

1 MARK D. ROSENBAUM, SBN 59940
2 ACLU FOUNDATION OF SOUTHERN CALIFORNIA
3 1616 BEVERLY BOULEVARD
4 LOS ANGELES, CALIFORNIA 90026
5 TELEPHONE: (213) 977-9500
6 FACSIMILE: (213) 250-3919

7 DANIEL GRUNFELD, SBN 128494
8 PAUL FREESE, SBN 139133
9 HERNAN D. VERA, SBN 175149
10 PUBLIC COUNSEL
11 610 SOUTH ARDMORE AVENUE
12 LOS ANGELES, CALIFORNIA 90005
13 TELEPHONE: (213) 385-2977
14 FACSIMILE: (213) 385-9089

15 GIRARDI & KEESE
16 THOMAS V. GIRARDI, SBN 36603
17 HOWARD B. MILLER, SBN 31392
18 SHAWN McCANN, SBN 227553
19 1126 WILSHIRE BOULEVARD
20 LOS ANGELES, CALIFORNIA 90017
21 TELEPHONE: (213) 977-0211
22 FACSIMILE: (213) 481-1554

23 ATTORNEYS FOR PLAINTIFF

24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78
79
80
81
82
83
84
85
86
87
88
89
90
91
92
93
94
95
96
97
98
99
100
101
102
103
104
105
106
107
108
109
110
111
112
113
114
115
116
117
118
119
120
121
122
123
124
125
126
127
128
129
130
131
132
133
134
135
136
137
138
139
140
141
142
143
144
145
146
147
148
149
150
151
152
153
154
155
156
157
158
159
160
161
162
163
164
165
166
167
168
169
170
171
172
173
174
175
176
177
178
179
180
181
182
183
184
185
186
187
188
189
190
191
192
193
194
195
196
197
198
199
200
201
202
203
204
205
206
207
208
209
210
211
212
213
214
215
216
217
218
219
220
221
222
223
224
225
226
227
228
229
230
231
232
233
234
235
236
237
238
239
240
241
242
243
244
245
246
247
248
249
250
251
252
253
254
255
256
257
258
259
260
261
262
263
264
265
266
267
268
269
270
271
272
273
274
275
276
277
278
279
280
281
282
283
284
285
286
287
288
289
290
291
292
293
294
295
296
297
298
299
300
301
302
303
304
305
306
307
308
309
310
311
312
313
314
315
316
317
318
319
320
321
322
323
324
325
326
327
328
329
330
331
332
333
334
335
336
337
338
339
340
341
342
343
344
345
346
347
348
349
350
351
352
353
354
355
356
357
358
359
360
361
362
363
364
365
366
367
368
369
370
371
372
373
374
375
376
377
378
379
380
381
382
383
384
385
386
387
388
389
390
391
392
393
394
395
396
397
398
399
400
401
402
403
404
405
406
407
408
409
410
411
412
413
414
415
416
417
418
419
420
421
422
423
424
425
426
427
428
429
430
431
432
433
434
435
436
437
438
439
440
441
442
443
444
445
446
447
448
449
450
451
452
453
454
455
456
457
458
459
460
461
462
463
464
465
466
467
468
469
470
471
472
473
474
475
476
477
478
479
480
481
482
483
484
485
486
487
488
489
490
491
492
493
494
495
496
497
498
499
500
501
502
503
504
505
506
507
508
509
510
511
512
513
514
515
516
517
518
519
520
521
522
523
524
525
526
527
528
529
530
531
532
533
534
535
536
537
538
539
540
541
542
543
544
545
546
547
548
549
550
551
552
553
554
555
556
557
558
559
560
561
562
563
564
565
566
567
568
569
570
571
572
573
574
575
576
577
578
579
580
581
582
583
584
585
586
587
588
589
590
591
592
593
594
595
596
597
598
599
600
601
602
603
604
605
606
607
608
609
610
611
612
613
614
615
616
617
618
619
620
621
622
623
624
625
626
627
628
629
630
631
632
633
634
635
636
637
638
639
640
641
642
643
644
645
646
647
648
649
650
651
652
653
654
655
656
657
658
659
660
661
662
663
664
665
666
667
668
669
670
671
672
673
674
675
676
677
678
679
680
681
682
683
684
685
686
687
688
689
690
691
692
693
694
695
696
697
698
699
700
701
702
703
704
705
706
707
708
709
710
711
712
713
714
715
716
717
718
719
720
721
722
723
724
725
726
727
728
729
730
731
732
733
734
735
736
737
738
739
740
741
742
743
744
745
746
747
748
749
750
751
752
753
754
755
756
757
758
759
760
761
762
763
764
765
766
767
768
769
770
771
772
773
774
775
776
777
778
779
780
781
782
783
784
785
786
787
788
789
790
791
792
793
794
795
796
797
798
799
800
801
802
803
804
805
806
807
808
809
810
811
812
813
814
815
816
817
818
819
820
821
822
823
824
825
826
827
828
829
830
831
832
833
834
835
836
837
838
839
840
841
842
843
844
845
846
847
848
849
850
851
852
853
854
855
856
857
858
859
860
861
862
863
864
865
866
867
868
869
870
871
872
873
874
875
876
877
878
879
880
881
882
883
884
885
886
887
888
889
890
891
892
893
894
895
896
897
898
899
900
901
902
903
904
905
906
907
908
909
910
911
912
913
914
915
916
917
918
919
920
921
922
923
924
925
926
927
928
929
930
931
932
933
934
935
936
937
938
939
940
941
942
943
944
945
946
947
948
949
950
951
952
953
954
955
956
957
958
959
960
961
962
963
964
965
966
967
968
969
970
971
972
973
974
975
976
977
978
979
980
981
982
983
984
985
986
987
988
989
990
991
992
993
994
995
996
997
998
999
1000

CAROL ANN REYES, an individual,

Plaintiffs

vs.

