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8 Jacqueline Baltazar, Alvaro Briceno,
9 Delilah Lopez, and Jason Kelley

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 COUNTY OF RIVERSIDE – RIVERSIDE HISTORIC COURTHOUSE

12 JACQUELINE BALTAZAR, ALVARO
13 BRICENO, DELILAH LOPEZ, and JASON
14 KELLEY,

15 Plaintiffs,

16 vs.

17 COUNTY OF RIVERSIDE, RIVERSIDE
18 UNIVERSITY MEDICAL CENTER, and
19 DOES 1 through 100, inclusive,

20 Defendants.

) Case No.: CVRI2303050

) SECOND AMENDED COMPLAINT FOR:

-) 1. DANGEROUS CONDITION OF PUBLIC
) PROPERTY;
) 2. NEGLIGENCE; AND
) 3. NEGLIGENT INFLICTION OF SEVERE
) EMOTIONAL DISTRESS

21 As and for their complaint, Plaintiffs Jacqueline Baltazar, Alvaro Briceno, Delilah Lopez, and
22 Jason Kelley (hereafter referred to collectively as “PLAINTIFFS”) allege on information and belief the
23 following:

24 **PARTIES**

- 25 1. Plaintiff JACQUELINE BALTAZAR is an individual who is now and, at all relevant times
26 mentioned in this complaint, was a citizen of Riverside County. And the mother of newborn Zoe
27 Anali Moncada Baltazar.
28 2. Plaintiff ALVARO BRICENO is an individual who is now and, at all relevant times mentioned
in this complaint, was a citizen of Riverside County. And the father of newborn Zoe Anali

1 Moncada Baltazar.

2 3. Plaintiff DELILAH LOPEZ is an individual who is now and, at all relevant times mentioned in
3 this complaint, was a citizen of Riverside County. And the mother of newborn Julianna Lucy
4 Kelley.

5 4. Plaintiff JASON KELLEY is an individual who is now and, at all relevant times mentioned in
6 this complaint, was a citizen of Riverside County. And the father of newborn Julianna Lucy
7 Kelley.

8 5. Defendant COUNTY OF RIVERSIDE is, and was at all relevant times herein, a California
9 governmental entity, and the parent entity of Riverside University Medical Center.

10 6. Defendant RIVERSIDE UNIVERSITY MEDICAL CENTER (hereafter "RUMC") is, and was
11 at all relevant times herein, a California governmental entity.

12 7. PLAINTIFFS are ignorant of the true names and capacity of the defendants sued herein as Does
13 1 through 100 and, therefore, sue said defendants by such fictitious names. PLAINTIFFS will
14 amend their complaint to allege the Doe defendants' true names and capacities when such are
15 ascertained.

16 8. At all times mentioned herein, each of the named and unnamed defendants was the agent and or
17 employee of each of the other named and unnamed defendants, and in doing the things alleged
18 in this complaint, each acted within the course and scope of that agency or employment. The
19 acts and omissions complained of herein were done with the express knowledge, consent and
20 ratification of each named and unnamed defendant, such that each fictitiously named defendant
21 is responsible to some degree for the occurrences herein alleged as well as Plaintiffs' damages.

22 9. As a direct result of the foregoing paragraph, each reference in this complaint to a defendant,
23 whether named or unnamed, shall include a reference to each and every other defendant, named
24 or unnamed, wherever appropriate.

25 **JURISDICTION AND VENUE**

26 10. Jurisdiction and venue for this action is properly within the County of Riverside based upon the
27 fact that each of the named defendants are located and operate in said County and the subject
28 injuries suffered by PLAINTIFFS occurred within the County of Riverside.

1 **LEGAL STANDARD OF GOVERNMENT LIABILITY AND STATUTORY DUTY**

2 11. California law has held that, to impose liability under respondeat superior on a public entity, the
3 employee must have breached a duty of care owed to the plaintiff (*Zelig v County of Los Angeles*
4 (2002) 27 C4th 1112, 1131). A plaintiff can establish the requisite duty by examining the
5 relationship between the parties (*Thompson v County of Alameda*, (1980) 27 C3d 741, 749). In
6 this action, a special relationship exists between PLAINTIFFS and DEFENDANTS because
7 Jacqueline Baltazar and Delilah Lopez were patients under the care of DEFENDANTS in the
8 maternity ward at Riverside University Medical Center where the injuries alleged in this second
9 amended complaint were suffered.

