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FILED
Superior Court of California
County of Los Angeles

MAR 09 2018

Sherril B. Carter, Executive Officer/Clerk
By Marlon Gomez Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES
CENTRAL DISTRICT

9 LAURA DAY,

10 Plaintiff,

11 v.

12 RANDAL D. HAWORTH; RANDAL D.
13 HAWORTH, M.D., INC. and
14 DOES 1 through DOES 10, inclusive,

15 Defendants.

CASE NO. BC647089

16 **NOTICE OF MOTION BY PLAINTIFF**
17 **LAURA DAY TO FILE FIRST**
18 **AMENDED COMPLAINT;**

19 **MEMORANDUM OF POINTS AND**
20 **AUTHORITIES;**

21 **DECLARATION OF CHRISTOPHER**
22 **L. RUDD; EXHIBITS THERETO**

23 **Date: 4/27/18**
24 **Time: 1:30pm**
25 **Place: Dept. 97**

26 **[Reservation No. 180309296356]**

LAW OFFICES OF CHRISTOPHER L. RUDD
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8107/31/18

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NOTICE OF MOTION

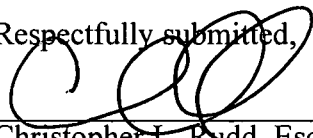
TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on April 27, 2018 at 1:30 pm., or as soon thereafter as this matter may be heard, in Department 97 of the above-entitled court, located at 111 North Hill Street, Los Angeles, California 90012, plaintiff Laura Day ("Plaintiff") will move the court (the "Motion") for an order granting Plaintiff leave to file a verified first amended complaint ("FAC") in this action, pursuant to Rule 3.1324 of the California Rules of Court and California Code of Civil Procedure ("CCP") §§ 473 and 576.

The Motion will be supported by this Notice, the attached Memorandum of Points and Authorities; the attached Declaration of Christopher L. Rudd ("Rudd Decl.") and exhibits thereto including a copy of the verified, proposed FAC, the accompanying [Proposed] Verified First Amended Complaint, lodged separately, the accompanying [Proposed] Order lodged separately, and any other evidence or argument presented at or before the hearing on the motion.

Pursuant to subdivision (c) of Rule 3.1324 of the California Rules of Court, the supporting Rudd Dec. specifies: (1) The effect of the amendment; (2) Why the amendment is necessary and proper; (3) When the facts giving rise to the amended allegations were discovered; and (4) The reasons why the request for amendment was not made earlier.

Dated: March 9, 2018

Respectfully submitted,

Christopher L. Rudd, Esq.
Attorneys for Plaintiff

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MEMORANDUM OF POINTS AND AUTHORITIES

I. Introduction

On or about January 18, 2017, Plaintiff filed Los Angeles Superior Court Case No. BC 647089, *Laura Day v. Randal D. Haworth MD, and Does 1-10* (the “Initial Complaint”). The Initial Complaint pled four causes of action against Dr. Randal D. Haworth (“Dr. Haworth”) and Does 1-10 for:

- 1. MEDICAL MALPRACTICE,
- 2. BREACH OF CONTRACT,
- 3. BREACH OF WARRANTY and
- 4. MEDICAL BATTERY

Dr. Haworth answered the Initial Complaint on or about March 14, 2017.

During discovery and more particularly during the January 31, 2018, deposition of Monica Berlin (“Ms. Berlin”) Dr. Haworth’s former Surgical Assistant and Surgical Consultant, Plaintiff learned facts that gave rise to Plaintiff’s additional claims for:

- 5. FRAUD,
- 6. FRAUDULENT CONCEALMENT,
- 7. FRAUDULENT INDUCEMENT,
- 8. INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS, and
- 9. UNFAIR COMPETITION.

Plaintiff now seeks leave to file her proposed verified First Amended Complaint, attached as Exhibit A to the accompanying declaration of Christopher L. Rudd (“Rudd Dec”) ¶ 2.

II. Procedural Background for This Motion:

Plaintiff was badly injured by Dr. Haworth during surgery Dr. Haworth performed on Plaintiff on October 29, 2015. Exhibit A to Rudd Dec ¶¶ 37-42. As originally filed, the Initial Complaint

1 asserted claims against Dr. Haworth of a type fairly typical in medical malpractice cases: for medical
2 malpractice, breach of contract, breach of warranty and for medical battery. The parties engaged in
3 written discovery and Plaintiff's deposition was taken by Dr. Haworth on November 16, 2017. Rudd
4 Dec. ¶ 3 However, during Ms. Berlin's Deposition on January 31, 2018, Plaintiff learned new and
5 troubling facts giving rise to the additional claims asserted in the proposed FAC, including that:

- 6 a. At least in 2015, and apparently since 2010, Dr. Haworth was apparently having very
7 serious problems with his vision, including with his depth-perception. Upon further
8 information and belief, Dr. Haworth's vision issues seriously affected his skill, ability and
9 competence to perform surgery at all and made him not competent to perform Plaintiff's
10 surgical procedures as undertaken by Dr. Haworth on October 29, 2015. Dr. Haworth
11 failed to disclose and concealed from Plaintiff these problems (Exhibit A to Declaration of
12 Christopher L. Rudd ("Rudd Dec.") at paragraph 7. Plaintiff has also learned that Dr.
13 Haworth's vision and depth-perception problems began, following Dr. Haworth's
14 treatment, in around 2009 and 2010, for a cancerous tumor in his eye. (Id.). Plaintiff
15 further learned that by 2015, Dr. Haworth had undergone and was continuing a long series
16 of treatments for his vision problems, through regular steroid injections that were intended
17 to stabilize his vision for a period of time after each such injection. (Id.)
- 18 b. During the Berlin Deposition Plaintiff also learned that Dr. Haworth has been apparently
19 been forging, altering and falsifying patient consent forms, patient care charts and other
20 patient medical records, as well as fabricating the documents required for him to maintain
21 the accreditation of his surgical center. (Id.)
- 22 c. During the Berlin Deposition Plaintiff also learned that Dr. Haworth has reportedly
23 regularly and unlawfully used the powerful pain-killer, Percocet, including before and
24 during his performance of surgical procedures. (Id.)
- 25 d. During the Berlin Deposition Plaintiff learned that Dr. Haworth has also reportedly run a
26 sophisticated, secret operation in person, by proxy and on the internet, to suppress, bully
27 and retaliate against unhappy patients and others who have accused him of wrongdoing.

1 written negative things about him on social media, taken legal action against him or
2 otherwise tried to warn others about him. (Id.)

- 3 e. During the Berlin Deposition, Plaintiff learned that Dr. Haworth has also regularly played
4 hard-core pornography and videos showing extreme and graphic violence, such as actual
5 beheadings, on a monitor, on in the background during during some of his surgeries. Id.
6 (Paragraph 7 subparagraphs a-e above are some of the “Concealed Facts” referenced in the
7 proposed, verified, FAC.)

8 Rudd Dec. ¶ 6, Exh. A to Rudd Dec. ¶ 7.

9 This action is set not set for trial until July of 2018. Discovery is underway with substantial
10 written discovery completed, but a number of depositions, including the depositions of Dr. Haworth¹
11 and key third-party witnesses have been scheduled, but not yet taken. Rudd Dec. ¶ 3 There have been
12 no motions of any kind heard, let alone summary judgment or other dispositive motions, nor has the
13 trial date in this matter been continued. Id. There can be no credible claim of prejudice to Dr. Haworth
14 in Plaintiff’s amending the complaint at this stage of proceedings.

15 **III. Argument**

16 **A. Statutory Authority.**

17 The court, in its discretion, may allow an amendment to any pleading in the furtherance
18 of justice and on terms which may be just. Cal Code Civ. Proc. (“CCP”) § 473. Amendment
19 may be allowed by the court at any time before or after the commencement of trial. CCP
20 § 576.

21 **B. Denial of Leave to Amend Is Rarely Justified.**

22 Courts exercise the discretion to permit amendments liberally, because judicial policy
23 favors resolution of all disputed matters. *Nestle v. Santa Monica*, 6 Cal. 3d. 920, 39, 101 Cal.
24 Rptr. 568 (1972). A court will very *rarely* be justified in refusing a party leave to amend so
25 that he or she may properly present their case. *Guidery v. Green*, 95 Cal. 630, 633, 30 P. 786
26

27 ¹ The deposition of Dr. Haworth had been scheduled but was taken off calendar after objections by his
28 counsel following Ms. Berlin’s testimony.

1 (1892). “It is the settled law of this state that motions to amend pleadings to the end that
2 justice may be promoted are to be liberally granted.” *Rabe v. Western Union Tel. Co.*, 198 Cal.
3 290, 298, 244 P.2d 1077 (1926).

4 In fact, the policy in favor of granting leave to amend is so liberal that it is not
5 uncommon for a court to grant leave to amend in order for the pleadings to conform to the
6 proof offered at trial. CCP § 473 gives trial courts discretion to allow a party to amend his or
7 her pleadings “in furtherance of justice,” while section 576 states that such leave to amend
8 may be granted even after the commencement of trial, and section 469 specifically governs
9 motions to amend at trial to conform to proof.²

10 **C. The Proposed Verified FAC is Timely and Causes No Prejudice.**

11 A party may move to amend a pleading any time before or after the commencement of
12 trial, in the furtherance of justice. CCP § 576. The “possibility of prejudice to the adverse party
13 in being forced to meet new issues while engaged in the trial, or in being faced with a
14 continuance after preparing for a particular trial date” is usually the reason offered in
15 upholding the denial of leave to amend. BERNARD E. WITKIN, CALIFORNIA CIVIL PROCEDURE,
16 *Pleading*, § 1133, at 548-49 (3d ed. 1985). Without a showing of such prejudice, a court must
17 grant a motion for leave of court to amend.

