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**Pro Hac Vice motion forthcoming*

Attorneys for Plaintiff Kayla Lovdahl

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN JOAQUIN – STOCKTON BRANCH

Kayla Lovdahl, an individual

Plaintiff,

v.

KAISER FOUNDATION HOSPITALS, INC., a California Corporation, THE PERMANENTE MEDICAL GROUP, INC., a California Corporation, LISA KRISTINE TAYLOR, M.D., an individual, WINNIE MAO YIU TONG, M.D., an individual, SUSANNE E. WATSON, PHD., an individual, MIRNA ESCALANTE, M.D., an individual, and DOES 1 through 50, inclusive,

Defendants.

Case No.:

COMPLAINT FOR:

1. **MEDICAL NEGLIGENCE**
2. **MEDICAL NEGLIGENCE – HOSPITAL/MEDICAL GROUP**

JURY TRIAL DEMANDED

Plaintiff Kayla Lovdahl, an individual ("Plaintiff" or "Kayla"), brings this Complaint against Defendants KAISER FOUNDATION HOSPITALS, INC., a California Corporation, THE PERMANENTE MEDICAL GROUP, INC., a California Corporation, (collectively, the "Institutional Defendants") LISA KRISTINE TAYLOR, M.D., an individual, WINNIE MAO YIU TONG, M.D., an individual, SUSANNE E. WATSON, PHD., an individual, and MIRNA ESCALANTE, M.D., an individual, (collectively, the "Defendant Providers"), (the Defendant Providers and the Institutional Defendants are collectively referred to as the "Defendants"), and DOES 1 through 50, alleging as follows:

INTRODUCTION

1. This case is about a team of doctors (i.e., the Defendants) who decided to perform a damaging, imitation sex change experiment on Kayla, then a twelve-year-old vulnerable girl struggling with complex mental health co-morbidities, who needed care, attention, and psychotherapy, not cross-sex hormones and mutilating surgery.

2. Kayla is a biological female who suffered from a complex, multi-faceted array of mental health symptoms as a child and adolescent. Her presentation of symptoms and concerns included, among other things, recurrent intense anxiety and panic, extreme mood fluctuations, self-harm, problems at school resulting in suspensions, oppositional behavior, defiant behavior, interpersonal peer relationship problems, anger, depression, crying spells, significant appetite changes, irritability, agitation, decreased energy, panic with hyperventilation, confusion, nausea, nightmares, explosive temper outbursts, poor concentration, and gender dysphoria. Many of these symptoms are compatible with undiagnosed and untreated bipolar disorder, a diagnosis Kayla's mother repeatedly brought to the Defendant's attention because of her own diagnosis with this condition. Kayla and her parents struggled consistently with Kayla's mental health issues, regularly seeking assistance, but never received adequate treatment for her mental health issues.

3. In early adolescence around age 11, Kayla was exposed to online transgender influencers who prompted Kayla to entertain the erroneous belief that she was transgender. As a result, Kayla informed her parents that she was a boy. Prior to being exposed to online influences, Kayla never had expressed to anyone that she was transgender. Her parents didn't know what to do

and promptly sought guidance from various doctors and eventually the Defendants. Three Kaiser doctors, including Defendant Dr. Escalante, advised Kayla and her parents that Kayla was too young for cross-sex hormones. But Kayla and her parents eventually were referred to Defendants Dr. Watson, Dr. Taylor, and Dr. Tong, who immediately, and negligently, affirmed Kayla's self-diagnosed transgenderism without adequate psychological evaluation. They instead promptly placed her on puberty blockers and testosterone at age 12, and performed a double mastectomy within six months at age 13. This all occurred after Dr. Watson determined in a single, 75-minute transition evaluation that Kayla was transgender.

4. Defendants did not question, elicit, or attempt to understand the psychological events that led Kayla to the mistaken belief that she was transgender, nor did they evaluate, appreciate, or treat her multi-faceted presentation of co-morbid symptoms. Instead, Defendants assumed that Kayla, a twelve-year-old emotionally troubled girl, knew best what she needed to improve her mental health and figuratively handed her the prescription pad. There is no other area of medicine where doctors will surgically remove a perfectly healthy body part and intentionally induce a diseased state of the pituitary gland misfunction based simply on the young adolescent patient's wishes.

5. Defendants were horribly, and inexcusably wrong, as Kayla was not transgender and was not a person that any reasonable physician could ascertain would permanently maintain a transgender identity. Consequently, she detransitioned when she was 17 years old, and she eventually started regular psychotherapy sessions for her mental health symptoms, which is the care she should have been receiving all along.

6. Needless to say, Defendants breached the relevant standards of care in Kayla's case by rushing her into this failed transition experiment. They should have performed an extensive psychological evaluation with an aim to designing a treatment process for her conspicuous co-morbidities. The evaluation also should have considered her developmental state as an early adolescent, inexperienced with ordinary pubertal life processes. Defendants either naively assumed that all of her emotional problems were due to her new gender dysphoria, even though her cross-gender identification was new, or that the diagnosis of gender dysphoria immediately required hormonal and surgical treatment, which is clinically naïve and dangerously presumptive.

7. Among others, three critical facts establish that Defendants should not have recommended or performed transition "treatment" on Kayla and that Defendants thereby breached the standard of care in this regard.

8. First, desistence in childhood cross gender identities is well studied and demonstrates that around 80%-90% of gender dysphoria cases involving minors resolve by adulthood, with gender identity realigning to biological sex. It is impossible to predict which cases of gender dysphoria in minors will resolve, so it is never advisable to perform chemical/surgical transition on young adolescent. The vast majority of cross-gender identified children, if medically treated in early adolescence risk regretting the decision after they are old enough to realize their losses. It is an ethically untenable position to encourage medical transition in young adolescents knowing the high rate of desistence that occurs without treatment.

9. Second, minors with co-morbid health symptoms, such as Kayla, are at a particularly high risk for dissatisfaction and complications. They should be treated with regular psychological and/or psychiatric treatment at least until the individual reaches a far greater level of cognitive maturational capacity and has acquired a mental state that will allow them to appreciate the significance of the decision they are making. Even in adulthood, co-morbid mental health symptoms are a serious contra-indication of any chemical/surgical transition treatment. Kayla's providers entirely failed to evaluate, appreciate, treat and consider her serious co-morbid mental health symptoms.

10. Third, the medical studies in this area regarding minors, particularly minor girls, are dubious at best and do not indicate improved mental health outcomes from this affirmation treatment. One of the best studies in this area is a 30-year, population-based study of adults in Sweden, which found that transgender individuals who chemically/surgically "transition" have poor mental health outcomes, increased psychiatric morbidity, suicidality, and a 19-fold increased rate of suicide as compared with the general population (40-fold for biological females). A 2023 smaller scale 2-year study of adolescents found a 49-fold increased rate of suicide as compared with the general population; in that study, two of the participants actually committed suicide and suicidality was the most common side-effect of this so called "treatment." The study had numerous issues, including a

lack of a control group and a serious risk of research bias, but it still showed unacceptably high suicide rights for completed treatment in this area. In general, there is a lack of adequate studies in this area and a lack of any control group studies. The current research is low to very low quality, particularly in regards to minors, and there is even less research involving minor girls.

11. Defendants also failed to provide Kayla and her parents with proper informed consent. Informed consent is a process that takes considerable time to understand the consequences and psychiatric and additional medical risks for this type of "treatment." The standard of care requires regular therapy sessions over an extended period of time after a comprehensive assessment of the developmental and diagnostic mental health condition of the patient. Defendants did not provide regular in-depth therapy to Kayla, which entirely prevented the possibility of her provision of informed consent. Defendants provided only crisis-oriented psychotherapy, which was widely spaced until the next request from the parents. Defendants did not recognize the glaring need for a more committed approach to healing this disturbed young female and/or failed to provide such treatment. There were no in-depth meetings with the parents to discuss the short and long-term harms and hoped-for benefits of this affirmation treatment, well before the next medical or surgical step was undertaken. Defendants obscured and concealed important information from the patient and her parents such as the following: the conflicting studies in this area; the significant evidence demonstrating poor mental health outcomes; the existence of only low to very low-quality studies purportedly supporting hormonal interventions and the absence of control groups in such studies; the significant likelihood that desired outcomes would not be attained; the significant possibility of desistence, detransition and regret; and the lack of accurate models for predicting desistence and detransition. They also did not disclose the significant health risks associated with a biological female taking off-label puberty blockers and high doses of powerful male hormone drugs having many effects other than those desired. Furthermore, Defendants falsely and authoritatively represented opposite facts, including that Kayla's dysphoria would never resolve unless she chemically/surgically transitioned, and that she represented a high-risk of suicide unless she transitioned. These were material, false representations. Defendants' coercion, concealment, misrepresentations, and manipulation are appalling and represent an egregious breach of the standard of care. This

misconduct also constitutes fraud, malice, and oppression.

