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1 Rebecca J. Freeman (SBN 123960)
Matthew C. Freeman (SBN 128530)
2 LAW OFFICES OF FREEMAN & FREEMAN
2255 Challenger Way, Suite 119
3 Santa Rosa, CA 95407
Telephone: (707) 575-7141
4 Facsimile: (707) 575-4382

5 Attorneys for Plaintiffs

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7 SUPERIOR COURT OF THE STATE OF CALIFORNIA

8 IN AND FOR THE COUNTY OF SOLANO

9
10 FCS0341001

COMPLAINT FOR DAMAGES FOR:

11 CHARLES CHRISTIANSEN, VALERIE
PRENKERT, LISA MATNEY, WALTER
12 BELLAMY, ANDREA JOZWICK,
CHARLES MARK CHRISTIANSEN,
13 CHRISTOPHER CHRISTIANSEN AND
TOMMY CHRISTIANSEN,

1. Elder Abuse
2. Professional Negligence
3. Wrongful Death

14 Plaintiffs,

15 vs.

16 DAVITA, INC. a Delaware Corporation,
17 and DOES 1-50, Inclusive,

18 Defendants.

19
20 ASSIGNED TO
JUDGE SCOTT L. KAYS
FOR ALL PURPOSES

21 Plaintiffs allege as follows:

GENERAL ALLEGATIONS

22 1. Plaintiff Charles Christiansen was the husband of decedent, Jesse
23 Christiansen.

24 2. Plaintiffs Valerie Prenkert, Lisa Matney, Walter Bellamy, Andrea
25 Jozwick, Charles Mark Christiansen, Christopher Christiansen and Tommy
26 Christiansen are the children of decedent, Jesse Christiansen.

27 3. All of the above named Plaintiffs have complied with the provisions of
28 California Code of Civil Procedure Section 377.32, having attached and filed herein a

1 Declaration as required. Plaintiffs have standing under Welfare and Institutions Code
2 Section 15657.3 (d) to commence and maintain this action as Jesse Christiansen's sole
3 heirs.

4 4. At all times herein mentioned Jesse Christiansen was a resident of Solano
5 County before she expired on October 6, 2008 in Solano County, California at the age
6 of 67.

7 5. At all times herein mentioned, Defendant DAVITA, INC. ("DAVITA")
8 was and is a Delaware Corporation authorized to do business in the State of California.
9 DAVITA was and is licensed by the State of California to provide medical and nursing
10 care services as described in §15610.17 (a) of the Elder Abuse Act (Welfare and
11 Institutions Code §15600 et seq.) and DAVITA is subject to all of the duties and
12 requirements contained therein. At all relevant times herein mentioned DAVITA
13 operated a clinic providing Peritoneal dialysis and Hemodialysis at 560 First Street,
14 Suite D103 in Benicia, Solano County.

15 6. DAVITA was the employer and principal of the physicians, nurses and
16 other employees providing health care services at the DaVita Benicia Clinic.

17 7. Plaintiffs are ignorant of the true names and capacities of the Defendants
18 sued herein as DOES 1 through 50 inclusive and therefore sues said Defendants by
19 such fictitious names. Plaintiffs will seek leave of this Court to amend this complaint
20 to allege their true names and capacities when they have been ascertained. Plaintiffs
21 allege that DOES 1 through 50 provided negligent and abusive care, or failed to
22 provide required care, to JESSIE CHRISTIANSEN or otherwise contributed to the
23 wrongful acts alleged herein.

24 8. In doing the things hereinafter alleged, Defendants and each of them acted
25 as the agents, servants and employees of their Co-Defendants, acting within the course
26 and scope as such agency and employment and with the knowledge, consent and
27 approval of their co-Defendants; their conduct was ratified by their co-Defendants.

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1 9. All of the acts alleged in this complaint occurred in Solano County,
2 California.

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4 **FIRST CAUSE OF ACTION**
(Violation of the Elder Abuse Act)

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6 10. Plaintiffs incorporate the allegations of paragraph 1 through 9 above as
7 though set forth in full.

8 11. At all times mentioned, JESSIE CHRISTIANSEN was over the age of 65
9 and thus was an elder adult entitled to the protections provided in California Welfare
10 and Institutions Code Section 15600.

11 9. At all times mentioned Defendants, and each of them, were responsible
12 for the care and custody of JESSIE CHRISTIANSEN and at all times mentioned
13 Defendants, and each of them, stood in a position of trust relative to JESSIE
14 CHRISTIANSEN.

15 10. By virtue of the relationship between JESSIE CHRISTIANSEN and
16 Defendants, and each of them, a duty, including a fiduciary duty, existed relating to the
17 care, comfort, safety, and physical and mental health of JESSIE CHRISTIANSEN.
18 Pursuant to said duty, Defendants, and each of them, owed the utmost good faith to
19 JESSIE CHRISTIANSEN in all matters pertaining to her health, care, comfort and
20 safety.