KAISER FOUNDATION HOSPITALS, a
California corporation; KAISER
FOUNDATION HEALTH PLAN, INC., a
California corporation; THE PERMANENTE
MEDICAL GROUP, a California corporation;
and DOES 1 through 20, inclusive,

Defendants.

) Case No.:

) COMPLAINT FOR:

1. ELDER ABUSE & NEGLECT (CAL. WELF. & INST. CODE §§ 15600 *ET SEQ*)
2. BREACH OF FIDUCIARY DUTY
3. FALSE IMPRISONMENT
4. NEGLIGENCE PER SE
5. INTENTIONAL INFLECTION OF EMOTIONAL DISTRESS
6. VIOLATION OF THE UNFAIR COMPETITION LAW

1 Plaintiff CAROL ANN REYES (“MS. REYES”) alleges as follows, which allegations are upon
2 information and belief insofar as they pertain to the conduct of the Defendants:

3 INTRODUCTION

4 1. On March 20, 2006, Kaiser Permanente Bellflower Medical Center discharged a
5 mentally disabled, 63-year-old homeless woman, MS. REYES, without completing treatment of
6 the illnesses she presented or providing legally required discharge planning. Compounding its
7 dereliction of duty, Kaiser transported MS. REYES over 16 miles away from the hospital to the
8 Skid Row area of downtown Los Angeles, which the Los Angeles Police Chief has termed
9 “Dante’s Inferno” because of its filthy, unsafe, and inhumane conditions. Ms. REYES was
10 captured on videotape that day wandering in a daze along the dangerous streets of Skid Row
11 wearing little more than a hospital gown, a diaper, and a pair of hospital socks. Plaintiff arrived
12 there neither by accident nor by informed choice. In one of the most publicized and egregious
13 examples of the practice of “homeless dumping” by a hospital, Plaintiff was partially treated by
14 Kaiser Permanente Bellflower Medical Center, rushed into a taxi without her clothes, and
15 dropped off in front of Union Rescue Mission in Skid Row (a setting unfamiliar to her) without
16 any plan for or hope of appropriate medical care and other necessary ancillary services.

17 2. This case seeks to put an end to this inhumane and illegal practice. Plaintiff is
18 informed and believes that Kaiser has engaged in this conduct with full knowledge that the
19 persons it transports to Skid Row will not continue to heal or recuperate in that setting and that
20 no social service agency on or near Skid Row can provide for the rehabilitative and medical care
21 these persons require.

22 3. Equally troubling is the fact that, by dumping vulnerable homeless patients on
23 Skid Row, Kaiser placed Plaintiff and similarly situated patients at greater risk of harm given the
24 painful realities of life in that area of the City. Skid Row is a discrete, 50-block section of
25 downtown Los Angeles characterized by extreme poverty and homelessness, the sale and use of
26 illegal drugs, and rampant violent crime. Skid Row’s tent encampments, cardboard box
27 “houses,” and urine-soaked streets are often the last stop for between 8,000 and 11,000 persons
28 at any given time – the largest concentration of homeless people in the country – creating a

1 perfect storm of health and safety hazards for sick, elderly, and easily exploited patients. For
2 patients with substance abuse problems, the illegal practice by hospitals of abandoning homeless
3 patients to the dangers of Skid Row virtually guarantees relapse, eventual readmission, or
4 criminal victimization.

5 4. In the case of Plaintiff Reyes, Kaiser's unlawful and reckless discharge
6 constituted a violation of California's Elder and Dependent Adult Civil Protection Act (Cal.
7 Welf. & Inst. Code § 15600 et seq.). By transporting and releasing Plaintiff unsupervised to one
8 of the most dangerous portions of the City, without her clothes or identification, Kaiser engaged
9 in "abuse of a dependent adult" within the meaning of California Welfare & Institutions Code
10 § 15610.57.

11 5. In addition to the wrongful discharge, Kaiser's medical staff negligently failed to
12 diagnose and treat Plaintiff's various medical conditions. Several days after being discharged
13 from Kaiser and arriving at the Union Rescue Mission (the "Mission"), Plaintiff lost
14 consciousness in the bathroom at the Mission and was admitted to Los Angeles County/USC
15 Medical Center (hereinafter "LAC/USC"). There, she was hospitalized and treated for several
16 days for chronic anemia, high blood pressure, pneumonia, and was diagnosed with dementia.
17 Plaintiff received no medical care for these conditions while at Kaiser and received no
18 information from Kaiser regarding continuing health care requirements following discharge.

