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8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
9 **FOR THE COUNTY OF SANTA CLARA**

10 18CV328719

11 DR. MIRIAM ABU SHARKH, an individual, and )  
12 GUARDIAN for LIAM HOLFELD, a minor )

**COMPLAINT FOR PROFESSIONAL  
NEGLIGENCE**

13 Plaintiffs, )

14 vs. )

15 STANFORD HEALTH CARE, a corporation; )  
LUCILE PACKARD CHILDREN'S HOSPITAL )  
16 STANFORD, a corporation; EVALEEN K. )  
JONES MD, an individual; SANGEETA CHONA )  
17 MD, an individual; MEHRAN MOSLEY MD, an )  
individual; ANNA LIN MD, an individual; )  
18 JENNIFER L. EVERHART MD, an individual; )  
SARAH HILGENDER MD, an individual; and )  
DOES 1-10. )

19 )  
20 )  
21 Defendants. )

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23 Plaintiffs, DR. MIRIAM ABU SHARKH for herself and in her capacity as Guardian for her  
24 son, LIAM HOLFELD, (all plaintiffs collectively, "The Plaintiffs") bring this action against  
25 defendants STANFORD HEALTHCARE, a business organization, form unknown; LUCILE  
26 PACKARD CHILDREN'S HOSPITAL STANFORD, a business organization, form unknown;  
27 EVALEEN K. JONES MD, an individual; SANGEETA CHONA MD, an individual, MEHRAN  
28

1 MOSLEY MD, an individual; ANNA LIN MD, an individual; JENNIFER L. EVERHART MD, an  
2 individual; SARAH HILGENDERG MD, an individual; and DOES 1-20, inclusive (all defendants  
3 collectively, "The Defendants").

#### 4 THE PARTIES

- 5 1. Plaintiff, DR. MIRIAM ABU SHARKH (hereinafter referred to as "SHARKH") is an  
6 individual and guardian to son LIAM HOLFELD (hereinafter referred to as "HOLFELD")  
7 presently residing in Europe.
- 8 2. Plaintiff, HOLFELD is an individual whom resides with his mother SHARKH in Europe.
- 9 3. Defendant, STANFORD HEALTH CARE is a business organization, form unknown, with  
10 its principal place of business in Santa Clara, California.
- 11 4. Defendant, LUCILE PACKARD CHILDREN'S HOSPITAL STANFORD (hereinafter  
12 referred to as "LPCH") is a business organization, form unknown, with its principal place of  
13 business in Santa Clara, California.
- 14 5. Defendant, EVALEEN K. JONES MD (hereinafter referred to as "JONES") is an individual  
15 and conducts business at LPCH as a doctor specializing in family medicine.
- 16 6. Defendant, SANGEETA CHONA MD (hereinafter referred to as "CHONA") is an  
17 individual who conducts business as a pediatric emergency medical doctor at Stanford  
18 Hospital in Santa Clara, California.
- 19 7. Defendant, MEHRAN MOSLEY MD (hereinafter referred to at "MOSLEY") is an  
20 individual who conducts business as a pediatrician at LPCH.
- 21 8. Defendant, ANNA LIN MD (hereinafter referred to as "LIN") is an individual who conducts  
22 business as a pediatrician at LPCH.
- 23 9. Defendant, JENNIFER L. EVERHART MD (hereinafter referred to as "EVERHART") is an  
24 individual who conducts business as a pediatrician at LPCH.
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1 10. Defendant, SARAH HILGENDERG MD (hereinafter referred to as "HILGENDERG") is an  
2 individual who conducts business as a specialist in pediatric hospital medicine at LPCH.

3 **JURISDICTION AND VENUE**

4 11. This Court has jurisdiction over The Defendants as they are physically present in Santa  
5 Clara County, California and/or because The Defendants committed the acts and omissions  
6 subject to this action in Santa Clara County, California.

7 12. Venue is proper in this Court as Santa Clara County is where the Defendants conduct  
8 business, the injury occurred, and where the obligations and liability arose.

9 **FACTUAL ALLEGATIONS**

10 13. On March 30, 2011, HOLFELD was born as a healthy baby boy.