12. At age 17 years old, Kayla began a period of detransition and no longer identifies as a male. Unfortunately, as a result of the so-called transgender "treatment" that Defendants performed on Kayla, she now has deep physical and emotional wounds and severe regrets. Kayla has suffered physically, socially, neurologically, and psychologically. Among other harms, she has suffered mutilation to her body, fertility risks, health risks, and lost opportunities for social and physical development along with her peers, and at key developmental milestones that can never be regained.

13. Defendants were not "caring" for Kayla; they were experimenting on her.

PARTIES

14. At all times relevant herein, Plaintiff Kayla, an individual, was a resident of the County of San Joaquin, State of California.

15. Plaintiff is informed and believes and thereon alleges that at all relevant times alleged herein, Defendant Lisa Kristine Taylor, M.D. ("Dr. Taylor"), was a physician duly licensed by the State of California to practice medicine in California. On information and belief, Dr. Taylor practices medicine primarily in Oakland, California, but accepted the Plaintiff as a patient and assisted with providing a course of experimental transgender medical treatment on Plaintiff that occurred at least in part in or around Stockton, California, and caused substantial injury to Plaintiff in or around Stockton, California.

16. Plaintiff is informed and believes and thereon alleges that at all relevant times alleged herein, Defendant Winnie Mao Yiu Tong, M.D. ("Dr. Tong"), was a physician duly licensed by the State of California to practice medicine in California. On information and belief, Dr. Tong practices primarily in San Francisco, California, but accepted the Plaintiff as a patient and assisted with providing a course of experimental transgender medical "treatment" to Plaintiff that occurred at least in part in or around Stockton, California and caused substantial injury to Plaintiff in or around Stockton, California.

17. Plaintiff is informed and believes and thereon alleges that at all relevant times alleged herein, Defendant Susanne E. Watson, PhD ("Dr. Watson"), was a psychologist duly licensed by the State of California to practice medicine in California. On information and belief, Dr. Watson

practices primarily in Oakland, California, but accepted the Plaintiff as a patient and assisted with providing a course of experimental transgender medical "treatment" to Plaintiff that occurred at least in part in or around Stockton, California and caused substantial injury to Plaintiff in or around Stockton, California.

18. Plaintiff is informed and believes and thereon alleges that at all relevant times alleged herein, Defendant Mirna Escalante, M.D. ("Dr. Escalante"), was a physician duly licensed by the State of California to practice medicine in California. On information and belief, Dr. Escalante practices primarily in Roseville, California, but accepted the Plaintiff as a patient and assisted with providing a course of experimental transgender medical "treatment" to Plaintiff that occurred at least in part in or around Stockton, California and caused substantial injury to Plaintiff in or around Stockton, California.

19. Plaintiff is informed and believes and thereon alleges that at all relevant times alleged herein, Defendant The Permanente Medical Group, Inc. ("Medical Group"), is, and at all times mentioned in this complaint was, a California professional medical corporation with its executive offices located in Oakland, California. On information and belief, the Medical Group is the medical group through which Drs. Watson, Taylor, Tong, and Escalante collaborated to provide a course of experimental transgender medical "treatment" to Plaintiff that occurred and caused substantial injury to Plaintiff at least in substantial part in or around Stockton, California.

20. Plaintiff is informed and believes and thereon alleges that at all relevant times alleged herein, Defendant Kaiser Foundation Hospitals ("Kaiser Hospitals") is, and at all times mentioned in this complaint was, a California corporation operating in Northern California, with executive offices located in Oakland, California. On information and belief, Kaiser Hospitals is the hospital network through which experimental transgender medical treatment was provided by Drs. Watson, Taylor, Tong, and Escalante to Plaintiff, causing substantial injury to Plaintiff in or around Stockton, California.

21. Plaintiff is ignorant of the true names and capacities of defendants sued herein as DOES 1 through 50, inclusive, and therefore sues these defendants by such fictitious names. Plaintiff will amend her Complaint to allege their true names and capacities and causes of action against said

fictitiously named defendants when the same have been ascertained. Plaintiff is informed and believes and thereon alleges that each of the defendants designated herein as a "DOE" is responsible in some manner and liable herein to Plaintiff for her injuries.

22. Plaintiff is informed and believes and thereon alleges that at all times herein mentioned all of the DOES were the agents, servants and employees of their co-defendants and in doing the things hereinafter alleged were acting within the course and scope of their authority as such agents, servants and employees with the authorization, permission and consent of their co-defendants, except where stated otherwise below. Each of these acts and failures to act is alleged against each Defendant whether acting individually, jointly, or severally. Each of the Defendants or their alter egos agreed and conspired with the others in the commission of these acts or failures to act and fully ratified those acts.

23. At all times mentioned herein, each Defendant was the agent and employee of each and all of the other defendants and, in performing the acts herein alleged, was acting within the course and scope of such agency and employment. Plaintiffs are informed and believe that all of the wrongful acts alleged herein were authorized and/or ratified by officers, directors or other managerial agents of Defendants.

24. On March 16, 2023, Kayla sent a notice of intent to sue letter to the Defendants. The statutorily prescribed 90-day hold period for litigation has expired.

JURISDICTION AND VENUE

25. This Court has jurisdiction over this matter, and venue is proper, because a substantial portion of the injury and experimental medical treatment upon which this action is based occurred in San Joaquin County, State of California, in or around the city of Stockton.

26. The amount in controversy exceeds the jurisdictional minimum of this Court.

GENERAL ALLEGATIONS

27. Kayla is a biological female who had a complex array of mental health symptoms as a child and adolescent. From ages 6 to 11 years old, Kayla had a few intermittent and irregular psychiatric/psychological counseling sessions with various different providers for the following symptoms/conditions: anxiety issues, extreme mood fluctuations, self-harm, problems at school

resulting in suspensions, social issues, oppositional behavior, defiant behavior, anger, and related issues. Both of Kayla's parents expressed to her providers the family history of mental health issues, including Kayla's mother being bi-polar. Kayla's mother repeatedly expressed to Defendants that she believed her daughter may also be bi-polar and sought counseling in this regard, but did not receive it. Her daughter also never received a thorough evaluation by a child psychiatrist who would have been more knowledgeable about bipolar disturbances in children and might have provided a trial of medication to calm an agitated bipolar disturbance, as a trial to ascertain the diagnosis definitively.

28. When Kayla was 11, on or around April 26, 2016, Dr. Meridee Loomer saw Kayla and reviewed her file. Dr. Loomer noted that Kayla's mother had been requesting mental health services beginning in 2011, when Kayla was around 6 years old, due to school issues and because Kayla had written on her papers about wanting to die. Dr. Loomer also noted that there had not been any consistent psychotherapy services for Kayla.

29. At age 11, around this same time, Kayla heard about transgenderism, did extensive "research" online, and self-diagnosed that she was actually a "boy," and that transitioning would be the solution to all of her mental health struggles. She informed Dr. Loomer privately at her April 26, 2016, visit that she was a boy and that she preferred to be named "Kyle."

30. A few months later, Kayla's parents discovered that she thought she was transgender and they wanted to do the "right thing" for Kayla. In July 2016, Kayla's mother called Kaiser and sought counseling and requested puberty blockers. Kayla's mother naively and also erroneously believed that Kayla being "transgender" explained a lot of her problems. Kayla immediately started wrapping her breasts with a binder and began socially transitioning, including changing her name to Kyle. Kayla's mother felt that Kayla was happier after "coming out," and tried to get an appointment with a provider who could discuss puberty blockers.

31. A couple of months later, around September 14, 2016, Kayla had a visit with Dr. Doreen Samelson, who counseled them that since Kayla was past Tanner Stage II (the first stage of puberty), she was not a candidate for puberty blockers and was not ready for cross-sex hormones. Kayla received a contraceptive shortly thereafter to reduce her periods. Kayla had two more follow-up visits with Dr. Loomer reporting improvement in mood since "coming out."

32. On October 31, 2016, Kayla's mother called Kaiser about puberty blockers again and was informed that a certain Dr. Hoe would be willing to prescribe puberty blockers, although Kayla was too young for cross-sex hormones.

33. The next day, Kayla's mother also called Kaiser seeking a medication evaluation for Kayla's pre-existing mental health issues. She noted that Kayla had mood swings her whole life, periods of agitation and anger, went for periods with very little sleep, and that she was not doing well in school.

