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COUNTY OF CONTRA COSTA, CALIF.

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8 **RAMI KAHLON, and AVNEET KAHLON**

9
10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **FOR THE COUNTY OF CONTRA COSTA**

12 **C 03 · 00313**

13 Case No.

14 **COMPLAINT FOR DAMAGES FOR**

15 **BRIJINDER KAHLON,**
16 **RAMI KAHLON, and**
17 **AVNEET KAHLON,**

18 **Plaintiffs,**

19 vs.

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1. **NEGLIGENCE**
 2. **NEGLIGENT INFLECTION OF EMOTIONAL DISTRESS (THING V. LACHUSA)**
 3. **NEGLIGENT INFLECTION OF EMOTIONAL DISTRESS (THING V. LACHUSA)**

PER LOCAL RULE 5 THIS
CASE IS ASSIGNED TO
DEPT _____

29 **ELIA RACAH, M.D.,**
30 **MICHAEL R. LOZANO, M.D.,**
31 **GITA MOAREFI, M.D.,**
32 **KAISER FOUNDATION HEALTH PLAN,**
33 **INC.,**
34 **THE PERMANENTE MEDICAL GROUP,**
35 **INC.,**
36 **KAISER FOUNDATION HOSPITALS,**
37 **and**
38 **DOES 1 through 250, inclusive,**

39 **Defendants.**

1 1. The true names, identities or capacities, whether individual, associate, corporate or
2 otherwise of Defendants DOES 1 through 250, inclusive, are unknown to Plaintiffs who,
3 therefore, sue said Defendants by such fictitious names. When the true names, identities or
4 capacities of such fictitiously-designated Defendants are ascertained, Plaintiffs will ask leave of
5 Court to amend the Complaint to insert said true names, identities and capacities, together with
6 the proper charging allegations.

7 2. Plaintiffs are informed and believe and thereon allege that each of the Defendants
8 sued herein as a DOE is responsible in some manner for the events and happenings herein referred
9 to, thereby legally causing the injuries and damages to the Plaintiffs as herein alleged.

10 3. All of the facts, acts, events and circumstances herein mentioned and described
11 occurred in the County of Contra Costa, State of California, and all Defendants are residents of
12 the County of Contra Costa, State of California, doing business in said County, State of
13 California.

14 4. At all times herein mentioned, Defendants **ELIA RACAH, M.D., MICHAEL R.**
15 **LOZANO, M.D., GITA MOAREFI, M.D.,** and DOES 1 through 50, inclusive, were, and now
16 are, physicians and surgeons, holding themselves out as duly licensed to practice their profession
17 under and by virtue of the laws of the State of California and were, and now are, engaged in the
18 practice of their profession in the State of California.

19 5. At all times herein mentioned, Defendants DOES 51 through 100, inclusive, and
20 each of them, were, and now are, registered nurses, licensed vocational nurses, practical nurses,
21 physician assistants, aids, technicians, attendants, students or other paramedical personnel,
22 holding themselves out as duly able to practice their profession under and by virtue of the laws of
23 the State of California and were, and now are, engaged in the practice of their profession in the
24 State of California and acting as agents, employees and servants of some or all of the other
25 Defendants within the course and scope of said agency or employment.

26 6. At all times herein mentioned, Defendants **KAISER FOUNDATION HEALTH**
27 **PLAN, INC., THE PERMANENTE MEDICAL GROUP, INC.,** and DOES 101 through 150,
28 inclusive, were corporations, partnerships, joint ventures, or other entities organized and existing

1 under the laws of the State of California, with their principal place of business situated in the State
2 of California.

3 7. Defendants **KAISER FOUNDATION HOSPITALS, DOES 151 through 200,**
4 inclusive, and each of them, were at all times herein mentioned duly organized California
5 corporations or hospitals existing under and by virtue of the laws of the State of California; that
6 said Defendant corporations, hospitals and the remaining Defendants, and each of them, owned,
7 operated, managed and controlled a general hospital facility within the County of Contra Costa,
8 State of California, held out to the public at large and to the Plaintiffs herein, as properly
9 equipped, fully accredited, competently staffed by qualified and prudent personnel and operating
10 in compliance with the standard of due care maintained in other properly equipped, efficiently
11 operated and administered, accredited hospitals in said community.