18 It is an abuse of the court’s discretion to deny a timely motion to amend when the
19 refusal deprives a party of the right to assert a meritorious cause of action or defense, if
20 granting leave to amend will not prejudice the opposing party. *Redevelopment Agency v.*
21 *Herrold*, 86 Cal. App. 3d 1024, 1031, 150 Cal. Rptr. 621 (1978). Timeliness is liberally
22 construed; so long as it has not misled or prejudiced the other side, the court should grant leave
23 to amend. *Higgins v. Del Faro*, 123 Cal. App. 3d 558, 176 Cal. Rptr. 704 (1981). “[W]here the
24 delay is excusable [as it is here], and no prejudice to the adverse party is shown, the *liberal*

25 ² Section 469 provides in relevant part as follows: “No variance between the allegation in a
26 pleading and the proof is to be deemed material unless it has actually misled the adverse party to his
27 prejudice in maintaining his action or defense upon the merits.” Such amendments at trial to conform
28 to proof, “if not prejudicial, are favored since their purpose is to do justice and avoid further useless
litigation.” *Union Bank v. Wendland*, 54 Cal. App. 3d 393, 400, 126 Cal. Rptr. 549 (1976).

1 rule of allowance prevails.” WITKIN, *supra*, § 1132, at 547 (emphasis added); *Landis v.*
2 *Superior Ct.*, 323 Cal. App. 2d 548, 557, 42 Cal. Rptr. 893 (1965).

3 Plaintiff’s motion to amend was made shortly after the facts giving rise to the
4 new claims were discovered and a certified copy of Ms. Berlin’s transcript was available.
5 Rudd Dec. ¶¶ 3,5,6. The Motion is made sufficiently far in advance of trial that it should not
6 have a large impact on discovery as most of the non-expert written discovery has already been
7 propounded and many of the additional party and non-party percipient witness depositions
8 required by the new claims are already being scheduled Rudd Dec. ¶ 3.

9 **D. The Amendment Is Proper.**

10 Courts will usually permit a broad range of amendments, as long as there are no statute
11 of limitations problem, including additional parties or entirely different causes of action not
12 even related to the claims originally pleaded. *Herrera v. Superior Court*, 158 Cal. App. 3d
13 255, 204 Cal. Rptr. 553 (1984) (error to deny amendment adding intentional torts to
14 negligence complaint). The principal amendments in the proposed, Verified FAC add Dr.
15 Haworth’s professional corporation as a defendant as well as 5 new causes of action for. (i)
16 FRAUD; (ii) FRAUDULENT CONCEALMENT; (iii) FRAUDULENT INDUCEMENT; (iv)
17 INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS and (v) UNFAIR
18 COMPETITION.
19
20

21 The proposed verified FAC poses no statute of limitations problem. Facts giving rise to
22 the proposed, verified FAC were just discovered and the proposed, verified FAC is based upon
23 on the same general set of facts and seeks recovery for the same injuries. *Barrington v. A.H.*
24 *Robbins Co.*, 39 Cal. 3d 146, 150, 216 Cal. Rptr. 405, 407 (1985).
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IV. Conclusion

For all the foregoing reasons, the Court must grant Plaintiff's motion for leave to file the Plaintiff's proposed, verified FAC.

Dated: March 9, 2018

Respectfully submitted,

Christopher L. Rudd, Esq.
Attorneys for Plaintiff

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DECLARATION OF CHRISTOPHER L. RUDD

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1. I am an attorney, licensed to practice before this court and counsel of record for plaintiff Laura Day (“Plaintiff”) in this matter. I offer this declaration in support Plaintiff’s motion (the “Motion”) to file a verified first amended complaint (“FAC”). Except where set forth on information and belief, the matters set forth herein are true and correct of my own knowledge and if called upon, I could and would testify competently thereto.

2. A true and correct copy of Plaintiff’s proposed, Verified First Amended Complaint (“FAC”) signed, verified and ready for filing, is attached hereto as Exhibit A.

3. The original complaint herein was filed on or about January 18, 2017 and was answered by Dr. Haworth in March of 2017. Plaintiff’s deposition took place on or about November 16, 2017 and the deposition of Monica Berlin (“Ms. Berlin”) took place on or about January 31, 2018. Ms. Berlin was Dr. Haworth’s former Surgical Assistant and Surgical Consultant. Ms. Berlin’s certified deposition transcript was made available only on about February 9, 2018 and is yet to be signed.

4. The proposed Verified FAC, verifies Plaintiff’s claims, adds one defendant, Dr. Haworth’s professional corporation and five new causes of action for 5. FRAUD, 6. FRAUDULENT CONCEALMENT, 7. FRAUDULENT INDUCEMENT, 8. INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS, and 9. UNFAIR COMPETITION.

5. The Proposed verified FAC is necessary and proper because Plaintiff only learned of the possible existence of such claims during discovery and only confirmed the facts giving rise to those claims during the January 31, 2018 deposition of Ms. Berlin.

6. The reason that that Plaintiff did not make seek to file the FAC earlier because the possible existence of facts giving rise to the new claims only arose recently and were confirmed by Ms. Berlin during her January 31, 2018 and by copies of documents supporting the new claims, that were produced by Ms. Berlin shortly before and at her deposition. A certified copy of the transcript of Ms. Berlin’s testimony was only available as of about February 9, 2018 and has not yet been signed.

7. True and correct copies (with names and phone numbers redacted) of some of the

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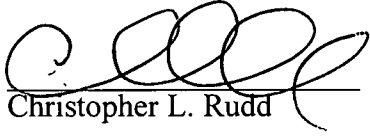
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documents produced by Ms. Berlin in connection with her deposition were copies of text messages and transcripts of text messages and of text messages between Ms. Berlin on the one hand, and third parties on the other are attached hereto as Exhibit B, with phone numbers redacted. In addition to redactions of names other than the witness, Ms. Berlin, and of telephone number, the documents attached hereto Exhibit B were not marked confidential and are not otherwise subject to any protective order.

8. On or about March 7, 2017 I requested in writing that Dr. Haworth's attorney, Michael Gonzalez, Esq. stipulate to the filing of the FAC herein, but received no response.

9. Attached hereto as Exhibit C is a copy of the receipt for the CRS reservation in this matter, with name and credit card number redacted.

I declare the foregoing to be true and correct under the laws of the State of California, executed by me this 9th day of March, 2017 at Sherman Oaks, CA.


Christopher L. Rudd

03/13/2018

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Attorneys for Plaintiff LAURA DAY

SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES

LAURA DAY,

Plaintiff,

v.

RANDAL D. HAWORTH; RANDAL D.
HAWORTH, M.D., INC. and
DOES 1 through DOES 10, inclusive,

Defendants.

Case No.

**[PROPOSED] VERIFIED FIRST
AMENDED COMPLAINT FOR:
1. MEDICAL MALPRACTICE,
2. BREACH OF CONTRACT,
3. BREACH OF WARRANTY,
4. MEDICAL BATTERY,
5. FRAUD,
6. FRAUDULENT CONCEALMENT,
7. FRAUDULENT INDUCEMENT,
8. INTENTIONAL INFLICTION OF
EMOTIONAL DISTRESS,
9. UNFAIR COMPETITION**

**RENEWED DEMAND FOR JURY
TRIAL**

[Verification Attached]

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1 Plaintiff LAURA DAY alleges:

2 **PARTIES**

3 1. Plaintiff Laura Day ("Plaintiff") is and, at all times relevant herein has been, an
4 individual, residing in the County of Ventura, State of California.

5 2. Defendant Dr. Randal Haworth, M.D. ("Dr. Haworth") is and, at all times relevant
6 herein has been, an individual doing business, and upon information and belief, residing in the
7 County of Los Angeles, State of California.

8 3. Plaintiff is informed and believes that Defendant Randal D. Haworth, M.D., Inc.
9 is Dr. Haworth's professional corporation (the "PC") for his surgical practice and is registered in
10 the State of California with the number C2056288. Dr. Haworth is listed as the President, Chief
11 Financial Officer and Secretary of the Corporation. For the balance of this Amended Complaint,
12 the term "Dr. Haworth" includes both the individual doctor and the PC.

13 4. Plaintiff is informed and believes and based thereon alleges that each of the
14 fictitiously named defendants, sued herein as DOES 1 through 10 inclusive, are individuals,
15 corporations or other entities type unknown, which are in some manner responsible or legally
16 liable for the actions, events, transactions and circumstances alleged herein. The true names,
17 types and capacities of such fictitiously-named defendants are presently unknown to Plaintiff.
18 Plaintiff will seek leave of Court to amend this Complaint to assert the true names, types and
19 capacities of such fictitiously-named defendants once ascertained by Plaintiff. For convenience,
20 each reference to the Dr. Haworth shall also refer to the PC and to defendants DOES 1 through
21 10.