34. Dr. Mirna Escalante M.D., an endocrinologist, reviewed this call, and noted the mental disorder running in the family and that she suspected that Kayla had a mood disorder. Dr. Escalante informed Kayla and her parents that puberty blockers cannot be used indefinitely, and that testosterone cannot be started until age 16.

35. A couple of days later on November 3, 2016, Dr. Divina Flores saw Kayla to treat her mood swings, anger, sadness, and lack of known triggers. The notes mention that Kayla would write sad notes at age 6-7, that Kayla does not get much sleep, that her sleep has been irregular since being a baby, that Kayla sees figures or things passing on the side when she doesn't get enough sleep, and that she has strange reoccurring nightmares. Dr. Flores also noted symptoms of depression, mania, abuse from peers, obesity, poor social skills, and that Kayla had few friends. Dr. Flores prescribed Risperidone, but Kayla had bad physical side effects from it. Therefore, Kayla's mother wanted to stop the medication and change doctors. Dr. Flores instructed Kayla to discontinue the drug.

36. A couple of days later on November 8th and 9th, 2016, Kayla's mother called Kaiser and spoke with three different providers who had never seen Kayla before. The notes of those calls included the following:

> "**Depression symptoms that include: depressed mood, crying spells, significant appetite change, irritability, agitation, decreased energy, problems related to social environment and Personal changes** Mother stated pt is in the process of being a male from a female. **Mother stated pt has been getting up upset and unable to manage his depression sxs**."

> **"Pt's moods are changing frequently, pt has been "distraught." Pt having significant anxiety as well, not calming down or listening to Mom.** Pt is currently at maternal grandmother's home, and Mom intends to pick him up to bring him directly into the Stk Cpy office to be seen today. **When asked about concerns re: self/other harm, she states that he has made statements such as "what's the point," or "I**

> **should just drink bleach" recently but not today**. Mom mentions that pt reportedly had a **knife** in his hand a couple of months ago, though was not doing anything w/ it, gave it to Mom."
>
> "Kyle has problems with Oppositional/Defiant problems that include: oppositional, defiant, argumentative, irritable, angry, blaming of others, easily annoyed and spiteful and vindictive. Panic symptoms that include: trouble breathing, shaking and confusion"
>
> "Patient presented to urgent services after his mother called Kaiser Psychiatry Triage yesterday and today **reporting concerns over her son's agitation/labile behavior, mood fluctuations, and potential for self-harm/harming others**. Patient's reported that her son has been having **unprovoked anger outbursts where he's been lashing out (i.e. cursing) at her mostly and others**. His mood has fluctuated in the past few months and he's been experiencing panic attacks where he gets **shortness of breath, starts shaking, and gets confused**."

(Emphasis added).

37. A week later, on November 15, 2016, Dr. Escalante ordered the puberty blockers, but mentioned that Kayla cannot start cross-sex hormones until 16 years old. After the injection, Kayla had increased mood changes and severe hot flashes, and Kayla's mother called Kaiser seeking psychiatric assistance for Kayla, but she did not receive any course of psychotherapy or psychiatric treatment.

38. Instead, Kayla and her mother eventually ended up in the hands of Defendant Watson. Defendant Watson told them that there were no age limits on cross-sex hormones or a mastectomy in Kaiser's policies and counseled them to proceed with physical transition. Dr. Watson had three phone calls with Kayla's mother by this point, though there had been no formal consultation or visit yet.

39. On March 29, 2017, Dr. Watson performed a 75-minute evaluation session of Kayla, concluding that she was transgender and that she should receive chemical/surgical transition treatment. Dr. Watson also diagnosed social anxiety and recommended treating social anxiety after transitioning. Dr. Watson otherwise ignored and failed to evaluate and treat Kayla's complex pre-existing array of co-morbid symptoms. Kayla was then referred for a mastectomy.

40. On May 1, 2017, at **12 years old**, Kayla consulted with Winnie Tong M.D., a plastic surgeon, who concluded after 30 minutes that Kayla is a good candidate for surgery. On the same date, Watson formally approved and recommended Kayla for bilateral mastectomies (so called "top surgery").

41. In additional consultations thereafter, Dr. Escalante expressed concern for starting Kayla on testosterone and noted that she has never started a child of Kayla's age on testosterone. Dr. Escalante further noted that "Kyle is still very young, and [we] have to proceed with caution."

42. Kayla was then transferred out of Dr. Escalante's care to the Oakland clinic under Dr. Kristine Taylor. Dr. Taylor immediately started Kayla on testosterone. On June 6, 2017, Kayla had her first dose of testosterone. Two days later on June 8, 2017, Kayla's mother reported to Dr. Watson increased anger and frustration and related issues. Her mother expressed concern that this indicates bipolar illness, but said that she thought that it was more likely related to gender dysphoria.

43. Dr. Taylor and Dr. Watson did not evaluate or treat these mood swings. In the next few months, Kayla was seen by about four different mental health providers. Kayla's mood was noted to be improved at various times, but her pre-existing complex array of mental health issues was noted to continue to include suicidal ideation, cutting, anger, depression, mood swings, and related issues. Kayla was also being forced by her mother to attend pride clinic events, but she didn't want to do so, and said she didn't feel "pride." She expressed this lack of "pride" to her providers.

44. On July 11, 2017, Kayla had counseling regarding fertility, and it is noted that she **"[d]oes not know if [she] wishes to be a parent in the future."**

45. On September 22, 2017, after Kayla just turned age 13, Dr. Tong performed a double mastectomy on her. Kayla had no sexual relationships prior to this time, and had no concept of being a parent, and had no idea what it might mean to lose her ability to breastfeed a baby in the future. Here is a picture of Kayla in the hospital soon after the operation:

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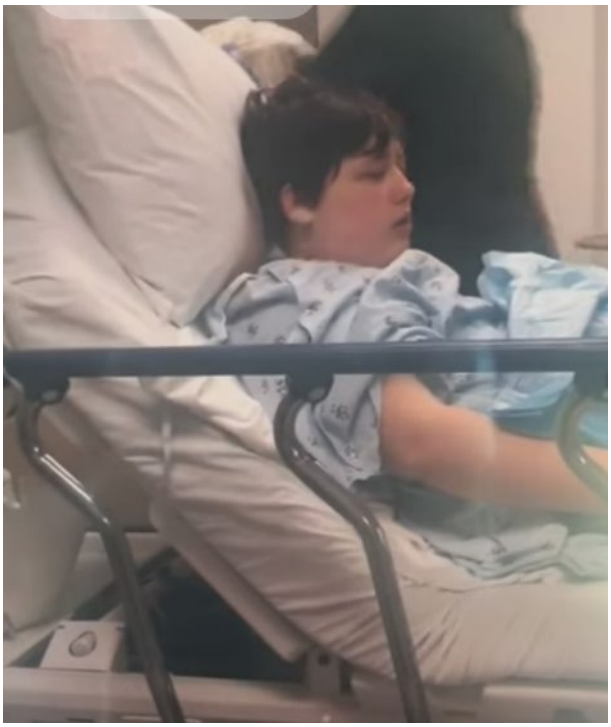

46. Kayla's mother felt that her symptoms had improved after the surgery, but Kayla continued to have social anxiety, low motivation, loneliness, lack of friends, and no interest in seeing a therapist. She described herself at this time as "a loner, [who] just really [doesn't] like anyone else" and who does not engage with other peers.

47. Also, gradually her anxiety and irritable mood symptoms increased so that Kayla's mother described her improvement after "top surgery" as only "slightly improved" approximately a year later. It is noted that her moods go down two days prior to each testosterone injection and then go back up. It is also noted that Kayla continued to have the following symptoms: hyperventilation, nausea, nightmares, anger outbursts in which Kayla would punch holes in the wall, suicidal ideation, appetite swings, energy swings, excessive anxiety or worry, excessive fear of social situations, repeated nightmares, and explosive temper outbursts. She was assessed with having "mood disorder with depressive features and social anxiety," and she was seeking medication management. Some medications seemed to improve Kayla's mood at various times, although the side effects of drowsiness were problematic. Prozac seemed to be the best medication for Kayla at that time.

48. Eventually, Kayla had also started having sexual relationships with biological males. Consequently, she had an IUD placed around December 16, 2020.

49. Eventually, Kayla started to realize that her mental health issues were not related to being transgender or being "born in the wrong body." She realized that she just had anxiety and mood disorder issues that needed to be addressed with proper mental health treatment. Kayla stopped injecting testosterone around the middle of 2021, while beginning a period of detransition. Thereafter, she stopped all contact and services with the Kaiser Proud Clinic where she had been receiving ongoing evaluation for her transition. It is worth observing that while the Defendants cooperate with efficiently providing hormones and surgery, they leave it entirely up to the patient to decide to stop the treatment. These Defendants had ample evidence prior to and after the mastectomies that Kayla's significant mental health problems continued to impair her mood regulation, social relationships, educational progress, and her self-protection. Nonetheless, they never raised the issue with the parents or with Kayla that this treatment was not working out as hoped and never recommended an alternative approach, which they should have done.