19 6. In short, Defendant Kaiser violated its medical duties as a care custodian and the
20 basic tenets of the Hippocratic Oath.

21 7. In addition to violating the core oath of the medical profession and professional
22 standards of care, the practice flatly violates California law. California Health and Safety Code
23 § 1262.5 mandates that all hospitals have a written discharge planning policy and process. Such
24 policy must include appropriate arrangements for post-hospital care and such arrangements must
25 be made prior to discharge for patients like MS. REYES who are likely to suffer adverse health
26 consequences upon discharge. The statute requires hospitals to inform such patients of
27 continuing health care requirements following their discharge and to provide them with all
28 essential information relative to their diagnosis, hospital course, pain treatment and management,

1 medications, and treatment plan.

2 8. Kaiser's failure to draft and implement an appropriate discharge policy for its
3 homeless patients, including MS. REYES, violates its obligations under California Health &
4 Safety Code § 1262.5, and further constitutes an unfair and unlawful business practice under
5 California Business & Professions Code § 17200. These practices are animated by an
6 indifference to the medical and social needs of these individuals and a purposeful decision to
7 disregard the law because compliance with proper patient discharge requirements would
8 constitute an economic loss to the institution when applied to indigent patients who are, or are
9 perceived to be, homeless, transient, alcoholic or mentally ill.

10 **PARTIES**

11 9. Plaintiff MS. REYES is an uninsured and indigent resident of Los Angeles
12 County, California. At the time of the incident in question, MS. REYES was 63-years-old and
13 homeless.

14 10. Defendant KAISER FOUNDATION HOSPITALS is a California corporation
15 with its principal place of business in Oakland, California. KAISER FOUNDATION
16 HOSPITALS owns and operates numerous hospitals in and around the City of Los Angeles,
17 including the Kaiser Permanente Bellflower Medical Center that treated and discharged MS.
18 REYES.

19 11. The hospitals owned and operated by KAISER FOUNDATION HOSPITALS
20 provide healthcare services to the member insureds of defendant KAISER FOUNDATION
21 HEALTH PLAN, INC., also a California corporation with its principal place of business in
22 Oakland, California. KAISER FOUNDATION HEALTH PLAN, INC. controls the activities of
23 KAISER FOUNDATION HOSPITALS pursuant to contract and by other means not currently
24 known to Plaintiffs.

25 12. Defendant THE PERMANENTE MEDICAL GROUP, INC. is a California
26 corporation with its principal place of business in Oakland, California. THE PERMANENTE
27 MEDICAL GROUP, INC. employs the medical staff in the hospitals owned by KAISER
28 FOUNDATION HOSPITALS, including Kaiser Bellflower.

1 confused.

2 19. MS. REYES remained at Kaiser Bellflower for three days, until March 20, 2006,
3 at which time she was discharged.

4 20. During MS. REYES's hospitalization at Kaiser Bellflower, the medical staff
5 treated her for hyponatremia (an imbalance in sodium levels) and for facial injuries. She was
6 also noted during this period as exhibiting a persistent cough, an intermittent fever, and blood
7 pressure readings consistently over 150/75.

8 21. On the morning of March 20, 2006, MS. REYES's blood pressure spiked to
9 186/89. Her medical records indicate that the blood pressure readings were brought to the
10 attention of the doctor on duty. Nonetheless, Defendants released her that same day without any
11 prescription for her blood pressure, and without scheduling any follow-up care for this condition.

12 22. During MS. REYES's hospitalization, Defendants' medical staff also made
13 various notations indicating MS. REYES's mental disabilities. On March 19, 2006 (two days
14 after her admission), the medical staff noted that her speech was "slurred." On the day she was
15 released – March 20 – hospital staff made handwritten notations in her chart indicating that she
16 was "non-talkative," "forgetful" and "disoriented" as to "time, place/events." Despite these
17 findings, Defendants made no other efforts to assess or treat her mental condition.

18 23. In the early afternoon on March 20, 2006, the medical staff at Kaiser Bellflower
19 decided that MS. REYES needed to be discharged that day. They summoned a taxi and directed
20 the taxi driver to transport MS. REYES to Skid Row, approximately sixteen miles away from
21 Kaiser Bellflower. She was literally rushed out of the hospital and into the taxi even though the
22 staff could not locate her clothes. Staff did not take time even to wait for pants to be brought
23 from the hospital supply for MS. REYES. Staff escorted MS. REYES to the taxi without any
24 pants even though MS. REYES expressed concern about her clothes. On the way to the taxi,
25 Kaiser Bellflower staff noted her disorientation, asking Ms. Reyes if she knew where she was.

26 24. MS. REYES did not request to be transported to Skid Row, and did not know
27 exactly where she was going to be taken. The Kaiser Bellflower staff did not disclose to MS.
28 REYES that she was being taken to Skid Row, did not explain to MS. REYES how she should

1 take care of herself, and did not explain how to execute a safe discharge given the hazards of
2 Skid Row. Kaiser Bellflower staff did not even take any steps to ascertain whether or not MS.
3 REYES had the capacity to consent to Defendants' decision to dump her on Skid Row.
4 Although the Kaiser Bellflower medical staff knew or reasonably should have known that MS.
5 REYES was a patient who had on-going medical needs and was likely to suffer adverse health
6 consequences upon discharge, Defendants took none of the necessary steps prior to discharge to
7 ensure that MS. REYES would receive continuing health care. Kaiser Bellflower staff did not
8 take any steps to ascertain whether the Union Rescue Mission was equipped to provide MS.
9 REYES with necessary follow-up medical care.