11 14. On September 5, 2011, HOLFELD presented to Stanford Health Care Emergency  
12 Department (ED) and received a diagnosis of "viral URI, acute upper respiratory infection  
13 unspecified site, fever unspecified."  
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15 15. On September 6, 2011, HOLFELD presented to the Stanford Clinic, to see his primary care  
16 provider, JONES per the provider's notes HOLFELD had "rash on chest, head, scalp, and  
17 extremities" and "a rectal temp of 104F....Seen in ED last night, told he had a 'virus temp'  
18 and fever at that time only 100.5." JONES sent HOLFELD to the ED. JONES did not  
19 diagnose a measles infection.  
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21 16. On September 6, 2011 HOLFELD presented again to Stanford Health Care ED and received  
22 the following diagnosis, "fever, rash and other nonspecific skin eruption, dehydration, fever,  
23 unspecified." Per X-ray he was diagnosed with bronchitis. Blood tests were drawn, and  
24 cerebral spinal fluid was checked. No body samples were checked for measles virus.  
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26 17. On September 7, 2011 HOLFELD again presented to the Stanford Health Care ED where he  
27 was diagnosed with "rash and other nonspecific skin eruption" by CHONA. CHONA did  
28 not diagnose a measles infection.

- 1 18. On September 7, 2011 HOLFELD was admitted to LPCH with the chief complaint of  
2 "fever, dehydration and a rash". MOSLEY, the attending physician notes in the history,  
3 "This is a 5-month-old previously healthy child with no significant past medical history,  
4 who presented with three days of worsening rash which started on the face, now moving to  
5 the trunk, intermittent coughing, signs and symptoms of an upper respiratory infection and  
6 fever and diarrhea... ."The baby was taken to the clinic today for an evaluation and in the  
7 clinic the patient was noted to have a temperature of 104 degrees. ...In the emergency room  
8 the patient was evaluated...and then admitted to the unit for further evaluation and care."  
9 Impression, "this child is suffering from a mild viral illness and the rash is consistent with a  
10 viral exanthem". MOSLEY did not diagnose a measles infection.
- 11
- 12 19. Progress notes for this hospitalization were made by LIN, on September 7 and September 8  
13 2011. LIN notes, "likely viral illness". Her response to the viral exanthem is to "continue  
14 symptomatic support..." In her assessment she notes, "HOLFELD is a 5-month-old boy  
15 with...URI symptoms and viral exanthem...." LIN did not diagnose a measles infection.
- 16
- 17 20. During this entire episode from September 5 to September 8 2011, no physician ordered a  
18 blood test to check for antibodies to the measles virus or a throat culture to check for the  
19 virus itself, even though HOLFELD presented with a textbook case with a classic pattern of  
20 a widespread measles skin rash and measles symptomatology. No practitioner included  
21 measles in their differential diagnosis, resulting in multiple missed opportunities for  
22 HOLFELD to obtain an early diagnosis of his measles infection.
- 23
- 24 21. Although the primary care physician in the clinic, JONES, documents in a note on May 1,  
25 2011 and Dr. Lebaron (another clinic physician) on April 22, 2011 that the family is getting  
26 ready to go to Germany for several months, upon their return, when HOLFELD was seen in  
27 the primary care clinic, no tests were ordered for a measles infection. No tests were ordered  
28 despite the fact that Germany is known for measles outbreaks and JONES own record noted

1 the travel. Neither did JONES make the diagnosis based upon textbook clinical measles  
2 presentation.

3 22. HOLFELD presented to various providers named herein with measles prior to six months of  
4 age, within the time frame that the CDC does not recommend measles vaccination; still  
5 measles was not added to the differential diagnosis.

6 23. This missed window of early diagnosis resulted in HOLFELD'S mother, SHARKH being  
7 unaware of the true cause of HOLFELD'S illness in September 2011 and the subsequent  
8 potential for SSPE. Thus, when HOLFELD evidenced clear deterioration in health during  
9 2012 and 2013, along with a severe spiral down in 2014, SSPE was not considered.  
10 HOLFELD was diagnosed with SSPE at LPCH sometime between February 28, 2015 and  
11 March 5, 2015.

