNES mother Leandra
13 Navarro contacted Defendant KAISER and requested that Plaintiff
14 ISAAK BARNES be seen by an eye specialist because Plaintiff's
15 right eye was crossing inward, and Defendant KAISER directed Ms.
16 Navarro to have Plaintiff ISAAK BARNES seen by Defendant DAN H.
17 CHIKAMI, an optometrist, doing business at the Yorba Linda
18 Medical Offices, located at 22550 E. Savi Ranch Parkway, Yorba
19 Linda, California.

20 20. On April 18, 2012 Plaintiff ISAAK BARNES' father
21 Stephen Barnes brought Plaintiff ISAAK BARNES to Yorba Linda
22 Medical Offices, located at 22550 E. Savi Ranch Parkway, Yorba
23 Linda, California, where Plaintiff BARNES was examined by
24 Defendant DAN H. CHIKAMI, an optometrist. Defendant CHIKAMI
25 reported that Plaintiff BARNES was nearsighted, and wrote a
26 prescription for glasses for Plaintiff BARNES. Defendant
27 CHIKAMI's Progress Notes state that Plaintiff BARNES parents were

1 concerned that Plaintiff's OD (eye) seems to turn inward at
2 times, and that Plaintiff was having eyestrain when focusing on
3 targets and near work. Defendant CHIKAMI's "Assessment" of
4 Plaintiff BARNES reports " 378.00 ESOTROPIA; 357.20 ASTIGMATISM;
5 367.0 HYPEROPRIA"; Defendant CHIKAMI's "Plan: Prescription as per
6 modified refraction from cycloplegic". Defendant CHIKAMI also
7 reported that Plaintiff's parent wants a referral to an
8 ophthalmology pediatrician. [Ex. "1" : KAISER PERMANENTE
9 records pgs. 69 - 74.]

10 21. On May 14, 2012 Plaintiff ISAAK BARNES' mother Leandra
11 brought Plaintiff ISAAK BARNES to Yorba Linda Medical Offices,
12 because Plaintiff BARNES was continuing to experience chronic
13 headaches, intermittent vomiting, dizziness, seizures, would wake
14 up crying in pain and agony, and often could not walk - where
15 Plaintiff BARNES was examined by Dr. Ashish Manilal Mehta, M.D.
16 ("Dr. Mehta") in the Eyeocylm Eye Department. Dr. Mehta's
17 Progress Notes state that:

18 "Isaak Barnes is a 4 year old male who was referred because
19 it was noted that either eye has been turning in for the
20 past several months. Mom states child has a diagnosis of
21 'migraine headaches' which have been occurring for the last
22 several months. They are associated with sensitivity to
23 light/sounds. At times has nausea and vomiting. Has been
24 seen in UC and pediatrics office several times for this."

25 [Ex. "1" : KAISER PERMANENTE records pg. 86.]

26 After examining and review of Plaintiff BARNES history, Dr. Mehta
27 recommended a "STAT MRI of orbits and brain with and without
28

1 gadollinium", which was ordered. [Ex."1" : KAISER PERMANENTE
2 records pg. 90.]

3 22. The results of the MRI show that Plaintiff ISAAK BARNES
4 had a brain tumor : "7.3 x 6.2 x 4.6 cm mixed cystic and solid
5 mass occupying the majority of the left cerebellum with
6 associated mass effect on the midbrain and fourth ventricle
7 resulting in severe obstructive hydrocephalus". [Ex. "1" : KAISER
8 PERMANENTE records pg. 110] On May 16, 2012 at the Los Angeles
9 Medical Center, located at 4867 West Sunset blvd., Los Angeles,
10 California, Surgical Procedures: "suboccipital craniotomy and
11 tumor resection" were performed by Dr. Mark Fedor ("Dr. Fedor")
12 for Plaintiff BARNES' brain tumor. [Ex. "1" : KAISER PERMANENTE
13 records pgs. 102.] The PEDIATRIC DISCHARGE SUMMARY NOTE states
14 in "FINDINGS/IMPRESSION" THAT an MRI of Plaintiff BARNES' brain
15 taken on May 18, 2012 show "no malignant cells identified."

