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8
9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **COUNTY OF SACRAMENTO**

11 **PATRICE GRINNELL and ASHLEY**
12 **GRINNELL,**

13 Plaintiffs,
14

15 vs.

16 **KAISER FOUNDATION HOSPITALS;**
17 **KAISER FOUNDATION HEALTH**
18 **PLAN; THE PERMANENTE MEDICAL**
19 **GROUP; G.H., M.D.; and DOES 1**
20 **through 30, inclusive,**
21 **Defendants.**

CASE NO.

COMPLAINT FOR PERSONAL
INJURIES AND DAMAGES

[Damages in Excess of \$25,000.00]

22 COME NOW Plaintiffs PATRICE GRINNELL (hereinafter "PATRICE"),
23 ASHLEY GRINNELL (hereinafter "ASHLEY"), and allege against Defendants KAISER
24 FOUNDATION HOSPITALS (hereinafter "HOSPITALS"), KAISER FOUNDATION
25 HEALTH PLAN (hereinafter "PLAN"), THE PERMANENTE MEDICAL GROUP
26 (hereinafter "GROUP"), G.H., M.D. (hereinafter G.H.), and DOES 1 through 30,
27 inclusive, and each of them, as follows:
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PARTIES

1. Plaintiff is informed and believes and thereon alleges that Defendant KAISER FOUNDATION HOSPITALS is a licensed acute care hospital operating in the County of Sacramento, State of California, and provides medical services.

2. Plaintiff is informed and believes that Defendant PERMANENTE MEDICAL GROUP is a for profit organization which is a medical group that provides and arranges for medical care and treatment of patients.

3. Plaintiff is informed and believes that Defendant KAISER FOUNDATION HEALTH PLAN is a duly organized California Corporation that provides health insurance for its members.

4. Plaintiff is informed and believes that together, the foregoing three Defendants form Kaiser Permanente, a health maintenance organization in the State of California.

5. At all times mentioned herein, Defendant G.H., M.D. was a duly licensed physician, licensed to practice medicine, perform surgery, and/or provide other medical services in the State of California, County of Sacramento, and held himself out to possess that degree of skill, ability and learning applicable to physicians, surgeons, and/or other medical practitioners in said community. Due to the sensitive nature of the claims set forth herein, this Defendant is named by his initials.

6. The occurrence of events which are the subject matter of this Complaint occurred within the County of Sacramento, State of California.

7. The true names and capacities of Defendants, whether individual, corporate, associate, or otherwise, sued herein as DOES 1 through 30, inclusive, are presently unknown to Plaintiffs, who therefore sue such Defendants by fictitious names, pursuant to Code of Civil Procedure section 474. Plaintiffs are informed and believe and thereon allege that the fictitiously named Defendants, and each of them, sued as DOES 1 through 30, inclusive, are in some manner legally responsible to Plaintiffs for the events and happenings herein referred to, and proximately caused damages to Plaintiffs as set forth

1 herein. Plaintiffs will seek leave of court to amend this Complaint to insert the true names
2 and capacities of said fictitiously named Defendants, and each of them, when the same
3 have been ascertained.

4 8. Plaintiffs are informed and believe and on that basis alleges that at all times relevant
5 herein, each of the Defendants, including each fictitiously named Defendant, was the
6 partner, agent, joint venture, co-conspirator, lessor, lessee, servant, and/or employee of
7 each of the remaining Defendants, and in doing the acts or things alleged herein were
8 acting within the course and scope of such partnership, agency, employment, and/or other
9 relationship stated herein, and in doing the acts herein alleged, was acting with the consent,
10 approval, ratification, permission and/or authorization of each of the remaining
11 Defendants.

12 **FACTUAL SUMMARY**

13 9. Plaintiffs re-allege and incorporate by reference Paragraphs 1 through 8 as though
14 fully set forth herein.

15 10. In or about 1987 Plaintiff PATRICE consulted with and employed HOSPITAL,
16 PLAN, GROUP, and/or G.H., M.D., and DOES 1 through 30, inclusive, and each of them,
17 (hereinafter collectively referred to as "Defendants") for reproductive problems regarding
18 difficulties conceiving a child. Following consultation and examination, PATRICE
19 agreed to a medical procedure using donor sperm/semen to be inseminated. The donor
20 sperm/semen was to come from an anonymous donor with characteristics selected by
21 PATRICE.

