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 5 Attorneys for Plaintiffs  
 LUZ ELENA ESCALANTE and  
 6 ALEXIS ESCALANTE, a minor,  
 by and through her Guardian ad Litem,  
 7 LUZ ELENA ESCALANTE

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
 9 FOR THE COUNTY OF LOS ANGELES - SOUTH DISTRICT

10  
 11 LUZ ELENA ESCALANTE, individually; CASE NO.  
 ALEXIS ESCALANTE, a minor, by and  
 12 through her Guardian ad Litem, LUZ  
 ELENA ESCALANTE, COMPLAINT  
 FOR DAMAGES FOR:  
 13  
 Plaintiffs,  
 14 v. (1)  
 PROFESSIONAL

NEGLIGENCE/WRONGFUL  
 15 FAMILY PLANNING ASSOCIATES BIRTH;  
 MEDICAL GROUP, INC., a California (2) WRONGFUL  
 LIFE  
 16 corporation dba FAMILY PLANNING [AMOUNT  
 ASSOCIATES MEDICAL GROUP;  
 DEMANDED  
 17 RUBEN MARMET, M.D.; SOON CHON EXCEEDS  
 \$25,000]  
 SOHN, M.D.; LAWRENCE H. HANSEN,  
 18 M.D.; and DOES 1 through 100, inclusive,  
 19 Defendants.

20  
 21 COME NOW the Plaintiffs, LUZ ELENA ESCALANTE, individually  
 and ALEXIS  
 22 ESCALANTE, a minor, by and through her Guardian ad Litem, LUZ ELENA  
 23 ESCALANTE, and for causes of action against the defendants, and each of  
 them, allege:

24 FIRST CAUSE OF ACTION  
 25 Professional Negligence/Wrongful

Birth  
 26 By Plaintiff LUZ ELENA ESCALANTE against All  
 Defendants

27 1. That all acts complained of herein took place  
 within the jurisdiction of the  
 28 above-captioned court.





2 such examinations and treatment and performed an abortion of plaintiff's pregnancy.

3 11. Defendants so negligently, carelessly and recklessly performed the abortion  
4 procedure on August 13, 2007 such that it failed to terminate the pregnancy. Defendants  
5 thereafter performed a second abortion procedure on September 1, 2007 in order to terminate  
6 the pregnancy. Again, Defendants so negligently, carelessly and recklessly performed the  
7 second abortion procedures such that it also failed to terminate the pregnancy.

8 12. Defendants' negligent acts include, but are not limited to, defendants' failure  
9 to use the care and skill ordinarily exercised in like cases by reputable members of the  
10 profession practicing in the same or similar locality under similar circumstances, and to use  
11 reasonable diligence and defendants' best judgment in the exercise of skill and the  
12 application of learning, in an effort to accomplish the purpose for which said defendants were  
13 employed including but not limited to: the failure to perform an abortion procedure within  
14 the standard of care on two separate occasions, the use of improper procedural techniques  
15 on two occasions, the artless execution of procedural techniques on two occasions, the failure  
16 to properly perform the procedures on plaintiff LUZ ELENA ESCALANTE while she was  
17 in their care, and/or adequately diagnose and determine whether the subject procedures were  
18 properly performed, the failure to refer plaintiff LUZ ELENA ESCALANTE to the  
19 appropriate specialist in a timely manner, failure to provide the related post-operative care,  
20 treatment and diagnosis, and failure to obtain informed consent.

21 13. As a direct and legal result of the negligence of Defendants, and each of them,  
22 Plaintiff LUZ ELENA ESCALANTE gave birth to a genetically-impaired daughter, plaintiff  
23 ALEXIS ESCALANTE, who has been diagnosed with Down Syndrome, and suffers from  
24 significant medical complications for which surgical intervention was required to be  
25 rendered, as well as ongoing neurological, cognitive and physical defects.

26 14. At all times relevant herein, Defendants, and each of them, provided  
27 continuous and exclusive health care and treatment to Plaintiff LUZ ELENA ESCALANTE  
28 with respect to the above-described condition.

1                   15.           As a direct and legal result of defendants'  
negligence, as hereinabove alleged,  
2    Plaintiff LUZ ELENA ESCALANTE was hurt and injured in her health,  
strength and  
3    activity, sustaining injury to said Plaintiff's body, and shock and  
injury to Plaintiff's nervous  
4    system and person, all of which said injuries have caused and continue  
to cause said Plaintiff  
5    great mental, physical and nervous strain, emotional distress and pain  
and suffering.

6                   16.           As a direct and legal result of defendants'  
negligence, Plaintiff LUZ ELENA  
7    ESCALANTE was required to and did employ other physicians, surgeons and  
health care  
8    providers and incurred costs and expenses for additional medical  
procedures and treatment  
9    related to examine, treat and care for herself as a result of the  
ensuing pregnancy, in an  
10   amount according to proof.

11                  17.           As a direct and legal result of defendants'  
negligence, Plaintiff LUZ ELENA  
12   ESCALANTE was required to and did employ other physicians, surgeons and  
health care  
13   providers and incurred costs and expenses for the birth and delivery,  
medical treatment and  
14   surgery to her child ALEXIS ESCALANTE who was born with Down Syndrome  
and suffers  
15   from significant medical conditions, in an amount according to proof.

