

<b>Attorney or Party Name, Address, Telephone &amp; FAX Nos., State Bar No. &amp; Email Address</b>  Gregory A. Rougeau (194437) BRUNETTI ROUGEAU LLP 235 Montgomery St., Suite 410 San Francisco, CA 94104 Tel: (415) 992-8940 Fax: (415) 992-8915 Email: grougeau@brlawssf.com		<b>FOR COURT USE ONLY</b>	
<input type="checkbox"/> <i>Individual appearing without attorney</i> <input checked="" type="checkbox"/> <i>Attorney for: Movant DIEM ANH CAO</i>			
<b>UNITED STATES BANKRUPTCY COURT CENTRAL DISTRICT OF CALIFORNIA - LOS ANGELES DIVISION</b>			
<b>In re:</b>  VERITY HEALTH SYSTEMS OF CALIFORNIA, INC., et al.		<b>CASE NO.: 2:18-bk-20151-ER</b>	
		<b>CHAPTER: 11</b>	
		<b>NOTICE OF MOTION AND MOTION FOR RELIEF FROM THE AUTOMATIC STAY UNDER 11 U.S.C. § 362 (with supporting declarations) (ACTION IN NONBANKRUPTCY FORUM)</b>	
<b>Debtor(s).</b>		<b>DATE: 01/21/2020</b>	
		<b>TIME: 10:00 am</b>	
		<b>COURTROOM: 1568</b>	
<b>Movant: DIEM ANH CAO</b>			

1. **Hearing Location:**  

<input checked="" type="checkbox"/> 255 East Temple Street, Los Angeles, CA 90012 <input type="checkbox"/> 21041 Burbank Boulevard, Woodland Hills, CA 91367 <input type="checkbox"/> 3420 Twelfth Street, Riverside, CA 92501	<input type="checkbox"/> 411 West Fourth Street, Santa Ana, CA 92701 <input type="checkbox"/> 1415 State Street, Santa Barbara, CA 93101
--	---
2. Notice is given to the Debtor and trustee (*if any*)(Responding Parties), their attorneys (*if any*), and other interested parties that on the date and time and in the courtroom stated above, Movant will request that this court enter an order granting relief from the automatic stay as to Debtor and Debtor's bankruptcy estate on the grounds set forth in the attached Motion.
3. To file a response to the motion, you may obtain an approved court form at [www.cacb.uscourts.gov/forms](http://www.cacb.uscourts.gov/forms) for use in preparing your response (optional LBR form F 4001-1.RFS.RESPONSE), or you may prepare your response using the format required by LBR 9004-1 and the Court Manual.



4. When serving a response to the motion, serve a copy of it upon the Movant's attorney (or upon Movant, if the motion was filed by an unrepresented individual) at the address set forth above.
5. If you fail to timely file and serve a written response to the motion, or fail to appear at the hearing, the court may deem such failure as consent to granting of the motion.
6. ☒ This motion is being heard on REGULAR NOTICE pursuant to LBR 9013-1(d). If you wish to oppose this motion, you must file and serve a written response to this motion no later than 14 days before the hearing and appear at the hearing.
7. ☐ This motion is being heard on SHORTENED NOTICE pursuant to LBR 9075-1(b). If you wish to oppose this motion, you must file and serve a response no later than (date) \_\_\_\_\_ and (time) \_\_\_\_\_; and, you may appear at the hearing.
- a. ☐ An application for order setting hearing on shortened notice was not required (according to the calendaring procedures of the assigned judge).
- b. ☐ An application for order setting hearing on shortened notice was filed and was granted by the court and such motion and order have been or are being served upon the Debtor and upon the trustee (if any).
- c. ☐ An application for order setting hearing on shortened notice was filed and remains pending. After the court rules on that application, you will be served with another notice or an order that specifies the date, time and place of the hearing on the attached motion and the deadline for filing and serving a written opposition to the motion.

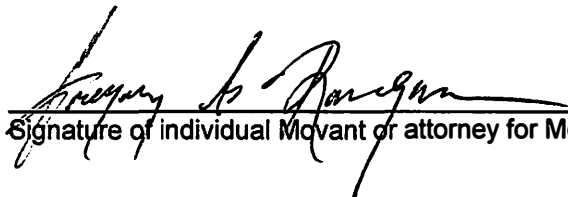
Date: 12/26/2019

BRUNETTI ROUGEAU LLP

Printed name of law firm (if applicable)

Gregory A. Rougeau

Printed name of individual Movant or attorney for Movant

  
Signature of individual Movant or attorney for Movant

## MOTION FOR RELIEF FROM THE AUTOMATIC STAY AS TO NONBANKRUPTCY ACTION

1. **In the Nonbankruptcy Action, Movant is:**

- a. ☒ Plaintiff
- b. ☐ Defendant
- c. ☐ Other (specify):

2. **The Nonbankruptcy Action:** There is a pending lawsuit or administrative proceeding (Nonbankruptcy Action) involving the Debtor or the Debtor's bankruptcy estate:

