

1 Jeffrey S. Mitchell, Esq. SBN: 188751
2 Rebecca Byrne, SBN: 139893
3 MITCHELL LAW GROUP
4 473 Jackson Street, 3rd Floor
5 San Francisco, CA 94111
6 Tel: (415) 692-7540
7 Fax: (415) 276-9099

6 Anthony S. Petru, Esq. SBN: 91399
7 Hildebrand McLeod & Nelson
8 350 Frank H Ogawa Plaza, 4th Floor
9 Oakland, CA 94612-2006
10 Tel: (510) 451-6732
11 Fax: (510) 465-7023

10 Attorneys for Plaintiffs

12 **SUPERIOR COURT-STATE OF CALIFORNIA**
13 **COUNTY OF FRESNO**

15 CRISTOBAL ARTEAGA, individually;
16 MARIA A. ARTEAGA ALVAREZ,
17 individually; and CRISTOBAL ARTEAGA as
18 personal representative of SILVINO PEREZ,

18 Plaintiffs,

19 vs.

20 FRESNO COMMUNITY REGIONAL
21 MEDICAL CENTER; PERVAIZ A.
22 CHAUDHRY, M.D.; VALLEY CARDIAC
23 SURGERY MEDICAL GROUP; and DOES
24 ONE through TWENTY-FIVE, inclusive,

24 Defendants.

Case No.:

COMPLAINT FOR DAMAGES
(Medical Malpractice and Loss of Consortium)

25 **FIRST CAUSE OF ACTION**
26 **(Medical Malpractice)**

27 Plaintiffs CRISTOBAL ARTEAGA, individually; MARIA A. ARTEAGA ALVAREZ,
28 individually; and CRISTOBAL ARTEAGA as personal representative of SILVINO PEREZ

1 complain of defendants FRESNO COMMUNITY REGIONAL MEDICAL CENTER;
2 PERVAIZ A. CHAUDHRY, M.D.; VALLEY CARDIAC SURGERY MEDICAL GROUP; and
3 DOES ONE through TWENTY-FIVE, inclusive, and each of them and alleges as follows:

4 1. The true names and capacities whether individual, corporate, associate, or
5 otherwise, of defendants DOES ONE through TWENTY-FIVE, are unknown to plaintiffs who
6 therefore sues said defendants by such fictitious names and will ask leave of Court to amend this
7 complaint when the true names and capacities have been ascertained. Plaintiffs are informed and
8 believe, and thereon allege on such information and belief, that each of the fictitiously named
9 defendants is responsible in some manner for the occurrences herein alleged, either as
10 physicians, surgeons, anesthetists, nurses, other medical practitioners, physicians' assistants,
11 pharmacists, hospitals or hospital attendants, ambulance companies or attendants, or
12 manufacturers, suppliers, sellers, or distributors or otherwise, and said defendants negligently
13 acted or failed to act in one or more of said occupations or businesses, which negligence
14 proximately caused plaintiffs' injuries as herein alleged. Plaintiffs are uncertain as to the
15 manner or function of said defendants, whether as physicians, surgeons, anesthetists, nurses,
16 other medical practitioners, pharmacists, hospitals or hospital attendants, ambulance companies
17 or attendants, or manufacturers, suppliers, sellers or distributors, or otherwise, and plaintiffs pray
18 leave to amend this complaint to insert therein the true names, capacities, functions, occupations
19 and businesses of said defendants when the same are ascertained.

20 2. Plaintiffs are informed and believe, and upon such information and belief allege,
21 that at the times and places mentioned herein defendants were the agents, servants, and
22 employees of the remaining defendants, and each of them, and each of them was at all times and
23 places mentioned herein acting within the purpose and scope of said agency, service and
24 employment. Plaintiffs further allege that defendant PERVAIZ A. CHAUDHRY, M.D. was the
25 agent, servant or employee of defendants FRESNO COMMUNITY REGIONAL MEDICAL
26 CENTER and VALLEY CARDIAC SURGERY MEDICAL GROUP.

1 3. At said time and place, defendants FRESNO COMMUNITY REGIONAL
2 MEDICAL CENTER; VALLEY CARDIAC SURGERY MEDICAL GROUP; and DOES ONE
3 through TEN, inclusive, and each of them, were and are now corporations, partnerships,
4 associations, or other entities organized and existing under and by virtue of the laws of the State
5 of California, and were at all times and places mentioned herein engaged in the ownership,
6 operation, and maintenance of surgery centers, medical centers and/or hospitals open to the
7 general public and to paying patients in and about the County of Fresno, State of California.
8

9 5. At all times mentioned, defendants PERVAIZ A. CHAUDHRY, M.D. and DOES
10 ELEVEN through TWENTY-FIVE, inclusive, and each of them, were and now are regularly
11 licensed physicians, surgeons, radiologists, pathologists, and certified physicians' assistants
12 engaged in the practice of medicine, with offices in the County of Fresno, State of California.
13

14 6. In 2012, plaintiffs consulted defendants, and each of them, for the purpose of
15 obtaining diagnosis, care, and treatment in connection with plaintiff SILVINO PEREZ'S
16 ascending aortic aneurysm. On or about April 2, 2012, plaintiff SILVINO PEREZ underwent an
17 open-heart surgery performed by these defendant physicians at the defendant facility. Plaintiffs
18 consulted defendants, and each of them to examine, diagnose, treat and care for plaintiff
19 SILVINO PEREZ for compensation, which plaintiffs agreed to pay. Defendants, and each of
20 them, undertook, individually and by and through their agents, servants and employees, to
21 examine, diagnose, treat, prescribe for and care for plaintiff SILVINO PEREZ, including but not
22 limited to examining, diagnosing, providing to and prescribing for and administering various
23 drugs and medications and performing certain diagnostic tests, and said defendants, and each of
24 them, did evaluate, diagnose, examine, treat, prescribe and care for her by means of various
25 procedures, including but not limited to a physical examinations and multiple biopsies, and the
26 administration of certain drugs and medications.
27
28