12 8. At all times herein mentioned Defendants DOES 201 through 250 were doing
13 business as a district hospital, a hospital operated by a government entity open to the public, or a
14 medical facility operated by a government entity open to the public rendering medical, surgical,
15 hospital, diagnostic, nursing and other care to the general public for compensation. All of the acts
16 complained of herein by Plaintiffs against said Defendants were done and performed by said
17 Defendants by and through their duly authorized agents, servants and employees, each of whom
18 and all of whom were at all times mentioned herein acting within the course, purpose, and scope
19 of their said agency, service and employment, and whose conduct was ratified by all Defendants,
20 and each of them. Further, each Defendant ratified and affirmed the conduct of each other
21 Defendant. Each of the Defendants were the agents, servants, and employees of the other
22 Defendants.

23 9. Defendants **KAISER FOUNDATION HOSPITALS, DOES 151 through 250,**
24 inclusive, and each of them, at all times herein mentioned were institutions or controlled
25 institutions, duly accredited by the Joint Commission on Hospital Accreditation, and assumed and
26 held themselves out to the public as in compliance with the minimum standards required by said
27 Joint Commission for such accreditation.

28 10. Plaintiffs are informed and believe and upon such information and belief allege that

1 at all times herein mentioned, Defendants and other Defendants named fictitiously, were the
2 agents, servants, employees, joint-venturers, and copartners of their said co-Defendants and, as
3 such, were acting within the course and scope of such agency, service, partnership, venture, and
4 employment at all times herein mentioned; that each and every Defendant, as aforesaid, when
5 acting as a principal, was negligent in the selection and hiring of each and every other Defendant,
6 as its agent, servant, employee, joint-venturer and partner. Further, each and every Defendant
7 ratified the conduct of the other Defendants.

8 11. Plaintiffs are informed and believe that at the time of judgment they will be entitled
9 to prejudgment interest because the Defendants will have rejected an offer pursuant to the terms
10 of Code of Civil Procedure section 998 and will have failed to obtain a more favorable judgment.
11 Code of Civil Procedure section 998 shall apply unless the Defendants come under the provisions
12 of Civil Code section 3291.

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14 I.

15 **PLAINTIFF BRIJINDER KAHLON ALLEGES A CAUSE OF ACTION FOR NEGLIGENCE**
16 **AGAINST DEFENDANTS ELIA RACAH, M.D., MICHAEL R. LOZANO, M.D., GITA**
17 **MOAREFI, M.D., KAISER FOUNDATION HEALTH PLAN, INC., THE**
18 **PERMANENTE MEDICAL GROUP, INC., KAISER FOUNDATION HOSPITALS, AND**
19 **DOES 1 THROUGH 20, 30 THROUGH 40, 51 THROUGH 70, 80 THROUGH 90, 101**
20 **THROUGH 120, 130 THROUGH 140, 151 THROUGH 170, 180 THROUGH 190, 201**
21 **THROUGH 220, AND 230 THROUGH 240 AS FOLLOWS:**

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23 12. Plaintiff **BRIJINDER KAHLON** repeats and repleads each and every allegation
24 contained in all prior paragraphs and incorporates the same herein by reference as to Defendants
25 **ELIA RACAH, M.D., MICHAEL R. LOZANO, M.D., GITA MOAREFI, M.D., KAISER**
26 **FOUNDATION HEALTH PLAN, INC., THE PERMANENTE MEDICAL GROUP, INC.,**
27 **KAISER FOUNDATION HOSPITALS, DOES 1 through 20, 30 through 40, 51 through 70,**
28 **80 through 90, 101 through 120, 130 through 140, 151 through 170, 180 through 190, 201**

1 through 220 and 230 through 240 as follows.

2 13. At all times herein mentioned, the Plaintiff was in the exclusive control of the
3 Defendants, and each of them, and that at no time prior to the events, conduct, activities, care and
4 treatment herein complained of did the Defendants herein, or any of them, obtain knowledgeable,
5 informed consent for said care, treatment or conduct; that prior to the initiation of or performance
6 of said care, treatment, procedure or conduct no opportunity was afforded the Plaintiff or any
7 authorized agent of the Plaintiff to exercise voluntary, knowledgeable and informed consent to
8 said care, treatment, procedure or conduct.

9 14. Prior to February 18, 2002, and thereafter, **BRIJINDER KAHLON** employed
10 Defendants, and each of them, to diagnose and treat Plaintiff and to do all things necessary for
11 Plaintiff's care including, but not limited to care and treatment for atrial fibrillation and signs and
12 symptoms of a cerebrovascular accident.

