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J. CAO-NGUYEN

9 **SUPERIOR COURT OF CALIFORNIA**
10 **COUNTY OF SANTA CLARA**
11 **UNLIMITED JURISDICTION**

12 LISA LANDRY,

13 Plaintiff,

14 vs.

15 AMN HEALTHCARE, INC., AMERICAN
16 MOBILE HEALTHCARE, KAISER
17 FOUNDATION HOSPITALS,
18 NORTHERN CALIFORNIA
19 PERMANENTE MEDICAL GROUP, INC.,
20 CECIL WEBB, JR. and DOES 1 to 25,
21 inclusive,

22 Defendants.

Case No. 16 CV 302539

COMPLAINT FOR DAMAGES:

1. SEXUAL HARASSMENT IN VIOLATION OF CIVIL CODE SECTIONS 51.9 AND 52
2. NEGLIGENCE PER SE
3. NEGLIGENT HIRING, SUPERVISION AND RETENTION
4. INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS
5. NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS
7. SEXUAL BATTERY

23 Plaintiff LISA LANDRY hereinafter "PLAINTIFF"), upon information and belief,
24 complains and alleges against Defendants, AMN HEALTHCARE, INC., AMERICAN MOBILE
25 HEALTHCARE, KAISER FOUNDATION HOSPITALS, NORTHERN CALIFORNIA
26 PERMANENTE MEDICAL GROUP, INC., CECIL WEBB, JR. and DOES 1 to 25, inclusive, as
27 follows:

GENERAL ALLEGATIONS

(AS TO ALL DEFENDANTS AND ALL CAUSES OF ACTION)

- 28 1. PLAINTIFF was, at all times relevant to this complaint, resident of the County of Santa

1 Clara, State of California.

2 2. PLAINTIFF became aware of the circumstances and facts of the wrongful acts alleged
3 herein, within the applicable statute of limitations for each of the causes of action alleged
4 herein.

5 3. PLAINTIFF is informed and believe, and thereon alleges, that the wrongful acts alleged
6 herein occurred within the County of Santa Clara, State of California.

7 4. PLAINTIFF is informed and believe, and thereon alleges, that Defendants KAISER
8 FOUNDATION HOSPITALS, NORTHERN CALIFORNIA PERMANENTE
9 MEDICAL GROUP, INC., and DOES 1-8 (Hereinafter collectively "KAISER") is, and
10 at all times relevant was, an entity doing business in California as a hospital known as
11 KAISER FOUNDATION HOSPITALS, NORTHERN CALIFORNIA PERMANENTE
12 MEDICAL GROUP, INC., located at 7104 Lawrence Expressway, Santa Clara, within the
13 County of Santa Clara, State of California.

14 5. PLAINTIFF is informed and believe, and thereon alleges, that Defendants AMN
15 HEALTHCARE, INC., AMERICAN MOBILE HEALTHCARE, and DOES 9-16
16 (Hereinafter collectively "AMN HEALTHCARE") are, and at all times relevant were,
17 entities doing business in California under the subsidiary known as AMERICAN
18 MOBILE HEALTHCARE, located at 12400 High Bluff Drive, San Diego, County of San
19 Diego, State of California.

20 6. PLAINTIFF is informed and believe, and thereon alleges, that Defendants AMN
21 HEALTHCARE are partnered with Defendant KAISER to provide temporary clinical
22 assignments to Defendant KAISER.

23 7. PLAINTIFF is informed and believe, and thereon alleges, that Defendants CECIL WEBB
24 Jr., and DOES 17-25 (Hereinafter collectively "WEBB") are, and at all times relevant
25 were medical personnel at KAISER and with AMN HEALTHCARE. PLAINTIFF is
26 informed and believe, and thereon alleges that WEBB is, and at all time relevant, was an
27 individual residing in the County of Santa Clara, State of California. PLAINTIFF is
28 further informed and believe, and thereon alleges, that at all times relevant, that WEBB

1 was acting as an agent and/or employee of Defendants KAISER and AMN
2 HEALTHCARE.