12 24. Being unaware of the true diagnosis of HOLFELD'S deterioration and illness, SHARKH  
13 Missed the opportunity to procure medical treatment for HOLFELD that likely would have  
14 slowed the progressive course of his SSPE, which, in turn, could have allowed SHARKH to  
15 obtain promising treatments available in other countries, or even have prevented him from  
16 getting SSPE. Early diagnosis is required for the best chance to slow progressive SSPE,  
17 especially prior to ravaging neurological damage. The negligence of the defendants  
18 prevented early diagnosis.

19 25. At the time HOLFELD had measles, throughout his treatment in the Stanford Medical  
20 System, SHARKH had health insurance that allowed HOLFELD to obtain treatment in "the  
21 respective host country or in Germany". The "respective host country" did not have to be the  
22 United States as SHARKH had evidenced the ability to obtain employment throughout the  
23 world. She speaks numerous languages which assists her in working in other countries, and  
24 which increases her ability to do research, including researching promising medical  
25 treatments.

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26. SHARKH was on the Stanford University faculty as an academic researcher at the time HOLFELD presented to JONES, the ED and LPCH. Had she known of HOLFELD'S true diagnosis she could have utilized her skills as a researcher to find promising SSPE treatments to slow SSPE progression, which would have improved HOLFELD'S quality of life, as there are varying degrees of illness and disability.

27. Stanford Medical Center holds itself out to deliver "world renowned advanced medical care unparalleled anywhere else," suggesting that the facility, through its physicians, is aware of epidemics outside the U.S., and of promising treatments outside the U.S.

28. Had SHARKH known HOLFELD'S true diagnosis, she would not have consented to the MMR vaccine on 5/22/12 in JONE'S office, as HOLFELD already had the measles infection. She would have investigated singular vaccines for other required vaccines. If singular vaccines were unavailable in the U.S. she had access to vaccines and other options for HOLFELD abroad, evidenced by the fact that the medical records show HOLFELD had vaccines abroad.

29. Over time HOLFELD changed from a "child developmentally appropriate for his age" per JONE'S 10/27/11 note and a "well appearing little guy," per JONE'S note on 1/19/12, to "language regressed over last year" per JONE'S note on 4/9/13, and "language speech delay" on 7/22/13, as well as "something not right with son's increased falling" on 10/30/14.

30. HOLFELD'S mother continued to seek further clarification regarding HOLFELD'S developmental delay with JONES, on 10/21/14, due to tests revealing HOLFELD was performing at 1% regarding his language comprehension and 8% for expressive language.

31. On 10/21/14, HOLFELD was referred to the ED by JONES for "developmental delay and increasing falls-balance issues" for an urgent MRI.

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1 32. After LPCH, through its attending physicians, failed to provide early diagnosis of  
2 HOLFELD'S measles infection in 9/2011, the record shows numerous hospitalizations at  
3 LPCH as HOLFELD further declined in function from July 2013 on. .

4 33. The second phase of malpractice occurred with numerous encounters with Stanford medical  
5 practitioners, both as an outpatient, with his primary care physician, and as an inpatient,  
6 where HOLFELD was subjected to numerous painful procedures and invasive medical tests,  
7 all of which carried risks, and many of which were unnecessary had the true diagnosis been  
8 known. Had SHARKH known the true diagnosis of HOLFELD she would not have agreed  
9 to these traumatic and painful procedures and tests.  
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11 34. HOLFELD was hospitalized at LPCH Lucile Packard Children's Hospital, 11/1/14-  
12 12/16/14. By this time HOLFELD was admitted from the ED with "decreased ability to  
13 walk, increased unsteady [sic] and not able to walk or stand, he would keel over, was spacy  
14 all the time, mentally slower than baseline and evidenced new spastic jerking of extremities,  
15 and stares straight ahead and is nonresponsive during these events". Additionally, he was  
16 unable to eat and was being fed via an NG tube.  
17