10 25. Upon the direction of the Kaiser Bellflower medical staff, the taxi driver drove
11 MS. REYES to downtown Los Angeles and deposited her on the sidewalk on San Pedro Street,
12 in front of the Union Rescue Mission. Defendants did not give the taxi driver any instructions to
13 escort MS. REYES into the Mission, nor did Kaiser Bellflower staff take any steps to ensure that
14 staff at the Mission was prepared to admit MS. REYES into the Mission and provide her with
15 any necessary follow-up care.

16 26. Upon exiting the taxi, MS. REYES wandered down San Pedro Street, clearly
17 disoriented and not sure where she was or what she was supposed to do. At that time, MS.
18 REYES was wearing little more than two hospital gowns, hospital socks, a hospital bracelet with
19 her name on it, and a diaper. She had no money, no other identification, no personal belongings,
20 no medications, no instructions for post-discharge care and no one waiting for her arrival.
21 Indeed, no one other than the hospital staff and the taxi driver knew where she was.

22 27. Security cameras installed outside the Union Rescue Mission recorded a taxicab
23 dropping off an elderly woman wearing little more than a hospital gown, cap and socks. That
24 woman was later identified as MS. REYES. Plaintiff is informed and believes, and on that basis
25 alleges, that the video camera was installed by the Union Rescue Mission as a safety measure
26 partly in response to the large number of patients who have been observed dropped off at that
27 facility by local hospitals.

28 28. Soon thereafter, MS. REYES was spotted by Union Rescue Mission staff, who

1 brought her inside and found her to be very disoriented. MS. REYES did not know where she
2 was at that time. At the time of her admission at the Union Rescue Mission, MS. REYES did not
3 have any hospital discharge documents with her or any personal items. Staff at the Union
4 Rescue Mission were unable to determine what hospital MS. REYES came from. MS. REYES
5 knew she had been to a hospital, but she was not able to tell the staff which hospital she had been
6 discharged from.

7 29. Ordinarily, the Union Rescue Mission provides sleeping space for indigent
8 individuals only in the evening, and all residents are required to check out in the morning
9 pursuant to a regular and well-known procedure and policy. MS. REYES would therefore have
10 been required to return to the streets the following day even if she had been delivered directly to
11 the care of the Union Rescue Mission. Because of her obviously vulnerable condition, however,
12 special arrangements were made by homeless advocates and by the Union Rescue Mission for
13 her to stay there during the day.

14 30. Within three days of her discharge by Defendants (on March 23, 2006), MS.
15 REYES lost consciousness in the bathroom of the Union Rescue Mission. MS. REYES fell and
16 suffered head trauma as a result of the incident. Union Rescue Mission staff contacted
17 emergency personnel and MS. REYES was admitted to Los Angeles County/USC Medical
18 Center (hereinafter "LAC/USC"), which provides critical access to health services for the
19 region's medically underserved population.

20 31. MS. REYES remained at LAC/USC for several days. Her medical records from
21 LAC/USC make clear that she was discharged from Kaiser Bellflower with severe medical and
22 mental health problems that went undiagnosed and untreated by the staff at that hospital. Upon
23 admission at LAC/USC, MS. REYES was diagnosed with and treated for the following medical
24 conditions:

- 25 A. High blood pressure (hypertension). MS. REYES' hypertension was poorly
26 controlled when she arrived at LAC/USC. MS. REYES is now required to take daily
27 prescription medications to control her hypertension.
- 28 B. Chronic anemia. LAC/USC medical staff recommended that MS. REYES's blood be

1 analyzed regularly to ensure that her anemia remains under control. Potential
2 consequences of anemia could include excessive bleeding in case of a cut or other
3 wound.

4 C. Pneumonia. MS. REYES had pneumonia when she was admitted at LAC/USC and
5 she was treated with antibiotics. MS. REYES's pneumonia went undiagnosed by
6 Kaiser Bellflower medical staff although her Kaiser Bellflower medical records show
7 that she had a persistent cough.

8 D. Dementia. LAC/USC medical staff also diagnosed MS. REYES with mild dementia.
9 Upon examining MS. REYES on March 28, 2006, a psychiatrist found her to be
10 "gravely disabled" and recommended that a conservator be appointed to assist her.

11 **THE HOMELESS HEALTHCARE PROBLEM IN LOS ANGELES**

12 32. It is an unfortunate but well-known fact that MS. REYES's homeless
13 circumstance is far from rare in the Los Angeles area. The County of Los Angeles has more
14 homeless people than any *state* in the Union (other than California itself). Every year, more than
15 240,000 men, women, and children are homeless in Los Angeles County. Every night there are
16 more than 88,000 persons homeless in the County, nearly 50,000 of them in the City of Los
17 Angeles. The vast majority of these homeless persons live in places not fit for human habitation
18 such as cars, sidewalks, and abandoned buildings. In 2005 over 19,000 of Los Angeles'
19 homeless were 56 or older, and many are disabled as a result of chronic and debilitating
20 conditions, mental illness and addiction.