- 3 8. The true names and capacities, whether individual, corporate, associate or otherwise, of
4 DOES, or the negligent acts implicating said DOES, are unknown to PLAINTIFFS, who
5 therefore sue said Defendants by such fictitious name. PLAINTIFFS are informed and
6 believe, and thereon allege, that each Defendant fictitiously named herein as a DOE is legally
7 responsible for the negligence, negligent hiring, monitoring, and/or supervising, sexual
8 assault, or in some other manner for legally causing the injuries and damages to
9 PLAINTIFFS as hereinafter alleged including, but not limited to, tortious liability based upon
10 the law of negligence, products liability, premises liability, volunteer liability, vicarious
11 liability, governmental liability, and any other statutory and common law tort liability laws
12 giving rise to third party standing on the part of PLAINTIFFS. PLAINTIFFS will seek leave
13 of the court to amend this complaint to insert the true names and/or capacities of such
14 fictitiously named Defendants when the same have been ascertained.
- 15 9. PLAINTIFFS are informed and believe, and thereon allege, that at all times mentioned in
16 this complaint, each of the Defendants was the agent and employee of each of the other
17 remaining Defendants, was a partner or joint venturer with other defendants, and in doing the
18 things alleged in this complaint, was acting within the course and scope of this agency and
19 employment, and each Defendant has ratified and approved the acts of one another.
- 20 10. PLAINTIFFS are informed and believe, and thereon allege, that each of the Defendants
21 were the successors in interest to each of the remaining Defendants, and on that basis is
22 liable for
23 any act, omission or other conduct of the Defendants alleged in this complaint.

24 **RELEVANT FACTS**

25 **(AS TO ALL DEFENDANTS AND ALL CAUSES OF ACTION)**

- 26 11. PLAINTIFF alleges on information and belief that AMN HEALTHCARE and KAISER,
27 and each of them, directly or indirectly employed, hired, contracted and/or granted
28 hospital privileges to WEBB to work at KAISER as a medical personnel.

- 1 12. In or about November 16, 2014, PLAINTIFF LISA LANDRY went to KAISER to
2 undergo a surgical procedure.
- 3 13. In or about November 16, 2014, KAISER's anesthesiologist Julia Lee placed PLAINTIFF
4 under general anaesthesia prior to PLAINTIFF's surgical procedure. However, Lee did
5 not remain with PLAINTIFF for the entire pre-operation duration, after PLAINTIFF was
6 placed under general anaesthesia.
- 7 14. In or about November 16, 2014, WEBB was assigned as one of PLAINTIFF LISA
8 LANDRY's nurses at KAISER.
- 9 15. While PLAINTIFF was awaiting to undergo her surgical procedure in KAISER's per-
10 operation room, WEBB entered the room and applied compression wraps on
11 PLAINTIFF's legs. During this process, WEBB rubbed and groped her legs, eventually
12 moving his hand up her legs and cross her vagina. All this conduct unwanted and was
13 without PLAINTIFF's consent. WEBB also made offensive, harassing, and inappropriate
14 comments to PLAINTIFF and gave PLAINTIFF seductive looks. At this time,
15 PLAINTIFF was wearing nothing but a hospital gown.
- 16 16. Shortly after, Eric, another male nurse entered the room, causing WEBB to stop his
17 inappropriate conduct.
- 18 17. Once Eric left PLAINTIFF's pre-operation room, once again leaving WEBB alone with
19 PLAINTIFF. Prior to PLAINTIFF being brought into the operating room, WEBB
20 pretended to check the wires attached to PLAINTIFF's chest. Then, WEBB proceeded to
21 reach under PLAINTIFF's gown and grabbed PLAINTIFF's right breast. WEBB's
22 conduct was unwanted and without PLAINTIFF's consent.
- 23 18. Because PLAINTIFF was under general anaesthesia, PLAINTIFF was unable to vocally
24 or physically stop WEBB from inappropriately molesting, battering, assaulting, and
25 inappropriately touching her.
- 26 19. WEBB, then, wheeled PLAINTIFF to the operative room and said he and PLAINTIFF
27 were going to "take the scenic route." This frightened PLAINTIFF because PLAINTIFF
28 believed WEBB would take her to another location and assault her further. PLAINTIFF

1 tried to protest but could not speak because PLAINTIFF was heavily sedated.

2 20. In or about November 25, 2014, PLAINTIFF met with Officer Tony Parker at Santa Clara
3 Police Station to give a statement regarding WEBB's inappropriate conduct at KAISER
4 in or about November 16, 2014.

5 21. In or about January 6, 2015, Officer Tony Parker took WEBB's statement at Santa Clara
6 Police Station. WEBB informed Parker that WEBB was fired from Dallas Medical Center
7 in Dallas, Texas for "saying something inappropriate."