18 35. Despite numerous attending physicians caring for HOLFELD (including EVERHART,  
19 attending, who did the Admissions H and P and HILGENDER attending, who cared for  
20 HOLFELD), as well as numerous consults, and comments that there was still no definitive  
21 diagnosis, no one included measles in the differential diagnosis, noting that his differential  
22 diagnosis remained broad though his sharp decline was consistent with "viral/post viral  
23 encephalitis" or post-viral or autoimmune encephalitis" per HILGENDERG; additionally  
24 HILGENDERG noted the father was visiting from Germany an area known to have measles  
25 outbreaks. Still no test was done to find the specific measles virus infection.  
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27 36. By 12/7/14, HOLFELD was admitted to the PICU with a "clinical picture consistent with  
28 possible encephalitis" yet he was still not tested for a measles infection, such as SSPE,

1 despite evidencing symptoms common to SSPE such as abnormal behavior, irritability, loss  
2 of intellectual abilities, memory loss, involuntary movements, seizures, and inability to  
3 walk.

4 37. During this hospitalization between 11/1/14 and 12/16/14 and prior, HOLFELD endured  
5 many painful invasive procedures such as numerous lumbar punctures, frontal lobe biopsy,  
6 anesthesia, skin biopsy, and blood draws. Had he been properly diagnosed initially or  
7 anywhere along the way, these extra traumatic procedures could have been avoided as there  
8 would have been a proper working diagnosis.  
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10 38. By 12/13/14, HOLFELD's treating physicians still had no definitive diagnosis and were  
11 grasping at anything that could potentially help HOLFELD. They commenced "treatment"  
12 with Cytosan, a chemotherapy drug. Per the medical records, the discharge summary on  
13 1/7/15 from yet another hospitalization, notes, "Cytotoxin lowers your body's immune  
14 response, which helps fight infections such as viruses". Measles is a virus, and had  
15 HOLFELD'S mother known HOLFELD had a measles infection she would not have  
16 consented to this drug for her child.  
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18 39. By 1/5/15, after "treatment" with Cytosan, HOLFELD had deteriorated further, to the point  
19 that on 1/5/15 the neurology consult noted that HOLFELD was worse, and had, "no  
20 purposeful movement, no gestures, no laughing, seizures were worse, and he was unable to  
21 participate in activities."  
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23 40. On 1/9/15, HOLFELD was delivered to the ED by ambulance. His mother did not go with  
24 him because she herself was ill. A Stanford Hospital social worker decided to call Child  
25 Protective Services (CPS) because the child was deteriorating, without hearing what the  
26 mother had to say. CPS then took custody of both mother's children, HOLFELD and his  
27 brother Leven Holfeld, who was just shy of two years old at the time. CPS was to investigate  
28 "the safety of the home situation".



1 41. On 1/9/15 the hospital records note, "Parental rights terminated under CPS custody." This  
2 included termination of parental rights regarding HOLFELD and Leven Holfeld. Obviously,  
3 having her parental rights terminated caused plaintiff severe emotional distress, and both  
4 children emotional pain and confusion due to separation from their primary caregiver and  
5 mother.

6 42. On or about 2/2/15, while Leven Holfeld was in the "protective custody" of CPS, he  
7 sustained a head injury. This caused Plaintiff and Leven further emotional distress.

8 43. Hospital personnel did not consider that Cytoxan given to a child with measles could result  
9 in the deterioration they were seeing because they still did not know the child had a measles  
10 infection.

11 44. Additionally, HOLFELD'S mother had been investigating taking HOLFELD for a second  
12 opinion. This is documented during the palliative care meeting on 12/2/14. Once SHARKH  
13 lost her parental rights, she could not take HOLFELD for a second opinion, which may have  
14 led to quicker proper diagnosis.

15 45. On 2/28/15, HOLFELD was moved to the PICU at LPC, and his diagnosis was still charted  
16 as "presumed autoimmune encephalitis.....but no definitive diagnosis."

17 46. On 3/5/15, Hayden T. Schwenk MD was called to provide an infectious disease consult on  
18 HOLFELD. This is the first note documenting that HOLFELD is being diagnosed for a  
19 measles infection "given positive CSF IgG Measles titer". "SSPE is now thought to be of  
20 concern."