21 33. This substantial homeless population faces severe health risks and problems that
22 are not faced by the "housed" population to the same extent or with the same degree of severity,
23 circumstances that make the homeless particularly at risk of adverse health consequences
24 following discharge from hospital care. These adverse health consequences following hospital
25 discharge have been documented in leading public health and medical journals. Among the
26 circumstances faced by the homeless are the following:

- 1 A. A large percentage of the homeless are chronically homeless – *i.e.*, have been living
2 on the street for a year or more, or have three or more episodes of homelessness
3 within four years. Chronic homelessness is itself a disability that compounds the risk
4 of death associated with disease, other disabilities and substance abuse. Mortality
5 rates among the homeless are three to thirty times higher among the homeless than in
6 the general population. In 1987, for example, researchers found that homeless men
7 and women in New York had age-adjusted death rates that were four times that of the
8 general population. *See* S.M. Barrow, D.B. Herman, P. Cordova, E.L. Struening,
9 *Mortality Among Homeless Shelter Residents in New York City*, American Journal of
10 Public Health, Vol. 89, Issue 4, pp. 529-34. A later study showed a 10-fold disparity
11 in mortality rates between Toronto’s homeless and housed women aged 18 to 44.
12 This study, combined with data from 7 other cities, showed the risk of death is five to
13 thirty times higher among young homeless women compared to their housed
14 counterparts. A.M. Cheung and S.W. Wang, *Risk of Death Among Homeless*
15 *Women: A Cohort Study and Review of the Literature*, Canadian Medical Association
16 Journal (2004) at 170:1243-1247. Mental illness is endemic in the homeless
17 population. The Los Angeles County Department of Health Services reported in
18 2004 that as many as 70% of homeless individuals are living with mental illness, and
19 as many as 70% of homeless individuals suffer from substance abuse. In Los Angeles
20 County, almost 30,000 homeless on the streets on any given night people also suffer
21 from mental illness. In 2005, 78,799 of our homeless were projected to be mentally
22 ill. Many of the homeless individuals who are mentally ill will self-treat with
23 inappropriate substances and fall prey to co-occurring disorders.
- 24 B. A large percentage of the homeless are disabled. Forty-six percent (46%) of Los
25 Angeles County’s homeless individuals report having one or more disabling
26 conditions underlying their homelessness. These conditions include mental illness
27 (34%), depression (55%), and the use of drugs or alcohol (25%). In Skid Row, the
28 percentage of homeless persons who suffer from both mental illness and problematic

1 co-occurring substance use is estimated by Los Angeles County mental health
2 professionals be greater than 90% of the mentally ill clients they see in Skid Row.

3 C. Homelessness magnifies poor health and exposes those huddled in crowded shelters
4 and street encampments to chronic and communicable diseases such as tuberculosis
5 and influenza. It makes the management of illnesses such as diabetes and asthma,
6 successfully managed in the housed population, more difficult. Health care is harder
7 to access for the homeless.

8 D. Chronic illness among the homeless is common: 46% of the homeless nationwide
9 develop or suffer from hypertension, diabetes, peripheral vascular disease, respiratory
10 problems, cancer, arthritis, and/or liver and renal disease.

11 E. Outbreaks of communicable diseases such as influenza are ubiquitous in over-
12 crowded unsanitary living conditions. According to 1999 Self-Report Data from the
13 Interagency Council on the Homeless, 3% of the homeless nationwide report having
14 tuberculosis; 26% report having acute infections, *e.g.* cold, bronchitis, pneumonia, or
15 sexually transmitted diseases; 8% report having acute noninfectious conditions, *e.g.*
16 skin ulcers, lice or scabies; and 46% report having chronic health conditions such as
17 arthritis, hypertension, diabetes or cancer. 2006 reports by the Los Angeles Police
18 Department (“LAPD”) chronicle the alarming and increasing presence of the
19 Methicillin Resistant Staphylococcus Aureus (MRSA) virus in Skid Row. According
20 to other researchers, skin diseases are “extraordinarily” common. Some conditions
21 such as diphtheria, pellagra and lice infestations resulting in endocarditis from
22 *Bartonella quintana* are reminiscent of the medical conditions commonly observed
23 hundreds of years ago. J.J. O’Connell, *Dying in the Shadows: The Challenge of*
24 *Providing Healthcare for Homeless People*, Canadian Medical Association Journal
25 (2004) at 170:1251-1252.

26 F. Hypothermia, frostbite and chronic dehydration are hazards of life on the streets and
27 can lead to early death. Areas where people live outside are prone to germs and
28 infection from constant exposure to urine and feces. Trauma and violence on Skid

1 Row pursue the most vulnerable homeless, especially women or those who cannot
2 easily walk or defend themselves.

3 34. The homeless generally have no health insurance or other means of paying for
4 treatment of their health problems and tend to use the emergency departments of Los Angeles
5 area hospitals for that purpose. Persons living on Skid Row had the second highest emergency
6 room utilization rate and the third highest inpatient admissions rate at LAC/USC facilities. In the
7 2005 count, 32% of homeless persons countywide stated that a hospital emergency room was
8 their primary source of health care, and more than 55% had been to a hospital emergency room
9 during the past 12 months. Because of the health risks peculiar to the homeless noted above, the
10 homeless patient is particularly vulnerable to suffering adverse health consequences and a
11 material deterioration of his or her condition following discharge to the street.