13 15. While Plaintiff was under the sole and exclusive care and control of the
14 Defendants, and each of them, Defendants, and each of them negligently, carelessly and
15 unskillfully, examined, treated, cared for, diagnosed, operated upon, attended and otherwise
16 handled and controlled the Plaintiff herein, thereby proximately causing injuries and damages to
17 the Plaintiff.

18 16. Defendants neglected to adequately select a competent medical staff and to
19 periodically review the competency of its medical staff and failed to adequately monitor its staff
20 such that Plaintiff was caused to, and did suffer damages.

21 17. As a legal result of the negligence of the Defendants, and each of them, Plaintiff
22 was injured in health, strength and activity, sustaining severe shock, and injury to the body, all of
23 which said injuries have caused and continue to cause Plaintiff great physical and nervous pain and
24 suffering, and which said injuries Plaintiff is informed and believes, and thereon alleges, will result
25 in permanent disability, loss of enjoyment of life, loss of earnings, and impairment of earning
26 capacity to said Plaintiff and all to the Plaintiff's damage in a sum in excess of the jurisdiction of
27 the Municipal Court.

28 18. As a further legal result of the negligence of the Defendants, and each of them, and

1 the resulting injuries to the Plaintiff, Plaintiff was compelled to, and did, incur expenses for
2 medical and surgical attention, hospitalization, nursing, medication and incidentals for said
3 Plaintiff in an amount unknown to Plaintiff at present.

4 19. As a further legal result of the negligence of the Defendants, and each of them, and
5 of the resulting injuries, Plaintiff will be obliged to incur expenses for medical care and
6 hospitalization for an indefinite period in the future and to pay for these expenses in the treatment
7 and relief of injuries for medical and surgical attention, hospitalization, nursing, medication, and
8 incidentals for Plaintiff in an amount unknown to Plaintiff at present.

9 20. As a further legal result of the negligence of the Defendants, and each of them,
10 Plaintiff has suffered and will suffer a decreased earning capacity in the past and in the future and
11 decreased past and future earnings to Plaintiff's further damage in a sum unknown to Plaintiff at
12 present.

13 21. It was reasonably foreseeable and easily predictable that any acts of negligence by
14 these Defendants that would injure the Plaintiff would lead to serious emotional distress in
15 Plaintiff. Because the risk of harm to the Plaintiff was reasonably foreseeable and easily
16 predictable, Defendants owed Plaintiff a duty to exercise due care in diagnosing, caring for, and
17 treating Plaintiff.

18 22. Said Defendants in reckless disregard of the probability that their actions, in failing
19 to provide the necessary medical treatment to Plaintiff, caused Plaintiff severe emotional distress.

20 23. By reason of the negligence of said Defendants, Plaintiff suffered severe and
21 serious emotional distress and shock and injury to the nervous system and body, resulting in
22 general damage in a sum within the jurisdiction of this Court.

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28 II.

1 PLAINTIFF RAMI KAHLON ALLEGES FOR A SEPARATE AND DISTINCT CAUSE OF
2 ACTION FOR NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS AGAINST
3 DEFENDANTS ELIA RACAH, M.D., MICHAEL R. LOZANO, M.D., GITA MOAREFI,
4 M.D., KAISER FOUNDATION HEALTH PLAN, INC., THE PERMANENTE MEDICAL
5 GROUP, INC., KAISER FOUNDATION HOSPITALS, DOES 15 THROUGH 35, 65
6 THOROUGH 85, 115 THROUGH 135, 165 THROUGH 185, AND 215 THROUGH 235 AS
7 FOLLOWS:

8
9 24. Plaintiff **RAMI KAHLON** repeats and repleads each and every allegation
10 contained in all prior paragraphs and incorporates the same herein by reference as to Defendants
11 **ELIA RACAH, M.D., MICHAEL R. LOZANO, M.D., GITA MOAREFI, M.D., KAISER**
12 **FOUNDATION HEALTH PLAN, INC., THE PERMANENTE MEDICAL GROUP, INC.,**
13 **KAISER FOUNDATION HOSPITALS, DOES 15 through 35, 65 through 85, 115 through**
14 **135, 165 through 185, and 215 through 235 as follows.**

15 25. At all times herein mentioned **RAMI KAHLON**, is the son of **BRIJINDER**
16 **KAHLON** and **AVNEET KAHLON** is the daughter-in-law of **BRIJINDER KAHLON** and are
17 closely related. All Plaintiffs reside in one residence.

18 26. On February 4, 2002, **BRIJINDER KAHLON** experienced an elevated heart rate
19 and goes to bed early.