22 5. Plaintiff is informed and believes and based thereon alleges that in performing the
23 acts alleged herein each Defendant was and is the agent, licensee, employee, partner, joint-
24 venturer, co-conspirator, owner, principal, or employer of each remaining Defendant, including
25 DOES 1-10. Plaintiff further alleges on information and belief that at all relevant times each
26 Defendant was acting within the course and scope of that agency, license, partnership,
27 employment, conspiracy, ownership, or joint venture in undertaking the acts alleged herein.
28 Plaintiff is further informed and believe and based thereon allege that the acts and conduct herein

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03/12/2018

1 alleged of each of the Defendants were known to, authorized by, or ratified by the other
2 Defendants, and each of them.

3
4 **FACTS COMMON TO ALL COUNTS**

5 **A. Dr. Haworth's Years of Lies and Deceit**

6 6. In 2015, Dr. Haworth held himself out to be an exceptionally skilled, experienced,
7 successful and very well-known Beverly Hills Plastic Surgeon. He had an office on Bedford
8 Drive he called the "Haworth Institute" which was located in the world-famous area of Beverly
9 Hills called "the Golden Triangle." He had starred in a reality-television show about plastic
10 surgery called "The Swan." Upon information and belief, he was often seen and photographed
11 socializing with the rich and the famous, lived in a multi-million-dollar home in West
12 Hollywood, drove an ever-changing array of very-expensive cars and dated an array of younger,
13 beautiful women

14 7. Upon information and belief, at all relevant times, Dr. Haworth has also been a
15 man living a lie, desperate to conceal certain facts that affected his skill, ability and competence
16 from his patients and from the public. These concealed facts include each of the following:

- 17 a. At least in 2015, and apparently since 2010, Plaintiff is informed and believes and
18 thereon alleges that Dr. Haworth was having very serious problems with his vision,
19 including with his depth-perception. Upon further information and belief, Dr.
20 Haworth's vision issues seriously affected his skill, ability and competence to perform
21 surgery at all and made him not competent to perform Plaintiff's surgical procedures
22 as undertaken by Dr. Haworth on October 29, 2015. Upon further information and
23 belief, Dr. Haworth's problems began following his treatment, in around 2009 and
24 2010, for a cancerous tumor in Dr. Haworth's eye. Dr. Haworth did not disclose his
25 problems with vision and depth-perception to Plaintiff or, upon information and belief
26 to other patients. Upon information and belief, by 2015, Dr. Haworth had undergone
27 and was continuing a long series of treatments for his vision problems, through
28 regular steroid injections that were intended to stabilize his vision for a period of time
after each such injection.

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- b. Upon information and belief, at all relevant times herein, Dr. Haworth has been forging, altering and falsifying patient consent forms, patient care charts and other patient medical records, as well as fabricating the documents required for him to maintain the accreditation of his surgical center. Upon further information and belief, sometimes Dr. Haworth personally forged, altered or falsified such documents, and on other occasions ordered his employees, ex-employees and colleagues to forge, alter and/or falsify such documents, with the implied or explicit threat of job loss or retaliation if the individual did not follow his instruction.
- c. Upon information and belief, at all relevant times herein, Dr. Haworth regularly and unlawfully used the powerful pain-killer, Percocet, including before and during his performance of surgical procedures. Upon further information and belief, Dr. Haworth both keeps his own “office supply” of Percocet for his personal use while working, seeing patients or operating and also has written and continues to write knowingly false prescriptions for Percocet and other controlled drugs to various third-parties, such as his girlfriends; who then fill the prescriptions on Dr. Haworth’s behalf and for his personal use and consumption.
- d. On information and belief, since at least 2013 Dr. Haworth has also regularly used other illicit drugs, such as cocaine and MDMA, commonly called “Ectasy” or “E,” and ingested them within 24 or fewer hours prior to performing surgical procedures.
- e. Upon information and belief, at all times relevant hereto, Dr. Haworth has also run a sophisticated, secret operation in person, by proxy and on the internet, to suppress, bully and retaliate against unhappy patients and others who have accused him of wrongdoing, written negative things about him on social media, taken legal action against him or otherwise tried to warn others about him. Upon information and belief, in order to do so Dr. Haworth and those under his direction have used and continue to use false identities and phony reviewers, to troll, “gaslight” and undercut the credibility of those who write and say negative things about him. Upon further information and belief, Dr. Haworth has used threats and his status and power in the

1 medical community and among the rich and the famous to silence potential lay and
2 expert witnesses against him.
3 f. On information and belief, from at least 2015 through the present, Dr. Haworth has
4 regularly played hard-core pornography and videos showing extreme and graphic
5 violence, such as actual beheadings, on a monitor, on in the background during
6 during some of his surgeries. Upon further information and belief, in displaying such
7 images, Dr. Haworth has subjected those present, including anesthesiologists,
8 operating room nurses and other surgical staff, to images and sounds that were so
9 gruesome, disturbing and distracting as to interfere with the ability of everyone in the
10 operating room to adequately focus on patient surgery safety.

11 (Subparagraphs a-f above are referred to as the “Concealed Facts”)

12 8. Upon information and belief, for years now and during all times relevant hereto,
13 Dr. Haworth has tried to keep secret the Concealed Facts and he has engaged in overt and covert
14 bullying, threats, disparagement, defamation and intimidation of those who might reveal or
15 substantiate them.

16 9. Upon information and belief, Dr. Haworth is a man beset by physical, emotional
17 and professional problems that he cannot risk becoming public, who has used desperate measures
18 to maintain what he values most: his income, his “Jet-Set” lifestyle and his professional
19 reputation.

20 **Plaintiff’s Decision to Use Dr. Haworth to Perform Surgery**

21 10. Plaintiff is an adult woman now aged 63. At all relevant times prior to Plaintiff’s
22 Surgery, Plaintiff had been a competitive equestrian and a successful businesswoman. She is also
23 married, with grown children.

24 11. On June 1, 2015, Plaintiff had turned 60. She was beautiful, happy and
25 exceptionally successful. In her forties, Plaintiff had undergone minor cosmetic surgical
26 procedures to her eyes and cheeks. Years later, in her mid-fifties, Plaintiff had undergone a face
27 lift. Those procedures had gone well and Plaintiff was pleased with their results.

28 12. On June 1, 2015, Plaintiff visited Dr. Haworth for an initial consultation (the

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1 “Initial Consultation”). At the time of the Initial Consultation, Plaintiff was a very competitive
2 equestrian who was often in the public eye. Plaintiff was considering an eye lift, lip surgery, and
3 lower facelift procedures (“Plaintiff’s Desired Procedures”). As Plaintiff told others at the time,
4 having then turned 60, she wished to undergo and complete Plaintiff’s Desired Procedures but
5 had no plans to have cosmetic surgery thereafter.

6 13. Plaintiff had chosen to see Dr. Haworth for the Initial Consultation, based upon
7 the recommendation of her adult daughter, who previously been Dr. Haworth’s patient.
8 Plaintiff’s daughter accompanied her to the Initial Consultation as well as to Plaintiff’s
9 subsequent appointments with Dr. Haworth. For the Initial Consultation, Plaintiff and her
10 daughter visited Dr. Haworth in his offices at his “Haworth Institute,” then on Bedford Drive in
11 Beverly Hills, California.

12 14. The Initial Consultation was lengthy. Dr. Haworth and Plaintiff separately
13 discussed each Desired Procedure Plaintiff contemplated, with input from Plaintiff and her
14 daughter.

15 15. A large part of the Initial Consultation was a “sales pitch” by Dr. Haworth
16 regarding his own extraordinary care, skill, experience and expertise in performing the expensive
17 services and surgical procedures Dr. Haworth marketed and sold through his “Haworth Institute
18 Dr. Haworth showed Plaintiff numerous photographs of successful surgeries he had performed
19 on other patients. Dr. Haworth's sales pitch at the Initial Consultation was in order to: (a)
20 persuade Plaintiff to hire him as her plastic surgeon in order to perform Plaintiff’s Desired
21 Procedures; (b) convince Plaintiff that he was the most qualified and skilled doctor to perform
22 each of Plaintiff’s Desired Procedures; (c) persuade Plaintiff to have all the Desired Procedures
23 performed (and paid for) at the same time; and (d) convince Plaintiff that Plaintiff’s Desired
24 Procedures would each have a favorable outcome that would leave her looking far more
25 attractive and youthful.

26 16. During Dr. Haworth’s sales pitch at the Initial Consultation and repeatedly
27 afterwards, Dr. Haworth and Plaintiff discussed and agreed that, because Plaintiff already had
28 high cheekbones and full cheeks (“cheeks to high heaven”) as Dr. Haworth described them to

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1 Plaintiff and her daughter, Dr. Haworth would not do any procedure that would have the effect of
2 scarring, flattening or altering the appearance of Plaintiff's cheeks. Dr. Haworth never advised
3 Plaintiff that any of the Desired Procedures, individually or collectively, would or could alter or
4 scar her cheeks or the planes of her face. In fact, Dr. Haworth's surgery left Plaintiff with
5 extensive, external sutures and scarring on either side of her mouth that extended vertically into
6 her cheeks. Post-surgery and for some time thereafter, the scarring was so bad that Plaintiff
7 resembled the character "The Joker" in the Batman movie. Even over time, these sutures left
8 permanent scars on her face that Plaintiff expects will require periodic expensive and painful
9 injections for the rest of Plaintiff's life.

10 17. Dr. Haworth's attentive sales pitch as delivered to Plaintiff and her daughter at the
11 Initial Consultation, was reinforced at each pre-operative visit that followed. Upon information
12 and belief, Dr. Haworth made and reinforced his sales pitch in large part because undertaking
13 Plaintiff's Desired Procedures at his own surgical center would generate an extraordinary amount
14 of income for Dr. Haworth. Plaintiff's Desired Procedures would cost Plaintiff approximately
15 \$80,000.00; all paid to Dr. Haworth directly by Plaintiff and, at his insistence, all paid prior to
16 the date scheduled for surgery.