21 47. On 3/5/15, Dr. Schwenk continues, "HOLFELD was admitted at 6 months of age in  
22 September of 2011 for a viral illness and had a significant rash that started on his face and  
23 spread to his trunk and extremities....His mother has a picture of him at this time. See  
24 below.."  
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1 48. On 3/6/15, Dr. Schwenk notes, "HOLFELD ...with progressive neurological decline and  
2 medically refractory epilepsy...is now positive for measles CSF IgG concerning for SSPE.  
3 His history of rash at 6 months prior to MMR vaccine, his exposure history, his EEG  
4 findings, his clinical course beginning with behavior changes followed by myoclonic jerking  
5 are all consistent with SSPE." All these markers were known well before diagnosis in late  
6 February or early March of 2015.

7  
8 49. On 3/6/15, Dr. Schwenk notes, "In regards to treatment, Isoprinosine through antiviral and  
9 immunomodulatory effects has been shown to **prolong survival** and may be a possible  
10 option. This drug is not available in the U.S. and further measures have been taken to  
11 import the drug."

12 50. Had HOLFELD been properly diagnosed with measles, his mother would have had crucial  
13 information for his treatment earlier and access to Isoprinosine in Germany. Once Dr.  
14 Schwenk knew HOLFELD had SSPE Dr. Schwenk recommended procuring Isoprinosine  
15 from the manufacturer.

16  
17 51. WHO (World Health Organization) recommends those with a measles infection be treated  
18 with Vitamin A to prevent blindness. HOLFELD was never given this treatment by his  
19 primary care provider, JONES, or as a patient in the ED, or as an inpatient at LPC.  
20 HOLFELD is unable to see at this time.

21 52. Dr. Schwenk evidenced the ability to contact experts in other countries regarding SSPE  
22 treatment in his email 11/2/16 to Professor Oishi at Kyoto University in Japan. It is  
23 reasonable to expect Stanford University physicians to be able to contact other medical  
24 centers internationally regarding novel therapies. Had HOLFELD been diagnosed earlier,  
25 before his nervous system was ravaged with infection, he could have been taken by his  
26 mother to other countries to try promising treatments, given her evidenced ability to obtain  
27 employment in other countries and evidenced ability to do research.  
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1 53. HOLFELD presently resides in hospice in Europe, unable to see, walk, talk, or eat. Had his  
2 vision been spared he would at least have been able to enjoy cartoons.

3 54. HOLFELD'S mother was unable to continue her career as a researcher and faculty member,  
4 having taken a leave of absence when her children were removed from her care by CPS to  
5 ensure her children were returned to her as social workers informed her that she needed  
6 availability for the children 24/7 to ensure her children were returned to her.

7 55. Additionally, she suffered humiliation in front of her colleagues once CPS removed the  
8 children from her care, as the implication was that she was not a good parent providing  
9 safety for her children. In fact, HOLFELD'S mother was doing all she could for her  
10 children, but having been denied a proper diagnosis for HOLFELD, she lacked crucial  
11 information. Every time HOLFELD had a new deterioration, i.e. change in circumstances,  
12 she sought medical assistance for her child.

13 56. Staff at LCP recommended palliative care for HOLFELD, and told HOLFELD'S mother he  
14 was not expected to live more than 3 months. HOLFELD'S mother made decisions based  
15 upon that information, including availability to HOLFELD at all times, because if  
16 HOLFELD were dying she did not want him to die alone. She delayed surgery on her own  
17 hand/wrist to be available to HOLFELD.

18 57. HOLFELD'S mother has lost her academic career, and presently lives on state aid in Europe  
19 while trying to care for her son Leven, and while spending time with HOLFELD in his  
20 hospice community. When HOLFELD hears his mother's voice he does respond by moving  
21 his head toward her and the German doctors report that he prefers her presence to all others.

22 58. HOLFELD'S mother spends significant time with him as he is a 7-year-old child deserving  
23 of love and compassion no matter his circumstances.