10 12. Before the state will be required to confront a rebuttable presumption of premises liability or
11 negligence, the plaintiff must demonstrate that: (1) the statute which was violated imposes a
12 mandatory duty, (2) the statute was intended to protect against the type of harm suffered, and (3)
13 breach of the statute’s mandatory duty was a proximate cause of the injury suffered (*Washington*
14 *v. County of Contra Costa* (1995) 38 Cal. App. 4th 890, 896).

15 13. California Government Code §815.2(a) states:

16 “A public entity is liable for injury proximately caused by an act or omission of an
17 employee of the public entity within the scope of his employment if the act or omission
18 would, apart from this section, have given rise to a cause of action against that employee
or his personal representative.”

19 14. California Government Code §815.4 states:

20 “A public entity is liable for injury proximately caused by a tortious act or omission of
21 an independent contractor of the public entity to the same extent that the public entity
22 would be subject to such liability if it were a private person. Nothing in this section
23 subjects a public entity to liability for the act or omission of an independent contractor if
the public entity would not have been liable for the injury had the act or omission been
that of an employee of the public entity.”

24 15. California Government Code §815.6 states:

25 “Where a public entity is under a mandatory duty imposed by an enactment that is
26 designed to protect against the risk of a particular kind of injury, the public entity is liable
27 for an injury of that kind proximately caused by its failure to discharge the duty unless
the public entity establishes that it exercised reasonable diligence to discharge the duty.”

28 ///

1 16. California Government Code §818.6 states:

2 “A public entity is not liable for injury caused by its failure to make an inspection, or by
3 reason of making an inadequate or negligent inspection, of any property, other than its
4 property (as defined in subdivision (c) of Section 830), for the purpose of determining
5 whether the property complies with or violates any enactment or contains or constitutes
6 a hazard to health or safety.”

7 17. California Government Code §820(a) states:

8 “Except as otherwise provided by statute (including Section 820.2), a public employee is
9 liable for injury caused by his act or omission to the same extent as a private person.”

10 18. California Government Code §835 states:

11 “Except as provided by statute, a public entity is liable for injury caused by a dangerous
12 condition of its property if the plaintiff establishes that the property was in a dangerous
13 condition at the time of the injury, that the injury was proximately caused by the
14 dangerous condition, that the dangerous condition created a reasonably foreseeable risk
15 of the kind of injury which was incurred, and that either:

16 (a) A negligent or wrongful act or omission of an employee of the public entity within
17 the scope of his employment created the dangerous condition; or

18 (b) The public entity had actual or constructive notice of the dangerous condition under
19 Section 835.2 a sufficient time prior to the injury to have taken measures to protect
20 against the dangerous condition.”

21 19. California Government Code §835.2 states:

22 “(a) A public entity had actual notice of a dangerous condition within the meaning of
23 subdivision (b) of Section 835 if it had actual knowledge of the existence of the
24 condition and knew or should have known of its dangerous character.

25 (b) A public entity had constructive notice of a dangerous condition within the meaning
26 of subdivision (b) of Section 835 only if the plaintiff establishes that the condition
27 had existed for such a period of time and was of such an obvious nature that the public
28 entity, in the exercise of due care, should have discovered the condition and its
dangerous character. On the issue of due care, admissible evidence includes but is
not limited to evidence as to:

(1) Whether the existence of the condition and its dangerous character would have been
discovered by an inspection system that was reasonably adequate (considering the
practicability and cost of inspection weighed against the likelihood and magnitude of
the potential danger to which failure to inspect would give rise) to inform the public
entity whether the property was safe for the use or uses for which the public entity
used or intended others to use the public property and for uses that the public entity
actually knew others were making of the public property or adjacent property.

(2) Whether the public entity maintained and operated such an inspection system with
due care and did not discover the condition.”