17 18. At no time before Plaintiff's Surgery did Dr. Haworth discuss with Plaintiff any of
18 the risks associated with having surgery in a private surgical center, versus at a hospital. Upon
19 information and belief, Plaintiff believes surgery at a private surgical center rather than at a
20 hospital includes at least the following risks: (a) unlike in a hospital, a patient may not be told of
21 errors or unusual circumstances that occur during time that the patient is unconscious; (b) there is
22 higher risk of falsification or altering documents required for accreditation of a private surgical
23 center; (c) there is a lack of unrelated colleagues and staff and emergency facilities and
24 professionals to respond to and correct any errors during surgery and to ensure that a patient is
25 not left under general anesthesia for too long; (d) the greater risk that procedures will go awry
26 and not be corrected in a surgical center under the supervision only of Dr. Haworth as surgeon,
27 overseeing his employees and regular colleagues; and (e) of age and general condition of the
28 equipment and operating theater in a private surgical center (the "Surgical Center Risks").

1 19. Dr. Haworth never voluntarily revealed the Concealed Facts, or, upon information
2 and belief, the Surgical Center Risks or *any* of them to Plaintiff. Upon information and belief,
3 Dr. Haworth has made substantial and ongoing efforts to prevent at least the Concealed Facts
4 from becoming public.

5 20. Based upon Dr. Haworth's sales pitch at the Initial Consultation, his continuing
6 recommendations and consultations thereafter and based upon Dr. Haworth's failure to disclose
7 any of the Concealed Facts, Plaintiff agreed to allow Dr. Haworth to perform Plaintiff's Desired
8 Procedures in one surgery to take place at a private surgical center ("Plaintiff's Surgery"). Dr.
9 Haworth performed Plaintiff's Surgery on October 29, 2015 at the Roxbury Clinic and Surgery
10 Center (the "Center").

11 21. Before undertaking Plaintiff's Surgery at the Center on October 29, 2015, Dr.
12 Haworth made inadequate disclosures to Plaintiff about the risks of Plaintiff's Surgery, the risks
13 of Plaintiff's Desired Procedures the Surgical Center Risks. Dr. Haworth's inadequate
14 disclosures included but were not limited to: (a) Dr. Haworth's own failure to disclose his own
15 physical limitations; (b) the risks associated with combining Plaintiff's Desired Procedures into a
16 single surgery that would require that Plaintiff remain sedated and asleep under general
17 anesthesia for far longer than the five hours Dr. Haworth had forecast; (c) the risk of performing
18 multiple procedures the same time, (d) the risk of the permanent scarring, damage and
19 disfigurement of Plaintiff that occurred as a result of Dr. Haworth's botched attempts to perform
20 the Desired Procedures during Plaintiff's Surgery, and (e) upon information and belief, the
21 Surgical Center Risks.

22 22. Before Dr. Haworth undertook to perform Plaintiff's Surgery, Plaintiff repeatedly
23 raised concerns to Dr. Haworth and to various members of Dr. Haworth's surgical staff that Dr.
24 Haworth's stated desire and recommendation to perform Plaintiff's Desired Procedures during
25 the same surgical session was too many procedures for one surgical session.

26 23. Each time Plaintiff expressed concern about combining the Desired Procedures
27 into a single surgical session, Dr. Haworth and/or members of his staff reassured her that there
28 was no reason to worry. On several occasions, Dr. Haworth went to great lengths to assure

1 Plaintiff that he regularly and successfully performed multiple procedures, including procedures
2 more extensive and complicated than Plaintiff's Desired Procedures, in one single surgical
3 session.

4 24. At the time Plaintiff agreed to undergo Plaintiff's Surgery, Plaintiff was unaware
5 of the Concealed Facts or any of them, nor was she aware of the Surgical Center Risks or any of
6 them. Dr. Haworth failed to tell Plaintiff any of the Concealed Facts or the Surgical Center Risks
7 either before Plaintiff consented to surgery or before Dr. Haworth performed Plaintiff's Surgery.

8 25. Dr. Haworth failed to tell Plaintiff about the Concealed Facts or any of them or
9 the Surgical Center Risks, or any of them. Upon information and belief, Dr. Haworth also failed
10 to tell his other patients, the medical board, or the general public about any of the Concealed
11 Facts at any time, including where he had the obligation to make disclosures in order to ensure
12 that the consent to surgery obtained from his patients was proper and informed. Similarly, upon
13 information and belief, Dr. Haworth also failed to disclose the Surgical Center Risks when
14 required.

15 26. Not only did Dr. Haworth fail to disclose the Concealed Facts as set forth above,
16 upon information and belief, Dr. Haworth took extensive steps to conceal each and all of the
17 Concealed Facts from Plaintiff and other patients.

18 27. Had Plaintiff known the Concealed Facts, or any of them, Plaintiff would not
19 have consented to allow Dr. Haworth to perform any surgery upon her or have permitted his
20 surgical center to serve as the operating site. Specifically and without limitation, Plaintiff would
21 not have consented to facial surgery (or any surgery) (a) by a surgeon (i) with vision problems or
22 difficulties with depth perception, (ii) who altered, forged or falsified consent forms and other
23 medical records or fabricated documents to maintain accreditation of his surgical center, (iii)
24 who took medication or prescription painkillers within 24 hours of or during surgery, (iv) who
25 wrote prescriptions in the name of third parties to obtain drugs for his personal use, (v) who used
26 illegal drugs, (vi) who suppressed or threatened his critics on social media or otherwise, (vii)
27 who played pornographic or violent videos in the operating room; or (b) at a surgical center that
28 (i) altered, forged or falsified consent forms and other medical records or fabricated documents

1 to maintain its accreditation, (ii) permitted surgeons and other surgical personnel to operate
2 under the influence of medication, painkillers or drugs, or (c) permitted the playing of any
3 distracting or disturbing videos during surgery, including any form of pornography or any violent
4 videos.

5 28. Ignorant of the Concealed Facts and of the Surgical Center Risks, Plaintiff
6 ultimately hired Dr. Haworth as her surgeon and followed his advice and recommendation that
7 all of Plaintiff's Desired Procedures be performed in one session of surgery at the Center.

8 29. Plaintiff reasonably relied upon Dr. Haworth and his surgical staff and the Center
9 to advise her of all facts and risks relevant to her decision to hire him as her surgeon and to have
10 her surgery performed at the Center with Dr. Haworth's surgical staff, rather than at a hospital or
11 at an independent third-party provider.

12 30. As Plaintiff's physician and surgeon, Dr. Haworth owed Plaintiff a duty to
13 disclose to her those facts that would have been important to a reasonable person in deciding
14 whether to hire Dr. Haworth as a surgeon. Dr. Haworth and the Center both owed Plaintiff a
15 duty to disclose to her those facts that would have been important to a reasonable person in
16 deciding whether to schedule multiple procedures in a single session. Dr. Haworth and the
17 Center both owed Plaintiff a duty to adequately disclose the risks of procedures at the Center,
18 rather than at a hospital or at a fully independent, third party surgical facility.

19 31. The Concealed Facts, and each of them, were key facts that Dr. Haworth and the
20 Center should have but failed to disclose to Plaintiff before obtaining her consent to perform and
21 before performing Plaintiff's Surgery. Had Dr. Haworth disclosed to Plaintiff the Concealed
22 Facts, or any of them, Plaintiff would not have hired Dr. Haworth or consented to allow him to
23 perform surgery upon her.

24 32. During Plaintiff's Surgery on October 29, 2015, rather than the 5 hours Dr.
25 Haworth had estimated, Plaintiff's Surgery took approximately 11 hours. This was because Dr.
26 Haworth badly botched the Desired Procedures. In particular Dr. Haworth was unable to
27 properly perform the lower facelift he and Plaintiff had agreed upon. Upon information and
28 belief, because of Dr. Haworth's own undisclosed and concealed limitations, Dr. Haworth could

1 not properly perform Plaintiff's Desired Procedures (particularly the lower facelift) during
2 Plaintiff's Surgery in a manner that met the standard of care required of Dr. Haworth or and as
3 he and Plaintiff had agreed.

4 33. Instead, upon further information and belief, over the course of the long surgery,
5 Dr. Haworth became more and more frustrated, trying multiple times unsuccessfully to properly
6 perform Plaintiff's lower facelift surgery. Dr. Haworth later admitted to witnesses that Plaintiff's
7 Surgery had taken so long because Dr. Haworth had needed to re-do parts of the facelift
8 procedure.

9 34. Dr. Haworth's performance in undertaking the Desired Procedures during
10 Plaintiff's Surgery fell well below the required standard of care required of him under law and
11 was negligent.

12 35. Because Dr. Haworth also exceeded the scope of the consent he obtained from
13 Plaintiff and any consent Dr. Haworth obtained from Plaintiff was obtained without disclosing
14 the Concealed Facts or any of them or the Surgical Center Risks, or any of them, Dr. Haworth
15 also committed medical battery upon Plaintiff.