12 **THE INHUMANE DISCHARGE OF THE HOMELESS**

13 35. Notwithstanding the unique vulnerability of the homeless to post-discharge health
14 reversals, many hospitals, including those owned and operated by Defendants, historically have
15 discharged their homeless patients with little, if any, care or planning for what those patients
16 would face after they left the hospital grounds. For many patients, post-discharge planning and
17 care consisted largely, if not solely, of a one-way ride from the hospital to Skid Row. There are
18 few discharge practices more likely to put the health of a homeless patient at risk than
19 “dumping” that patient on the streets of Skid Row.

20 36. Nowhere in Los Angeles County are the physical manifestations of homelessness
21 more visible than on Skid Row, which is located in the eastern part of downtown Los Angeles. It
22 consists of approximately 50 city blocks bounded by Third Street on the north, Alameda Street
23 on the east, Seventh Street on the south and Main Street on the west.

24 37. The Skid Row area of downtown is one of the most dangerous environments for
25 vulnerable, elderly, and/or mentally disabled individuals. Although “Skid Row” is not an official
26 metropolitan area for which exact statistics are kept, recent LAPD reports paint a startling picture
27 of the stunning level of violence and crime in this part of town. The following is a snapshot of
28 the number of incidents of violent crime *reported* within one square mile of Union Rescue

1 Mission between March 1 and March 31, 2006: Burglaries (17); Grand Theft Auto (33); Violent
2 Robbery (54); Rape (2); Aggravated Assault (35). A person living on Skid Row faces far more
3 risk of becoming a victim of crime, violence, or at high risk for alcohol or narcotics abuse than
4 someone living virtually anywhere else in Los Angeles County. This danger is especially acute
5 for homeless women who are at extremely high risk of rape or other sexual abuse.

6 38. Skid Row contains large numbers of very low income individuals or individuals
7 without incomes at all, many of whom have no housing other than part-time emergency shelters.

8 39. The emergency shelters that do exist on Skid Row typically do not provide for
9 shelter during the daylight hours, requiring those that they shelter overnight to exit to the streets
10 in the morning and line up for food and shelter again at night. Moreover, emergency shelters,
11 social service agencies, mental health treatment centers, job placement services, and other
12 organizations serving the homeless on Skid Row lack the resources to assist all those needing
13 assistance even on an overnight basis.

14 40. Skid Row contains few, if any, facilities able to provide adequate post-discharge
15 care to homeless patients needing such care. Moreover, the nearest major hospital, LAC/USC, is
16 heavily burdened with the need to treat the Skid Row homeless, leading to delays in medical
17 treatment.

18 41. On December 22, 2005, the Chief of the Criminal and Special Litigation Branch
19 of the Los Angeles City Attorney's Office sent a warning letter regarding patient "dumping" on
20 Skid Row to numerous hospital operators, including Defendants. The letter stated that the City
21 Attorney was investigating allegations of homeless hospital patient dumping and "contemplating
22 possible action pursuant to Section 17200 *et seq.* of the Business and Professions Code against
23 medical service providers that fail to follow appropriate procedures for the treatment and
24 discharge of homeless patients and/or that fail to provide the level of post-discharge care and
25 oversight that is standard among medical providers in the Los Angeles area."

26 42. Other public officials and city business leaders have also acknowledged the
27 dangers of dumping vulnerable patients on the streets of Skid Row. In March 2006, four
28 members of the Los Angeles City Council sent a letter to chief executives of 78 acute care

1 hospitals in Los Angeles County, including some owned and operated by defendants, demanding
2 that they stop this practice. Los Angeles Times, *Homeless Patient Policy May Shift*, March 25,
3 2006.

4 **THE STATUTORY MANDATE FOR POST-DISCHARGE PLANNING AND CARE**

5 43. The California Legislature has recognized the importance of post-discharge care
6 and planning for the effective recovery and maintenance of patient health and has imposed
7 certain obligations on hospitals in this state to develop, implement, and follow policies that
8 address the post-discharge needs of patients likely to experience adverse health consequences
9 following their discharge.

10 44. Specifically, the Legislature has enacted Section 1262.5 of the Health and Safety
11 Code. That statutory provision provides, in pertinent part:

12 (a) Each hospital shall have a written discharge planning policy and process.

13 (b) The policy required by subdivision (a) shall require that appropriate
14 arrangements for posthospital care, including, but not limited to, care at
15 home, in a skilled nursing or intermediate care facility, or from a hospice, are
16 made prior to discharge for those patients who are likely to suffer adverse
17 health consequences upon discharge if there is no adequate discharge
18 planning. If the hospital determines that the patient and family members or
19 interested persons need to be counseled to prepare them for posthospital care,
20 the hospital shall provide for that counseling.