20 27. On Tuesday, February 5, 2002, **BRIJINDER KAHLON** again experienced an
21 elevated heart rate. **RAMI KAHLON** and **AVNEET KAHLON** took **BRIJINDER**
22 **KAHLON** to **KAISER** emergency room in Walnut Creek. **MICHAEL R. LOZANO, M.D.**
23 diagnosed her as having atrial fibrillation. Blood tests and EKG were done. **MICHAEL R.**
24 **LOZANO, M.D.** suggested that she see her primary care physician. **RAMI KAHLON** and
25 **AVNEET KAHLON** informed him that her primary care physician was on leave. **MICHAEL**
26 **R. LOZANO, M.D.** informed the Plaintiffs that atrial fibrillation was a dangerous condition that
27 could lead to a stroke. **MICHAEL R. LOZANO, M.D.** did not prescribe any medications.
28 Plaintiffs returned home at 12:00 a.m., midnight. **BRIJINDER KAHLON** again experienced an

1 elevated heart rate.

2 28. On Wednesday, February 6, 2002, **RAMI KAHLON** took **BRIJINDER**
3 **KAHLON** to **KAISER**'s Shadelands medical clinic and saw **GITA MOAREFI, M.D.** **RAMI**
4 **KAHLON** informed the doctor about the diagnosis of atrial fibrillation and the elevated heart
5 beats. **GITA MOAREFI, M.D.** suggested that **BRIJINDER KAHLON** start taking aspirin.
6 The doctor orders and EKG which was done. The doctor did not prescribe an aspirin dosage.
7 **BRIJINDER KAHLON** started taking aspirin daily. **BRIJINDER KAHLON** remained tired
8 and weak.

9 29. On Thursday, February 7, 2002, **BRIJINDER KAHLON** remained tired and
10 weak and again experienced an elevated heart rate and a loss of appetite. **RAMI KAHLON** and
11 **AVNEET KAHLON** contacted a family friend, Dr. Anjali Pathak, who is a cardiologist. Dr.
12 Pathak said that **BRIJINDER KAHLON** is at risk for a stroke and she should be given a drug
13 to put her heart back into regular rhythm, such as Dygoxen, and a drug to thin her blood.

14 30. On Friday, February 8, 2002, **BRIJINDER KAHLON** remained tired and weak
15 and again experienced an elevated heart rate. **AVNEET KAHLON** telephoned **GITA**
16 **MOAREFI, M.D.** and left a message that **BRIJINDER KAHLON** continued to have bouts of
17 elevated heartbeats and remains weak and tired. The doctor's nurse returned the call and stated
18 that if **AVNEET KAHLON** thinks the situation is serious to go to the emergency room. **GITA**
19 **MOAREFI, M.D.** did not request to see **BRIJINDER KAHLON**.

20 31. On Saturday, February 9, 2002, **BRIJINDER KAHLON** again experienced
21 being weak and tired and also had a bout with an elevated heart beat.

22 32. On Sunday, February 10, 2002, **BRIJINDER KAHLON** again experienced being
23 weak and tired and also had a bout with an elevated heart beat.

24 33. On Monday, February 11, 2002, **AVNEET KAHLON** telephoned **KAISER**.
25 **KAISER** gave **BRIJINDER KAHLON** an appointment for evening hours. **KAISER** gave an
26 appointment with **ELIA RACAH, M.D.** for 2:00 p.m. for the next day. However, **ELIA**
27 **RACAH, M.D.**, did not want to see **BRIJINDER KAHLON** and said to take her to the
28 emergency room if the Plaintiffs think the condition is serious. That same day, **AVNEET**

1 **KAHLON** attempted to make an appointment with a **KAISER** cardiologist and she left a
2 message with the cardiology department. The cardiology department called back and told
3 Plaintiffs that an appointment with cardiology cannot be made unless the primary care physician
4 recommends the appointment.