1 20. California Government Code §840.2 states:

2 “An employee of a public entity is liable for injury caused by a dangerous condition of
3 public property if the plaintiff establishes that the property of the public entity was in a
4 dangerous condition at the time of the injury, that the injury was proximately caused by
5 the dangerous condition, that the dangerous condition created a reasonably foreseeable
6 risk of the kind of injury which was incurred, and that either:

7 (a) The dangerous condition was directly attributable wholly or in substantial part to a
8 negligent or wrongful act of the employee and the employee had the authority and
9 the funds and other means immediately available to take alternative action which
10 would not have created the dangerous condition; or

11 (b) The employee had the authority and it was his responsibility to take adequate
12 measures to protect against the dangerous condition at the expense of the public entity
13 and the funds and other means for doing so were immediately available to him, and
14 he had actual or constructive notice of the dangerous condition under Section 840.4
15 a sufficient time prior to the injury to have taken measures to protect against the
16 dangerous condition.”

17 21. California Government Code §840.4 states:

18 “(a) A public employee had actual notice of a dangerous condition within the meaning
19 of subdivision (b) of Section 840.2 if he had actual personal knowledge of the
20 existence of the condition and knew or should have known of its dangerous
21 character.

22 (c) A public employee had constructive notice of a dangerous condition within the
23 meaning of subdivision (b) of Section 840.2 only if the plaintiff establishes (1) that
24 the public employee had the authority and it was his responsibility as a public
25 employee to inspect the property of the public entity or to see that inspections were
26 made to determine whether dangerous conditions existed in the public property, (2)
27 that the funds and other means for making such inspections or for seeing that such
28 inspections were made were immediately available to the public employee, and (3)
that the dangerous condition had existed for such a period of time and was of such an
obvious nature that the public employee, in the exercise of his authority and
responsibility with due care, should have discovered the condition and its dangerous
character.”

29 22. California Civil Code §1714(a) states:

30 “(a) Everyone is responsible, not only for the result of his or her willful acts, but also for
31 an injury occasioned to another by his or her want of ordinary care or skill in the
32 management of his or her property or person, except so far as the latter has, willfully or
33 by want of ordinary care, brought the injury upon himself or herself. The design,
34 distribution, or marketing of firearms and ammunition is not exempt from the duty to use
35 ordinary care and skill that is required by this section. The extent of liability in these
36 cases is defined by the Title on Compensatory Relief.”

37 23. An owner or possessor of premises who holds the premises out to the public for a business
38 purpose has a duty to persons on the premises for that purpose to protect them from harm caused
by the acts of third persons (*Taylor v. Centennial Bowl, Inc.* (1966) 65 Cal. 2d 114, 121)

1 24. A volunteer who, having no initial duty to do so, undertakes to come to the aid of another, is
2 thereafter under a duty to exercise due care in performance and is liable if (a) its failure to
3 exercise such care increases the rise of such ham, or (b) the harm is suffered because of the
4 other’s reliance upon the undertaking (*Williams v. State of California* (1983) 34 Cal. 3d 18, 23).

5 25. When the state, through its agents, voluntarily assumes a protective duty toward a certain
6 member of the public and undertakes action on behalf of that member, thereby inducing reliance,
7 it is held to the same standard of care as a private person or organization (*Williams v. State of*
8 *California* (1983) 34 Cal. 3d 18, 24).

9 26. A duty to control the conduct of another or to warn persons endangered by such conduct may
10 arise out of a special relationship (*Zelig v. County of Los Angeles* (2002) 27 Cal. 4th 1112, 1129.)

11 **COMPLIANCE WITH GOVERNMENT TORT CLAIM ACT**

12 27. On or about November 21, 2022, PLAINTIFFS timely submitted a written claims to COUNTY
13 OF RIVERSIDE and RUMC regarding injuries sustained by PLAINTIFFS on or about July 14,
14 2022, pursuant to Government Code, section 900, et seq. (hereafter referred to as “Claim” and
15 attached as “Exhibit – 1”).

16 28. On or about December 27, 2022, COUNTY OF RIVERSIDE rejected in writing the Claims
17 submitted by PLAINTIFFS.

18 29. PLAINTIFFS’ action against COUNTY OF RIVERSIDE and RUMC (hereinafter referred to as
19 “DEFENDANTS” is timely pursuant to *Government Code* § 945.6(a)(1).

20 30. PLAINTIFFS have exhausted the administrative claims process and, so, are filing the instant
21 civil action to recover compensation owed to them by DEFENDANTS, as set forth in greater
22 detail below.