21 (c) The process required by subdivision (a) shall require that the patient be
22 informed, orally or in writing, of the continuing health care requirements
23 following discharge from the hospital. The right to information regarding
24 continuing health care requirements following discharge shall apply to the
25 person who has legal responsibility to make decisions regarding medical care
26 on behalf of the patient, if the patient is unable to make those decisions for
27 himself or herself. In addition, a patient may request that friends or family
28 members be given this information, even if the patient is able to make his or
her own decisions regarding medical care.

22 45. No discharge policy or process that includes “dumping” on Skid Row, or that
23 otherwise fails to accommodate the unique post-discharge health risks of homeless patients, can
24 comply with the requirements of Section 1262.5 of the Health and Safety Code.

25
26 **DEFENDANTS’ CONTINUING FAILURE TO COMPLY WITH SECTION 1262.5**

27 46. Defendants’ abuse of MS. REYES was the natural and foreseeable consequence of
28 their failure to adopt any reasonable policy, or implement any reasonable process, at the hospitals

1 that they own and operate that even attempted to accommodate the post-discharge needs of
2 homeless patients who risked adverse health consequences after discharge. Indeed, despite the
3 mandate of Section 1262.5 of the Health and Safety Code, defendants *had no written policy*
4 *whatsoever* addressing the discharge of homeless patients prior to the adverse publicity that
5 followed the events described above involving the discharge of MS. REYES from Kaiser
6 Bellflower on March 20, 2006. Defendants' discharge policies and process took no meaningful
7 account of the unique health risks of homeless patients. To the contrary, they allowed (if not
8 encouraged) the "dumping" of those patients on the streets of Skid Row.

9 47. Subsequent to the public controversy and outrage that ensued upon Defendants'
10 abuse of MS. REYES, and after being advised that the circumstances of that abuse were under
11 investigation by the Los Angeles City Attorney's Office, Defendants did adopt what purported to
12 be a discharge policy for homeless patients, but that newly adopted policy does not comply with
13 the requirements of Section 1262.5. Among the flaws of this new policy are that it still permits
14 the discharge of homeless patients who do not reside in the Skid Row area to be transported to
15 Skid Row shelters without regard to whether closer, more suitable facilities are available and that
16 it permits discharge without adequate provision for post-discharge care.

17 **FIRST CAUSE OF ACTION**
18 **(Brought Against All Defendants**
19 **for Abuse and Neglect of a Dependent Adult --**
20 **Cal. Welfare & Institutions Code Section 15600 et seq.)**

21 48. MS. REYES incorporates paragraphs 1 through 47 above as if fully realleged
22 herein.

23 49. MS. REYES is a "dependent adult" within the meaning of Welfare and
24 Institutions Code §15610.23 because: (a) she has physical or mental limitations that restrict her
25 ability to carry out normal activities or to protect her rights; and (b) she was an inpatient to a 24-
26 hour health facility during her time at Kaiser Bellflower.

27 50. Defendants are "care custodians" within the meaning of Welfare and Institutions
28 Code §15610.17 because Kaiser Bellflower is a 24-hour health facility pursuant to the provisions
of the Elder Abuse and Dependent Protection Act.

1 with reckless disregard of the probability of causing MS. REYES to suffer physical harm,
2 humiliation, mental anguish, and emotional distress.

3 57. As a direct, proximate, and foreseeable result of Defendants' breach of fiduciary
4 duties, MS. REYES suffered physical injuries, including head trauma and prolonged pneumonia,
5 and was forced to undergo additional hospitalization. As a result of those breaches of duty, MS.
6 REYES has also suffered severe emotional distress and pain and suffering, in an amount to be
7 proven at trial.

8 58. Moreover, the actions of Defendants constitute reprehensible and despicable
9 conduct that subjected MS. REYES to cruel and unjust hardship in conscious disregard of her
10 rights, so as to justify an award of punitive damages from Defendants in an amount to be proven
11 at trial.

12 **THIRD CAUSE OF ACTION**
13 **(Brought Against All Defendants**
14 **for False Imprisonment)**

15 59. MS. REYES incorporates paragraphs 1 through 58 above as if fully realleged
16 herein.

17 60. In compelling MS. REYES to enter the taxicab and thereafter transporting her to
18 Skid Row without her consent and against her desires, Defendants tortiously and falsely
19 imprisoned her.

20 61. As a direct, proximate, and foreseeable result of Defendants' tortious false
21 imprisonment, MS. REYES suffered physical injuries, including head trauma and prolonged
22 pneumonia, and was forced to undergo additional hospitalization. As a result of those tortious
23 acts, MS. REYES has also suffered severe emotional distress and pain and suffering, in an
24 amount to be proven at trial.

25 62. Moreover, the actions of Defendants constitute reprehensible and despicable
26 conduct that subjected MS. REYES to cruel and unjust hardship in conscious disregard of her
27 rights, so as to justify an award of punitive damages from Defendants in an amount to be proven
28 at trial.

1 section 1262.5 was designed to protect.

2 70. Defendants breached their duty to MS. REYES and the public by failing to draft
3 and implement a discharge planning policy that makes arrangements for the post-hospitalization
4 care of vulnerable homeless patients like MS. REYES.