16 [Ex. "1" : KAISER PERMANENTE records pgs. 103.]

17 23. Thereafter, Dr. Marvin Pietruszka, M.D. ("Dr.
18 Pietruszka") reviewed Defendant KAISER PERMANENTE's records
19 regarding Plaintiff ISAAK BARNES, and in his July 6, 2015
20 letter/report to Plaintiff's council, John Drooyan, states that:
21 "This case demonstrates a significant departure from the
22 standard of care of a patient whose symptoms are highly
23 suggestive of intracranial pathology. An immediate referral
24 to an ophthalmologist or to an imaging center would have
25 been appropriate and would have reduced the morbidity and
26 risk of recurrence of the tumor in this child. The referral
27 to an optometrist was an absolute error, as the child's

1 symptomatology was not solely ocular. The delay in
2 treatment allowed for the continued growth of the tumor
3 which caused injury to the surrounding brain structures and
4 also increased the risk of recurrence of the tumor. The
5 child is at increased risk of the astrocytoma. The full
6 extent of the sequela resulting from the delay in diagnosis
7 and treatment may not be apparent until the child reaches
8 adulthood. Regular neurologic examination and brain imaging
9 is recommended for this child." [Ex. "2" pg. 3]

10 24. Thereafter, Defendant KAISER PERMANENTE's records and
11 MRI's regarding Plaintiff ISAAK BARNES' brain tumor were reviewed
12 by Dr. Michael G. Muhonnen ("Dr. Muhonnen"), a neurosurgeon from
13 Children's Hospital of Orange County ("CHOC") Neurological
14 Surgery Specialists. In Dr. Muhonnen's February 1, 2016
15 letter/report to Plaintiff's council, John Drooyan, he states:

16 "It is my opinion that Kaiser Hospital, including
17 physicians, breached the standard of care in the failure to
18 timely diagnose Isaak's brain tumor. The salient issue is
19 whether or not this caused damages. This is a unique case
20 in the regard that Isaac has an identical twin, Shawn.
21 Therefore, we have a reasonably solid benchmark for
22 comparison. Isaak has significant learning issues relative
23 to his twin brother. Last year in school he had difficulty
24 blending sounds, difficulty with writing and made an
25 insufficient grade in spelling. He scores in very low
26 percentiles in expressive and receptive language and in
27 testing of semantic skills. He has poor visual and auditory

1 processing memory. The report from Placentia-Yorba Linda
2 Unified School District multidisciplinary assessment report
3 states that the deficits are likely due to surgical removal
4 of Isaak's brain tumor, when he was 4 years old. I would
5 disagree with this assessment. His deficits are likely due
6 to injury to surrounding normal tissue caused by the tumor.
7 While the surgical removal of a tumor may cause some
8 deficits, it is a longstanding compression on normal
9 surrounding tissue that is contributing to much of his
10 dysfunction. Straightforward surgical removal of a
11 cerebellar pilocytic astrocytoma does not typically leave a
12 child with so many neurological issues, as noted in his
13 evaluation. The longer the normal tissue is compromised,
14 the higher the risk of longstanding neurological problems.
15 It is my opinion that if the tumor had been diagnosed
16 sooner, Isaak would have less neurological dysfunction." [Ex.
17 "3]

18 25. After receiving Dr. Pietruzska's July 6, 2015
19 letter/report, Plaintiff's council John Drooyan contacted
20 Children's Hospital of Orange County ("CHOC") for a pediatric
21 neurologist for regular neurological examination, evaluation and
22 treatment of Plaintiff BARNES. Dr. Zupanc at CHOC informed Mr.
23 Drooyan that CHOC would not treat Plaintiff BARNES on a lien, and
24 THAT CHOC required an out of network referral from Defendant
25 KAISER in order to treat Plaintiff BARNES. Dr. Zupanc told Mr.
26 Drooyan that this should not be a problem because it would be a
27 conflict of interest for Defendant KAISER to examine and treat