16 36. Upon information and belief, Dr. Haworth's failure to disclose or acknowledge
17 his own limitations, including his problems with vision and depth perception, led to
18 complications during Plaintiff's Surgery that made it far longer than had been forecast. Upon
19 further information and belief, Dr. Haworth's inability to see well enough to competently
20 perform Plaintiff's Desired Procedures (particularly the lower facelift) was exacerbated by his
21 subsequent decision to use different procedures for Plaintiff's facelift than those Dr. Haworth
22 had long used for lower facelifts of the type to which he and Plaintiff had agreed.

23 37. After 11 hours, Plaintiff emerged from Plaintiff's surgery very badly injured.
24 Plaintiff would be mentally impaired for months. She would be permanently disfigured. She
25 would also require additional expensive, painful corrective surgeries that would, themselves,
26 result in substantial further damage to her. Upon information and belief, Dr. Haworth is legally
27 responsible for all such damages.

28 38. After Plaintiff emerged from Dr. Haworth's 11-hour surgery on October 29, 2015,

1 she suffered from significant mental impairment, upon information and belief, due to the length
2 of time she had been anesthetized- as Dr. Haworth tried and repeatedly failed to competently
3 perform certain aspects of Plaintiff's Desired Procedures.

4 39. For over 2 months following Plaintiff's Surgery, Plaintiff and those close to her
5 saw her to be significantly impaired in her mental functions, or "foggy" and brain dumb" as
6 Plaintiff has described it. Plaintiff's family and others close to her were very concerned that the
7 mental impairment she suffered in the wake of Plaintiff's Surgery would be permanent. It was
8 both noticeable and frightening to those who knew her.

9 40. In addition to being mentally impaired for several months after Dr. Haworth
10 botched her surgery on October 29, 2015, Plaintiff was permanently scarred and disfigured as a
11 result of Dr. Haworth's inability to perform and his negligence in performing Plaintiff's Desired
12 Procedures during Plaintiff's Surgery.

13 41. As result of Dr. Haworth's negligence in performing Plaintiff's Surgery, Plaintiff
14 suffered disfigurements that included but were not limited to (a) excessive visible stitches on her
15 cheeks, (b) flattened and asymmetrical cheeks, (c) "turkey wattles" of loose skin along Plaintiff's
16 jawline and wrinkling and distortion of her jawline (d) uneven lips, (e) a marble-shaped ball of
17 tissue at the right corner of her mouth, along with an indentation and scarring, and (f) a one-and-
18 one-half-inch long indentation with scarring in the skin at the left side corner of her mouth.

19 42. Plaintiff also suffered from a moderate post-operative infection after Plaintiff's
20 Surgery. Previously, although Plaintiff had undergone other surgical procedures, she had never
21 experienced such an infection.

22 43. After Plaintiff slowly recovered from the temporary mental impairment Dr.
23 Haworth caused through his botched surgery, she became more and more depressed as she
24 realized both the extent of her injuries and that those injuries would not heal on their own.

25 44. As Plaintiff continued her post-operative care with Dr. Haworth, he threw more
26 ideas for additional surgery and/or expensive fillers, to correct the problems caused by his first
27 botched surgery. Plaintiff slowly came to understand that that Dr. Haworth had no real idea of
28 how to permanently fix the damage his surgery had caused and was still trying to get more

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1 money from her. Dr. Haworth charged Plaintiff thousands of dollars for his failed efforts to fix
2 the problems he had caused.

3 45. In about January of 2016, Plaintiff tried to return to equestrian competition in a
4 competition held in Burbank, California. As required by such competitions, Plaintiff competed
5 while dressed in an equestrian costume, with her hair back and her face fully exposed to the
6 audience and cameras. After seeing film from that competition, where her costume made visible
7 and even accentuated the very visible disfigurement Dr. Haworth' botched surgery had caused,
8 Plaintiff became extremely depressed and withdrawn. She often began to cry and had to see a
9 psychologist to deal with her depression issues.

10 46. To try to correct the damage Dr. Haworth had caused her during Plaintiff's
11 Surgery and recognizing that Dr. Haworth could not and would not fix that damage, Plaintiff
12 gave up her efforts to have Dr. Haworth fix the damage he had caused. She then consulted with
13 another plastic surgeon. Plaintiff thereafter underwent two corrective surgeries at the hands of
14 another plastic surgeon, first in April of 2016 and then November of 2016. (the "Corrective
15 Surgeries")

16 47. The Corrective Surgeries were to repair damage that *was* repairable from the
17 disfigurement and scarring Dr. Haworth had caused while botching Plaintiff's Surgery. Neither
18 "Corrective Surgery" was completely successful in repairing such damage.

19 48. In its turn, each Corrective Surgery left Plaintiff with increasingly severe
20 infections, requiring weeks of antibiotic treatment. The infection Plaintiff received after her
21 second Corrective Surgery, in November of 2016, turned out to be life-threatening. It required
22 Plaintiff be hospitalized and thereafter to receive have antibiotics administered intravenously in
23 her own home, via "peripherally inserted central catheter," or "PICC' line. As a result, Plaintiff
24 has suffered severe pain and suffering to the point where she was diagnosed with PTSD
25 symptoms.

26 49. Some of the scarring and disfigurement Plaintiff suffered as a result of Plaintiff's
27 Surgery cannot be fixed. Therefore, in addition to the (a) damage Dr. Haworth caused Plaintiff
28 through undertaking Plaintiff's Surgery without her informed consent and through his negligence

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1 and incompetence during Plaintiff's Surgery, (b) Plaintiff suffered through the anguish, pain,
2 suffering and expense of two Corrective Surgeries she otherwise would not have needed and (c)
3 will continue to suffer some permanent disfigurement. Plaintiff must therefore undergo periodic,
4 painful and expensive injections to minimize the visible signs of the damage Dr. Haworth caused
5 her.

6 50. Dr. Haworth's conduct in failing to disclose and in concealing the Concealed
7 Facts and Surgical Center Risks has had far-reaching consequences. As a result of Dr. Haworth's
8 conduct, Plaintiff hired him and permitted him to perform Plaintiff's Surgery, something Plaintiff
9 would not have permitted had Plaintiff known the Concealed Facts or the Surgical Center Risks.
10 As a result of Dr. Haworth's failure to disclose and concealment, which led to his hiring, and his
11 battery of Plaintiff and his negligence in performing Plaintiff's Surgery once he went forward
12 with Plaintiff's Surgery, Plaintiff suffered temporary mental impairment, permanent physical
13 injuries, and enormous expense. Plaintiff has suffered and will continue to suffer pain, suffering
14 and mental anguish and further expense as a result of Dr. Haworth's wrongful acts described
15 above.

16 51. Plaintiff has not discovered the full extent of her injuries to date. She dreads the
17 prospect of further surgery of any type, but knows she may need further procedures, including
18 injections and other procedures required to mask the extent of the disfigurement Dr. Haworth
19 caused Plaintiff when he first botched Plaintiff's Surgery.

20 **FIRST CAUSE OF ACTION**

21 **(Negligence in Providing Medical and Surgical Treatment to Plaintiff)**
22 **(Against All Defendants)**

23 52. Plaintiff repeats, re-alleges, adopts and incorporates each and every allegation
24 contained in Paragraphs 1 through 51, as though once again fully set forth herein.

25 53. Dr. Haworth's conduct as set forth above constituted negligence in that his care
26 fell below the standards of care for the local medical community, and, on information and belief,
27 far below the standard of care expected of very expensive, Beverly Hills plastic surgeons such as
28 Dr. Haworth.

54. Dr. Haworth's failure to meet the standard of care includes, but is not limited to,

1 negligence in undertaking the Surgery; negligence in performing the Surgery; failure to take an
2 adequate medical history from Plaintiff; failure to properly review or account for Plaintiff's
3 medical history in planning for and performing the Surgery; improper surgical technique in
4 performing the Surgery; improper follow-up care after the Surgery; and other deficiencies that
5 may be determined after sufficient discovery.

6 55. Dr. Haworth's negligence was a substantial cause of Plaintiff's harm. As a result
7 of Dr. Haworth's negligence, Plaintiff suffered general and special damages in excess of the
8 jurisdictional minimum of this Court, in an amount to be proven at trial.

9 **SECOND CAUSE OF ACTION**

10 **(Breach of Contract)**

11 **(Against All Defendants)**

12 56. Plaintiff repeats, re-alleges, adopts and incorporates each and every allegation
13 contained in Paragraphs 1 through 51 as though fully set forth herein.

14 57. Plaintiff and Dr. Haworth entered into an oral contract for the performance of
15 Surgery.

16 58. Plaintiff has performed all obligations, conditions and covenants required of her
17 under the contract (except to the extent any obligations, conditions and covenants have been
18 excused, prevented or waived by Defendants' acts and omissions), including paying in full for
19 the Surgery, on information and belief, an amount in excess of \$80,000 for Plaintiff's Surgery.

20 59. Dr. Haworth failed to perform the Surgery as specified in the contract and thereby
21 breached the contract.

22 60. As a result of Dr. Haworth's breaches of contract, Plaintiff suffered damages as a
23 in excess of the jurisdictional minimum of this Court in an amount to be proven at trial.

24 **THIRD CAUSE OF ACTION**

25 **BREACH OF WARRANTY**

26 **(AGAINST ALL DEFENDANTS)**

27 61. Plaintiff repeats, re-alleges, adopts and incorporates each and every allegation
28 contained in Paragraphs 1 through 51 as though fully set forth herein.

62. Dr. Haworth warranted, either by words or actions, that the Surgery would result
in an improvement of Plaintiff's appearance.