50. In August 2022, Kayla sought regular psychological counseling to assist with her mental health issues. She has been treating with two providers every 2-4 weeks from August 2022 to present. She was diagnosed with Social Anxiety Disorder and Mood Disorder with depressive features. She finally received regular psychotherapy counseling to address her depression, panic, anxiety and related symptoms, which is what she needed all along. A few months later her files were evaluated by a psychologist and endocrinologist, both of whom determined that Defendants breached the standard of care in their treatment of Kayla.

Negligence Issues – Lack of Proper Psychological Evaluation

51. Defendants were grossly negligent in that they failed to adequately assess, evaluate, appreciate, and treat Kayla's extensive co-morbid pre-existing mental health and related symptoms as discussed above. Kayla needed regular, extensive psychotherapy and/or psychiatric medication and/or counseling. Defendants grossly breached the standard of care by failing provide much needed psychotherapy and/or psychiatric treatment and by wrongly subjecting Kayla to a permanent, invasive, unstudied, off-label, high-risk, imitation sex change experiment that ultimately failed, resulting in permanent disfigurement and bodily mutilation. Recommending Kayla for risky, permanent physical transition to a male appearance, in light of Kayla's serious history of comorbid

mental health symptoms was gross breach of the standard of care.

52. In addition to the foregoing, Kayla's providers failed to address very basic aspects of Kayla's mental health and related issues. Kayla's providers did not try to address or treat her body dysmorphia and self-image issues. They did nothing to try to help her feel more comfortable in her own body. Her providers never addressed the bullying that she experienced and never taught her skills for coping with these issues. They did nothing to advise Kayla that puberty can be a difficult change for many people, particularly girls. They did not advise or discuss that it is normal to experience increased negative emotions, confusion regarding bodily changes, increased social trouble, and related issues with the onset of puberty. Instead, they essentially handed Kayla the prescription pad, and allowed her naïve, emotional, childish, rollercoaster of feelings to dictate the so-called "treatment" that she would receive. Defendants failed to educate the desperate-to-help mother about the uncertainties and controversies involved in cross-sex treatment; they led her to believe that puberty blockers, testosterone and the removal of breasts were the best and only form of effective treatment for Kayla. Thus, Defendants privileged their interests in supporting and medically treating this young maladapted person over a larger consideration of adolescent development and what was actually in Kayla's and her family's best interests in the long run. This is negligent medical care.

Negligence Issues – Risks

53. **High Desistence Rates:** Desistence is a critical issue and risk in this area. Eleven studies of childhood gender dysphoria have been conducted, including three large-scale follow-up studies and eight smaller studies.[1] Collectively, these studies establish a desistence rate somewhere between 62% to 97.5% of cases averaging to around an 80-90% desistence rate.[2] The largest study

[1] Buttons, C., *Finland's Leading Gender Dysphoria Expert Says 4 Out Of 5 Children Grow Out Of Gender Confusion*, THE DAILY WIRE (Feb 2023); Korte, A., et al., *Gender Identity Disorders in Childhood and Adolescence*, DTSCH ARZTEBL INT. (Nov. 2008) (DOI: 10.3238/arztebl.2008.0834); Cantor, J., *Do Trans-Kids Stay Trans- When They Grow Up?* SEXOLOGY TODAY (http://www.sexologytoday.org/2016/01/do-trans-kids-stay-trans-when-they-grow_99.html (accessed Feb. 7, 2023)) (summarizing the eleven studies of desistence including three large scale follow-up studies and eight smaller scall studies).

[2] *Ibid*.

found a desistence rate of approximately 92%. In sum, a well-established body of research demonstrates that gender dysphoria in children will desist by adulthood in approximately 62%-97.5% of cases, with the person's mental state shifting to align with the person's biological sex.[3] The American Psychiatric Association DSM-5 identifies these same desistence rates based on these studies.[4] Desistence of gender dysphoria cases that first present in later adolescence are not well studied. Nevertheless, medically significant desistence/detransition[5] rates have been identified, and in recent years, the rate of desistence/detransition for later adolescent onset gender dysphoria is accelerating.[6] Additionally, later onset gender dysphoria typically does not indicate a "core gender identity conflict," which typically must exist for a person to experience transgender feelings as an adult. Furthermore, and of great importance, there are no diagnostic criteria and no models for predicting which cases of gender dysphoria will desist and which cases will persist.[7] It is essentially a dice role with very low odds of success. Indeed, one parent of a transgender patient of Dr. Watson asked Dr. Watson how she determines who will benefit from hormone treatment. In response, Defendant Watson laughed and replied, ***"there's no criteria, but you kind of get a sense of it."*** This is not the practice of evidenced based medicine, this is child experimentation.

54. **Unimproved Psychological Condition:** Lack of improved psychiatric morbidity is another critical issue and risk in this area. Among others, one key study in this area is a high quality,

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[3] *Ibid*.

[4] American Psychiatric Association, *Diagnostic and Statistical Manual of Mental Disorders: Fifth Edition Text Revision DSM-5-TR™*, AMERICAN PSYCHIATRIC ASSOCIATOIN PUBLISHING, page 517 (https://ebooks.appi.org/epubreader/diagnostic-statistical-manual-mental-disorders-fifth-edition-text-revision-dsm5tr).

[5] Desistence refers to those who desist from gender dysphoria without undergoing any type of transition; detransition refers to those who undergo transition to a cross-sex identity and then detransition back to their original sexual identity.

[6] Levine, S., et al., Reconsidering informed Consent for Trans-Identified Children, Adolescents, and Young Adults, JOURNAL OF SEX & MARITAL THERAPY (March 2022) (DOI: 10.1080/0092623X.2022.2046221).

[7] Korte, A., et al., *Gender Identity Disorders in Childhood and Adolescence*, DTSCH ARZTEBL INT. (Nov. 2008) (DOI: 10.3238/arztebl.2008.0834); Levine, S., et al., Reconsidering informed Consent for Trans-Identified Children, Adolescents, and Young Adults, JOURNAL OF SEX & MARITAL THERAPY (March 2022) (DOI: 10.1080/0092623X.2022.2046221).

30-year, large scale, population-based study, out of Sweden.[8] This study found increased psychiatric morbidity, increased suicidality, and a 19-fold increased rate of completed suicide as compared with the general population for transgender individuals "treated" with transition chemicals and surgery. When this data set was analyzed by biological sex, the suicide rate for females who were presenting themselves as men was 40-fold higher than controls. This data has been available since 2011. A recent study by Chen et al. (2023) affirmed the previous indicators of a significant increase in mortality among gender dysphoric adolescents and young adults treated with cross sex hormones and surgery as it indicated approximately a 49 times increased suicide rate as compared with the general population.[9]

55. **Risks Outweigh Benefits:** This "treatment" had been previously and repeatedly tried without success both in the U.S. and in other countries.[10] Among others, the negative results caused the U.S. transgender clinic at Johns Hopkins Hospital to shut down decades ago, and also caused the Tavistock Transgender Clinic in England to shut down recently.[11] The National Health Service in

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[8] Dhejne, C., et al., *Long-Term Follow-Up of Transsexual Persons Undergoing Sex Reassignment Surgery: Cohort Study in Sweden*, PLOS ONE (Feb. 2011) (https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0016885)

[9] Chen, D., et al., *Psychosocial Functioning in Transgender Youth after 2 Years of Hormones*, N. ENGL. J. MED. (Jan 2023) (https://www.nejm.org/doi/10.1056/NEJMoa2206297). In this recent two-year study of 315 youth age 12-20 years of age treated with cross-sex hormones, suicidal ideation was the most common adverse event and two participants actually committed suicide. This establishes a suicide rate of 0.634%. This rate is approximately a 49 times higher completed suicide rate than the general population suicide rate of 0.013%. Although the study purports to claim the outcomes were positive for this treatment, the fact that two participants committed suicide does not justify such a conclusion. The "treatment" clearly was not successful. Additionally, the hypothesized results of the study were dramatically modified upon conclusion of the study, indicating a high risk of research bias and an attempt by the authors to morph their study around the statistically significant results that support their aim of validating this type of treatment while excluding from the study original hypotheses that were not supported by the results of the study.