8 22. PLAINTIFF alleges on information and belief that Defendants KAISER and AMN
9 HEALTHCARE and each of them, knew or should have known that WEBB was a danger
10 to patients such as PLAINTIFF LISA LANDRY. Further, Defendant KAISER failed to
11 supervise WEBB and left him alone with PLAINTIFF while PLAINTIFF was under
12 general anesthesia, thus providing WEBB with unsupervised access to sexually fondle,
13 molest, harass, assault and/or batter PLAINTIFF LISA LANDRY.

14 23. Defendant KAISER did not follow its own policy and protocol, which required an
15 anesthesiologist to continuously monitor and supervise a patient, like PLAINTIFF LISA
16 LANDRY, under general anesthesia.

17 24. PLAINTIFF further alleges on information and belief that Defendants KAISER and AMN
18 HEALTHCARE failed to report WEBB's conduct to the Department of Health Services,
19 or report them in any way, in violation of the law, including but not limited to Health and
20 Safety Code §1279.1 et seq.

21 25. As a direct and proximate result of the tortious misconduct of Defendants and each of
22 them alleged herein, PLAINTIFF LISA LANDRY was sexually assaulted and battered on
23 or about November 16, 2014. As a direct and proximate result of the assault, PLAINTIFF
24 LISA LANDRY suffered and continues to suffer from personal injuries including but not
25 limited to physical injuries, emotional distress, mental pain and suffering, and post-
26 traumatic stress disorder and its sequelae.

FIRST CAUSE OF ACTION

SEXUAL HARASSMENT IN VIOLATION OF CIVIL CODE §§ 51.9 AND 52

(PLAINTIFF LISA LANDRY AGAINST ALL DEFENDANTS)

26. PLAINTIFF repeats and re-alleges each and every allegation contained in each of the paragraphs above, and incorporates the same herein by this reference as though set forth in full.
27. At all times herein mentioned, a business and/or professional relationship existed between Defendants and PLAINTIFF LISA LANDRY who was a patient under the care of Defendants and each of them. Further, it was only through the business relationship and/or professional relationship between PLAINTIFF LISA LANDRY and Defendants KAISER and AMN HEALTHCARE that the business and professional relationship with Defendant WEBB and PLAINTIFF LISA LANDRY was possible. As such, PLAINTIFF was an individual protected under the Civil Code §§ 51.9 and 52.
28. At all times herein relevant, KAISER was a business entity inviting the public to come upon its premises to make use of its services, providing professional services to the public. At all times herein relevant, AMN HEALTHCARE was a business entity partnered with KAISER to provide professional services to the public. At all times herein relevant, Defendants KAISER, AMN HEALTHCARE, and WEBB were and now are health organizations, physicians, registered nurses, medical corporations, surgeons, surgical nurses, technicians, office personnel, physical therapists, and paramedical professional, licensed by the State of California to practice their specialty in the said state, with offices located within the County of Santa Clara, State of California and each of them has held him or herself out to the public, including PLAINTIFF, to possess that degree of skill, ability, and learning common to practitioners in said community.
29. KAISER and AMN HEALTHCARE employed, contracted, and/or gave hospital privileges to WEBB. The exact date that WEBB began working at KAISER and with AMN HEALTHCARE is unknown to PLAINTIFF at this time, and is within the knowledge of Defendants and each of them.

- 1 30. WEBB, a registered nurse of KAISER and AMN HEALTHCARE, sexually fondled,
2 harassed, molested, assaulted, and battered PLAINTIFF against her will. Said sexual
3 assaults and batteries by WEBB of PLAINTIFF were unwelcome, severe, and pervasive.
4 Furthermore, PLAINTIFF was in critical need of medical attention. As such, PLAINTIFF
5 was unable to defend herself against WEBB, and unable to easily terminate her
6 professional relationship with Defendants.
- 7 31. KAISER and AMN HEALTHCARE known or should have known of WEBB's sexual
8 assaults on PLAINTIFF.
- 9 32. The acts and omissions of WEBB, KAISER, and AMN HEALTHCARE and their agents
10 and employees were performed in furtherance of the practices and policies of KAISER
11 and AMN HEALTHCARE, and were known or should have been known to each of them,
12 and were performed within the course and scope of KAISER's and AMN
13 HEALTHCARE's authorities. IT is further alleged on information and belief that the acts
14 and omissions of WEBB, KAISER, and AMN HEALTHCARE and their agents and
15 employees, were performed with the knowledge, permission, consent, authorization, and
16 ratification of KAISER, and AMN HEALTHCARE, acting by and through their managing
17 agents and employees.
- 18 33. By the aforesaid acts and conduct of Defendants and each of them, PLAINTIFF has
19 been directly and legally caused to suffer actual damages pursuant to Civil Code § 3333,
20 including but not limited to loss of earnings and future earning capacity, medical and
21 related expenses for care and procedures both now and in the future, attorneys fees, and
22 other pecuniary loss not presently ascertained.
- 23 34. As a direct and legal result of the acts and omissions of the Defendants and each of them
24 PLAINTIFF was rendered sick, emotionally disabled and disordered, and suffered among
25 other things, numerous emotional injuries, including but not limited to severe fright,
26 shock, pain, discomfort, and anxiety.
- 27 35. As a further legal result of the acts and omissions of Defendants and each of them,
28 PLAINTIFF has been forced to incur expenses for medical care and is informed and