1 Plaintiff ISAAC BARNES, in light of Plaintiff's potential claims
2 that are the subject of this complaint.

3 26. Thereafter, Mr. Drooyan contacted Defendant KAISER's
4 member services about obtaining an out network referral for
5 Plaintiff BARNES to be examined, evaluated, and treated by CHOC,
6 out of the Kaiser network. Mr. Drooyan was informed that the
7 request for a referral had to be made to Defendant LYNN HOANG,
8 M.D., Plaintiff BARNES' primary care physician; and that the
9 request for a referral for Plaintiff to be examined, evaluated,
10 and treated out of Defendant KAISER's network had to be made by
11 Plaintiff's mother or father to Defendant HOANG.

12 27. In the fall of 2015, Plaintiff's mother, Leandra
13 Navarro, brought Plaintiff ISAAC BARNES to Defendant HOANG at her
14 office, located at the Lakeview Medical Offices, 411 N. Lakeview
15 Ave., Anaheim, California; and informed Defendant HOANG of
16 Plaintiff BARNES history, the pending lawsuit, his need to be
17 treated, evaluated, and examined by a pediatric neurologist out
18 of Defendant KAISER's network due to Defendant KAISER'S conflict
19 of interest, and requested that Defendant HOANG provide a
20 referral for Plaintiff to be seen by a pediatric neurologist
21 outside of Defendant KAISER'S network due to Defendant KAISER's
22 conflict of interest. However, Defendant HOANG refused to
23 provide a referral for Plaintiff BARNES to be seen by a pediatric
24 neurologist outside of Defendant KAISER'S network; but instead
25 Defendant HOANG referred Plaintiff BARNES to see Defendant SURESH
26 G. GURBANI, in the Neurology Department at Defendant KAISER's
27 facility, located at 3460 E. La Palma Ave.

1 28. Soon thereafter Plaintiff ISAAK BARNES father Stephen
2 Barnes took Plaintiff ISAAK BARNES to see Defendant GURBANI, and
3 informed Defendant GURBANI of Plaintiff BARNES history, the
4 pending lawsuit, Plaintiff's need to be treated and examined by
5 a pediatric neurologist out of Defendant KAISER's network due to
6 Defendant KAISER's conflict of interest, and requested that
7 Defendant GURBANI provide a referral for Plaintiff BARNES to be
8 seen by a pediatric neurologist outside of Defendant KAISER'S
9 network. Defendant GURBANI told Stephen Barnes that Plaintiff
10 BARNES was doing fine, and refused to provide a
11 referral for Plaintiff BARNES to be seen by a pediatric
12 neurologist outside of Defendant KAISER'S network; and told
13 Stephen Barnes that the referral would have to come from
14 Defendant KAISER's member services.

15 29. On November 6, 2015, Plaintiff's counsel John Drooyan
16 wrote to Defendant HOANG, Plaintiff's primary care physician, and
17 informed Defendant HOANG that her refusal to provide Plaintiff
18 BARNES with a referral for examination and treatment out of
19 Defendant KAISER' network was a breach of her fiduciary duty to
20 Plaintiff BARNES, and further breach of her duty of care to
21 Plaintiff BARNES. [Ex. "4".] However, Defendant HOANG did not
22 respond to Mr. Drooyan's letter, and has failed to provide
23 Plaintiff BARNES with the requested referral for examination,
24 evaluation, and treatment by a pediatric neurologist out of
25 Defendant KAISER' network.