23 **FACTUAL ALLEGATIONS**

24 31. Between July 11, 2022 and July 14, 2022, Delilah Lopez was a patient at the Riverside University
25 Medical Center (“the Medical Center”) in Moreno Valley, California during and after the birth
26 of her baby girl, Julianna Lucy Kelley (“Julianna”), born July 11, 2022.

27 32. On July 13, 2023, despite Ms. Lopez’ continued stay at the Medical Center, the security bracelet
28 which had been place on Julianna subsequent to her birth was removed by RUMC staff.

- 1 33. On July 13, 2022, at approximately 9:02 a.m., Jacqueline Baltazar was actively in labor and was
2 admitted as a patient to the Medical Center to deliver her first baby, Zoe Anali Moncada Baltazar
3 (“Zoe”), born July 13, 2023.
- 4 34. At some time on the morning of July 14, 2022, Jesenea Miron (hereinafter referred to as
5 “Miron”) was able to enter the Riverside Health System Medical Center in Moreno Valley,
6 California (“the Medical Center”). Specifically, Miron, while dressed as a nurse, gained access
7 to the maternity ward through a defective security door which, due to its defect, was left propped
8 open.
- 9 35. On the morning of July 14, 2022, Ms. Baltazar was resting in her private room with Zoe and Mr.
10 Briceno at the Medical Center. At some time between 9:00 and 9:30 a.m., Miron entered Ms.
11 Baltazar’s private room, purported to be employed by RUMC and represented that she was there
12 to provide medical services for Zoe.
- 13 36. Thereafter, Miron handled Zoe for at least fifteen (15) minutes, returned Zoe to Ms. Baltazar and
14 Mr. Briceno before left the room.
- 15 37. Approximately thirty minutes later, Miron returned to Ms. Baltazar’s room which was occupied
16 by Ms. Baltazar, Zoe, and Mr. Briceno. Miron informed Ms. Baltazar and Mr. Briceno that she
17 would be taking Zoe to another room for “testing” at which time Miron placed Zoe in a bassinet
18 and proceeded to wheel her out of Ms. Baltazar’s private room.
- 19 38. Mr. Briceno attempted to accompany Miron out of the room at which point Miron told Mr.
20 Briceno that she needed to go check the other room and left Zoe with Mr. Briceno in the hallway
21 of the hospital.
- 22 39. Sometime later, Miron entered Ms. Lopez’s private room, purported to be employed by RUMC
23 and offered to provide medical services for Julianna. At the time, Ms. Lopez was unaware that
24 Miron was not a hospital employee. Miron occupied Ms. Lopez’s room for approximately 10-15
25 minutes during which time, Miron held and rocked Julianna, before leaving the room.
- 26 40. After approximately thirty (30) minutes, Miron returned to Ms. Lopez’s room for a second time.
27 After handling Julianna for some time, Miron offered to take Julianna out of the room and have
28 her checked out, which was declined by Ms. Lopez. It should be noted that but for Ms. Lopez’s

1 diligence in refusing Miron's offer to remove the baby from the room, the fact that the baby's
2 security bracelet had been removed by hospital staff would have almost assured Miron's success
3 in leaving the premises with the baby.

4 41. Shortly after Miron's attempted abduction of Julianna, police officers entered Ms. Baltazar's
5 room and indicated to Ms. Baltazar and Mr. Briceno that Miron, who had handled Zoe and dad
6 removed her from their room, did not work for the hospital and was in fact attempting to kidnap
7 their baby. Having been informed of the true nature of the morning's events, Ms. Baltazar and
8 Mr. Briceno suffered emotional trauma and other injuries as herein alleged.

9 42. Ms. Lopez and Mr. Kelley, upon learning of the true circumstances surrounding the attempted
10 kidnapping of Julianna, suffered severe emotional trauma, mental pain and suffering,
11 psychological injuries and other injuries as herein alleged.

12 FIRST CAUSE OF ACTION

13 DANGEROUS CONDITION OF PUBLIC PROPERTY

14 (AGAINST ALL DEFENDANTS)

15 43. PLAINTIFFS re-allege and incorporate by reference herein all of the allegations contained in
16 paragraphs 1- 42 above.