believes and thereon alleges that she will in the future be forced to incur additional expenses of the same nature.

36. As a further direct and legal result of the acts and conduct of Defendants and each of them, PLAINTIFF suffered and will suffer permanent emotional and mental distress and anguish, humiliation, embarrassment, fright, shock, pain, discomfort, and anxiety in an amount within the jurisdiction of this court.

37. The aforementioned acts of Defendants and each of them, were willful, wanton, malicious, intentional, oppressive, and despicable and were done in willful and conscious disregard of the rights, welfare, and safety of PLAINTIFF, and were done by managerial agents of Defendants, and with the express knowledge, consent, and ratification of managerial employees of Defendants, thereby justifying the awarding of punitive and exemplary damages in an amount to be determined at the time of trial.

38. As a result of the harassing acts of Defendants, and each of them, as alleged herein, PLAINTIFF is entitled to reasonable attorney's fees and costs of said suit, as specifically provided in Civil Code § 52 et seq.

SECOND CAUSE OF ACTION

NEGLIGENCE PER SE - VIOLATION OF MANDATORY DUTY UNDER Health & Safety Code § 1279.1 ET SEQ. AND TITLE 22, § 70701 of the California Administrative Code (PLAINTIFF LISA LANDRY AGAINST DEFENDANTS KAISER AND AMN HEALTHCARE)

39. PLAINTIFF repeats and re-alleges each and every allegation contained in each of the paragraphs above, and incorporates the same herein by this reference as though set forth in full.

40. On July 1, 2007, Health & Safety Code § 1279.1 et seq., became effective requiring licensed health facilities, such as Defendants KAISER and AMN HEALTHCARE, to report any adverse events [and/or sentinel events] to the Department of Health Services no later than five days after an adverse event has been detected, or, if that event is an ongoing or emergent

1 threat to the welfare, health, or safety of patients, personnel or visitors, not later than 24
2 hours after the adverse event has been detected. Sexual assault on a patient within the
3 grounds of a health facility is an adverse event that requires reporting pursuant to Health &
4 Safety Code § 1279.1 (b)(6)(C).

5 41. Pursuant to Health & Safety Code§ 1279.1 et seq., Defendants KAISER and AMN
6 HEALTHCARE owed a mandatory duty to report all instances of sexual assaults at
7 KAISER, including but not limited to WEBB's sexual molestation, harassment, assault
8 and battery of patients.

9 42. Title 22, § 70701 of the California Administrative Code provides that the governing body
10 of a hospital has a duty regarding its medical care providers as follows:

11 "(a)(1)(E) Membership on the medical staff which shall be restricted to physicians,
12 dentists and podiatrists competent in their respective fields, worthy in character
and professional ethics."

13 "(a)(7) Require that the medical staff establish controls that are designed to ensure
14 the achievement and maintenance of high standards of professional ethical
practices "

15 43. Health & Safety Code§ 1279.1 et seq. and Title 22, § 70701 of the California
16 Administrative Code were designed to prevent the harm suffered by PLAINTIFF as
17 alleged herein. Specifically, Health & Safety Code§ 1279.1 et seq., was designed to
18 prevent adverse events, such as sexual assaults, that are required to be reported to the
19 Department of Health Services. Moreover, Title 22, § 70701 of the California
20 Administrative Code was designed to prevent harm inflicted upon patients by physicians
21 who were not "worthy in character and professional ethical practices," such as the sexual
22 assault and battery upon PLAINTIFF by WEBB. PLAINTIFF was within the class of
23 persons for whose protection Health & Safety Code § 1279.1 et seq. and Title 22, § 70701
24 of the California Administrative Code were adopted..