5 34. On Tuesday, February 12, 2002, **BRIJINDER KAHLON** continued to have
6 periods of elevated heartbeats and is feeling more tired than previously. **RAMI KAHLON** and
7 **AVNEET KAHLON** accompanied **BRIJINDER KAHLON** to see **ELIA RACAH, M.D.**
8 **RAMI KAHLON** and **AVNEET KAHLON** accompanied **BRIJINDER KAHLON** into the
9 examination room with **ELIA RACAH, M.D.** **RAMI KAHLON** and **AVNEET KAHLON**
10 give the doctor a note with the events of the prior week. **RAMI KAHLON** and **AVNEET**
11 **KAHLON** told the doctor that they contacted a family friend, Dr. Anjali Pathak, who is a
12 cardiologist. They informed **ELIA RACAH, M.D.** that Dr. Pathak said that **BRIJINDER**
13 **KAHLON** is at risk for a stroke and she should be given a drug to put her heart back into regular
14 rhythm, such as Dygoxen, and a drug to thin her blood. **ELIA RACAH, M.D.** stated that
15 Atenelol medication will control her heart rate and the daily aspirin will thin her blood. **ELIA**
16 **RACAH, M.D.** says these medications are all that **BRIJINDER KAHLON** needs. **ELIA**
17 **RACAH, M.D.** states that he did not believe she needed to be on stronger medication such as
18 Coumadin (a blood thinner) or Dygoxen (to put the heart back in regular rhythm). **ELIA**
19 **RACAH, M.D.** stated that **BRIJINDER KAHLON**'s condition may be psychological in nature
20 and an after effect of her bouts of atrial fibrillation. The doctor acknowledged that **BRIJINDER**
21 **KAHLON** is at risk for a stroke. However, the doctor arranged for an echocardiogram which
22 was scheduled for March 27, 2002 - six weeks later.

23 35. Wednesday, February 13, 2002, **BRIJINDER KAHLON** continued to have
24 bouts with an elevated heart rate and being very tired.

25 36. Thursday, February 14, 2002, **BRIJINDER KAHLON** continued to have bouts
26 with an elevated heart rate and being very tired. **RAMI KAHLON** made an appointment with
27 Dr. Gurinder Grewal, a cardiologist for February 20, 2002.

28 37. Friday, February 15, 2002, **BRIJINDER KAHLON** felt weak to the point of

1 "trembling inside." At 11:00 a.m., her blood pressure was 144/81 and her pulse rate was 62.

2 **AVNEET KAHLON** called **KAISER** cardiology to move up the date for the echocardiogram
3 appointment to March 7, 2002.

4 38. Saturday, February 16, 2002, **BRIJINDER KAHLON** continued to have bouts
5 with an elevated heart rate and being very tired.

6 39. Sunday, February 17, 2002, **BRIJINDER KAHLON** continued to have bouts
7 with an elevated heart rate and being very tired.

8 40. Monday February 18, 2002, at 4:40 a.m., **RAMI KAHLON** and **AVNEET**
9 **KAHLON** were awakened by a "large thud." Rushing into **BRIJINDER KAHLON**'s room,
10 they find her lying on the floor in a state of "shock" and unable to call for help. Her left side was
11 paralyzed; her speech was slurred; and, she had difficulty seeing. **AVNEET KAHLON** called
12 911. **BRIJINDER KAHLON** was taken to Mt. Diablo Hospital in Concord. There she was
13 given a CT scan and is diagnosed as having had a major stroke. Thereafter, a **KAISER** physician
14 starts **BRIJINDER KAHLON** on Coumadin.

15 41. As a direct and proximate result of the aforesaid conduct of Defendants, and each
16 of them, and the resultant injuries to Plaintiff **BRIJINDER KAHLON**, Plaintiffs **RAMI**
17 **KAHLON** and **AVNEET KAHLON** have suffered negligent infliction of emotional distress.
18 Plaintiffs **RAMI KAHLON** and **AVNEET KAHLON** were at the scene of the injury producing
19 events and then knew that **BRIJINDER KAHLON** was being caused injury because of the
20 failure of the Defendants to provide timely medical care to **BRIJINDER KAHLON**. Plaintiffs
21 believed the Defendants' care and treatment **BRIJINDER KAHLON** was caused because the
22 Defendants had exclusive control of **BRIJINDER KAHLON**. Plaintiffs **RAMI KAHLON** and
23 **AVNEET KAHLON** were at the scene of the injury producing events and then knew that
24 **BRIJINDER KAHLON** was being caused injury because of her deteriorating condition because
25 of lack of medical care.

26 42. Said Defendants in disregard of the probability that their actions, in failing to
27 provide the necessary medical treatment to **BRIJINDER KAHLON**, caused Plaintiffs **RAMI**
28 **KAHLON** and **AVNEET KAHLON** to suffer severe emotional distress.

1 43. As a further legal result of the negligence of the Defendants, and each of them,
2 Plaintiff **RAMI KAHLON** has suffered loss of earnings and will suffer a decreased earning
3 capacity in the future and future earnings to Plaintiffs' further damage in a sum unknown at
4 present.