17 44. On July 14, 2022, and prior to that date, the DEFENDANTS owned, maintained, and controlled
18 the grounds, buildings, and structures at the Medical Center. PLAINTIFFS allege that
19 DEFENDANTS owed the public, including PLAINTIFFS, a duty of reasonable care in the
20 maintenance and control of the Medical Center.

21 45. PLAINTIFFS further allege that on July 14, 2022, and prior to that date, the defective security
22 door in the maternity ward of the Medical Center constituted a dangerous condition of public
23 property and, as such, created a substantial risk of the type of injury herein alleged when the
24 property was used in a manner that was reasonably foreseeable. Specifically, the defective
25 security door constituted a dangerous condition because of, but not limited to, the following: the
26 door was meant to keep patients recovering from giving birth safe from unauthorized intrusion
27 by third parties and to ensure the safety and protection of newborn babies, the most helpless and
28 delicate members of the public.

1 46. PLAINTIFFS further allege that DEFENDANTS' negligent design, maintenance, or
2 construction of the security door created this dangerous condition, giving rise to a substantial
3 risk that newborn babies, patients, and authorized visitors could be harmed in the Medical
4 Center.

5 47. DEFENDANTS had actual and/or constructive notice of the dangerous condition of the security
6 door because the condition existed for such a period of time and was of such an obvious nature
7 that DEFENDANTS, in the exercise of due care, either did discover or should have discovered
8 the condition and its dangerous character and should have taken measures to protect against the
9 dangerous condition. Further, DEFENDANTS through its employees and agents helped create
10 the dangerous condition by propping open the defective security door.

11 48. As a proximate result of the dangerous condition on the DEFENDANTS' property,
12 PLAINTIFFS, and each of them, were hurt and injured in their health, strength, and activity,
13 sustaining injury to their bodies and shock and injury to their nervous systems and person, all of
14 which injuries have caused, and continue to cause, PLAINTIFFS great mental and physical pain
15 and suffering and emotional distress. PLAINTIFFS are informed and believe and thereon allege
16 that such injuries will result in permanent disability to them. As a result of such injuries,
17 PLAINTIFFS have suffered general damages in an amount to be determined at time of trial.

18 49. As a further proximate result of the dangerous condition on the Subject Property, PLAINTIFFS
19 have incurred, and will continue to incur, medical, hospital, psychological and related expenses.

20 SECOND CAUSE OF ACTION

21 NEGLIGENCE

22 (AGAINST ALL DEFENDANTS)

23 50. PLAINTIFFS re-allege and incorporate by reference herein all of the allegations contained in
24 paragraphs 1- 42 above.

25 51. DEFENDANTS publicly made statements to induce reliance on the public that their labor and
26 delivery facilities were safe and secure. Through its statements and conduct, DEFENDANTS
27 created and voluntarily assumed protective duty to safeguard and protect members of the public
28 while under the care and supervision of DEFENDANTS at the Medical Center. Such voluntarily

1 assumed protective duty created a special relationship between the parties and PLAINTIFFS
2 relied on DEFENDANTS public statements and promise of special protection to their detriment.

3 52. Through DEFENDANTS failure to repair the defective security door and through
4 DEFENDANTS and/or its employees affirmative actions in propping open the defective security
5 door, a significant risk of the peril herein alleged was created.

6 53. DEFENDANTS negligently breached their duty by:

- 7 a. Removing Julianna's security bracelet prior to her discharge from the Medical Center.
- 8 b. Failing to maintain adequate security for the users, customers, and invitees of the Medical
9 Center maternity ward.
- 10 c. Failing to maintain proper security measures in place to protect parents and their newborn
11 children from known and foreseeable risks.
- 12 d. Failing to properly train employees, staff, and contractors in proper security measures to
13 protect parents and their newborn children from known and foreseeable risks.
- 14 e. Failing to have adequate security guards to protect parents and their newborn children from
15 known and foreseeable risks, in light of the defective security door.
- 16 f. Failing to properly train security guards to protect parents and their newborn children from
17 known and foreseeable risks, in light of the defective security door.
- 18 g. Failing to reasonably and effectively utilize and monitor existing security devices in place
19 including cameras, badges, keypads, card readers, and security doors.
- 20 h. Failing to warn, protect, guard, and secure the safety of the PLAINTIFFS, when
21 DEFENDANTS knew or should have known of the existence of the threat and danger to those
22 using the Medical Center maternity ward.
- 23 i. Failing to implement adequate security policies, security measures, and security procedures
24 necessary to protect PLAINTIFFS and their newborn children.
- 25 j. Failing to police, patrol, guard, deter, and otherwise provide adequate protection for
26 PLAINTIFFS and their newborn children, when defendant knew or should have known of the
27 foreseeable risks to them.
- 28 k. By failing to implement procedures stated in their written and verbal representations regarding

1 security measures.