24 59. As HOLFELD'S mother is a documentary filmmaker. She has photographs and videos of  
25 HOLFELD prior to his measles infection, during initial presentation of measles with the  
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1 traditional measles rash, throughout his steady decline in function, and in his present  
2 condition.

3 60. HOLFELD'S mother earned her PhD with joint dissertation committees in Germany and the  
4 U.S., in preparation for the academic career in which she was employed. Her CV is  
5 impressive and speaks for itself.

6 61. Due to Stanford Hospital ED, Stanford's outpatient clinic and LPCH, as well as the  
7 physicians employed by these entities, HOLFELD did not receive an early diagnosis. This  
8 negligence caused the crucial window for treatment, or slowing the progression of SSPE, to  
9 be missed. Additionally, HOLFELD'S mother spent all her funds on medical and nursing  
10 care for HOLFELD, including a desperate attempt to keep HOLFELD at home with her and  
11 Leven through affordable nursing care in Peru. This further evidenced HOLFELD'S  
12 mother's resourcefulness in caring for her son. Eventually she returned to Europe where  
13 they presently reside on public assistance.

14 62. HOLFELD'S mother's career has been permanently impacted by the negligence of the  
15 above parties. HOLFELD was denied the chance to try promising therapies, and his brother  
16 Leven has had a mother stretched between two children she loves. Having to constantly  
17 balance the needs of two young children, both with significant needs, while on public  
18 assistance has added a burden of further emotional pain and suffering to SHARKH'S life.

19 63. HOLFELD, who is in hospice, and Leven who as a young child (approximately 5 years of  
20 age now) also needs extra attention and care from his mother due to the trauma of separation  
21 from his mother at the age of 2. Being put into foster care when CPS took custody of both  
22 children 1/9/15 adversely affected Leven. HOLFELD'S mother continues to live with the  
23 after effects of this traumatic experience herself, and in watching what has happened to both  
24 her children.  
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1 64. Due to the negligence of the presently known above named parties HOLFELD suffered  
2 additional pain and suffering as he endured unnecessary treatment that exacerbated his  
3 measles infection.

4 65. Due to the negligence of the presently known above named parties, SHARKH will never be  
5 able to enjoy the full fruits of her PhD, work in documentary film making, publishing, and  
6 experience as a professor. Academia has rigid "publish or perish" requirements and requires  
7 ongoing employment. Had SHARKH known HOLFELD'S true diagnosis she would have  
8 had proper information needed to make decisions for her own life, have been spared the pain  
9 and suffering of temporarily losing her children and watching HOLFELD undergo  
10 unnecessary procedures, and avoided the pain and strain of not knowing what was  
11 happening to HOLFELD. Additionally, she would not have had to watch HOLFELD  
12 become worse from chemotherapy. Nor would HOLFELD have suffered, becoming worse  
13 from chemotherapy.  
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15 66. But for the above named parties, SHARKH would have been able to make decisions in the  
16 best interests of herself and her children, while she still had some resources and excellent  
17 health insurance. Instead, uninformed by treating medical personnel, she has lost her career  
18 and lives on public assistance.  
19

20 **CAUSES OF ACTION**

21 **PROFESSIONAL NEGLIGENCE**

22 **(Both Plaintiffs against All The Defendants)**

23  
24 67. The Plaintiffs incorporate by reference all of the proceeding paragraphs contained in this  
25 complaint as though set forth herein.  
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68. Throughout the events herein described, defendants, and each of them, owed Plaintiffs a duty to exercise that degree of professional care as is customary and expected for health care providers in Northern California.

69. In doing, or not doing, the acts herein described above, defendants breached their duty of care to plaintiffs.


70. As a direct proximate cause of defendants' breach of their professional duty of care, and of diagnosis, Plaintiffs have suffered both economic and noneconomic damages in an amount to be proven at the time of trial.

**PRAYER FOR RELIEF**

WHEREFORE, The Plaintiffs pray for judgment against The Defendants as follows:

- 1) For compensatory damages according to proof;
- 2) For costs of suit; and
- 3) For such other and further relief as the Court deems just and proper.

Date: May 22, 2018

  
Stephen B. Morris, counsel for  
Plaintiffs