21 11. On October 6, 2008, JESSIE CHRISTIANSEN was admitted to
22 DAVITA'S Benicia clinic for purposes of receiving dialysis treatment.

23 12. In particular, but without limiting the generality of the following,
24 Defendants and each of them, recklessly neglected JESSIE CHRISTIANSEN'S
25 medical, mental, and physical health needs. Although Defendants knew that JESSIE
26 CHRISTIANSEN needed careful monitoring during dialysis, they undertook dialysis
27 and then left her unattended and unmonitored.
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1 13. As a direct result of this reckless neglect, no one noticed when infiltration
2 occurred around her left AV shunt and no one noticed when she developed a large
3 indurated area (i.e., a large collection of blood) in the left axilla from her biceps
4 upwards.

5 14. As a direct result of this reckless neglect, Jesse Christiansen was left
6 unattended and unmonitored and was allowed to bleed to death.

7 15. When staff finally noticed that Jesse Christiansen was nonresponsive, she
8 had no blood pressure and was having only agonal (dying gasping) respirations.

9 16. Paramedics rushed her to the Sutter Solano Emergency Room where
10 Doctor Birdsong noted that “EMS found her pulse-less.” Doctor Birdsong’s
11 emergency room record concluded that Jesse Christiansen “died by exsanguination
12 (bleeding to death) due to a complication of the dialysis.”

13 17. Shocking to the conscience is the fact that Jesse Christiansen was
14 receiving treatment and supervision of treatment by employees who were providing
15 services as registered nurses despite the fact that their nursing license had been
16 previously revoked in multiple states for abuse of controlled substances. Also
17 shocking to the conscience is the fact that review of the DAVITA’s Benicia Clinic by
18 the California Department of Public Health, Licensing and Certification found that the
19 facility was operating with numerous deficiencies that were exposing patients to risk of
20 serious injury and/or death.

21 18. The conduct of Defendants, and each of them, described in this Complaint
22 was reckless, oppressive, fraudulent, and/ or malicious, as defined in the Elder Abuse
23 and Dependent Adult Civil Protection Act, Welfare & Institutions Code §§ 15600 et
24 seq. (“Elder Abuse Act”), and specifically constituted “elder abuse,” as defined in
25 §15610.07, and “neglect,” as defined in § 15610.35 (a) and (d) and (e).

26 19. Defendants’ conduct caused Plaintiffs to suffer damages
27 recoverable under the Elder Abuse Act including, without limitation, economic
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1 damages, general damages, including pain, suffering, emotional distress, and attorneys
2 fees.

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4 **SECOND CAUSE OF ACTION**
(Professional Negligence)

5 20. Plaintiffs herein re-allege paragraphs 1-19 as though fully set forth herein.

6 21. Defendants, and each of them, acted negligently with respect to JESSIE
7 CHRISTIANSEN'S medical care, specifically but not limited to failing to monitor her
8 while she was receiving dialysis and also failing to properly react to emergent
9 conditions, causing Jesse Christiansen to bleed to death and causing the Plaintiffs to
10 sustain severe emotional injury, and severe physical and mental pain and suffering, all
11 to their damage in a sum according to proof at trial.

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13 **THIRD CAUSE OF ACTION**
(Wrongful Death)

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15 22. Plaintiffs re-allege paragraphs 1-21 as though fully set forth herein.

16 23. Plaintiffs were and are proper claimants under Cal. Code of Civ. Proc. §
17 377.60, and were dependent upon JESSE CHRISTIANSEN for love, care, comfort,
18 emotional support and guidance.

19 24. As a proximate result of the conduct of Defendants and each of them and
20 the death of JESSE CHRISTIANSEN, Plaintiffs have been deprived of the society,
21 comfort, attention, services and emotional support of JESSE CHRISTIANSEN in a
22 sum according to proof at trial.

23 WHEREFORE, Plaintiffs pray for judgment as follows:

24 **On the First Cause of Action:**

25 1. For general and specific damages according to proof at the time of trial,
26 including, but not limited to, recovery of damages pursuant to Welfare & Institutions
27 Code § 15657(b);

28 2. For attorneys' fees pursuant to Welfare & Institutions Code §15657 (a).



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On the Second and Third Causes of Action:

3. For general and special damages according to proof at the time of trial.


On All Causes of Action:

4. For costs of suit.

5. For such other and further relief as the Court may deem just and proper.

Dated: October 26, 2009

FREEMAN & FREEMAN

By: 
Rebecca J. Freeman
Attorney for Plaintiffs