5 71. As a direct, proximate, and foreseeable result of Defendants' breach of their
6 obligations under Health and Safety Code §1262.5, MS. REYES suffered physical injuries,
7 including head trauma and prolonged pneumonia, and was forced to undergo additional
8 hospitalization. As a further result, MS. REYES has also suffered severe emotional distress, pain
9 and suffering, in an amount to be proven at trial.

10 **SIXTH CAUSE OF ACTION**
11 **(Brought Against All Defendants**
12 **for Unlawful and Unfair Business Acts Practices**
13 **in Violation of the Unfair Competition Law)**

14 72. MS. REYES incorporates paragraphs 1 through 71 above as if fully realleged
15 herein.

16 73. MS. REYES is a person who has suffered injury in fact and monetary loss, within
17 the meaning of Business and Professions Code §17204, as result of the unlawful and unfair
18 business acts and practices described herein.

19 74. Business and Professions Code §17200 prohibits business acts or practices that
20 are unlawful, unfair, or fraudulent.

21 75. Defendants engaged in at least the following unlawful business acts and practices
22 respecting MS. REYES:

23 A. Defendants' discharge of MS. REYES to Union Rescue Mission in Skid Row in
24 downtown Los Angeles violated California Health and Safety Code §1262.5 in that
25 her discharge was the result of Defendants' failure to draft and implement a discharge
26 policy that made appropriate arrangements for the post-hospital care, counseling and
27 notification of continuing health care requirements for a patient such as MS. REYES.

28 B. Defendants' treatment and discharge of MS. REYES constituted dependent adult
endangerment in violation of Penal Code §368.

1 C. Defendants' treatment and discharge of MS. REYES constituted false imprisonment
2 in violation of Penal Code §236 and the common law prohibition against false
3 imprisonment.

4 D. Defendants' treatment and discharge of MS. REYES constituted neglect of a
5 dependent adult in violation of Welfare and Institutions Code §15610.57.

6 E. Defendants' treatment and discharge of MS. REYES constituted a breach of their
7 duties as care givers under Welfare and Institutions Code §15610.17.

8 76. Defendants engaged in at least the following unfair business acts and practices
9 respecting MS. REYES:

10 A. In failing to adopt appropriate discharge policies, Defendants threatened incipient
11 violation of Penal Code §368, Penal Code §236, Welfare and Institutions Code
12 §15610.23 and Health and Safety Code §15610.17.

13 B. Defendants violated the public policy and spirit embodied in Health and Safety Code
14 §1262.5, Penal Code §368, Penal Code §236, Welfare and Institutions Code
15 §15610.57 and Welfare and Institutions Code §15610.17.

16 C. Defendants violated the established public policy of the State of California embodied
17 in the professional standards of care and ethical rules applicable to caregivers that are
18 designed to protect the patients under their care.

19 D. Defendants' conduct as described in this Complaint has been immoral, unethical,
20 oppressive and unscrupulous.

21 E. Although no claim is here asserted under the Federal Trade Commission Act, the
22 provisions of Section 5 of that statute [United States Code, title 15, section 45,
23 subdivision (n)] set forth factors of equal applicability to claims of unfairness under
24 the Unfair Competition Law. Applying and balancing those factors: (a) the injury to
25 MS. REYES and to the service providers who have attempted to alleviate the
26 consequences to her of Defendants' abuse of her has been substantial; (b) this injury
27 is not outweighed by any countervailing benefits to MS. REYES, to those service
28 providers or to the general public; and (c) the injury is not one that either Ms. REYES
or the service providers who assisted her could have reasonably avoided.

1 77. Defendants' unlawful and unfair business practices respecting MS. REYES
2 described above were not isolated acts or practices, but are typical of the manner in which
3 Defendants evaluate, treat, care for, and discharge homeless patients in similar condition. Unless
4 enjoined by this Court, Defendants are likely to continue engaging in those unlawful and unfair
5 acts and practices.

6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

¶
¶
¶

1 **WHEREFORE, PLAINTIFF PRAYS FOR RELIEF AS FOLLOWS:**

2 1. That the Court enjoin defendants, and their agents, servants, employees, partners,
3 associates, officers, representatives and all persons acting under or in concert with or for them,
4 from committing the unlawful or unfair business acts or practices alleged above and order them
5 to comply with all laws and regulations regarding the discharge of homeless patients;

6 2. For general, special, and compensatory damages in an amount to be proven at
7 trial;

8 3. For restitution as a result of Defendants' unlawful and unfair business practices;

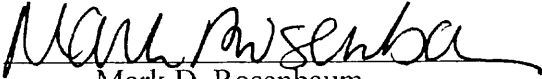
9 4. For punitive damages in an amount to be proven at trial;


10 5. For costs and reasonable attorneys fees; and

11 6. For such other relief as is just and equitable.

12
13 Dated: November 16, 2006

14 **ACLU FOUNDATION OF SOUTHERN CALIFORNIA**
15 **PUBLIC COUNSEL**
16 **GIRARDI & KEESE**

17
18 By: 
19 Mark D. Rosenbaum
20 ACLU Foundation of Southern California

21
22 By: 
23 Hernán D. Vera
24 Public Counsel

25 Attorneys for Plaintiff
26
27
28