26 30. On November 13, 2015, Plaintiff's counsel John Drooyan
27 wrote to Defendant GURBANI, and informed Defendant GURBANI that

1 his refusal to provide Plaintiff BARNES with a referral for
2 examination and treatment out of Defendant KAISER' network was a
3 breach of his fiduciary duty to Plaintiff BARNES, and breach of
4 his duty of care to Plaintiff BARNES. [Ex. "5".] However,
5 Defendant GURBANI did not respond to Mr. Drooyan's letter, and
6 has failed to provide Plaintiff BARNES with the requested
7 referral for examination, evaluation, and treatment by a
8 pediatric neurologist out of Defendant KAISER' network.

9 31. On November 13 and 18, and December 4, 2015,
10 Plaintiff's mother Leandra Navarro wrote to Defendant KAISER's
11 member services and requested that member services issue a
12 referral for Plaintiff ISAAK BARNES to be examined, evaluated and
13 treated by a pediatric neurologist out of Defendant KAISER's
14 network:

15 "I was told to contact member services regarding my issue.
16 My son, Isaak Barnes needs to start seeing a pediatric
17 neurologist outside of Kaiser network. I have already
18 spoken to his primary, Dr. Hoang. She told me that she
19 could not make that referral because she is not a
20 neurologist. Dr. Hoang then referrrred me to a pediatric
21 Neurologist from Kaiser to get the referral from him. My
22 son saw him 2 weeks ago and I spoke with him and he told me
23 to contact member services with my request. I just need a
24 signed statement/waiver from Kaiser to give to my new
25 pediatric neurologist for my son Isaak. I sent a detailed
26 message to Dr. Garbony (sp?) and he said he will forward the
27 message to member services. There is a conflict of interest

1 as I have retained an attorney and that is why Isaak cannot
2 see a specialist from Kaiser. Can someone please call or
3 email me a detailed response. I feel like I am getting the
4 runaround because no one seems to understand my request.
5 Thank you." [Ex. "6"]

6 32. On December 7, 2015, Plaintiff's counsel John Drooyan
7 sent Defendants KAISER, HOANG, and GURBANI, correspondence with
8 90 day Notice of Intention to Commence Action Based Upon Health
9 Care Provider's Professional Negligence Pursuant to California
10 Code of Civil Procedure §364, for Failure to Timely and Properly
11 Treat Brain Tumor of Isaak Barnes (DOB 03/25/2008); and Failure
12 to Provide Plaintiff ISAAK BARNES with a referral for a Pediatric
13 Neurologist Out of Defendant KAISER's network [Ex. "7"]; which
14 Defendant KAISER acknowledged in correspondence to Mr. Drooyan,
15 dated December 23, 2015 [Ex. "8"].

16 33. In correspondence to Plaintiff ISAAK BARNES mother,
17 Leandra Navarro, dated December 23, 2015, Defendant KAISER denied
18 Ms. Navarro's request that Defendant KAISER provide a referral
19 for Plaintiff BARNES to be examined, evaluated, and treated by a
20 pediatric neurologist out of Defendant KAISER's network, because
21 of Defendant KAISER's conflict of interest in light of Plaintiff
22 BARNES pending claims against Defendant KAISER and its
23 physicians, on the grounds that "it is not medically indicated
24 for Isaak's condition as services can be provided by
25 appropriately credentialed in-Plan providers." [Ex. "9"]

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1 them, failed to exercise the proper degree of knowledge and
2 skill, and negligently, carelessly, recklessly, wantonly, and
3 unlawfully examined, diagnosed, treated, provided care, monitored
4 Plaintiff ISAAK BARNES; and failed to adequately and properly
5 timely diagnose and treat Plaintiff ISAAK BARNES' brain tumor, in
6 breach of their duty of care to Plaintiff ISAAK BARNES.

7 38. As a direct and proximate result of the negligence,
8 carelessness, recklessness, wantonness and unlawfulness of
9 Defendants KAISER HEALTH PLAN, KAISER HOSPITALS, KAISER
10 PERMANENTE, KAZI, SONG, CHIKAMI, and DOES 1 - 50, and each of
11 them in breaching their duty of care to Plaintiff ISAAK BARNES,
12 Plaintiff ISAAK BARNES has sustained severe and serious injury to
13 his person, all to Plaintiff ISAAK BARNES' damage in a sum within
14 the jurisdiction of this Court, and to be shown according proof.