[10] *Independent Review of Gender Identity Service for Children and Young People: Interim Report,* THE CASS REVIEW (February 2022) (https://cass.independent-review.uk/publications/interim-report/ (accessed Feb. 10, 2023); Chapman, M., *Johns Hopkins Psychiatrist: Transgender is 'mental disorder;' Sex Change 'biologically impossible'*, CNSNEWS.COM (June 21, 2015) https://www.cnsnews.com/article/national/michael-w-chapman/johns-hopkins-psychiatrist-transgender-mental-disorder-sex (last accessed February 7, 2023).

[11] Ibid.

England has restricted the use of puberty blockers exclusively to clinical research settings.[12] Finland, Sweden, England, France, Belgium, and Florida's Boards of Medicine, have all conducted systematic reviews of the relevant literature and concluded that the risks far outweigh any supposed benefits.[13] Additionally, approximately twenty states of the United States of America have enacted legislation restricting medical transition treatment for minors at the time of the filing of this complaint.

56. **Lack of Adequate Research**: There are only low to very low-quality studies of transgender treatment and there has been very little study of minor girls, yet some U.S.-based medical groups are publishing guidelines recommending this treatment.[14] The low quality means the studies

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[12] NHS England, *Implementing advice from the Cass Review* (updated June 2023) https://www.england.nhs.uk/commissioning/spec-services/npc-crg/gender-dysphoria-clinical-programme/implementing-advice-from-the-cass-review/ (accessed June 12, 2023).

[13] Buttons, C., *Finland's Leading Gender Dysphoria Expert Says 4 Out Of 5 Children Grow Out Of Gender Confusion*, THE DAILY WIRE (Feb. 2023).

[14] See Ludvigsson, J., et al, A systematic review of hormone treatment for children with gender dysphoria and recommendations for research, ACTA PAEDIATRICA (April 2023) https://doi.org/10.1111/apa.16791; See e.g. Hembree, W., *Endocrine Treatment of Gender-Dysphoric/Gender-Incongruent Persons: An Endocrine Society* Clinical Practice Guideline*, THE JOURNAL OF CLINICAL ENDOCRINOLOGY & METABOLISM (Sept. 2017); (The endocrine society guidelines in "Section 2.0 Treatment of Adolescents" recommend the use of puberty blockers and cross-sex hormones for adolescents who meet the diagnostic criteria for gender incongruence. Each of the recommendations is designated with the symbols "⊕⊕○○" or " ⊕○○○." The section titled "Method of Development of Evidence-Based Clinical Practice Guidelines" explains that the recommendations/suggestions designated by the symbol "⊕⊕○○" means that the recommendation is based on **low quality evidence** and the recommendations designated with the symbol ""⊕○○○" are based on **very low-quality evidence**. So, the endocrine society acknowledges that the supporting studies for these guidelines are low to very low quality studies). See also Buttons, C., *Finland's Leading Gender Dysphoria Expert Says 4 Out Of 5 Children Grow Out Of Gender Confusion*, THE DAILY WIRE (Feb 2023); Abbruzzese, E., *The Myth of "Reliable Research" in Pediatric Gender Medicine: A critical evaluation of the Dutch Studies—and research that has followed* JOURNAL OF SEX & MARITAL THERAPY (2022) (https://doi.org/10.1080/0092623X.2022.2150346).

It is worth noting that the 2009 version of the endocrine society guidelines did not recommend treatment with cross-sex hormones until at least the age of 16 and did not recommend a breast mastectomy until at least age 18. See e.g. Hembree, W., *Endocrine Treatment of Transsexual Persons: An Endocrine Society Clinical Practice Guideline*, THE JOURNAL OF CLINICAL ENDOCRINOLOGY & METABOLISM (Sept. 2009). This change in the clinical guidelines did not reflect a change in scientific knowledge, but instead reflected a downgrade in the quality of the supporting evidence. The 2009 guidelines are identified as being based on low to moderate quality evidence, whereas the 2017 guidelines are identified as being based on low to very low-quality

present a high possibility of containing erroneous conclusions regarding efficacy for "treatment" and present a significant risk that patients undergoing this treatment will not experience the purported/intended effects.[15]

57. **Medical Risks:** There are many other known and unknown risks of administering puberty blockers and cross-sex hormones. These include, among others: sterility, painful intercourse, impairment of orgasm, reduced bone development and inability to obtain peak or maximum bone density, stopped or stunted growth of the pelvic bones for reproductive purposes, increased risk of osteoporosis and debilitating spine and hip fractures as an adult, increased morbidity and death in older age due to increased risk of hip fracture, negative and unknown effects on brain development, emotional lability such as crying, irritability, impatience, anger, aggression, and reports of suicidal ideation and attempt.

58. Additional risks associated with testosterone include, among others: serious cardiovascular and psychiatric adverse reactions, significant weight gain, increased or decreased libido, headache, anxiety, depression, and generalized paresthesia, premature closure of boney epiphyses with termination of growth causing inability to reach full height for adolescents, and pulmonary embolism (i.e., blood clots in the lungs). There is a study of transitioned females (i.e. transgender men) in which all of the individuals who reported adverse drug reactions suffered cardiovascular events, and of those reports, 50% of cases involved pulmonary embolism. The labeling also notes risk of liver disfunction, stating that prolonged use of high doses of androgens has been associated with development of hepatic adenomas (benign tumors), hepatocellular carcinoma (cancer), and peliosis hepatis (generation of blood-filled cavities in the liver that may rupture)—all potentially life-threatening complications.

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evidence. In order to suggest this "treatment" for lower age groups, the endocrine society shifted away from higher quality evidence relying instead on lower quality evidence.

In Kayla's case, had she not undergone any of this "treatment" until she was 16-18, the serious and permanent harm that she suffered would never have occurred. Kayla's case is a prime example demonstrating the higher quality of the prior clinical guidelines.

[15] Levine, S., et al., *Reconsidering informed Consent for Trans-Identified Children, Adolescents, and Young Adults*, JOURNAL OF SEX & MARITAL THERAPY (March 2022) (DOI: 10.1080/0092623X.2022.2046221).

59. Specifically for females, studies of transitioned females taking testosterone have shown a nearly 5-fold increased risk of myocardial infarction. Females can also develop unhealthy, high levels of red blood cells which create an increased risk for cardiovascular disease, coronary heart disease, and death due to both. Other affects include irreversible changes to the vocal cords and Adam's apple, deepening of the voice, abnormal hair growth, and male pattern balding of the scalp. Additional risks include polycystic ovaries, atrophy of the lining of the uterus, and increased risks of ovarian and breast cancer.

60. **American Society of Plastic Surgeons**: The American Society of Plastic Surgeon's Policy Statement for aesthetic breast surgery in teenagers[16] states as follows:

> "Recommendations: Adolescent candidates for (purely) aesthetic breast augmentation should be at least 18 years of age. Breast augmentation that is done for aesthetic reasons is best delayed until the patient has sufficient emotional and physical maturity to make an informed decision based on an understanding of the factors involved in this procedure. This includes being realistic about the surgery, expected outcome and possible additional surgeries. In considering emotional maturity for breast augmentation, the patients should request the procedure for themselves, not to satisfy another's perception of the patient. In addition, they should demonstrate sufficient emotional maturity to understand all aspects of this surgery. This would include having realistic expectations of the procedure itself, the outcome and the potential for future surgeries. Adolescent patients need to understand that, while implants can be surgically removed, the procedure may leave permanent changes on the body, including scarring and tissue changes."

Although Kayla was not seeking augmentation, the need for emotional and physical maturity to make a decision to totally remove one's breasts applies even more dramatically to her situation.

61. **Induced Endocrine Disorder**: The administration of Lupron Depot stopped Kayla's natural progression of puberty, and medically induced various endocrine disorders, including among others, hypogonadotropic hypogonadism.[17] This condition is a pituitary gland dysfunction, wherein the female ovaries or male testes produce little or no sex hormones. This dysfunction requires

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[16] American Society of Plastic Surgeons, *Policy Statement Breast Augmentation in Teenagers* (approved 2004, reaffirmed 2015) (https://www.plasticsurgery.org/documents/Health-Policy/Positions/policy-statement_breast-augmentation-in-teenagers.pdf).

[17] https://www.pennmedicine.org/for-patients-and-visitors/patient-information/conditions-treated-a-to-z/hypogonadotropichypogonadism#:~:text=Definition,the%20pituitary%20gland%20or%20hypothalamus.

chemical treatment to correct and can be otherwise caused by damage to the pituitary gland from surgery, injury, tumor, radiation, genetic defects, heroin use, abuse of opiate medicines, iron overload, and other causes. Kayla's pituitary gland was not malfunctioning. To the contrary, it was functioning normally and was producing proper hormones to further her normal biological development. Defendants introduced these chemical interventions to disrupt the proper functioning of Kayla's pituitary gland, intentionally inducing various endocrine disorders in the process. In prescribing testosterone, Defendants also caused Kayla to develop more masculine characteristics, to suffer severe atrophy and damage to her reproductive organs, and other harms.