5 44. By reason of the negligence of said Defendants, Plaintiffs **RAMI KAHLON**
6 suffered severe and serious emotional distress and shock and injury to h nervous system and body,
7 all to their general damage in a sum within the jurisdiction of this Court and pursuant to Thing v.
8 LaChusa (1989) 48 Cal.3d 644.

9
10 III.

11 PLAINTIFF AVNEET KAHLON ALLEGES FOR A SEPARATE AND DISTINCT CAUSE
12 OF ACTION FOR NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS AGAINST
13 DEFENDANTS ELIA RACAH, M.D., MICHAEL R. LOZANO, M.D., GITA MOAREFI,
14 M.D., KAISER FOUNDATION HEALTH PLAN, INC., THE PERMANENTE MEDICAL
15 GROUP, INC., KAISER FOUNDATION HOSPITALS, DOES 15 THROUGH 35, 65
16 THOROUGH 85, 115 THROUGH 135, 165 THROUGH 185, AND 215 THROUGH 235 AS
17 FOLLOWS:

18
19 45. Plaintiff **AVNEET KAHLON** repeats and repleads each and every allegation
20 contained in all prior paragraphs and incorporates the same herein by reference as to Defendants
21 **ELIA RACAH, M.D., MICHAEL R. LOZANO, M.D., GITA MOAREFI, M.D., KAISER**
22 **FOUNDATION HEALTH PLAN, INC., THE PERMANENTE MEDICAL GROUP, INC.,**
23 **KAISER FOUNDATION HOSPITALS, DOES 15 through 35, 65 through 85, 115 through**
24 **135, 165 through 185, and 215 through 235 as follows.**

25 46. At all times herein mentioned **RAMI KAHLON**, is the son of **BRIJINDER**
26 **KAHLON** and **AVNEET KAHLON** is the daughter-in-law of **BRIJINDER KAHLON** and are
27 closely related. All Plaintiffs reside in one residence.

28 47. On February 4, 2002, **BRIJINDER KAHLON** experienced an elevated heart rate

1 and goes to bed early.

2 48. On Tuesday, February 5, 2002, **BRIJINDER KAHLON** again experienced an
3 elevated heart rate. **RAMI KAHLON** and **AVNEET KAHLON** took **BRIJINDER**
4 **KAHLON** to **KAISER** emergency room in Walnut Creek. **MICHAEL R. LOZANO, M.D.**
5 diagnosed her as having atrial fibrillation. Blood tests and EKG were done. **MICHAEL R.**
6 **LOZANO, M.D.** suggested that she see her primary care physician. **RAMI KAHLON** and
7 **AVNEET KAHLON** inform him that her primary care physician was on leave. **MICHAEL R.**
8 **LOZANO, M.D.** informed the Plaintiffs that atrial fibrillation was a dangerous condition that
9 could lead to a stroke. **MICHAEL R. LOZANO, M.D.** did not prescribe any medications.
10 Plaintiffs returned home at 12:00 a.m., midnight. **BRIJINDER KAHLON** again experienced an
11 elevated heart rate.

12 49. On Wednesday, February 6, 2002, **RAMI KAHLON** took **BRIJINDER**
13 **KAHLON** to **KAISER's** Shadelands medical clinic and saw **GITA MOAREFI, M.D.** **RAMI**
14 **KAHLON** informed the doctor about the diagnosis of atrial fibrillation and the elevated heart
15 beats. **GITA MOAREFI, M.D.** suggested that **BRIJINDER KAHLON** start taking aspirin.
16 The doctor orders and EKG which was done. The doctor did not prescribe an aspirin dosage.
17 **BRIJINDER KAHLON** started taking aspirin daily. **BRIJINDER KAHLON** remained tired
18 and weak.

19 50. On Thursday, February 7, 2002, **BRIJINDER KAHLON** remained tired and
20 weak and again experienced an elevated heart rate and a loss of appetite. **RAMI KAHLON** and
21 **AVNEET KAHLON** contacted a family friend, Dr. Anjali Pathak, who is a cardiologist. Dr.
22 Pathak said that **BRIJINDER KAHLON** is at risk for a stroke and she should be given a drug
23 to put her heart back into regular rhythm, such as Dygoxen, and a drug to thin her blood.