25 44. Defendants KAISER and AMN HEALTHCARE breached their duty under Health & Safety
26 Code§ 1279.1 by failing to report all prior incidents of sexual molestation, harassment,
27 assault and battery by WEBB at KAISER. Defendants KAISER and AMN HEALTHCARE
28 also breached their duty under Title 22, § 70701 of the California Administrative Code by

negligently hiring, retaining or granting staff privileges to WEBB. Defendants KAISER and AMN HEALTHCARE continued to allow WEBB unsupervised access to patients, including PLAINTIFF at KAISER.

45. California Code of Regulations § 70223(b)(2) provides that a committee of medical staff shall be assigned responsibility for "[d]evelopment, maintenance and implementation of written policies and procedures in consultation with other appropriate health professional and administration" PLAINTIFF alleges on information and belief that Defendants KAISER and AMN HEALTHCARE have a history of violating said section, and failed to implement necessary policies, including but not limited to preventing sexual assault of patients, visitors and third parties at the premises of KAISER. This regulation was designed to prevent the type of harm suffered by PLAINTIFF, who was within the class of persons the statute was designed to protect.

46. As a direct and proximate result of said breaches of duty by Defendants KAISER and AMN HEALTHCARE, WEBB's sexual assaults and battery remained unreported and unknown to the Department of Health Services.

47. As a direct and legal result of the acts and omissions of the Defendants and each of them, PLAINTIFF was rendered sick, emotionally disabled and disordered, and suffered among other things, numerous emotional injuries, including but not limited to severe fright, shock, pain, discomfort, and anxiety.

48. As a further legal result of the acts and omissions of Defendants and each of them, PLAINTIFF has been forced to incur expenses for medical care during the period of PLAINTIFF's disability and is informed and believes and thereon alleges that PLAINTIFF will in the future be forced to incur additional expenses of the same nature.

49. As a further direct and legal result of the acts and conduct of Defendants and each of them, PLAINTIFF suffered and will suffer permanent emotional and mental distress and anguish, humiliation, embarrassment, fright, shock, pain, discomfort, and anxiety in an amount within the jurisdiction of this court.

THIRD CAUSE OF ACTION

NEGLIGENT HIRING, SUPERVISION AND RETENTION

(PLAINTIFF AGAINST DEFENDANTS KAISER AND AMN HEALTHCARE)

50. PLAINTIFF repeats and re-alleges each and every allegation contained in each of the paragraphs above, and incorporates the same herein by this reference as though set forth in full.

51. PLAINTIFF alleges that at all relevant times KAISER owed a duty to provide a safe environment within the premises of KAISER. Further, KAISER owed PLAINTIFF a duty to use reasonable care in safeguarding her while she was at KAISER.

52. PLAINTIFF alleges that at all relevant times AMN HEALTHCARE owed to duty to provide registered nurses with proper training and owed a duty to ensure compliance of protocol. Further, AMN HEALTHCARE owed PLAINTIFF a duty to conduct background checks on its registered nurses and ensure that its registered nurses did not have blemished backgrounds.

53. After hiring and/or contracting WEBB, Defendants KAISER and AMN HEALTHCARE and each of them, allowed WEBB to be alone with patients without any supervision.

54. Further, during WEBB's tenure at KAISER and with AMN HEALTHCARE, WEBB inappropriately touched, sexually harassed, molested, fondled, assaulted and battered PLAINTIFF.

55. In addition, prior to working at KAISER, WEBB was fired, as a registered nurse, from Dallas Medical Center in Dallas, Texas for "saying something inappropriate."

56. Despite the allegation from Dallas Medical Center and concerns involving WEBB's inappropriate by WEBB, Defendants KAISER and AMN HEALTHCARE minimized and ignored the allegations, and allowed WEBB to work in the same position as a registered nurse where he possessed power and control over the patients, without any supervision whatsoever.

57. PLAINTIFF further alleges that Defendants breached their duty of providing a reasonably safe environment to PLAINTIFF because if Defendants would have taken reasonable

1 steps to properly screen, credential, hire, and retain WEBB, Defendants could have
2 prevented the sexual assault and battery of PLAINTIFF.