22 11. The insemination procedure was then performed on PATRICE by Defendant G.H.,
23 M.D., and DOES 16 through 30, inclusive, and each of them, at Kaiser medical facilities
24 in Sacramento.

25 12. Following the insemination procedure, on October 27, 1987, PATRICE gave birth
26 to Plaintiff ASHLEY.

27 13. Defendant G.H., M.D. remained PATRICE'S physician until approximately 2015.

28 14. When ASHLEY reached adulthood she consulted with and employed G.H., M.D.

1 and/or the remaining Defendants as her gynecologist, and G.H., M.D. performed pelvic
2 exams on ASHLEY.

3 15. On or about March 18, 2018, Plaintiffs learned through genetic testing that the
4 sperm/semen used to inseminate PATRICE was not from an anonymous donor, but
5 actually the sperm/semen of G.H., M.D.

6 16. PATRICE was unaware, did not consent to, and would not have undergone the
7 insemination procedure had she known or been informed that the sperm/semen of G.H.,
8 M.D. would be used.

9 17. At all times during the patient/physician relationship between ASHLEY and G.H.,
10 M.D., ASHLEY was unaware, did not consent to, and would not have consented to the
11 patient/physician relationship and pelvic exams by G.H., M.D. had she known he was her
12 father.

13 18. Upon learning that the sperm/semen of G.H., M.D. was used for the insemination
14 procedure, and that ASHLEY was receiving pelvic exam(s) by her father, Plaintiffs
15 suffered shock and injury to their persons and nervous systems, resulting in great mental,
16 physical, and nervous pain and suffering.

17
18 **FIRST CAUSE OF ACTION**
19 **(Medical Negligence)**

20 19. Plaintiffs re-allege and incorporate by reference Paragraphs 1 through 18 as though
21 fully set forth herein.

22 20. In or about 1987, Plaintiff PATRICE employed Defendants, and DOES 1 through
23 30, inclusive, and each of them, for medical needs and/or necessities to perform care and
24 treatment regarding reproductive problems and a procedure using donor sperm/semen to
25 inseminate PATRICE. The donor sperm/semen was to come from an anonymous donor
26 selected by PATRICE. Said Defendants, and each of them, at said time and place,
27 undertook said employment and/or undertook and agreed to diagnose, care, and treat
28 PATRICE, and to do all things necessary and proper in connection therewith, and said

1 Defendants, and each of them, thereby entered into a patient/physician and/or
2 patient/medical care employment relationship individually, and by and through their
3 agents, contractors, representatives, employees, and/or subcontractors. Said Defendants,
4 and each of them, agreed to provide such medical attention to PATRICE for
5 compensation, for which PATRICE agreed to pay.

6 21. In the course of providing medical services, attention, treatment, and/or care to
7 PATRICE, Defendants, and DOES 1 through 30, inclusive, and each them, individually
8 and/or while acting by and through their agents, employees, joint venturers, partners,
9 lessors, lessess, contractors, subcontractors, and/or co-conspirators, named or unnamed as
10 Defendants herein, while acting within the course of their employment, agency, or other
11 relationship, failed to exercise that degree of due care and/or skill common to health care
12 providers, medical practitioners, health care facilities, and/or health care employees in said
13 community and/or geographical area, thereby breaching the duty owed by said
14 Defendants, and each of them, to Plaintiff to exercise that degree of skill, care, ability,
15 and/or learning expected of said Defendants, and each of them, and/or common to health
16 care providers in said community and/or geographical area. Further, said Defendants, and
17 each of them, negligently, carelessly, recklessly, and/or unlawfully treated, cared for,
18 obtained informed consent, failed to obtain informed consent, treated, advised, examined,
19 made and/or failed to make disclosure of relevant information, performed surgery upon,
20 battered and/or otherwise acted negligently toward PATRICE, in that the donor
21 sperm/semen used to inseminate PATRICE, and which resulted in ASHLEY being born,
22 was not donor sperm/semen selected by PATRICE, and was actually the sperm/semen of
23 G.H., M.D., and had PATRICE known G.H., M.D. was going to use his sperm/semen she
24 would not have agreed to the procedure, all of which was discovered on or about March
25 18, 2018, and all of which caused and continues to cause PATRICE to experience the
26 injuries as set forth below, compensation for which is sought by Plaintiff.

