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FOR COURT USE ONLY
 CENTRAL DIVISION
 2015 DEC 28 PM 5:37
 CLERK SUPERIOR COURT
 SAN DIEGO COUNTY, CA
 15 DEC 28 PM 4:02

ORIGINAL

SUPERIOR COURT OF CALIFORNIA, COUNTY OF San Diego
 STREET ADDRESS: 330 West Broadway
 MAILING ADDRESS: 330 West Broadway
 CITY AND ZIP CODE: San Diego, CA 92101
 BRANCH NAME: Hall of Justice

PLAINTIFF: Dawn Kali
 DEFENDANT: Robert O. Young; pH Miracle Living
 Ben Johnson
 DOES 1 TO 25

COMPLAINT—Personal Injury, Property Damage, Wrongful Death
 AMENDED (Number):
 Type (check all that apply):
 MOTOR VEHICLE OTHER (specify): General Negligence
 Property Damage Wrongful Death
 Personal Injury Other Damages (specify):

Jurisdiction (check all that apply):
 ACTION IS A LIMITED CIVIL CASE
 Amount demanded does not exceed \$10,000
 exceeds \$10,000, but does not exceed \$25,000
 ACTION IS AN UNLIMITED CIVIL CASE (exceeds \$25,000)
 ACTION IS RECLASSIFIED by this amended complaint
 from limited to unlimited
 from unlimited to limited

CASE NUMBER:
 37-2015-00043052-CU-PO-CTL

1. Plaintiff (name or names): Dawn Kali
 alleges causes of action against defendant (name or names):
 Robert O. Young; Ben Johnson; pH Miracle Living
2. This pleading, including attachments and exhibits, consists of the following number of pages: 6
3. Each plaintiff named above is a competent adult
 - a. except plaintiff (name):
 - (1) a corporation qualified to do business in California
 - (2) an unincorporated entity (describe):
 - (3) a public entity (describe):
 - (4) a minor an adult
 - (a) for whom a guardian or conservator of the estate or a guardian ad litem has been appointed
 - (b) other (specify):
 - (5) other (specify):
 - b. except plaintiff (name):
 - (1) a corporation qualified to do business in California
 - (2) an unincorporated entity (describe):
 - (3) a public entity (describe):
 - (4) a minor an adult
 - (a) for whom a guardian or conservator of the estate or a guardian ad litem has been appointed
 - (b) other (specify):
 - (5) other (specify):

Information about additional plaintiffs who are not competent adults is shown in Attachment 3.

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4. Plaintiff (name):
 is doing business under the fictitious name (specify):

and has complied with the fictitious business name laws.

5. Each defendant named above is a natural person

a. except defendant (name): pH Miracle Living

- (1) a business organization, form unknown
- (2) a corporation
- (3) an unincorporated entity (describe):

(4) a public entity (describe):

(5) other (specify):

c. except defendant (name):

- (1) a business organization, form unknown
- (2) a corporation
- (3) an unincorporated entity (describe):

(4) a public entity (describe):

(5) other (specify):

b. except defendant (name):

- (1) a business organization, form unknown
- (2) a corporation
- (3) an unincorporated entity (describe):

(4) a public entity (describe):

(5) other (specify):

d. except defendant (name):

- (1) a business organization, form unknown
- (2) a corporation
- (3) an unincorporated entity (describe):

(4) a public entity (describe):

(5) other (specify):

Information about additional defendants who are not natural persons is contained in Attachment 5.

6. The true names of defendants sued as Does are unknown to plaintiff.

a. Doe defendants (specify Doe numbers): 1-25 were the agents or employees of other named defendants and acted within the scope of that agency or employment.

b. Doe defendants (specify Doe numbers): 1-25 are persons whose capacities are unknown to plaintiff.

7. Defendants who are joined under Code of Civil Procedure section 382 are (names):

8. This court is the proper court because

- a. at least one defendant now resides in its jurisdictional area.
- b. the principal place of business of a defendant corporation or unincorporated association is in its jurisdictional area.
- c. injury to person or damage to personal property occurred in its jurisdictional area.
- d. other (specify):

9. Plaintiff is required to comply with a claims statute, and

- a. has complied with applicable claims statutes, or
- b. is excused from complying because (specify):

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10. The following causes of action are attached and the statements above apply to each (*each complaint must have one or more causes of action attached*):

- a. Motor Vehicle
- b. General Negligence
- c. Intentional Tort
- d. Products Liability
- e. Premises Liability
- f. Other (*specify*):

11. Plaintiff has suffered

- a. wage loss
- b. loss of use of property
- c. hospital and medical expenses
- d. general damage
- e. property damage
- f. loss of earning capacity
- g. other damage (*specify*):

12. The damages claimed for wrongful death and the relationships of plaintiff to the deceased are

- a. listed in Attachment 12.
- b. as follows:

13. The relief sought in this complaint is within the jurisdiction of this court.

14. **Plaintiff prays** for judgment for costs of suit; for such relief as is fair, just, and equitable; and for

- a. (1) compensatory damages
- (2) punitive damages

The amount of damages is (*in cases for personal injury or wrongful death, you must check (1)*):

- (1) according to proof
- (2) in the amount of \$

15. The paragraphs of this complaint alleged on information and belief are as follows (*specify paragraph numbers*):

Date: December 28, 2015

Bibianne U. Fell

(TYPE OR PRINT NAME)

▶ 

(SIGNATURE OF PLAINTIFF OR ATTORNEY)

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ONE **CAUSE OF ACTION—General Negligence** Page 4 of 6
 (number)

ATTACHMENT TO Complaint Cross - Complaint

(Use a separate cause of action form for each cause of action.)