3 58. As a direct and legal result of the acts and omissions of the Defendants and each of them,
4 PLAINTIFF was rendered sick, emotionally disabled and disordered, and suffered among
5 other things, numerous emotional injuries, including but not limited to severe fright,
6 shock, pain, discomfort, and anxiety.

7 59. As a further legal result of the acts and omissions of Defendants and each of them,
8 PLAINTIFF has been forced to incur expenses for medical care during the period of
9 PLAINTIFF's disability, is informed, believes, and thereon alleges that PLAINTIFF will
10 in the future be forced to incur additional expenses of the same nature.

11 60. As a further direct and legal result of the acts and conduct of Defendants and each of
12 them, PLAINTIFF suffered and will suffer permanent emotional and mental distress and
13 anguish, humiliation, embarrassment, fright, shock, pain, discomfort, and anxiety in an
14 amount within the jurisdiction of this court.

15
16 **FOURTH CAUSE OF ACTION**

17 **INTENTIONAL INFLECTION OF EMOTIONAL DISTRESS**

18 **(PLAINTIFF AGAINST ALL DEFENDANTS)**

19 61. PLAINTIFF repeats and realleges each and every allegation contained in each of the
20 paragraphs above, and incorporates the same herein by this reference as though set forth in
21 full.

22 62. PLAINTIFF alleges that Defendants KAISER and AMN HEALTHCARE acted in an
23 extreme and outrageous manner outside the bounds of what is tolerated in society when they
24 retained WEBB and allowed him to be alone with patients, despite having ample notice of
25 his inappropriate behavior, including with PLAINTIFF.

26 63. As a direct and legal result of the acts and omissions of Defendants and each of them,
27 PLAINTIFF was rendered sick, emotionally disabled and disordered, and suffered among
28 other things, numerous emotional injuries, including but not limited to severe fright, shock,

3 PLAINTIFF has been forced to incur expenses for medical care during the period of
4 PLAINTIFF's disability and is informed and believes and thereon alleges that PLAINTIFF
5 will in the future be forced to incur additional expenses of the same nature.

6 65. As a further direct and legal result of the acts and conduct of Defendants and each of them,
7 PLAINTIFF suffered and will suffer permanent emotional and mental distress and anguish,
8 humiliation, embarrassment, fright, shock, pain, discomfort, and anxiety in an amount within
9 the jurisdiction of this court.

10
11 **FIFTH CAUSE OF ACTION**

12 **NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS**

13 **(PLAINTIFF JANE DOE AGAINST HUDSON DEFENDANTS)**

14 66. PLAINTIFF repeats and realleges each and every allegation contained in each of the
15 paragraphs above, and incorporates the same herein by this reference as though set forth in
16 full.

17 67. PLAINTIFF alleges that at all relevant times, Defendants KAISER and AMN
18 HEALTHCARE, had a mandatory duty to provide adequate care and supervision to their
19 patients, including a duty to protect the health and safety of patients residing in the state
20 hospital pursuant to California Code of Regulations §§ 77081(a) and 77117(d),
21 *Youngberg v. Romeo* (1982) 457 U.S. 307, and *Vistica v. Presbyterian Hospital* (1967) 67
22 Cal.2d 465. California law, including but not limited to California Code of Regulations
23 §§ 77081(a) and 77117(d), *Youngberg v. Romeo* (1982) 457 U.S. 307, and *Vistica v.*
24 *Presbyterian Hospital* (1967) 67 Cal.2d 465, provides protection to patients within
25 KAISER from the risk of injury, such as those injuries sustained by PLAINTIFF,
26 including but not limited to sexual battery and assault of PLAINTIFF by WEBB.
27 Defendants KAISER and AMN HEALTHCARE were required to take reasonable
28 protective measures to provide for the safety and well being of its patients, including but

1 not limited to PLAINTIFF.

2 68. Further, pursuant to Health & Safety Code § 1279.1 et seq., Defendants KAISER and AMN
3 HEALTHCARE owed a mandatory duty to report all instances of sexual assaults at
4 KAISER, including but not limited to WEBB's sexual molestation, harassment, assault
5 and battery of patients. Title 22, § 70701 of the California Administrative Code provides
6 that the governing body of a hospital has a duty regarding its medical care providers as
7 follows:

8 "(a)(1)(E) Membership on the medical staff which shall be restricted to physicians,
9 dentists and podiatrists competent in their respective fields, worthy in character
10 and professional ethics."