2 l. By failing to train employees, staff, and contractors on procedures stated in their written and
3 verbal representations regarding security measures.

4 m. By failing to supervise employees, staff, and contractors on procedures stated in their written
5 and verbal representations regarding security measures.

6 54. As a proximate result of DEFENDANTS' negligence, PLAINTIFFS, and each of them, were
7 hurt and injured in their health, strength, and activity, sustaining injury to their bodies and shock
8 and injury to their nervous systems and person, all of which injuries have caused, and continue
9 to cause, PLAINTIFFS great mental and physical pain and suffering and emotional distress.
10 PLAINTIFFS are informed and believe and thereon allege that such injuries will result in
11 permanent disability to them. As a result of such injuries, PLAINTIFFS have suffered general
12 damages in an amount to be determined at time of trial.

13 55. As a further proximate result of DEFENDANTS' negligence, PLAINTIFFS have incurred, and
14 will continue to incur, medical, hospital, psychological and related expenses.

15 THIRD CAUSE OF ACTION

16 NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS

17 (AGAINST ALL DEFENDANTS)

18 56. PLAINTIFFS re-allege and incorporate by reference herein all of the allegations contained in
19 paragraphs 1- 42, paragraphs 44-49, and paragraphs 51-55 above.

20 57. At all times mentioned herein, PLAINTIFFS were in close proximity and personally witnessed
21 the incidents by Miron described above.

22 58. Because of the negligence of the DEFENDANTS and as a proximate result thereof,
23 PLAINTIFFS sustained severe emotional distress and mental suffering, all of which has caused,
24 continues to cause, and will cause them great physical and mental pain and suffering, all to their
25 damage.

26 59. PLAINTIFFS were reasonably required to incur medical and incidental expenses for the
27 examination, treatment, and/or care of their injuries, the exact amount of which is unknown at
28 this time. PLAINTIFFS are informed and believe, and therefore allege, that PLAINTIFFS will

1 in the future be reasonably required to incur similar obligations.

2 WHEREFORE, PLAINTIFFS and each of them pray for judgment against DEFENDANTS, as
3 follows:

- 4 1. For economic damages, according to proof;
- 5 2. For non-economic damages, according to proof;
- 6 3. For costs of suit incurred herein, and prejudgment interest;
- 7 4. For such other and further relief as this Court deems just and proper.

8
9
10 DATED: October 24, 2023

BY: 

Paul E. Maineri,
Attorney for Plaintiffs
Jacqueline Baltazar, Alvaro Briceno,
Delilah Lopez, and Jason Kelley

PROOF OF SERVICE

1 STATE OF CALIFORNIA)
2 COUNTY OF RIVERSIDE)

3 I am employed in the County of Riverside, State of California. I am over the age of 18 and not
4 a party to the within action. My business address is 29970 Technology Drive, Suite 101, Murrieta,
5 California 92563.

6 On October 27, 2023, I served the foregoing document(s) described as follows:

7 SECOND AMENDED COMPLAINT FOR: 1. DANGEROUS CONDITION OF PUBLIC
8 PROPERTY; 2. NEGLIGENCE; AND 3. NEGLIGENT INFLICTION OF SEVERE EMOTIONAL
9 DISTRESS

10 on all interested parties in this action by delivering a true copy thereof as follows:

11 BY E-MAIL: My electronic service address is ryan.j.southwick@gmail.com. I caused the above
12 described document to be served on the following:

13 1. Gary O. Poteet, Jr., attorney for County of Riverside, Riverside University Medical Center at
14 gary@disenhouselaw.net.

15 Executed on October 27, 2023, at Murrieta, California.

16 I declare under penalty of perjury that the above is true and correct.

17 *Ryan Southwick*
18 BY RYAN SOUTHWICK