27
28 22. Plaintiff ASHLEY employed Defendants, and DOES 1 through 30, inclusive, and

1 each of them, for medical needs and/or necessities to perform care and treatment,
2 including, but not limited to, pelvic exam(s). Said Defendants, and each of them, at said
3 time and place, undertook said employment and/or undertook and agreed to diagnose,
4 care, and treat ASHLEY, and to do all things necessary and proper in connection
5 therewith, and said Defendants, and each of them, thereby entered into a patient/physician
6 and/or patient/medical care employment relationship individually, and by and through
7 their agents, contractors, representatives, employees, and/or subcontractors. Said
8 Defendants, and each of them, agreed to provide such medical attention to ASHLEY for
9 compensation, for which ASHLEY agreed to pay.

10 23. In the course of providing medical services, attention, treatment, and/or care to
11 ASHLEY, Defendants, and DOES 1 through 30, inclusive, and each them, individually
12 and/or while acting by and through their agents, employees, joint venturers, partners,
13 lessors, lessess, contractors, subcontractors, and/or co-conspirators, named or unnamed as
14 Defendants herein, while acting within the course of their employment, agency, or other
15 relationship, failed to exercise that degree of due care and/or skill common to health care
16 providers, medical practitioners, health care facilities, and/or health care employees in said
17 community and/or geographical area, thereby breaching the duty owed by said
18 Defendants, and each of them, to Plaintiff to exercise that degree of skill, care, ability,
19 and/or learning expected of said Defendants, and each of them, and/or common to health
20 care providers in said community and/or geographical area. Further, said Defendants, and
21 each of them, negligently, carelessly, recklessly, and/or unlawfully treated, cared for,
22 diagnosed, obtained informed consent, failed to obtain informed treated, advised,
23 examined, made and/or failed to make disclosure of relevant information, battered and/or
24 otherwise acted negligently toward ASHLEY, in that G.H., M.D. did not advise ASHLEY
25 he was her father, and had ASHLEY known that, she would not have agreed to such
26 patient/physician and/or patient/medical care relationship, and would not have allowed, or
27 agreed to, or permitted, G.H., M.D. to perform pelvic exam(s), all of which was discovered
28 on or about March 18, 2018, and all of which caused and continues to cause ASHLEY to

1 experience injuries as set forth below, compensation for which is sought by Plaintiff.

2 24. As a direct and proximate result of the negligence, carelessness, and/or wrongdoings
3 of Defendants, and DOES 1 through 30, inclusive, and each of them, Plaintiffs have been
4 injured in their health, strength, and activity, and have sustained grievous injury to their
5 body and profound shock and injury to their persons and nervous systems, all of which
6 injuries resulted in great mental, physical, and nervous pain and suffering. Said injuries
7 will result in some permanent disability to plaintiffs, all to their general damages in a sum
8 as yet uncertain within the maximum jurisdiction of this court. Plaintiff will seek leave of
9 court to plead and prove the nature and extent of his general damages, according to proof
10 at the time of trial, together with interest and/or prejudgment interest thereon at the lawful
11 legal rate.

12 25. As a further direct and proximate result of the negligence, carelessness, and/or
13 wrongdoings of Defendants, DOES 1 through 30, inclusive, and each of them, Plaintiffs
14 have in the past and in the future will be required to employ physicians, surgeons, and other
15 medical providers to examine, treat, and care for said Plaintiffs. The exact amount of such
16 medical expenses is unknown to Plaintiffs, and Plaintiffs will seek leave of court to plead
17 and prove the exact amount of said expenses at the time of trial, together with interest
18 and/or prejudgment interest thereon at the lawful legal rate.

19 26. As a further direct and proximate result of the negligence, carelessness, and/or
20 wrongdoings of Defendants, and DOES 1 through 30, inclusive, and each of them,
21 Plaintiffs have been prevented from attending their usual occupations, and/or will be
22 prevented in the future, all to their further damage to their future earning capacity in an
23 amount unknown at this time. Plaintiffs will seek leave of court to plead and prove the
24 amount of lost income according to proof at trial, together with interest and/or pre-
25 judgment interest thereon at the lawful legal rate.