24 51. On Friday, February 8, 2002, **BRIJINDER KAHLON** remained tired and weak
25 and again experienced an elevated heart rate. **AVNEET KAHLON** telephoned **GITA**
26 **MOAREFI, M.D.** and left a message that **BRIJINDER KAHLON** continued to have bouts of
27 elevated heartbeats and remains weak and tired. The doctor's nurse returned the call and stated
28 that if **AVNEET KAHLON** thinks the situation is serious to go to the emergency room. **GITA**

1 **MOAREFI, M.D.** did not request to see **BRIJINDER KAHLON**.

2 52. On Saturday, February 9, 2002, **BRIJINDER KAHLON** again experienced
3 being weak and tired and also had a bout with an elevated heart beat.

4 53. On Sunday, February 10, 2002, **BRIJINDER KAHLON** again experienced being
5 weak and tired and also had a bout with an elevated heart beat.

6 54. On Monday, February 11, 2002, **AVNEET KAHLON** telephoned **KAISER**.
7 **KAISER** gave **BRIJINDER KAHLON** an appointment for evening hours. **KAISER** gave an
8 appointment with **ELIA RACAH, M.D.** for 2:00 p.m. for the next day. However, **ELIA**
9 **RACAH, M.D.**, did not want to see **BRIJINDER KAHLON** and said to take her to the
10 emergency room if the Plaintiffs think the condition is serious. That same day, **AVNEET**
11 **KAHLON** attempted to make an appointment with a **KAISER** cardiologist and she left a
12 message with the cardiology department. The cardiology department called back and told
13 Plaintiffs that an appointment with cardiology cannot be made unless the primary care physician
14 recommends the appointment.

15 55. On Tuesday, February 12, 2002, **BRIJINDER KAHLON** continued to have
16 periods of elevated heartbeats and is feeling more tired than previously. **RAMI KAHLON** and
17 **AVNEET KAHLON** accompanied **BRIJINDER KAHLON** to see **ELIA RACAH, M.D.**
18 **RAMI KAHLON** and **AVNEET KAHLON** accompanied **BRIJINDER KAHLON** into the
19 examination room with **ELIA RACAH, M.D.** **RAMI KAHLON** and **AVNEET KAHLON**
20 give the doctor a note with the events of the prior week. **RAMI KAHLON** and **AVNEET**
21 **KAHLON** told the doctor that they contacted a family friend, Dr. Anjali Pathak, who is a
22 cardiologist. They informed **ELIA RACAH, M.D.** that Dr. Pathak said that **BRIJINDER**
23 **KAHLON** is at risk for a stroke and she should be given a drug to put her heart back into regular
24 rhythm, such as Dygoxen, and a drug to thin her blood. **ELIA RACAH, M.D.** stated that
25 Atenelol medication will control her heart rate and the daily aspirin will thin her blood. **ELIA**
26 **RACAH, M.D.** says these medications are all that **BRIJINDER KAHLON** needs. **ELIA**
27 **RACAH, M.D.** states that he did not believe she needed to be on stronger medication such as
28 Coumadin (a blood thinner) or Dygoxen (to put the heart back in regular rhythm). **ELIA**

1 **RACAH, M.D.** stated that **BRIJINDER KAHLON**'s condition may be psychological in nature
2 and an after effect of her bouts of atrial fibrillation. The doctor acknowledged that **BRIJINDER**
3 **KAHLON** is at risk for a stroke. However, the doctor arranged for an echocardiogram which
4 was scheduled for March 27, 2002 - six weeks later.

5 56. Wednesday, February 13, 2002, **BRIJINDER KAHLON** continued to have
6 bouts with an elevated heart rate and being very tired.

7 57. Thursday, February 14, 2002, **BRIJINDER KAHLON** continued to have bouts
8 with an elevated heart rate and being very tired. **RAMI KAHLON** made an appointment with
9 Dr. Gurinder Grewal, a cardiologist for February 20, 2002.

10 58. Friday, February 15, 2002, **BRIJINDER KAHLON** felt weak to the point of
11 "trembling inside." At 11:00 a.m., her blood pressure was 144/81 and her pulse rate was 62.
12 **AVNEET KAHLON** called **KAISER** cardiology to move up the date for the echocardiogram
13 appointment to March 7, 2002.

14 59. Saturday, February 16, 2002, **BRIJINDER KAHLON** continued to have bouts
15 with an elevated heart rate and being very tired.

16 60. Sunday, February 17, 2002, **BRIJINDER KAHLON** continued to have bouts
17 with an elevated heart rate and being very tired.