15 39. Plaintiff is informed and believes, and thereon alleges
16 that as a direct and proximate result of the negligence,
17 carelessness, recklessness, wantonness and unlawfulness of
18 Defendants KAISER HEALTH PLAN, KAISER HOSPITALS, KAISER
19 PERMANENTE, KAZI, SONG, CHIKAMI, and DOES 1 - 50, and each of
20 them in breaching their duty of care to Plaintiff ISAAK BARNES,
21 Plaintiff ISAAK BARNES will incur future expenses for life long
22 disabilities caused by Defendants failure to adequately and
23 properly timely diagnose and treat Plaintiff ISAAK BARNES' brain
24 tumor, in a sum within the jurisdiction of this Court, and to be
25 shown according proof.

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1 **SECOND CAUSE OF ACTION FOR NEGLIGENCE**
2 **(Against Defendants KAISER HEALTH PLAN, KAISER HOSPITALS,**
3 **KAISER PERMANENTE, HOANG, AND GURBANI, and DOES 1-50)**

4 40. Plaintiff ISAAK BARNES incorporates by this reference
5 Paragraphs 1 - 39 of this Complaint, as if the same were fully
6 set forth herein.

7 41. Defendants KAISER HEALTH PLAN, KAISER HOSPITALS,
8 KAISER PERMANENTE, HOANG, GURBANI and DOES 1-50 owed Plaintiff
9 ISAAK BARNES the duty of care to provide for neurological
10 examination, evaluation, and treatment of Plaintiff ISAAK BARNES
11 following discovery of, and surgery for, Plaintiff's brain tumor
12 in May of 2012.

13 42. Defendants KAISER HEALTH PLAN, KAISER HOSPITALS,
14 KAISER PERMANENTE, HOANG, GURBANI and DOES 1-50 duty of care to
15 Plaintiff ISAAK BARNES following discovery and treatment of
16 Plaintiff's brain tumor includes providing Plaintiff with a
17 referral for a pediatric neurologist out of the KAISER network
18 due to Defendants conflict of interest to examine, evaluate, and
19 treat Plaintiff BARNES for disabilities caused by Defendants'
20 breach of their duty of care to timely diagnose and treat
21 Plaintiff BARNES' brain tumor.

22 43. Defendants KAISER HEALTH PLAN, KAISER HOSPITALS,
23 KAISER PERMANENTE, HOANG, GURBANI and DOES 1-50 breached their
24 duty of care to provide for neurological examination, evaluation,
25 and treatment for Plaintiff ISAAK BARNES, including providing
26 Plaintiff with a referral for a pediatric neurologist out of the
27 KAISER network, following discovery of and surgery for
28 Plaintiff's brain tumor in May of 2012, by refusing to provide

1 Plaintiff with a referral for a pediatric neurologist out of the
2 KAISER network, since Defendants KAISER HEALTH PLAN, KAISER
3 HOSPITALS, KAISER PERMANENTE, HOANG, GURBANI and DOES 1-50 have
4 a conflict of interest in examining, evaluating, and treating
5 Plaintiff for disabilities caused by Defendants breach of their
6 duty of care to timely diagnose and treat Plaintiff's brain
7 tumor, at least until such time as this matter is resolved.