26 27. As a further proximate result of the negligence, carelessness, and/or wrongdoings
27 of Defendants, and DOES 1 through 100, inclusive, and each of them, Plaintiffs have
28 incurred incidental and consequential damages. Plaintiffs will seek leave of court to plead

1 and prove the amount of incidental and/or consequential damages according to proof at the
2 time of trial, together with interest and/or prejudgment interest thereon at the lawful legal
3 rate.

4 28. Plaintiffs will seek prejudgment interest on all items of damage, including economic
5 and non-economic damages. These will include, but are not limited to, past and future
6 medical
7 expenses, and any and all incidental and compensatory damages as permitted by law. See
8 CCP § 685.010(a) and Civil Code § 3291.

9 WHEREFORE, Plaintiffs pray for judgment against Defendants, and each of them,
10 as hereinafter set forth.

11
12 **SECOND CAUSE OF ACTION**
13 **(ELAM-HOSPITALS, PLAN, GROUP)**

14 29. Plaintiffs re-allege and incorporate by reference Paragraphs 1-28 as though fully set
15 forth herein.

16 30. In the aforementioned examination, diagnosis, care, treatment, control, surgery, and
17 general care and treatment of PATRICE and ASHLEY, Defendants HOSPITALS, PLAN,
18 GROUP, and DOES 1 through 15, inclusive, and each of them, failed in their duties in that
19 they failed to possess and exercise that degree of knowledge and skill ordinarily possessed
20 and exercised by hospitals, health care providers, health care facilities, health care
21 employees, physicians, nurses, attendants, and the like, so as to proximately cause the
22 injuries and damages herein alleged.

23 31. Said Defendants, and each of them, owed a duty to PATRICE and ASHLEY of
24 selecting and reviewing the competency of its staff, health care providers, contractors,
25 subcontractors, nurses, attendants, agents, and other employees, carefully.

26 32. Plaintiffs are informed and believe and on that basis alleges that said Defendants,
27 and each of them, inclusive, breached their duty in exercising reasonable care in selecting,
28 reviewing, periodically reviewing, and evaluating the competency of its staff, contractors,

1 subcontractors, health care providers, nurses, attendants, agents, and other employees, so
2 as to proximately cause injuries and damages to Plaintiff as herein alleged.

3 33. Defendants HOSPITALS, PLAN, GROUP, and DOES 1 through 15, inclusive, and
4 each of them, did so negligently perform their duties such that they failed to ensure the
5 competency of their medical staff, employees, contractors, subcontractors, agents, nurses,
6 and/or attendants through careful selection and review and periodic evaluation of the staff
7 physicians, health care providers, nurses, agents, contractors, subcontractors, and/or other
8 employees, thereby proximately causing injuries and damages to Plaintiffs as herein
9 alleged.

10 34. As a proximate result of the negligence of Defendants, and each of them, said
11 defendants negligently screened the competency of its staff physicians, health care
12 providers, nurses, agents, contractors, subcontractors and/or other employees, so as to
13 proximately cause Plaintiffs to undergo and/or receive the negligent medical care and
14 treatment described herein and to cause injuries and damages to Plaintiffs as set forth
15 herein.

16 WHEREFORE, Plaintiffs pray for judgment against Defendants, and each of them,
17 as hereinafter set forth.

18
19 **THIRD CAUSE OF ACTION**
20 **(Medical Battery)**

21 35. Plaintiffs re-allege and incorporate by reference Paragraphs 1-34 as though fully set
22 forth herein.

23 36. In the course of the treatment performed by G.H., M.D., and DOES 16 through 30,
24 inclusive, and each of them, to treat PATRICE'S reproductive complaints, G.H., M.D.
25 obtained PATRICE'S consent for an insemination procedure with donor sperm/semens
26 from an anonymous donor selected by PATRICE, but PATRICE did not consent to an
27 insemination procedure wherein the sperm/semens from G.H., M.D. would be used.
28

1 37. In performing the insemination procedure with the use of his own sperm/semen, G.H.,
2 M.D. performed a substantially different procedure than what PATRICE had consented to.

3 38. The conduct of G.H., M.D. was a substantial factor in causing PATRICE'S harm.

4 39. In the course of the treatment performed by G.H., M.D. to treat ASHLEY, G.H.,
5 M.D. obtained ASHLEY'S consent for a pelvic exam(s) and treatment from a licensed
6 professional physician who ASHLEY was not related to, but ASHLEY did not consent to
7 a pelvic exam(s) by her father.