GN-1. Plaintiff (name): Dawn Kali

alleges that defendant (name): Robert O. Young; pH Miracle Living; Ben Johnson

Does 1 to 50

was the legal (proximate) cause of damages to plaintiff. By the following acts or omissions to act, defendant negligently caused the damage to plaintiff

on (date): January 24, 2014

at (place): pH Miracle Living, 16390 Via Del Sol, Valley Center, CA 92802

(description of reasons for liability):

Defendant Young and pH Miracle Living owed a duty to Plaintiff and others to use reasonable care in offering to provide and providing medical services to patients with cancer. Defendant Young and pH Miracle Living breached this duty when Defendant Young held himself out as a licensed medical doctor, and offered and provided medical cancer treatment to Plaintiff. Defendant Young was not a licensed medical doctor and provided sham medicinal support and treatment to Plaintiff, including but not limited to, advising Plaintiff to not have a tumor removed and not to undergo chemotherapy. Without any medical support, Defendant Young advised Plaintiff to ignore her doctors, forgo conventional medical treatment, and to allow Defendant Young to "treat" her with pH injections, diet, among other "remedies." As a direct and proximate result of Defendant Young's negligence, Plaintiff Dawn Kali suffered severe physical and emotional injuries.

Ben Johnson did not have a physician-patient relationship with Plaintiff, but negligently allowed Defendants Young and pH Miracle Living to use his name and license as a cover for their negligent, unlicensed, conduct.

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TWO **CAUSE OF ACTION—Fraud**
(number)

ATTACHMENT TO Complaint Cross-Complaint

(Use a separate cause of action form for each cause of action.)

FR- 1. Plaintiff *(name)*: Dawn Kali

alleges that defendant *(name)*: Robert O. Young; PH Miracle Living; Ben Johnson

on or about *(date)*: January 24, 2014 defrauded plaintiff as follows:

FR-2. **Intentional or Negligent Misrepresentation**

a. Defendant made representations of material fact as stated in Attachment FR-2.a as follows:

Defendant Young and pH Miracle Living made representations to Plaintiff and others that he had credentials to practice medicine and treat cancer. Defendant Young made representations that his treatment, which included advice to not undergo chemotherapy, would help Plaintiff treat her cancer. At the time Plaintiff began treating with Defendant Young, her cancer was at stage one. Ben Johnson conspired and assisted in the aforementioned conduct.

b. These representations were in fact false. The truth was as stated in Attachment FR-2.b as follows:

Defendants Young and pH Miracle did not have credentials to practice medicine . Defendants knew or should have known that the medical remedies he advised to Plaintiff would not help treat Plaintiff's cancer. Defendants should have not advised Plaintiff, under the guise of having a license to practice medicine, to not undergo chemotherapy and other treatment. Defendant Johnson conspired and assisted in the aforementioned conduct.

c. When defendant made the representations,

- defendant knew they were false, or
- defendant had no reasonable ground for believing the representations were true.

d. Defendant made the representations with the intent to defraud and induce plaintiff to act as described in item FIR-5. At the time plaintiff acted, plaintiff did not know the representations were false and believed they were true. Plaintiff acted in justifiable reliance upon the truth of the representations.

FR-3. **Concealment**

a. Defendant concealed or suppressed material facts as stated in Attachment FR-3.a as follows:

Defendants concealed that Defendant Young was not licensed to practice medicine and that their "treatments" did not work and had no scientific support.

b. Defendant concealed or suppressed material facts

- defendant was bound to disclose.
- by telling plaintiff other facts to mislead plaintiff and prevent plaintiff from discovering the concealed or suppressed facts.

c. Defendant concealed or suppressed these facts with the intent to defraud and induce plaintiff to act as described in item IFIR-5. At the time plaintiff acted, plaintiff was unaware of the concealed or suppressed facts and would not have taken the action if plaintiff had known the facts.

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TWO

(number)

CAUSE OF ACTION—Fraud

FR-4. **Promise Without Intent to Perform**

- a. Defendant made a promise about a material matter without any intention of performing it as stated in Attachment FR-4.a as follows:

Defendant Young and pH Miracle promised Plaintiff that his medical advice was valid and would help Plaintiff to medically treat for her condition of cancer. Defendant Young and pH Miracle knew Young had no medical training to treat cancer and that his promise to give medical treatment for cancer could not be performed. Defendant Johnson conspired and assisted in the aforementioned conduct.

- b. Defendant's promise without any intention of performance was made with the intent to defraud and induce plaintiff to rely upon it and to act as described in item FR-5. At the time plaintiff acted, plaintiff was unaware of defendant's intention not to perform the promise. Plaintiff acted in justifiable reliance upon the promise.

FR-5. In justifiable reliance upon defendant's conduct, plaintiff was induced to act as stated in Attachment FR-5 as follows:

Plaintiff relied upon Defendant Young's representations that he could help Plaintiff to treat her condition of cancer and was licensed to do so. Plaintiff followed Young's "advice." Plaintiff's condition dramatically declined.

FR-6. Because of plaintiff's reliance upon defendant's conduct, plaintiff has been damaged as stated in Attachment FR-6 as follows:

When Plaintiff began treating with Defendant Young and pH Miracle, she had Stage One cancer. Defendant Young's conduct induced Plaintiff to follow Defendant Young's advised medical treatment. After following Defendant's medical treatment advice, Plaintiff's cancer advanced to Stage Four.

FIR - 7. Other:

Plaintiff was not the only person defrauded by Defendants, many of the Defendants' other victims died.