11 "(a)(7) Require that the medical staff establish controls that are designed to ensure
12 the achievement and maintenance of high standards of professional ethical
13 practices"

14 69. At all relevant times alleged herein, Defendants had a duty to exercise reasonable care in
15 the supervision of medical personnel, including registered nurses, including but not
16 limited to WEBB. Defendants also had the duty to supervise and ensure the health and
17 safety of their patients, including PLAINTIFF. Consequently, a special relationship
18 existed between PLAINTIFF and Defendants that gave rise to a duty to prevent the harms
19 caused by the misconduct of others and each other, and to prevent the harms caused by the
20 intentionally tortious or criminal conduct of its agent such as WEBB. This relationship between
21 PLAINTIFF and the Defendants gave rise to Defendants' duty to exercise due care to protect
22 PLAINTIFF from sexual abuse, sexual touching, sexual harassment, and non-consensual and/or
23 inappropriate physical contact by individuals.

24 70. DEFENDANTS knew, or in the exercise of reasonable care, should have known that their failure
25 to exercise such due care in the performance of their supervisory duties as well as other such
26 conduct would cause PLAINTIFF severe emotional distress.

27 71. DEFENDANTS breached said duty by failing to exercise due care in the supervision, and
28 monitoring of WEBB. Defendants knew or should have known that WEBB posed a danger to
patients, yet WEBB was placed in the powerful position of having control over patients, making
PLAINTIFF more susceptible to WEBB's misconduct, which included his sexual assault, battery,

1 and molestation of PLAINTIFF. Further, DEFENDANTS failed to report the incidents involving
2 WEBB's sexual assault on patients, prior to his assault on PLAINTIFF, in violation of Health &
3 Safety Code§ 1279.1 et seq.

4 72. As a direct and legal result of the acts and omissions of Defendants and each of them,
5 PLAINTIFF was rendered sick, emotionally disabled and disordered, and suffered among other
6 things, numerous emotional injuries, including but not limited to severe fright, shock, pain,
7 discomfort, and anxiety.

8 73. As a further legal result of the acts and omissions of Defendants and each of them, PLAINTIFF
9 has been forced to incur expenses for medical care during the period of PLAINTIFF's disability
10 and is informed and believes and thereon alleges that PLAINTIFF will in the future be forced to
11 incur additional expenses of the same nature.

12 74. As a further direct and legal result of the acts and conduct of Defendants and each of them,
13 PLAINTIFF suffered and will suffer permanent emotional and mental distress and anguish,
14 humiliation, embarrassment, fright, shock, pain, discomfort, and anxiety in an amount within the
15 jurisdiction of this court.

16 17 SIXTH CAUSE OF ACTION

18 SEXUAL BATTERY

19 (PLAINTIFF LISA AGAINST CECIL WEBB, JR. AND DOES 17-25)

20 75. PLAINTIFF repeats, realleges, and incorporates by this reference all preceding paragraphs of
21 this Complaint with the same force and effect as if set forth in full.

22 76. In doing the wrongful acts described hereinabove, WEBB and DOES 17 to 25, inclusive,
23 intentionally forced PLAINTIFF to engage in sexual acts, over an extended period of time, and
24 on multiple occasions, which resulted in sexually offensive contacts with PLAINTIFF's person.

25 77. WEBB and DOES 17 to 25, inclusive, did so with the intent to cause a harmful and/or offensive
26 contact with an intimate part of PLAINTIFF's person.

27 78. PLAINTIFF did not at any time consent to the sexual contact.

28 79. As a direct and proximate result of said sexual battery, PLAINTIFF has suffered and continues to

1 suffer pain, discomfort, anxiety, extreme emotional distress, embarrassment, humiliation,
2 depression, shock, and injury to their personal dignity, as well as substantial losses in medical
3 expenses, and other damages, all in an amount according to proof and in excess of the minimum
4 jurisdictional requirements of this Court. If the Court requires, PLAINTIFF shall seek leave of
5 Court to amend this Complaint with the exact amount of their damages when the same has been
6 ascertained.

7 80. The aforementioned conduct of WEBB and DOES 17 to 25, inclusive, was willful,
8 oppressive and/or was done with reckless disregard for the rights of PLAINTIFF and was
9 intended to oppress and cause injury to PLAINTIFF. Said conduct of WEBB and/or
10 DOES 17 to 25, inclusive, was intentional and was designed to deprive PLAINTIFF of
11 her rights and was despicable conduct that subjected PLAINTIFF to a cruel and unjust
12 hardship so as to justify an award of exemplary and punitive damages.