62. **The use of Lupron Depot and testosterone to treat "gender dysphoria" is also not approved by the FDA and is an off-label use.**

Informed Consent Issues

63. Defendants were also grossly negligent in that they failed to provide Kayla with proper informed consent. In order to provide proper informed consent, regular psychotherapy for a significant period of time was necessary to properly evaluate, understand, and diagnose Kayla's full psychological condition. Without understanding Kayla's current psychological condition fully, Defendants could not possibly provide Kayla and her parents with proper informed consent as Defendants themselves failed to properly evaluate Kayla's condition and the options and risks of various types of treatment.

64. Additionally, Kayla's providers should have, but failed to provide her with informed consent regarding: (1) desistence/detransition rates, the studies indicating 80%-90% desistence for minors, and the likely possibility of detransition and regret; (2) the inability of her providers to predict whether Kayla would detransition; (3) the existence of only low quality studies in this area and the significant likelihood that "transitioning" would not achieve the hoped for benefit; (4) the lack of studies for 12 year old girls and general lack of any longitudinal studies performed with control groups for this type of treatment; (5) the experimental nature of this so called "treatment;" (6) the option of performing psychotherapy instead; and (7) the high quality evidence indicating that transition does not resolve psychiatric morbidity, suicidality, and suicide rates, which continue to be substantially increased as compared with the general population.

65. Defendants also deliberately ignored and failed to meaningfully discuss with Kayla that sex-reassignment is not physically possible even with surgery. There is no way to surgically replace functioning biological female organs with functioning biological male organs. A transitioned female can never produce biological children with a female and vice versa. At best, surgery and chemical treatment can modify a female body to mimic and appear more like a male body and vice versa. Defendants knew that this treatment was not a viable option and does not produce good mental health outcomes, yet they sent Kayla down this path of mutilation and regret without advising her of any other options and without warning her of the significant risks. The best option for a person who does not have a core-gender identity conflict is always for the person to desist from a gender dysphoric mental state and re-align their mental state with their biological sex. But, this information was never conveyed to Kayla, or her parents, nor was she allowed time and psychotherapy to see if this would happen for her.

66. Instead of fully disclosing this important relevant information and giving Kayla time to explore these issues with psychotherapy, Kayla's providers automatically affirmed that she was transgender without any meaningful evaluation and then provided her with false opposite information. They told her that her mental health and gender dysphoria symptoms would not resolve without chemical/surgical transition, which was contrary to important and reliable clinical research regarding desistence. They falsely stated that she presented an increased suicide risk if she did not transition, contrary to important and reliable clinical research demonstrating that poor mental health outcomes and significantly increased suicide risk persist even with transition.

67. They further failed to inform her of the significant increased suicide risk that would continue to exist even after completing transition. Furthermore, they coerced Kayla and her parents to undergo this treatment regimen by indicating that "it is better to have a live son than a dead daughter." These coercive statements boxed Kayla and her parents into a false decision-making matrix, further undermining the informed consent process.

68. Kayla's providers should have and did not adequately disclose or discuss many known health risks associated with puberty blockers and cross-sex hormone treatment including, but not limited to, the following: *permanent fertility loss, painful intercourse, impairment of orgasm, stopped*

or stunted widening and growth of the pelvic bones for reproductive purposes, increased risk of osteoporosis and debilitating spine and hip fractures as an adult, increased morbidity and death in older age due to increased risk of hip fracture, negative and unknown effects on brain development, emotional lability such as crying, irritability, impatience, anger, and aggression, and reports of suicidal ideation and attempt.

69. They also failed to identify and discuss risks noted in the testosterone drug labeling including, but not limited to, the following: "serious cardiovascular and psychiatric adverse reactions," "increased or decreased libido, headache, anxiety, depression, and generalized paresthesia," "pulmonary embolism" (i.e. blood clots in the lungs). There is a study of transgender men in which all of the individuals who reported adverse drug reactions reported cardiovascular events, and of those reports 50% of cases involved pulmonary embolism. The labeling also notes "risk of liver disfunction" stating that "prolonged use of high doses of androgens … has been associated with development of hepatic adenomas [benign tumors], hepatocellular carcinoma [cancer], and peliosis hepatis [generation of blood-filled cavities in the liver that may rupture] – all potentially life-threatening complications."

70. Specifically for females, studies of transitioned females taking testosterone have shown a nearly 5-fold increased risk of myocardial infarction. Females can also develop unhealthy, high levels of red blood cells, which create an increased risk for cardiovascular disease, coronary heart disease, and death due to both. Additional risks that were not discussed include, polycystic ovaries, atrophy of the lining of the uterus, and increased risks of ovarian and breast cancer.

71. Additionally, informed consent for puberty blockers should warn that most patients go on to opposite sex hormones. Informed consent for opposite sex hormones like testosterone should warn that most go on to surgeries. This information was not provided.

72. There do not appear to be any written informed consent forms concerning Kayla's treatment, which although inadequate to establish informed consent alone, are still helpful to ensure and document that the extensive risks were discussed and addressed. The lack of any such forms further supports that there was grossly inadequate informed consent in this case. Since this treatment is experimental, involving off-label use of medications, it requires a more precise and exhaustive

informed consent, including in written form.

Institutional Defendant Issues

73. The Institutional Defendants are vicariously liable for the foregoing acts of their providers. These institutions are additionally liable for allowing such radical, inadequately studied, off-label, and essentially experimental treatment to occur on minors, including Kayla, at their facilities. They are also liable for failing to have adequate policies and procedures prohibiting and preventing the acts, omissions, failures of informed consent, fraudulent concealment, fraudulent misrepresentation, below the standard of care treatment, and other acts and omissions that occurred in Kayla's case, and as described in this complaint. Indeed, the Institutional Defendants not only have inadequate policies and procedures in place to prevent such treatment, but they actively promote, encourage, and advertise on their website that their facilities and providers offer transgender treatment, including for minors. They also actively promote, through misleading advertising, the false and manipulative idea that those with gender dysphoria who do not transition are at an increased risk for suicide. Consequently, the Institutional Defendants are jointly liable with the providers, but also have additional and separate bases for incurring liability for Kayla's damages.

74. Additionally, it appears that surgical/hormone treatment represented an easier more available treatment option to Defendants over regular interval psychotherapy. For over a decade, since 2013, the California Department of Managed Healthcare has conducted an ongoing investigation of Kaiser's inability to adequately staff mental health professionals, and this has been reported in the news.[18] The American Psychological Association has even sent a letter to the Kaiser Foundation Health discussing how Kaiser's lack of availability of follow-up mental health care falls below professional standards of care in this area.[19] Remarkably, there have been multiple protests wherein thousands of mental health professionals affiliated with Kaiser went on strike at various times, including in Oakland, California.[20] Also, hundreds of practitioners have left Kaiser for private

[18] See Exhibits 1-6, 8-12.

[19] See Exhibit 7

[20] See Exhibit 5,6, 10-12

practice apparently due to Kaiser's unethical practice of understaffing the mental health division.[21] Yet, Kaiser turned a record $8.1 billion profit in 2021 alone.[22]

75. Kayla's case occurred during this time when Kaiser was inadequately staffed with mental health care providers. It appears that this inadequate staffing, to make more profits, was a contributing factor to Defendants' inadequate mental health evaluation and psychotherapy treatment of Kayla. It also appears that this inadequate staffing contributed to the apparent favoritism for easy chemical/surgical treatment, rather than the critically needed psychotherapy in Kayla's case

76. In addition, from a financial and political perspective, patients such as Kayla who "transition" to appear more like the opposite sex represent a lucrative business and political opportunity for Defendants. Expanding and increasing the services of the transgender program at Oakland allows the Kaiser Foundation Hospitals, Inc. program and The Permanente Medical Group, Inc., Defendants to negotiate for increased plan benefits with the Kaiser Foundation Health Plan on a yearly basis. Additionally, Defendants have strong political incentives to increase and expand their transgender programs, at the expense of patients like Kayla who are not actually transgender. One of these political incentives is the Corporate Equality Index.[23] By expanding and increasing these transgender programs, Kaiser is able to satisfy powerful political and financial groups and is also able to maintain its "perfect" CEI scores.[24] Political ideology and financial incentive is driving this expansion of transgender treatment to minors such as Kayla, not sound medicine and science. This lifelong "treatment" regimen also provides a huge financial benefit to defendants' business associates in the related health care and pharmaceutical industries.

Damage Issues

77. As a result of the grossly negligent treatment performed, Kayla has suffered permanent irreversible mutilation and damage to her body, particularly the female characteristics of her body.