63. Dr. Haworth failed to deliver the results he promised to Plaintiff.

64. As a result of Dr. Haworth's failure to deliver the results he promised, Plaintiff suffered damages, in excess of the jurisdictional minimum of this Court, in an amount to be proven at trial.

FOURTH CAUSE OF ACTION
MEDICAL BATTERY
(AGAINST ALL DEFENDANTS)

65. Plaintiff repeats, re-alleges, adopts and incorporates each and every allegation contained in Paragraphs 1 through 51 as though fully set forth herein.

66. Dr. Haworth performed medical procedures during Plaintiff's Surgery without Plaintiff's consent.

67. Alternatively, Plaintiff consented to the medical procedures performed during the Plaintiff's Surgery, but Dr. Haworth performed one or more substantially different medical procedures.

68. Alternatively, Dr. Haworth failed to obtain Plaintiff's informed consent for performing one or more of the medical procedures he performed during Plaintiff's Surgery because he failed to disclose some or all of the Concealed Facts and Surgical Center Risks

69. Alternatively, Dr. Haworth failed to obtain Plaintiff's informed consent for performing one or more of the medical procedures he performed during Plaintiff's Surgery because he concealed some or all of the Concealed Facts and Surgical Center Risks.

70. The procedure or procedures performed by Dr. Haworth during Plaintiff's Surgery without Plaintiff's consent were a substantial cause of Plaintiff's harm.

71. As a result of the procedure or procedures performed by Dr. Haworth without Plaintiff's consent, Plaintiff suffered damages, in excess of the jurisdictional minimum of this Court, in an amount to be proven at trial.

FIFTH CAUSE OF ACTION
(Intentional Misrepresentation-Fraud)
(Against All Defendants)

72. Plaintiff repeats, re-alleges, adopts and incorporates each and every allegation contained in Paragraphs 1 through 51 as though fully set forth herein below.

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1 73. In soliciting Plaintiff to hire him as a plastic surgeon Dr. Randal Haworth
2 represented to Plaintiff that he was competent and skilled enough to perform each and all of
3 Plaintiff's Desired Procedures in a competent and professional manner

4 74. Dr. Haworth's representations about his own skill and competence, made by Dr.
5 Haworth to Plaintiff on or about June 1, 2015 and repeatedly thereafter during Plaintiff's pre-
6 operative visits with Dr. Haworth, were false and known by Dr. Haworth to have been false
7 when made, or alternatively, those representations were made by Dr. Haworth to Plaintiff with a
8 reckless disregard for the accuracy of such representations.

9 75. Dr. Haworth's false representations to Plaintiff regarding his own competence
10 included that Dr. Haworth could and would be able to *see* well enough to perform each of
11 Plaintiff's Desired Procedures during Plaintiff's Surgery, in the competent, non-negligent
12 manner required by law and that he was otherwise physically and emotionally capable of
13 performing Plaintiff Surgery in the manner required by law.

14 76. Dr. Haworth's false representations also included that he was otherwise a first-
15 class and competent Beverly Hills Plastic surgeon.

16 77. Dr. Haworth made the false representations set forth herein to Plaintiff, in order to
17 convince her to hire Dr. Haworth and to allow him to perform Plaintiff's Surgery

18 78. Plaintiff was reasonable in relying on Dr. Haworth's false representations about
19 his competence to undertake Plaintiff's Surgery, as made by Dr. Haworth to Plaintiff on June 1,
20 2015 and repeated thereafter.

21 79. Plaintiff was severely harmed by Defendants' false statements as set forth above.

22 80. Plaintiff's reliance upon Dr. Haworth's false statements was a substantial factor in
23 causing damage to Plaintiff.

24 81. In committing the acts above and in defrauding Plaintiff into hiring him and
25 allowing him to perform Plaintiff's Surgery despite the Concealed Facts and Surgical Center
26 Risks, Dr. Haworth acted with oppression, fraud and malice and in conscious disregard of
27 Plaintiff's rights.

28 82. In addition to general and special damages in an amount to be proven at trial,

1 Plaintiff is entitled to punitive damages in an amount to be shown at trial.

2 **SIXTH CAUSE OF ACTION**
3 **(Fraudulent Failure to Disclose)**
4 **(Against All Defendants)**

5 83. Plaintiff repeats, re-alleges, adopts and incorporates each and every allegation
6 contained in Paragraphs 1 through 51 and 72-82 above, as though fully set forth herein below.

7 84. As Plaintiff's physician, Dr. Haworth owed her a duty to disclose to her facts
8 which affected his competence to perform Plaintiff's Surgery that Plaintiff (or any other potential
9 patient contemplating) employing Dr. Haworth as a surgeon would reasonably have wished to
10 know about Dr. Haworth and which Plaintiff would have considered important in deciding
11 whether to use Dr. Haworth as a surgeon. These included the Concealed Facts.

12 85. Dr. Haworth intentionally failed to disclose to Plaintiff each and all of the
13 Concealed Facts and Surgical Center Risks despite Dr. Haworth's duty to disclose them.

14 86. In withholding such information, Dr. Haworth committed fraud by failure to
15 disclose, since had Plaintiff known any or all of the Concealed Facts, she would not have hired
16 Dr. Haworth to perform any surgery of any type upon her.

17 87. In failing to disclose the Concealed Facts and Surgical Center Risks, Dr. Haworth
18 acted maliciously, recklessly, with oppression and fraud and in willful conscious disregard of
19 Plaintiff's rights, entitling Plaintiff not only to ordinary damages and to damages for her pain and
20 suffering, but also to Punitive Damages in an amount sufficient to deter Dr. Haworth from such
21 conduct in the future.

22 **SEVENTH CAUSE OF ACTION**
23 **(Fraudulent Inducement)**
24 **(Against All Defendants)**

25 88. Plaintiff re-alleges and incorporates each allegation made in paragraphs 1-51 and
26 72-82, as though made fully made herein below.

27 89. In offering to undertake Desired Procedures as Dr. Haworth undertook to perform
28 them during Plaintiff's Surgery, Dr. Haworth and DOES 1-10 fraudulently induced Plaintiff to
hire Dr. Haworth and to allow him to perform Plaintiff's Surgery, by failing to disclose to and by
concealing from Plaintiff Dr. Haworth's own physical and emotional problems, as set forth in the

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1 Concealed Facts and Surgical Center Risks. Had Plaintiff known of the Concealed Facts, the
2 Surgical Center Risks or any of them at the time she hired Dr. Haworth for any purpose, she
3 would not have hired him.

4 90. The misrepresentations about Dr. Haworth's skill and competence, as made by
5 Dr. Haworth to Plaintiff on or about June 1, 2015 and repeatedly thereafter by Dr. Haworth and
6 DOES 1-10 during Plaintiff's pre-operative visits with Dr. Haworth, in were made in order to
7 induce Plaintiff to hire Dr. Haworth and to allow him to perform Plaintiff's Surgery.

8 91. The misrepresentations about Dr. Haworth's skill and competence were false, and
9 known by Dr. Haworth and DOES 1-10 to have been false when made, or alternatively were
10 made to Plaintiff by Dr. Haworth and DOES 1-10 with a reckless disregard for the accuracy of
11 such representations

12 92. Plaintiff relied upon Dr. Haworth's and DOES 1-10's misrepresentations
13 regarding Dr. Haworth's skill and competence at the time Plaintiff hired Dr. Haworth and at the
14 time she consented to Plaintiff's Surgery.

15 93. Plaintiff's reliance upon such misrepresentations by Dr. Haworth and DOES 1-10
16 regarding Dr. Haworth's skill and competence was reasonable. Absent Dr. Haworth and DOES
17 1-10's misrepresentations about Dr. Haworth's skill and competence to perform Plaintiff's
18 Surgery, Plaintiff would not have hired Dr. Haworth or DOES 1-10 or any of them, nor would
19 she have allowed Dr. Haworth or DOES 1-10 to perform surgery or any other medical procedure
20 upon her.

21 94. The fraudulent inducements by Dr. Haworth and DOES 1-10 were a substantial
22 factor in causing Plaintiff general and special damages in an amount to be proven at trial.

23 95. Dr. Haworth and DOES 1-10's conduct as set forth above was outrageous and
24 was committed with fraud, oppression and malice and in willful and conscious disregard of
25 Plaintiff's rights.

26 96. In addition to general and special damages, Plaintiff is therefore entitled to
27 punitive damages against Dr. Haworth and DOES 1-10 for their fraudulent inducement of
28 Plaintiff to hire Dr. Haworth and DOES 1-10 and to allow Dr. Haworth to perform surgery or

1 upon Plaintiff in an amount to be proven at trial.

2 **EIGHTH CAUSE OF ACTION**

3 **(Intentional Infliction of Emotional Distress)**

4 **(Against All Defendants)**

5 97. Plaintiff re-alleges and incorporates each allegation made in paragraphs 1-51 as
6 though made in full herein below.

7 98. Dr. Haworth and Does 1-10 intended to cause Plaintiff emotional distress, or,
8 alternatively, Dr. Haworth and Does 1-10 acted with reckless disregard of the probability that
9 Plaintiff would suffer emotional distress, knowing that Plaintiff was present when the conduct
10 occurred. Dr. Haworth's conduct as set forth above and that of Does 1-10 as set forth above was
11 outrageous.

12 99. Dr. Haworth and Does 1-10 intended to cause Plaintiff emotional distress, or,
13 alternatively, Dr. Haworth and Does 1-10 acted with reckless disregard of the probability that
14 Plaintiff would suffer emotional distress, knowing that Plaintiff was present when the conduct
15 occurred.