8 44. As a direct and proximate result of Defendants KAISER
9 HEALTH PLAN, KAISER HOSPITALS, KAISER PERMANENTE, HOANG, GURBANI
10 and DOES 1-50 breach of their duty of care to Plaintiff ISAAC
11 BARNES to provide Plaintiff with a referral for a pediatric
12 neurologist out of the KAISER network due to Defendants conflict
13 of interest to examine, evaluate, and treat Plaintiff BARNES for
14 disabilities caused by Defendants breach of their duty of care to
15 timely diagnose and treat Plaintiff's brain tumor, Plaintiff
16 BARNES has incurred, and will incur in the future, expenses for
17 medical examination, evaluation and treatment of Plaintiff
18 BARNES' disabilities caused by Defendants breach of their duty of
19 care to timely diagnose and treat Plaintiff's brain tumor; and
20 will incur future expenses other than medical expenses for
21 treatment and rehabilitation of Plaintiff BARNES' disabilities
22 caused by Defendants breach of their duty of care to timely
23 diagnose and treat Plaintiff's brain tumor.

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2 **THIRD CAUSE OF ACTION FOR BREACH OF FIDUCIARY DUTY**
3 **(Against Defendants KAISER HEALTH PLAN, KAISER HOSPITALS,**
4 **KAISER PERMANENTE, HOANG, GURBANI, and DOES 1-50)**

5 45. Plaintiff ISAAK BARNES incorporates by this reference
6 Paragraphs 1 - 44 of this Complaint, as if the same were fully
7 set forth herein.

8 46. Plaintiff ISAAK BARNES is informed and believes, and
9 thereon alleges, that Defendants KAISER HEALTH PLAN, KAISER
10 HOSPITALS, KAISER PERMANENTE, HOANG, GURBANI, and DOES 1-50 and
11 Plaintiff BARNES had an physician-patient relationship beginning
12 on or about February 28, 2012, when Plaintiff BARNES father
13 Stephen Barnes took Plaintiff ISAAK BARNES to Lakeview Medical
14 Offices, located at 411 N. Lakeview Ave., Anaheim, California
15 because Plaintiff had a spell the previous night when he wasn't
16 himself, as he was staring and repeating himself when asked
17 questions; stuck in a position of staring to the side; had a
18 temperature of 101; and vomited.

19 47. Plaintiff ISAAK BARNES is informed and believes, and
20 thereon alleges, that since Defendants KAISER HEALTH PLAN, KAISER
21 HOSPITALS, KAISER PERMANENTE, HOANG, GURBANI, and DOES 1-50 and
22 Plaintiff BARNES had an physician-patient relationship beginning
23 on or about February 28, 2012, and continuing thereafter,
24 Defendants KAISER HEALTH PLAN, KAISER HOSPITALS, KAISER
25 PERMANENTE, HOANG, GURBANI, and DOES 1-50 and Plaintiff BARNES
26 had a fiduciary relationship as a matter of law pursuant to their
27 physician-patient relationship beginning on or about February 28,
28 2012, and continuing thereafter.

1 to examine, evaluate, and treat Plaintiff BARNES for disabilities
2 caused by Defendants breach of their duty of care to timely
3 diagnose and treat Plaintiff's brain tumor.

4 50. As a direct and proximate result of Defendants KAISER
5 HEALTH PLAN, KAISER HOSPITALS, KAISER PERMANENTE, HOANG, AND
6 GURBANI's breach of their duty of care to Plaintiff ISAAC BARNES
7 to provide Plaintiff with a referral for a pediatric neurologist
8 out of the KAISER network due to Defendants conflict of interest
9 to examine, evaluate, and treat Plaintiff BARNES for disabilities
10 caused by Defendants breach of their duty of care to timely
11 diagnose and treat Plaintiff's brain tumor, Plaintiff BARNES has
12 incurred, and will incur in the future, expenses for medical
13 examination, evaluation and treatment of Plaintiff BARNES
14 disabilities caused by Defendants breach of their duty of care to
15 timely diagnose and treat Plaintiff's brain tumor; and Plaintiff
16 BARNES will incur future expenses other than medical expenses for
17 treatment and rehabilitation of Plaintiff BARNES disabilities
18 caused by Defendants breach of their duty of care to timely
19 diagnose and treat Plaintiff's brain tumor.