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[21] See Exhibit 10.

[22] Ibid.

[23] https://about.kaiserpermanente.org/news/another-perfect-score-on-2019-corporate-equality-index (last accessed June 2, 2023).

[24] https://nypost.com/2023/04/07/inside-the-woke-scoring-system-guiding-american-companies/ (accessed June 2, 2023).

The full scope and extent of her physical damage is currently being investigated. Nevertheless, a non-exhaustive summary of her past symptoms and ongoing issues is summarized here.

78. Kayla had an induced state of endocrine disease for a period of time which likely included the following: (1) Hypogonadotropic Hypogonadism, (2) Hyperandrogenism, (3) Hypoestrogenemia, (4) Erythrocytosis (leading to increased cardiovascular risk), and (5) an abnormal Complete Blood Count (CBC). As a result, she has at a higher risk of having various health complications as an adult. She also did not have the opportunity to develop as a female according to normal pubertal milestones. She is at an increased risk for being infertile or having fertility issues in the future. She has an increased risk with regard to carrying a child to term and having a natural, non-surgical delivery. She is at an increased risk for having bone related problems in the future including fractures, which in late adulthood creates a significant risk for premature death.

79. She suffered from serious pre-existing and inadequately treated mental health co-morbidities that continued throughout the period of her so-called "transition" and caused her great emotional distress and turmoil.

80. Kayla has a lower, more masculine voice, increased body and facial hair, more masculine features and body shape, and other changes. She has lost both of her breasts and will never be able to breastfeed a child. She has permanent scars on her chest and has lost the erogenous sensation in her breast area.

81. Kayla constantly bound her breasts before the mastectomy, and without a break except for brief showers. She wore the tight binder even at night and had panic attacks when her mother tried to get her to take the binder off at night. She had skin irritation and severe mental distress as a result. Kayla's mother was constantly worried that she would stop breathing while sleeping with the binder on.

82. Monitoring and treatment for fertility issues will also be required, the full scope of which is unknown at this time. Kayla may need additional corrective surgery, and she may need further corrective hormone treatment. Monitoring and future treatment for osteoporosis is medically indicated. She may have trouble conceiving at some point in the future. Psychological monitoring and treatment pertaining to her regret over this experimental and disastrous transition treatment is

also indicated.

Appreciable Harm

83. Pursuant to C.C.P. § 340.5, the statute of limitations for medical malpractice actions in California begins to run from the date that "appreciable harm" is first manifested. (*See Drexler v. Petersen*, 4 Cal.App.5th 1181, 1190-91 (2016); *see also Brewer v. Remington*, 46 Cal.App.5th 14, 28-29 (2020).) Appreciable harm is manifested at "that point at which the damage has become evidenced in some significant fashion; when the damage has clearly surfaced and is noticeable. (*See Drexler, supra,* 4 Cal.App.5th at 1190-91.) "[I]t could well be that an injury or pathology will not manifest itself for some period after the last treatment by a physician." (*See id*.) When there is a mis-diagnosis, appreciable harm does not manifest until there is a proper diagnosis. (*See id.*) The question of appreciable harm is a question of fact for the jury. (*See Drexler, supra,* 4 Cal.App.5th at 1195-96.)

84. Here Defendants incorrectly advised Kayla that she was "transgender" and that she needed to receive chemical and surgical transition treatment to the opposite sex appearance in order to improve her mental health. Defendants further falsely informed Kayla that if she did not transition, her mental health condition would not improve. Defendants then "treated" Kayla with a course of puberty blockers, testosterone, and a double mastectomy. Defendants then falsely advised Kayla that she needed to continue with transition and her transgender identity in order to experience relief from her mental health symptoms. Tragically, Defendants' advice and treatment was wrong, ill advised, and grossly breached the standard of care as discussed herein. Kayla was not transgender, the so called "treatment" did not help her mental health symptoms, and she eventually began detransitioning in the middle of 2021. Kayla was unable to appreciate the harm and negligent treatment that Defendants had performed on her until well after she completed a period of detransition which took time. After a period of detransition, in August 2022, Kayla sought out a further mental health evaluation and was diagnosed with Social Anxiety Disorder and Mood Disorder with depressive features. She began receiving regular bi-weekly psychotherapy.

85. In late 2022, she received evaluations from a psychologist and endocrinologist who determined that the Defendants were negligent in their incorrect evaluation, diagnosis, and treatment

of Kayla's mental health symptoms. Furthermore, Defendants falsely and continuously represented that this integrated course of treatment was the only thing that would solve Kayla's serious mental health problems. These fraudulent statements by the Defendants, to this vulnerable and suggestible child, kept her from appreciating that this "treatment" was actually doing the exact opposite by causing her irreversible and permanent injury.

86. Here, Kayla did not and could not have possibly suffered appreciable harm until after her period of detransition and until she received a medical evaluation as to the negligent treatment performed by the Defendants. Consequently, appreciable harm did not occur and/or was not realized in this case until well within the three-year statutory timeline for minors filing a medical malpractice claim against the Defendants.

87. Furthermore, Defendants made false representations to Kayla regarding the success of her transition "treatment" and her continuing need for transition "treatment." This led her to believe that the chemical and surgical "treatment" she was receiving was beneficial to her and medically necessary, when in fact it was harming her and causing her long-term permanent damage. Despite their fiduciary duty to Kayla, Defendants also engaged in fraud and intentional concealment regarding numerous aspects of her care including among other things, the following: concealing and/or misrepresenting the risk of desistence/detransition, the lack of adequate studies, the substantial medical risks involved, the risk of suicide, and other issues discussed herein. These false statements concealed, prevented, and were intended to prevent, Kayla from discovering Defendants' negligent treatment and from taking legal action against Defendants. Thus, to the extent appreciable harm is found to have occurred outside the applicable statute of limitations, any such statute of limitations has been tolled and has no effect on barring Plaintiff's claims against Defendants in these unique circumstances. (*See Young v. Haines* (1986) 41 Cal.3d 883.)

FIRST CAUSE OF ACTION

MEDICAL NEGLIGENCE

(By Plaintiff Against All Defendants)

88. Plaintiff hereby incorporates each and every allegation previously set forth above as though fully set forth herein.

89. During all relevant times, Plaintiff was a patient of Defendants who undertook to supervise, treat, and provide medical care and medical facilities to Plaintiff as described herein. Defendants collaborated to perform a course of experimental chemical and surgical imitation sex change "treatment" on Plaintiff as described in detail above. In summary, Defendants intentionally induced in Plaintiff an endocrine disorder through the administration of puberty blockers, placed Plaintiff on cross-sex testosterone hormones, and collaborated to recommend and perform on Plaintiff a double mastectomy, all to her great harm.

90. By virtue of this doctor-patient relationship, Defendants owed Plaintiff a duty to exercise the level of skill, knowledge, and care in the evaluation, diagnosis, and treatment of Plaintiff that other reasonably careful providers in the same respective fields/specialties would use in similar circumstances. Defendants breached the standard of care as described in more detail above by, among other things: (1) failing to properly evaluate, assess, diagnose, discover, and treat Plaintiff's medical and mental health conditions, including, but not limited to, Plaintiffs' medical and mental health co-morbidities and symptoms that presented prior to and concurrent with her gender dysphoria symptoms; (2) failing to recognize and provide or refer Kayla to a qualified mental health care provider who could evaluate and treat her on a regular basis over an extended period of time; (3) grossly overemphasizing Plaintiff's gender dysphoria symptoms to the point of excluding and ignoring her co-morbidities, related symptoms, and their relevant treatment options; (4) failing to provide Plaintiff with competent informed consent regarding the treatment options available and the relevant risks and benefits of treatment; and (5) manipulating Plaintiff and her parents into a false decision-making matrix by deliberately obscuring relevant information, by presenting false and misleading information, and by thwarting their rational decision making process by grossly exaggerating the suicide risk when no such risk existed for Kayla.