16 100. Plaintiff suffered severe emotional distress as a result of Dr. Haworth and DOES
17 1-10's conduct.

18 101. The conduct of Dr. Haworth and Does 1-10 was a substantial factor in causing
19 Plaintiff's severe emotional distress.

20 102. The conduct of Dr. Haworth and Does 1-10 was a substantial factor in causing
21 Plaintiff's severe emotional distress.

22 **NINTH CAUSE OF ACTION**

23 **(Unfair Business Practices Under Cal. Bus and Prof Code Section 17200)**

24 **(Against All Defendants)**

25 103. Plaintiff repeats, re-alleges, adopts and incorporates each and every allegation
26 contained in Paragraphs 1 through 51 above, as though fully set forth herein below.

27 104. In performing the acts alleged above, Dr. Haworth and DOES 1-10 have engaged
28 in and continue to engage in unlawful, fraudulent or unfair business practices as the term is
defined in section 17200 of the California Business and Professions Code (the "UCL"), which

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1 includes any state or federal "unlawful, unfair or fraudulent business act or practice."

2 105. The foregoing acts and activities as alleged herein constitute unlawful business
3 practices by Defendants in violation of the UCL.

4 106. The UCL provides for a right to preliminary and permanent injunctive relief.

5 107. Plaintiff is without any adequate remedy at law to prevent such Unfair
6 Competition by Dr. Haworth and Does 1-10.

7 108. Plaintiff is therefore entitled preliminary and permanent injunctive relief
8 preventing Dr. Haworth from further acts of unfair competition, including but not limited to (i)
9 altering patient consent forms, (ii) altering patient medical records or (iii) improperly creating
10 documentation to obtain or to retain professional accreditation for his surgery.

11 109. Plaintiff is entitled to restitution of all amounts paid to Dr. Haworth and Does 1-
12 10.

13 110. Plaintiff is entitled to attorneys' fees pursuant to statute.

14 **PRAYER FOR RELIEF:**

15 **WHEREFORE**, Plaintiff prays for judgment against Defendants as follows:

16 **On Plaintiff's 1-4th Causes of Action**

- 17 1. Special damages according to proof at trial,
- 18 2. General damages in according to proof at trial;
- 19 3. For interest according to proof
- 20 4. For all costs of suit incurred,
- 21 5. For attorneys' fees as provided by contract or statute
- 22 6. For such other and further relief as the Court may deem to be just and proper.

23 **On Plaintiff's 5-8th Causes of Action**

- 24 7. Special damages according to proof at trial,
- 25 8. General damages according to proof at trial;
- 26 9. Punitive damages according to proof,
- 27 10. Cost of suit
- 28 11. For such other and further relief as the court may deem to be just and proper.

THE RUDD LAW FIRM
15233 VENTURA BLVD., SUITE 320
SHERMAN OAKS, CALIFORNIA 91403
(310) 457-4072

8107/01/20

1 **On Plaintiff's 9th Cause of Action for Unfair Competition:**

2 12. For a preliminary and permanent injunctive relief preventing Defendants, or any
3 of them from further acts of unfair competition as alleged hereinabove,

4 13. For restitution of all sums paid by Plaintiff to Defendants

5 14. For attorneys' fees as permitted by statute

6 Dated: March 7, 2018

THE RUDD LAW FIRM



Christopher L. Rudd

By: Christopher L. Rudd

Attorneys for Plaintiff LAURA DAY

10 **RENEWED DEMAND FOR JURY TRIAL**

11 Plaintiff hereby once again demands a trial by jury.

12 Dated: March 9, 2018

THE RUDD LAW FIRM



Christopher L. Rudd

By: Christopher L. Rudd

Attorneys for Plaintiff, LAURA DAY

17 **Verification of First Amended Complaint Per California Code of Civil Procedure Section**
18 **446**

19 I, Laura Day, am the plaintiff in this action. I have reviewed foregoing First Amended
20 Complaint herein against Dr. Randal Haworth and DOES 1-10 and know the contents thereof.
21 The same are true, of my own knowledge, except as stated on information and belief, The same
and, as to those matters, I believe them to be true.

22 Executed by me under penalty of perjury of the laws of the State of California, this ____ day of
23 March, at _____

24 _____
25 Laura Day

THE RUDD LAW FIRM
15233 VENTURA BLVD. SUITE 320
SHERMAN OAKS, CALIFORNIA 91403
(310) 457-4072

03/13/2018

THE RUDD LAW FIRM
19233 VENTURA BLVD., SUITE 220
SHERMAN OAKS, CALIFORNIA 91403
(916) 457-4372

03/13/2018


1 On Plaintiff's 9th Cause of Action for Unfair Competition:

2 12. For a preliminary and permanent injunctive relief preventing Defendants, or any
3 of them from further acts of unfair competition as alleged hereinabove.

4 13. For restitution of all sums paid by Plaintiff to Defendants

5 14. For attorneys' fees as permitted by statute


6 Dated: March 7, 2018

7 THE RUDD LAW FIRM
8 
9 Christopher L. Rudd
By: Christopher L. Rudd
Attorneys for Plaintiff LAURA DAY

10 **RENEWED DEMAND FOR JURY TRIAL**

11 Plaintiff hereby once again demands a trial by jury.

12 Dated: March 9, 2018

13 THE RUDD LAW FIRM
14 
15 Christopher L. Rudd
By: Christopher L. Rudd
Attorneys for Plaintiff, LAURA DAY

16 **Verification of First Amended Complaint Per California Code of Civil Procedure Section**
17 **446**

18 I, Laura Day, am the plaintiff in this action. I have reviewed foregoing First Amended
19 Complaint herein against Dr. Randal Haworth and DOES 1-10 and know the contents thereof.
20 The same are true, of my own knowledge, except as stated on information and belief, The same
21 and, as to those matters, I believe them to be true.

22 Executed by me under penalty of perjury of the laws of the State of California, this 9 day of
23 March, at 10:02 AM

24 
25 Laura Day

26
27
28

B

03/13/2018

[9/3/16 10:56 AM] Monica Berlin's iPhone: All of it is true

[9/3/16 10:57 AM] [REDACTED] (91800000000): Yikes! He will accuse me of doing that since he was paranoid saying that I'm gonna go around town telling everyone he has cancer. I said you don't have cancer and I don't tell lies. I said you were the one telling random women that you were having over for sex and drug parties about your condition. That's on you that it spread around town

[9/3/16 10:58 AM] Monica Berlin's iPhone: I given a lot of thought to all the lies I've been a part of.... Forged consents, things we did to lie to patients

[9/3/16 10:58 AM] [REDACTED] (91800000000): He completely contradicts himself saying he wants privacy and discretion yet goes around blabbing telling people so you can get attention and sympathy.

[9/3/16 10:58 AM] [REDACTED] (91800000000): He

[9/3/16 10:58 AM] Monica Berlin's iPhone: He told Sam from widcop

[9/3/16 10:58 AM] Monica Berlin's iPhone: [REDACTED] every doctor I spoken to knows

[9/3/16 10:59 AM] Monica Berlin's iPhone: They all found out

[9/3/16 10:59 AM] [REDACTED] (91800000000): Oh trust me I know the feeling I've reflected I said

Jesus I was enabler getting him his Percocet in my name enabling devious sexual behaviors and the list goes on. I have a lot of regrets but I know I can't change what happened in the past I can only learn and move forward and not down on how I enabled bad behavior

[9/3/16 10:59 AM] [REDACTED] (91800000000): Yeah and then when he made that dumbass video saying oh I just had a medical procedure and publicly posted it that was so manic

[9/3/16 11:01 AM] [REDACTED] (91800000000): Ya not surprising unfortunately I don't think he realizes that it has consequences like people will not feel comfortable going to someone that isn't in good health.

[9/3/16 11:02 AM] [REDACTED] (91800000000): Instead he just thinks of the short term high that it supplies to him which is sympathy attention and affection.

[9/3/16 11:04 AM] [REDACTED] (91800000000): So it's quite an unfortunate situation.

[9/3/16 11:10 AM] [REDACTED] (91800000000): Ironically I saw the story below on dateline the other night and parts of it reminded me of him... So I feel that all these inner demons and illnesses he has untreated will eventually catch up with him and something bad will happen if he doesn't turn his life around

<http://www.miamiherald.com/news/obituaries/2016/09/03/michael-brown-commits-suicide-next-to-a-pile-of-cash-at-miami-beach-mansion-6541208>

[9/3/16 11:13 AM] [REDACTED] (91800000000): And of course his attorney blamed all the women for being just gold digging wives. And he got off on every abuse charge. Which seemed crazy considering the mounting evidence against him... That is until the end when things caught up with him

[9/3/16 11:48 AM] [REDACTED] (91800000000): Well anyway... just have to take things a day at a time for now. Otherwise I just get overwhelmed and depressed. So hope you gals enjoy the rest of the weekend. I'm layin low and will be home. Always around if you need anything or to talk/vent. It's a difficult time dealing with all the nonsense so I totally understand.

[9/3/16 12:50 PM] Monica Berlin's iPhone: Yeah it's hard....

[9/3/16 1:00 PM] [REDACTED] (91800000000): All I wanted was peace, safe environment and a family And we'll certainly didn't end up with that. Hard to accept I wasted more years

[9/3/16 1:05 PM] Monica Berlin's iPhone: He thinks he's above human rights, laws and common respect. He has never taken responsibility for anything he did wrong.