16                  18.           As a further direct and legal result of the  
aforesaid negligent acts of defendants,  
17   Plaintiff LUZ ELENA ESCALANTE as well as ALEXIS ESCALANTE, and did incur  
18   medical, caretaking and incidental expenses, the exact amount of which  
are not known at this  
19   time; Plaintiffs are informed and believe, and thereon allege, that  
Plaintiffs will incur  
20   additional such expenses in the future, in an amount according to proof.

21                  19.           As a direct and legal result of defendants'  
negligence, Plaintiff LUZ ELENA  
22   ESCALANTE has incurred and will continue to incur expenses associated  
with raising and  
23   caring for her genetically-impaired child, including costs and expenses  
for her medical care,  
24   specialized teaching, training and specialized equipment during the  
minority of plaintiff  
25   ALEXIS ESCALANTE's life through March 27, 2026, and thereafter, in an  
amount  
26   according to proof..

27  
28

Complaint (Heard).wpd

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COMPLAINT FOR DAMAGES FOR PROFESSIONAL

NEGLIGENCE

1                   20.           As a further proximate result of the negligence  
of defendants, plaintiff LUZ  
2    ELENA ESCALANTE is informed and believes and hereon alleges that she  
will be obliged

3 to incur expenses, in an amount according to proof.  
4 21. As a further direct and legal result of the  
aforesaid negligent acts of  
5 defendants, plaintiff LUZ ELENA ESCALANTE has lost time from her regular  
occupation  
6 and employment, resulting in lost income in an amount unascertained at  
this time. Said  
7 plaintiff will also lose time in the future from said employment and  
occupation in order to  
8 care for ALEXIS ESCALANTE, and the future earning capacity of plaintiff  
LUZ ELENA  
9 ESCALANTE has been impaired, all to said plaintiff's further loss, in an  
amount according  
10 to proof.

11 SECOND CAUSE OF ACTION

12 Wrongful Life

13 By Plaintiff ALEXIS ESCALANTE against All  
Defendants

14 22. Plaintiff ALEXIS ESCALANTE repeats and  
incorporates herein by reference  
15 each and every allegation contained in Paragraphs 1 through 22 above,  
and replays same  
16 as if fully set forth at this point.

17 23. At all times herein relevant, Defendants knew  
or in the exercise of reasonable  
18 care should have known that plaintiff LUZ ELENA ESCALANTE was 37 years  
old at the  
19 time plaintiff ALEXIS ESCALANTE was conceived. Defendants knew, or in  
the exercise  
20 of reasonable care should have known, that plaintiff LUZ ELENA ESCALANTE  
had certain  
21 medical conditions that placed her at risk for developing complications  
during her pregnancy  
22 and, further, because of LUZ ELENA ESCALANTE's age, there was a greater  
risk that the  
23 fetus had genetic impairments and defects such as Down Syndrome. During  
the time that  
24 LUZ ELENA ESCALANTE was in the care of defendants, they failed to  
adequately advise  
25 her of the greater risk of giving birth to a child with birth defects,  
including Down Syndrome,  
26 because of LUZ ELENA ESCALANTE's high risk status. Due to such risks,  
defendants  
27 knew or should have known that a successful termination of the pregnancy  
was important to  
28 prevent the birth of a child with such genetic impairments.

Complaint (Heard).wpd

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COMPLAINT FOR DAMAGES FOR PROFESSIONAL

NEGLIGENCE

1 24. On or about August 13, 2007 and September 1,  
2007, as alleged above,  
2 defendants negligently and carelessly failed to properly perform two  
abortion procedures on  
3 LUZ ELENA ESCALANTE, who remained pregnant.

4 25. On or about March 27, 2008, minor plaintiff  
ALEXIS ESCALANTE was born

5 with Down Syndrome and suffers from significant medical conditions and complications

6 which required and will continue to require medical treatment and surgical interventions.

7 26. As a direct and legal result of the negligence of defendants and each of them,

8 plaintiff ALEXIS ESCALANTE did incur and will continue to incur extraordinary expenses

9 necessitated by the cognitive and physical defects associated with her Down Syndrome,

10 including medical treatment, specialized teaching, training and equipment, for the duration

11 of her lifetime, in an amount according to proof.

12

13 WHEREFORE, plaintiffs pray for judgment as follows:

14 1. For general damages, in a sum according to proof;

15 2. For medical and health care expenses, in a sum according to proof;

16 3. For all incidental expenses, in a sum according to proof;

17 4. Loss of income and earning ability as proved at time of trial;

18 5. For costs of suit incurred herein; and

19 6. For interest on damages pursuant to Civil Code §3291; and

20 7. For such other and further relief as this Court may deem just and proper.

21

22 DATED: November \_\_, 2008  
ROWELL & BENNETT

CHEONG, DENOVE,

23

By \_\_\_\_\_

24

VARTAZARIAN

Plaintiffs LUZ ELENA

25

ALEXIS ESCALANTE,

through her Guardian ad Litem,

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27

28

STEVEN R.

Attorneys for

ESCALANTE and

a minor, by and

LUZ ELENA ESCALANTE