1 7. At all times and places mentioned herein, defendants, and each of them,
2 carelessly and negligently instructed, evaluated, examined, diagnosed, prescribed for, cared for
3 and treated plaintiff SILVINO PEREZ for his medical conditions, including but not limited to
4 his heart condition, and defendants, and each of them provided hospital, medical, surgical,
5 nursing, laboratory, radiological, care and services, manufacturing, and pharmaceutical services
6 in a careless and negligent manner all of which, among other things, directly and proximately
7 resulted in certain permanent injury and disability to said plaintiff, including but not limited to,
8 the physical deterioration of plaintiff SILVINO PEREZ'S overall health, all to his general and
9 special damage.
10

11 8. As a direct and proximate result of the acts, omissions and conduct of defendants,
12 including but not limited to: the failure of defendant PERVAIZ A. CHAUDHRY, M.D. to
13 remain in the operating room until plaintiff SILVINO PEREZ'S chest was properly closed;
14 failure of defendant PERVAIZ A. CHAUDHRY, M.D. to designate another qualified physician
15 to care for the plaintiff prior to leaving the operating room while plaintiff SILVINO PEREZ was
16 in an unstable condition; and defendants' failure to timely and appropriately respond to plaintiff
17 SILVINO PEREZ'S deteriorating condition, plaintiff SILVINO PEREZ suffered severe blood
18 loss, cardiac arrest, and was placed on life support where he remains as of the date of the filing
19 of the within Complaint.
20

21 9. As a further direct and proximate result of the acts, omissions and conduct of
22 defendants, and each of them, and of said injuries caused to plaintiff SILVINO PEREZ,
23 plaintiffs were required to and did incur expenses for services of hospitals, doctors, around-the-
24 clock services at a nursing home, and other medical care and treatment in an amount not now
25 known to them, and plaintiffs are informed and believe and upon such information and belief
26 allege that they will incur additional expenses in the future in an amount not now known to them,
27
28

1 and plaintiffs will ask leave of this Court to set forth the exact amount thereof when the same
2 becomes known to them.

3 10. As a further direct and proximate result of the acts, omissions and conduct of
4 defendants, and each of them, plaintiff SILVINO PEREZ was prevented from attending his usual
5 activities due to defendants' failure to properly perform surgery, and plaintiff is informed and
6 believes and upon such information and belief alleges that he will be prevented from attending to
7 his usual activities in the future, all to plaintiff's damage in an amount not now known to him,
8 and plaintiff will ask leave of Court to amend his pleadings to set forth the exact amount thereof
9 when the same becomes known to her.
10

11 11. As a further direct and proximate result of the acts and omissions of defendants,
12 and each of them, as set forth more fully herein, plaintiff SILVINO PEREZ has suffered and will
13 continue to suffer considerable physical pain, mental and emotional anguish, limitation and
14 restriction of his usual activities, pursuits and pleasures and other general damages.

15 12. As a further direct and proximate result of the acts and omissions of defendants,
16 and each of them, as set forth more fully herein, plaintiff SILVINO PEREZ has been caused to
17 suffer and will continue to suffer substantial loss of earnings and earning capacity.

18 13. Plaintiffs learned of the defendants' negligence and the true cause of plaintiff
19 SILVINO PEREZ' catastrophic injuries upon receiving a phone call on or about October 26,
20 2013 from an unascertained medical care provider of plaintiff SILVINO PEREZ. The caller
21 informed plaintiff CRISTOBAL ARTEAGA that defendant PERVAIZ A. CHAUDHRY, M.D.
22 had walked out in the middle of SILVINO PEREZ' surgery and left a Physician's Assistant to
23 finish performing the surgery. The caller also stated that defendants' care and treatment had
24 caused plaintiff SILVINO PEREZ' injuries.

25 14. Plaintiffs allege that defendants' care and treatment was in direct violation of
26 defendant FRESNO COMMUNITY REGIONAL MEDICAL CENTER's bylaws and as well as
27 California Health and Safety Code § 1280.1(c).
28

SECOND CAUSE OF ACTION
(Loss of Consortium)

15. Plaintiffs allege and incorporate herein by reference each and every allegation contained in the First Cause of Action as though fully set forth herein.

16. As a further direct and proximate result of said acts, omissions and conduct of defendants, and each of them, plaintiff MARIA A. ARTEAGA ALVAREZ, the wife of plaintiff SILVINO PEREZ suffered the loss of her husband's support, services, love, companionship, affection, security, and other elements of consortium, all to her general damage.

WHEREFORE, plaintiffs prays for judgment against defendants, and each of them as hereinafter set forth:

1. For general damages in a just and reasonable amount in excess of the jurisdictional minimum of this Court.
2. For special damages according to proof.
3. For costs of suit and interest as provided by law.
4. For such other relief as the Court deems just and proper.

Dated: 12-20-2013

MITCHELL LAW GROUP

By: _____

Jeffrey S. Mitchell,
Attorney for Plaintiffs