8 40. In G.H., M.D. performing the pelvic exam(s), this was substantially different than
9 what ASHLEY had consented to.

10 41. The conduct of G.H., M.D. was a substantial factor in causing ASHLEY'S harm.

11 WHEREFORE, Plaintiffs pray for judgment against Defendants, and each of them,
12 as hereinafter set forth.

13
14 **FOURTH CAUSE OF ACTION**

15 **(Battery)**

16 42. Plaintiffs re-allege and incorporate by reference Paragraphs 1-41 as though fully set
17 forth herein.

18 43. Pursuant to PATRICE'S retention of G.H., M.D., and DOES 16 through 30,
19 inclusive, and each of them, to diagnose and treat her reproductive problems, said
20 Defendants rendered professional medical services in the diagnosis, treatment, and care of
21 PATRICE.

22 44. In or about 1987 Defendants G.H., M.D., and DOES 16 through 30, inclusive, and
23 each of them, performed an insemination procedure on PATRICE, intentionally using
24 their/his own sperm/semen, use of which PATRICE did not consent.

25 45. The insemination procedure performed by G.H., M.D. with use of his own
26 sperm/semen was offensive and outside the scope of medical practices and procedures in
27 the community.

28 46. The conduct of G.H., M.D. was a substantial factor in causing PATRICE'S harm.

1 47. Pursuant to ASHLEY'S retention of G.H., M.D., and DOES 16 through 30,
2 inclusive, and each of them, to diagnose and treat her, said Defendant rendered professional
3 medical services in the diagnosis, treatment, and care of ASHLEY.

4 48. G.H., M.D., and DOES 16 through 30, inclusive, and each of them, conducting
5 pelvic exam(s) on ASHLEY while intentionally withholding the fact that he was her father,
6 was treatment of which ASHLEY did not consent.

7 49. G.H., M.D. conducting pelvic exam(s) on ASHLEY while intentionally withholding
8 the fact that he was her father was offensive and outside the scope of medical practices and
9 procedures in the community.

10 50. The conduct of G.H., M.D. was a substantial factor in causing ASHLEY'S harm.

11 WHEREFORE, Plaintiffs pray for judgment against Defendants, and each of them,
12 as hereinafter set forth.

13 **FIFTH CAUSE OF ACTION**
14 **(Intentional Misrepresentation)**

14 51. Plaintiffs re-allege and incorporate by reference Paragraphs 1-50 as though fully set
15 forth herein.

16 52. In or about 1987, during PATRICE'S reproductive treatment, Defendant G.H., M.D.
17 falsely and fraudulently represented to PATRICE that sperm/semen from an anonymous
18 donor selected by PATRICE would be used, and was used, for the insemination procedure

19 53. The above representation by Defendant G.H., M.D. was false. The true facts were
20 that G.H., M.D. was going to use his own sperm/semen, and did use his own sperm/semen
21 for the insemination procedure.

22 54. PATRICE, at the time Defendant G.H., M.D. made the above representations, was
23 ignorant of the falsity of Defendant's representations and believed them to be true. In
24 justifiable reliance on Defendant's representations, PATRICE was induced to proceed with
25 the insemination procedure, which she would not have agreed to had she known the actual
26 facts.

1 55. As a proximate result of the misrepresentations made by Defendant, PATRICE was
2 induced to proceed with a medical procedure she would not have otherwise consented to,
3 and to which she was deprived of the ability to determine and/or choose the outcome.

4 WHEREFORE, Plaintiff prays for judgment against Defendants, and each of them,
5 as hereinafter set forth.

6
7 **SIXTH CAUSE OF ACTION**
8 **(Fraud)**

9 56. Plaintiffs re-allege and incorporate by reference Paragraphs 1-55 as though fully set
10 forth herein.

11 57. Defendant G.H., M.D. represented to PATRICE that she would be inseminated with
12 semen/sperm from an anonymous donor selected by PATRICE.

13 58. Defendant G.H., M.D.'s representations were false, and he instead inseminated
14 PATRICE with his own semen/sperm without consent.

15 59. Defendant G.H., M.D. knew his representation was false and intended that
16 PATRICE rely on his false representation in agreeing to proceed with the medical
17 procedure.

18 60. PATRICE did not know that Defendant G.H., M.D.'s representation was false, and
19 justifiably relied on the doctor's representation.