91. Regarding informed consent, among other things, Defendants intentionally obscured and did not disclose the important potential results, risks of, and alternatives to this transition course of "treatment," as discussed and elaborated in detail above. In addition, Defendants intentionally obscured and failed to disclose relevant information regarding the existence of only low-quality studies purportedly supporting such treatment, and the existence of high-quality studies establishing

poor mental health outcomes for this treatment. They also affirmatively misrepresented that Plaintiff's symptoms would never resolve without this chemical/surgical transition, and failed to disclose and discuss the high desistence rates. Defendants also manipulated and derailed Plaintiff and her parent's rational decision-making process, boxing them into a false decision-making matrix by grossly exaggerating the suicide risk when no significant risk existed for Kayla. Defendants falsely represented that Kayla presented a high risk of suicide unless she transitioned. Defendants failed to adequately assess, evaluate, and diagnose Plaintiff's widely varied presentation of symptoms and co-morbidities, which fatally undermined and obstructed the possibility of Defendants providing Plaintiff with informed consent. The process of assessing, evaluating, diagnosing, and recommending treatment options, risks, and benefits, could not possibly have met the standard of care in the limited therapy sessions that occurred in Plaintiffs case. The same provider should have met with Kayla for an extended period of time in order to provide proper informed consent. Defendants did not discuss, evaluate, or inform Kayla as to alternate treatment options, and the related risks and benefits. Defendants failed to disclose to Kayla that her poor response to the so-called "treatment" was a major red flag for stopping the harmful treatment. These, among other issues, represent a gross breach of the standard of care and an egregious failure of informed consent. A reasonable person in Plaintiff's position would not have agreed to the transition treatment if properly and adequately informed of the risks. Plaintiff suffered harm and damage relating to numerous serious risks that should have been disclosed, discussed, and explained to her and her parents but were not disclosed.

92. As a direct and proximate cause of Defendants' breaches of the standard of care, Plaintiff sustained serious and permanent personal injuries, causing her general and special damages to be determined according to proof at trial.

93. The acts and omissions described in this complaint also constituted fraud, oppression, and malice. Defendants deliberately conveyed false information and obscured and concealed true information. Defendants failed to inform Plaintiff about the high likelihood of desistence and the significant risk of serious regret. Defendants failed to spend sufficient time with Plaintiff over an adequate period of time to evaluate her condition, and failed to inform her of the need for regular psychotherapy and the need for her to seek a competent therapist who could spend adequate time with

her. Defendants did not tell Kayla about the increased risk of suicide for transgender individuals receiving chemical/surgical transition treatment. Defendants did not tell her about the existence of high-quality evidence demonstrating poor mental health outcomes for this treatment and the existence of only low to very low-quality evidence purportedly supporting this treatment. Defendants did not tell her about all of the extensive health risks. Defendants experienced significant financial gain as their intended result. The Institutional Defendants knowingly authorized and ratified this substandard and fraudulent treatment of Plaintiff for their own financial benefit and the detriment of Kayla. These among other despicable acts and omissions support a finding of intentional fraud, malice, and oppression.

94. The harm that Plaintiff experienced in this case as a result of being improperly treated with chemical/surgical interventions rather than psychotherapy for her varied presentation of co-morbid symptoms, would not have occurred unless the Defendants were negligent. The fact that Plaintiff detransitioned so soon after the so-called treatment establishes *res ipsa loquitor* that Plaintiff was not transgender and that Defendants were guilty of medical malpractice in their evaluation, assessment and treatment of Plaintiff. Defendants' diagnoses, evaluation, and "treatment" of Kayla were *de facto* incorrect. Proper evaluation, diagnosis, informed consent, and treatment of Plaintiff that met the standard of care would never have started Plaintiff down this harmful path of physical transition that ultimately turned out to be a horrible experiment causing serious and irreversible injuries to Plaintiff.

95. The harm occurred while Plaintiff was under the care and control of Defendants, and Plaintiff's own voluntary actions were not a cause contributing to the events that harmed Plaintiff. Plaintiff was a minor incapable of understanding and evaluating the decisions she was making. Yet, her providers treated her as if she could understand the implications of the life-altering decisions that she was making, as described in greater detail above.

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SECOND CAUSE OF ACTION

MEDICAL NEGLIGENCE – HOSPITAL/MEDICAL GROUP

(By Plaintiff Against Kaiser Hospitals and Medical Group)

96. Plaintiff hereby incorporates each and every allegation previously set forth as though fully set forth herein.

97. The Institutional Defendants were a medical provider for Plaintiff and had a duty of reasonable care to Plaintiff. The Institutional Defendants had the obligation to select, maintain, and ensure the competence of the Defendant Providers. The Institutional Defendants also had the obligation to provide procedures, policies, facilities, supplies, and qualified personnel reasonably necessary for the treatment of Kayla. The Institutional Defendants breached these duties by failing to provide the requisite procedures, policies, facilities, supplies, and qualified personnel, and by failing to adequately select, maintain, and ensure the competence of the Defendant Providers. Among other things, the Institutional Defendants allowed the Defendant Providers to treat Plaintiff with radical, inadequately studied, off-label, and essentially experimental transition "treatment." The Institutional Defendants failed to have adequate policies and procedures in place to prevent the acts, omissions, failures of informed consent, fraudulent concealment, fraudulent misrepresentations, negligent treatment, and other breaches of the standard of care that occurred in regard to Plaintiff as described above. Furthermore, the Institutional Defendants not only have inadequate policies and procedures to prevent such harmful treatment of patients like Kayla, but they actively promote, encourage, and advertise on their website that their facilities and providers offer proper transgender treatment, including for minors.

98. The Institutional Defendants also failed to employ adequate mental health professionals. This inadequate staffing of mental health providers contributed to preventing Plaintiff from receiving regular psychotherapy evaluation, assessment, and treatment with the same provider, which was necessary in Plaintiff's case to meet the standard of care.

99. Among other acts and omissions, these breaches of the standard of care caused Plaintiff to suffer personal injury and resulting special and general damages according to proof at trial.

100. The despicable acts and omissions described in this complaint also constituted fraud, oppression, and malice. Defendants deliberately conveyed false information and obscured and concealed true information. Defendants failed to inform Plaintiff about the high likelihood of desistence and the significant risk of serious regret. Defendants failed to spend sufficient time with Plaintiff over an adequate period evaluating her condition and/or failed to inform her of the need for regular psychotherapy and the need for her to seek a competent therapist who could spend adequate time with her. Defendants did not tell her about the increased risk of suicide for transgender individuals receiving chemical/surgical transition treatment. Defendants did not tell her about the existence of high-quality evidence demonstrating poor mental health outcomes for this treatment and the existence of only low to very low-quality, or non-existent, evidence purportedly supporting this treatment. Defendants did not tell her about all of the extensive health risks. Defendants experienced significant financial gain as the intended result. The Institutional Defendants knowingly authorized and ratified this substandard and fraudulent treatment of Plaintiff. The Institutional Defendants knowingly failed to employ adequate mental health professionals to treat complex cases like Kayla. These deficiencies, among other despicable acts and omissions, support a finding of intentional fraud, malice, and oppression.

101. The harm that Plaintiff experienced in this case as a result of being improperly treated with chemical/surgical interventions rather than psychotherapy for her varied presentation of co-morbid symptoms, would not have occurred unless the Defendants were negligent. The fact that Plaintiff detransitioned so soon after the so-called treatment establishes *res ipsa loquitor* that Plaintiff was not transgender and that Defendants were intentional or negligent in their evaluation, assessment and treatment of Plaintiff. Defendants' diagnoses, evaluation, and "treatment" of Kayla were *de facto* incorrect. Proper evaluation, diagnosis, informed consent, and treatment of Plaintiff that met the standard of care would never have started Plaintiff down this harmful path of physical transition that ultimately turned out to be a horrible experiment causing irreversible and serious injuries to Plaintiff.

102. The harm occurred while Plaintiff was under the care and control of Defendants, and Plaintiff's own voluntary actions were not a cause contributing to the events that harmed Plaintiff. Plaintiff was a minor incapable of understanding and evaluating the decisions she was making, yet

her providers treated her as if she could understand the implications of the decisions that she was making as described in greater detail above.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment against Defendants according to law and according to proof, for the following:

1. General damages, in an amount according to proof at the time of trial;
2. Special damages for medical and related expenses, in an amount according to proof at the time of trial;
4. Pain and suffering, past and future, and mental anguish, past and future;
5. Pre-judgment interest on damages;
6. Costs of suit;
7. Such other and further relief as the court deems just and proper.

Respectfully Submitted,

LiMANDRI & JONNA, LLP

DHILLON LAW GROUP INC.

CENTER FOR AMERICAN LIBERTY

Dated: June 14, 2023

By: _____

Charles S. LiMandri
Paul M. Jonna
Robert E. Weisenburger
Harmeet K. Dhillon
John-Paul S. Deol
Jesse D. Franklin-Murdock
Mark E. Trammell*

Attorneys for Plaintiff
Kayla Lovdahl

**Pro Hac Vice motion forthcoming*

*Admitted *Pro Hac Vice*

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DEMAND FOR JURY TRIAL

Plaintiff Kayla Lovdahl demands a trial by jury on all claims.

Respectfully Submitted,

LiMANDRI & JONNA, LLP

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Dated: June 14, 2023

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Attorneys for Plaintiff
Kayla Lovdahl
**Pro Hac Vice motion forthcoming*