20 51. In doing the acts herein alleged, Defendants KAISER
21 HEALTH PLAN, KAISER HOSPITALS, KAISER PERMANENTE, HOANG, AND
22 GURBANI's acted with oppression, fraud, malice, and in conscious
23 disregard of the rights of Plaintiff, and Plaintiff BARNES is
24 therefore entitled to punitive damages according to proof at the
25 time of trial.

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3 WHEREFORE, Plaintiff BARNES requests the following judgment:

4 **FIRST CAUSE OF ACTION FOR NEGLIGENCE: ((Against Defendants KAISER**
5 **HEALTH PLAN, KAISER HOSPITALS, KAISER PERMANENTE, KAZI, SONG,**
6 **CHIKAMI, and DOES 1-50):**

- 7 1. For general damages in an amount according to proof.
- 8 2. For economic damages, including but not limited to sums
9 incurred and to be incurred for services of hospitals,
10 physicians, surgeons, nurses, medical supplies related
11 to examination, evaluation, and treatment of
12 Plaintiff's brain tumor, as well as and sums incurred
13 for examination, evaluation and treatment of Plaintiff
14 BARNES' disabilities caused by Defendants failure to
15 timely diagnose and treat Plaintiff; and for
16 examination, evaluation, and treatment of Plaintiff
17 BARNES by other non-medical individuals and
18 institutions, including but not limited specialists,
19 clinics, and educational institutions, for Plaintiff
20 BARNES' disabilities caused by Defendants failure to
21 timely diagnose and treat Plaintiff's brain tumor.

22 **SECOND CAUSE OF ACTION FOR NEGLIGENCE (Against Defendants KAISER**
23 **HEALTH PLAN, KAISER HOSPITALS, KAISER PERMANENTE, HOANG, GURBANI,**
24 **and DOES 1-50):**

- 25 1. For general damages in an amount according to proof.
- 26 2. For economic damages, including but not limited to sums
27 incurred and to be incurred for services of hospitals,
28 physicians, surgeons, nurses, medical supplies and
services for examination, evaluation and treatment of

1 Plaintiff BARNES' disabilities caused by Defendants
2 failure to timely diagnose and treat Plaintiff BARNES
3 brain tumor; and for examination, evaluation, and
4 treatment of Plaintiff BARNES by other non-medical
5 individuals and institutions, including but not limited
6 specialists, clinics, and educational institutions, for
7 Plaintiff BARNES' disabilities caused by Defendants
8 failure to timely diagnose and treat Plaintiff's brain
9 tumor.


10 **THIRD CAUSE OF ACTION FOR BREACH OF FIDUCIARY DUTY: (Against**
11 **Defendants KAISER HEALTH PLAN, KAISER HOSPITALS, KAISER**
PERMANENTE, HOANG, GURBANI, and DOES 1-50):

- 12 1. For general damages in an amount according to proof.
- 13 2. For economic damages, including but not limited to sums
14 incurred and to be incurred for services of hospitals,
15 physicians, surgeons, nurses, medical supplies and
16 services for examination, evaluation and treatment of
17 Plaintiff BARNES' disabilities caused by Defendants
18 failure to timely diagnose and treat Plaintiff BARNES'
19 brain tumor; and for examination, evaluation, and
20 treatment of Plaintiff BARNES by other non-medical
21 individuals and institutions, including but not limited
22 specialists, clinics, and educational institutions, for
23 Plaintiff BARNES' disabilities caused by Defendants
24 failure to timely diagnose and treat Plaintiff BARNES
25 brain tumor.
- 26 3. For punitive damages in an amount according to proof.

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3 ON ALL CAUSES OF ACTION:

- 4 1. For cost of suit, including attorneys' fees;
5 2. For interest on any and all amounts found due;
6 3. For all other proper relief.
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9 Dated: March 23, 2016 LAW OFFICE OF JOHN DROOYAN
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11 By 
12 JOHN DROOYAN
13 Attorney for Plaintiff
14 ISAAC BARNES
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