[9/3/16 1:08 PM] [REDACTED] (91800000000): Nope... that's why I found that story on that hand surgeon so eerily familiar in some aspects. He battled many of the same demons and kept skirting the law until it finally caught up to him

[9/3/16 1:21 PM] [REDACTED] (91800000000): <http://abcnews.go.com/2020/video/losing-domestic-disputes-18894099>

[9/12/16 2:54 PM] [REDACTED] (91800000000): Hi M

Hope you had a good weekend.

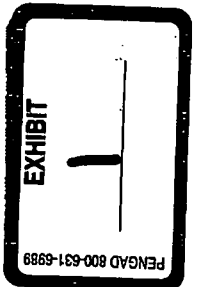
So I wanted to ask you what the best way would be to go about getting my charts. I don't want to cross paths with him and certainly don't want to be under his care for anything cosmetic ever again. So let me know. Perhaps tomorrow when he's in surgery I can come and get it if that's ok. Let me know and if so I should text star to have that all ready for me so I can get in and out.

[9/15/16 2:23 PM] Monica Berlin's iPhone: Omg.... I wish you could pull me out right now.

[9/15/16 2:26 PM] Monica Berlin's iPhone: [REDACTED] is awful, the OR is supposed to start doing cases next week. Randal is struggling, no memory.... It's making everything worse.

[9/15/16 2:27 PM] [REDACTED] (91800000000): Monica you don't even know... I completely empathize and feel your pain I have been put through a tailspin of mental torture through his ridiculous emails. I would block his email account but that stupid TV thing I have to be kept in the loop seeing as I created it and need to see it through if it ever sees the light of day. At least I would be compensated if I network is to buy it.

Losing sleep having insomnia till 5 AM. And this all because I just want my charts and to cut it all off. I mean Jesus Christ why can't I just be free and live my life? He already discarded me like garbage so what does he care at this



09/13/2019

[3/15/16 2:54 PM] J [REDACTED]: I'll keep ya updated though as soon as I hear anything

[3/17/16 4:26 PM] Monica Berlin's iPhone: You have to tell me how his ADD appointment went today.

[3/17/16 5:36 PM] J [REDACTED] (4): He was very receptive to it. The staff there were very friendly and helpful. So going to get him on the treatment plan ASAP and hopefully we should start seeing improvements in his time management skills, issues with procrastination etc. so looking forward to seeing how things will improve for him personally over the next few months.

I have a feeling he will realize that he should've done this a lot sooner LOL but better late than never and I'm glad I finally got him to go and get help with this

[3/17/16 5:46 PM] Monica Berlin's iPhone: I hope this works.... Amazing that you got him to go!!!

[3/17/16 5:47 PM] J [REDACTED]: Me too 🙌🙌🙌 ya I said that's it we need to get a grip on this!

03/13/2018



03/12/2018

[4/26/16 1:15 PM] Monica Berlin's iPhone: Oh and I did confirm with him that [REDACTED]'s lawyers already interviewed the first pregnant girl he fired

[4/26/16 1:15 PM] [REDACTED] (6163333334): Yup yup yup no change. 🙄 🙄

[4/26/16 1:15 PM] [REDACTED] (6163333334): Ov

[4/26/16 1:15 PM] Monica Berlin's iPhone: Found that out last night

[4/26/16 1:16 PM] Monica Berlin's iPhone: But you know he didn't do anything wrong Jamlel

[4/26/16 1:16 PM] [REDACTED] (6163333334): That's not good he should just settle! Oh ya hear that one before lol

[4/26/16 1:16 PM] Monica Berlin's iPhone: He didn't fire Lisa while she was pregnant

[4/26/16 1:16 PM] [REDACTED] (6163333334): No more court dates and jury trials !

[4/26/16 1:16 PM] [REDACTED] (6163333334): It's exhausting

[4/26/16 1:17 PM] Monica Berlin's iPhone: Yup.... That's what he was talking about today. and the [REDACTED] lawsuit thing

[4/26/16 1:18 PM] [REDACTED]: Its pouring problems there~

[4/26/16 1:18 PM] Monica Berlin's iPhone: I guess he called the doctor who works with the other guy who is their expert doctor

[4/26/16 1:19 PM] [REDACTED]: Well I hope he addresses something soon otherwise things will just stay in their current state

[4/26/16 1:20 PM] [REDACTED]: Ya he talked about that I dunno I can't keep track of it all anymore

[4/26/16 1:22 PM] Monica Berlin's iPhone: It's too much! He needs to learn to stop talking to people. [REDACTED] can't believe how he airs his dirty laundry to the world. She was getting mad me and told me I shouldn't talk about certain things with everyone and I laughed and said he's the one telling the world

[4/26/16 1:23 PM] [REDACTED]: Yup he doesn't know how to deal with sensitive information

03/13/2018

[5/22/16 2:48 PM] [REDACTED] (6100000000): He's been acting very paranoid lately and noticed on Friday when we had our conference call with the tv people

[5/22/16 2:50 PM] [REDACTED]: Accusing me that I would tell [REDACTED] that I'm going to out him for sending moles on for filler...like I want to be involved in his sketchy behavior no thanks!

[5/22/16 2:54 PM] Monica Berlin's iPhone: Well you know how his accusations causes anxiety and ruin's your day. This is unhealthy for me.

[5/22/16 2:58 PM] [REDACTED]: Trust me I know! When he said I was going to inform [REDACTED] that he's sending moles on there I was like wtf?!

03/13/2018

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03/13/2018

THIS IS YOUR CRS RECEIPT

INSTRUCTIONS
<p>Please print this receipt and attach it to the corresponding motion/document as the last page. Indicate the Reservation ID on the motion/document face page (see example). The document will not be accepted without this receipt page and the Reservation ID.</p> <div style="text-align: center; margin-top: 20px;"> </div>

RESERVATION INFORMATION

Reservation ID: 180309296356
Transaction Date: March 9, 2018
Case Number: BC647089
Case Title: LAURA DAY VS RANDAL D HAWORTH
Party: DAY LAURA (Plaintiff/Petitioner)
Courthouse: Stanley Mosk Courthouse
Department: 97
Reservation Type: Motion for Leave to Amend
Date: 4/27/2018
Time: 01:30 pm

FEE INFORMATION (Fees are non-refundable)

First Paper Fee: Party asserts first paper was previously paid.

Description	Fee
Motion for Leave to Amend	\$60.00
Total Fees:	Receipt Number: 1180309K9686 \$60.00

PAYMENT INFORMATION

Name on Credit Card: ██████████
Credit Card Number: XXXX-XXXX-XXXX-XXXX

A COPY OF THIS RECEIPT MUST BE ATTACHED TO THE CORRESPONDING MOTION/DOCUMENT AS THE LAST PAGE AND THE RESERVATION ID INDICATED ON THE MOTION/DOCUMENT FACE PAGE.

1 **PROOF OF SERVICE**

2 STATE OF CALIFORNIA)
3 COUNTY OF LOS ANGELES) ss.

4 I am employed in the County of Los Angeles, State of California. I am over the age of 18 and
5 not a party to the within action; my business address is 16255 Ventura Boulevard, Suite 925, Encino,
6 CA 91436.

7 On **March 9, 2018**, I served a copy / original of the foregoing document(s) described as
8 **NOTICE OF MOTION BY PLAINTIFF LAURA DAY FILE FIRST AMENDED**
9 **COMPLAINT; MEMORANDUM OF POINTS AND AUTHORITIES;**
10 **DECLARATION OF CHRISTOPHER L. RUDD, EXHIBITS, [PROPOSED VERIFIED**
11 **FIRST AMENDED COMPLAINT, [PROPOSED] ORDER**

12 on the interested parties in this action addressed as follows:

13 Michael D. Gonzalez
14 Law Offices of Michael D. Gonzalez
15 101 N Brand Blvd. Suite 1880
16 Glendale, CA 91203
17 Tel: (818) 844-0188

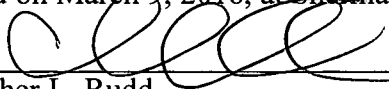
18 X By placing true copies thereof enclosed in a sealed envelope(s) addressed as stated above.

19 X **BY MAIL (CCP §1013(a)&(b)):** I am readily familiar with the firm's practice of
20 collection and processing correspondence for mailing with the U.S. Postal Service.
21 Under that practice such envelope(s) is deposited with the U.S. postal service on the
22 same day this declaration was executed, with postage thereon fully prepaid at 16255
23 Ventura Boulevard, Suite 925, Encino, CA 91436, in the ordinary course of business.

24 X **BY EMAIL (CCP § 1010.6; CRC Rule 2.251(g)):** I transmitted the above-
25 stated document(s) and an unsigned copy of this declaration from my computer
26 (electronic notification address **clrudd@c2lawgroup.com** located at C2 Law Group,
27 P.C., 16255 Ventura Boulevard, Suite 925, Encino, CA 91436, to the interested parties
28 in this action whose names and e-mail addresses are listed above. I did not receive,
within a reasonable time after the transmission, any electronic message or other
indication that the transmission was unsuccessful. Service by e-mail or electronic
transmission was agreed upon based on a court order or an agreement of the parties to
accept service.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on March 9, 2018, at Sherman Oaks, California.



Christopher L. Rudd

THE RUDD LAW FIRM
15233 VENTURA BLVD. SUITE 320
SHERMAN OAKS, CALIFORNIA 91403
(310) 457-4072

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