20 61. The conduct of G.H., M.D. was a substantial factor in causing PATRICE'S harm.

21 WHEREFORE, Plaintiff prays for judgment against Defendants, and each of them,
22 as hereinafter set forth.

23 **SEVENTH CAUSE OF ACTION**
24 **(Intentional Infliction of Emotional Distress)**

25 62. Plaintiffs re-allege and incorporate by reference Paragraphs 1-61 as though fully set
26 forth herein.

27 63. Defendant G.H., M.D.'s conduct of using his own sperm/semen to inseminate
28 PATRICE without her consent was done wrongfully, intentionally, recklessly and with

1 conscious disregard for PATRICE, and done for the purpose of causing PATRICE to suffer
2 severe mental anguish and emotional and physical distress. Defendant G.H. M.D.'s
3 conduct was done with knowledge that PATRICE'S emotional distress would thereby
4 increase, and was outrageous and done with a wanton and reckless disregard for the
5 emotional consequences that would occur to PATRICE.

6 64. As a proximate result of G.H., M.D.'s conduct, PATRICE suffered severe emotional
7 distress.

8 65. Defendant G.H., M.D.'s conduct of performing pelvic exam(s) on ASHLEY without
9 telling her that he was her father was done wrongfully, intentionally, recklessly and with
10 conscious disregard for ASHLEY, and done for the purpose of causing ASHLEY to suffer
11 severe mental anguish and emotional and physical distress. Defendant G.H. M.D.'s
12 conduct was done with knowledge that ASHLEY'S emotional distress would thereby
13 increase, and was outrageous and done with a wanton and reckless disregard for the
14 emotional consequences that would occur to ASHLEY.

15 66. As a proximate result of G.H., M.D.'s conduct, ASHLEY suffered severe emotional
16 distress.

17 WHEREFORE, Plaintiffs pray for judgment against Defendants, and each of them,
18 as hereinafter set forth.

19 **EIGHTH CAUSE OF ACTION**
20 **(Negligent Infliction of Emotional Distress)**

21 67. Plaintiffs re-allege and incorporate by reference Paragraphs 1-66 as though fully set
22 forth herein.

23 68. Defendant G.H., M.D. owed PATRICE a duty of care as her physician and breached
24 that duty of care through the conduct of inseminating her with his own sperm/semen.

25 69. Defendant G.H., M.D. knew, or should have known, that inseminating PATRICE
26 with his sperm/semen would cause PATRICE severe emotional distress.

27 69. As a proximate result of G.H., M.D.'s conduct, PATRICE suffered severe emotional
28 distress.

1 70. Defendant G.H., M.D. owed ASHLEY a duty of care as her physician and breached
2 that duty of care by failing to inform her that he was her father and then conducting pelvic
3 exam(s) on her.

4 71. Defendant G.H., M.D. knew, or should have known, that performing pelvic exam(s)
5 on ASHLEY and not telling her she is his daughter would cause ASHLEY severe
6 emotional distress.

7 71. As a proximate result of G.H., M.D.'s conduct, ASHLEY suffered severe emotional
8 distress.

9 **WHEREFORE**, Plaintiffs pray for judgment against Defendants, and each of
10 them, as follows:

11 1. For general damages in excess of the minimum jurisdiction of this Court,
12 according to proof at time of trial;

13 2. Damages for loss of earnings, past, present and future, according to proof at
14 trial;

15 3. For past, present and future medical and incidental expenses, according to
16 proof;

17 4. For incidental expenses incurred as a result of the above incident, according
18 to proof;

19 5. For interest and/or prejudgment interest on all damages sought and/or
20 incurred herein, at the legal, lawful rate;

21 6. For costs of suit incurred herein;

22 7. For exemplary and punitive damages according to proof, as to the sixth and
23 seventh causes of action;

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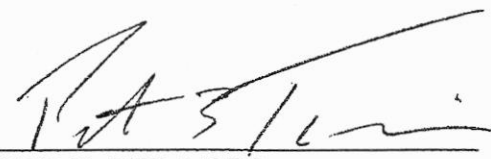
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8. For such other and further relief as the Court may deem proper.

DATED: 3/8/17

BY: 

PETER B. TIEMANN
Attorney for Plaintiff
PATRICE and ASHLEY GRINNELL