18 61. Monday February 18, 2002, at 4:40 a.m., **RAMI KAHLON** and **AVNEET**
19 **KAHLON** were awakened by a "large thud." Rushing into **BRIJINDER KAHLON**'s room,
20 they find her lying on the floor in a state of "shock" and unable to call for help. Her left side was
21 paralyzed; her speech was slurred; and, she had difficulty seeing. **AVNEET KAHLON** called
22 911. **BRIJINDER KAHLON** was taken to Mt. Diablo Hospital in Concord. There she was
23 given a CT scan and is diagnosed as having had a major stroke. Thereafter, a **KAISER** physician
24 starts **BRIJINDER KAHLON** on Coumadin.

25 62. As a direct and proximate result of the aforesaid conduct of Defendants, and each
26 of them, and the resultant injuries to Plaintiff **BRIJINDER KAHLON**, Plaintiffs **RAMI**
27 **KAHLON** and **AVNEET KAHLON** have suffered negligent infliction of emotional distress.
28 Plaintiffs **RAMI KAHLON** and **AVNEET KAHLON** were at the scene of the injury producing

1 events and then knew that **BRIJINDER KAHLON** was being caused injury because of the
2 failure of the Defendants to provide timely medical care to **BRIJINDER KAHLON**. Plaintiffs
3 believed the Defendants' care and treatment **BRIJINDER KAHLON** was caused because the
4 Defendants had exclusive control of **BRIJINDER KAHLON**. Plaintiffs **RAMI KAHLON** and
5 **AVNEET KAHLON** were at the scene of the injury producing events and then knew that
6 **BRIJINDER KAHLON** was being caused injury because of her deteriorating condition because
7 of lack of medical care.

8 63. Said Defendants in disregard of the probability that their actions, in failing to
9 provide the necessary medical treatment to **BRIJINDER KAHLON**, caused Plaintiffs **RAMI**
10 **KAHLON** and **AVNEET KAHLON** to suffer severe emotional distress.

11 64. As a further legal result of the negligence of the Defendants, and each of them,
12 Plaintiff **AVNEET KAHLON** has suffered loss of earnings and will suffer a decreased earning
13 capacity in the future and future earnings to Plaintiff's further damage in a sum unknown at
14 present.

15 65. By reason of the negligence of said Defendants, Plaintiff **AVNEET KAHLON**
16 suffered severe and serious emotional distress and shock and injury to their nervous system and
17 body, all to their general damage in a sum within the jurisdiction of this Court and pursuant to
18 Thing v. LaChusa (1989) 48 Cal.3d 644.

19
20 WHEREFORE, Plaintiffs pray for damages against the Defendants, and each of them, as
21 follows:

22 FOR THE CAUSE OF ACTION FOR NEGLIGENCE FOR PLAINTIFF **BRIJINDER**
23 **KAHLON**:

- 24 1. General damages, according to proof;
- 25 2. Past and future medical expenses, according to proof;
- 26 3. For loss of past earnings and future earnings and earning capacity, according to
27 proof;
- 28 4. Prejudgment interest; Code of Civil Procedure section 998 shall apply unless the

1 Defendants come under the provisions of Civil Code section 3291.

2 5. Costs of suit incurred herein, and

3 6. For such other and further relief as to the Court appears just and proper.

4
5 FOR THE CAUSE OF ACTION FOR NEGLIGENT INFLICTION OF EMOTIONAL
6 DISTRESS FOR PLAINTIFF RAMI KAHLON:

7 1. General damages, according to proof;

8 2. Special damages, according to proof;

9 3. Prejudgment interest; Code of Civil Procedure section 998 shall apply unless the

10 Defendants come under the provisions of Civil Code section 3291.

11 4. Costs of suit incurred herein, and

12 5. For such other and further relief as to the Court appears just and proper.

13
14 FOR THE CAUSE OF ACTION FOR NEGLIGENT INFLICTION OF EMOTIONAL
15 DISTRESS FOR PLAINTIFF AVNEET KAHLON:

16 1. General damages, according to proof;

17 2. Special damages, according to proof;

18 3. Prejudgment interest; Code of Civil Procedure section 998 shall apply unless the

19 Defendants come under the provisions of Civil Code section 3291.

20 4. Costs of suit incurred herein, and

21 5. For such other and further relief as to the Court appears just and proper.

22
23 Dated: 2/3/03

24 Law Offices of Bruce G. Fagel
and Associates

25 By: 
26 Bruce G. Fagel
Attorney for Plaintiffs