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1 **PRAYER FOR DAMAGES**

2 WHEREFORE, PLAINTIFF prays for judgment against Defendants, and each of them as
3 follows:

4 **FIRST CAUSE OF ACTION**

5 **SEXUAL HARASSMENT IN VIOLATION OF CIVIL CODE §§ 51.9 AND 52**

- 6 1. General damages for emotion distress, physical pain, and mental suffering
7 according to proof;
- 8 2. Special damages, for medical and psychological care expenses, past, present, and
9 future consequential and incidental expenses incurred, and all additional economic
10 losses legally caused by Defendants' conduct according to proof;
- 11 3. Loss of earnings and loss of earning capacity, according to proof;
- 12 4. For attorneys' fees according to proof;
- 13 5. All civil penalties provided by statute, including but not limited to, Civil Code
14 Section 52(b)(2);
- 15 6. Interest at the legal rate;
- 16 7. For punitive and exemplary damages according to proof;
- 17 8. Costs of suit incurred herein; and
- 18 9. Such other and further relief as the court deems just and proper.

19
20 **SECOND CAUSE OF ACTION**

21 **NEGLIGENCE PER SE**

- 22 1. General damages for emotion distress, physical pain, and mental suffering
23 according to proof;
- 24 2. Special damages, for medical and psychological care expenses, past, present, and
25 future consequential and incidental expenses incurred, and all additional economic
26 losses legally caused by Defendants' conduct according to proof;
- 27 3. Loss of earnings and loss of earning capacity, according to proof;
- 28 4. For attorneys' fees according to proof;

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Section 52(b)(2);

6. Interest at the legal rate;
7. For punitive and exemplary damages according to proof;
8. Costs of suit incurred herein; and
9. Such other and further relief as the court deems just and proper.

THIRD CAUSE OF ACTION

NEGLIGENT HIRING, RETENTION, SUPERVISION

1. General damages for emotion distress, physical pain, and mental suffering according to proof;
2. Special damages, for medical and psychological care expenses, past, present, and future consequential and incidental expenses incurred, and all additional economic losses legally caused by Defendants' conduct according to proof;
3. Loss of earnings and loss of earning capacity, according to proof;
4. For attorneys' fees according to proof;
5. Interest at the legal rate;
6. For punitive and exemplary damages according to proof;
7. Costs of suit incurred herein; and
8. Such other and further relief as the court deems just and proper.

FOURTH CAUSE OF ACTION

INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

1. General damages for emotion distress, physical pain, and mental suffering according to proof;
2. Special damages, for medical and psychological care expenses, past, present, and future consequential and incidental expenses incurred, and all additional economic losses legally caused by Defendants' conduct according to proof;

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5. Interest at the legal rate;
6. For punitive and exemplary damages according to proof;
7. Costs of suit incurred herein; and
8. Such other and further relief as the court deems just and proper.

FIFTH CAUSE OF ACTION

NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS

1. General damages for emotion distress, physical pain, and mental suffering according to proof;
2. Special damages, for medical and psychological care expenses, past, present, and future consequential and incidental expenses incurred, and all additional economic losses legally caused by Defendants' conduct according to proof;
3. Loss of earnings and loss of earning capacity, according to proof;
4. For attorneys' fees according to proof;
5. Interest at the legal rate;
6. For punitive and exemplary damages according to proof;
7. Costs of suit incurred herein; and
8. Such other and further relief as the court deems just and proper.

SIXTH CAUSE OF ACTION

SEXUAL BATTERY


1. General damages for emotion distress, physical pain, and mental suffering according to proof;
2. Special damages, for medical and psychological care expenses, past, present, and future consequential and incidental expenses incurred, and all additional economic losses legally caused by Defendants' conduct according to proof;

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3. Loss of earnings and loss of earning capacity, according to proof;
4. For attorneys' fees according to proof;
5. Interest at the legal rate;
6. For punitive and exemplary damages according to proof;
7. Costs of suit incurred herein; and
8. Such other and further relief as the court deems just and proper.

DATED: 11/10/16

LAW OFFICE OF PAUL B. KEMP
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Attorney for Plaintiff
LISA LANDRY

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