- a. *Name of Nonbankruptcy Action:* Cao v. Minimally Invasive Surgical Solutions Medical Corporation
- b. *Docket number:* 19-CV-344130
- c. *Nonbankruptcy forum where Nonbankruptcy Action is pending:*  
Superior Court of California, County of Santa Clara
- d. *Causes of action or claims for relief (Claims):*  
Medical Negligence

3. **Bankruptcy Case History:**

- a. ☒ A voluntary ☐ An involuntary petition under chapter ☐ 7 ☒ 11 ☐ 12 ☐ 13  
was filed on (date) 08/31/2018.
- b. ☐ An order to convert this case to chapter ☐ 7 ☐ 11 ☐ 12 ☐ 13  
was entered on (date) \_\_\_\_\_.
- c. ☐ A plan was confirmed on (date) \_\_\_\_\_.

4. **Grounds for Relief from Stay:** Pursuant to 11 U.S.C. § 362(d)(1), cause exists to grant Movant relief from stay to proceed with the Nonbankruptcy Action to final judgment in the nonbankruptcy forum for the following reasons:

- a. ☒ Movant seeks recovery only from applicable insurance, if any, and waives any deficiency or other claim against the Debtor or property of the Debtor's bankruptcy estate.
- b. ☐ Movant seeks recovery primarily from third parties and agrees that the stay will remain in effect as to enforcement of any resulting judgment against the Debtor or bankruptcy estate, except that Movant will retain the right to file a proof of claim under 11 U.S.C. § 501 and/or an adversary complaint under 11 U.S.C. § 523 or § 727 in this bankruptcy case.
- c. ☐ Mandatory abstention applies under 28 U.S.C. § 1334(c)(2), and Movant agrees that the stay will remain in effect as to enforcement of any resulting judgment against the Debtor or bankruptcy estate, except that Movant will retain the right to file a proof of claim under 11 U.S.C. § 501 and/or an adversary complaint under 11 U.S.C. § 523 or § 727 in this bankruptcy case.
- d. ☐ The Claims are nondischargeable in nature and can be most expeditiously resolved in the nonbankruptcy forum.
- e. ☐ The Claims arise under nonbankruptcy law and can be most expeditiously resolved in the nonbankruptcy forum.

f. ☐ The bankruptcy case was filed in bad faith.

- (1) ☐ Movant is the only creditor, or one of very few creditors, listed or scheduled in the Debtor's case commencement documents.
- (2) ☐ The timing of the filing of the bankruptcy petition indicates that it was intended to delay or interfere with the Nonbankruptcy Action.
- (3) ☐ Multiple bankruptcy cases affect the Nonbankruptcy Action.
- (4) ☐ The Debtor filed only a few case commencement documents. No schedules or statement of financial affairs (or chapter 13 plan, if appropriate) has been filed.

g. ☐ Other (specify):

5. **Grounds for Annulment of Stay.** Movant took postpetition actions against the Debtor.

- a. ☒ The actions were taken before Movant knew that the bankruptcy case had been filed, and Movant would have been entitled to relief from stay to proceed with these actions.
- b. ☐ Although Movant knew the bankruptcy case was filed, Movant previously obtained relief from stay to proceed in the Nonbankruptcy Action in prior bankruptcy cases affecting the Nonbankruptcy Action as set forth in Exhibit. \_\_\_\_\_.
- c. ☐ Other (specify):

6. **Evidence in Support of Motion: (Important Note: declaration(s) in support of the Motion MUST be signed under penalty of perjury and attached to this motion.)**

- a. ☒ The DECLARATION RE ACTION IN NONBANKRUPTCY FORUM on page 6.
- b. ☐ Supplemental declaration(s).
- c. ☐ The statements made by Debtor under penalty of perjury concerning Movant's claims as set forth in Debtor's case commencement documents. Authenticated copies of the relevant portions of the Debtor's case commencement documents are attached as Exhibit. \_\_\_\_\_.
- d. ☐ Other evidence (specify):

7. ☐ An optional Memorandum of Points and Authorities is attached to this Motion.

**Movant requests the following relief:**

- 1. Relief from the stay pursuant to 11 U.S.C. § 362(d)(1).
- 2. ☒ Movant may proceed under applicable nonbankruptcy law to enforce its remedies to proceed to final judgment in the nonbankruptcy forum, provided that the stay remains in effect with respect to enforcement of any judgment against the Debtor or property of the Debtor's bankruptcy estate.
- 3. ☐ The stay is annulled retroactively to the bankruptcy petition date. Any postpetition acts taken by Movant in the Nonbankruptcy Action shall not constitute a violation of the stay.

4. ☐ The co-debtor stay of 11 U.S.C. § 1201(a) or § 1301(a) is terminated, modified, or annulled as to the co-debtor, on the same terms and condition as to the Debtor.
5. ☒ The 14-day stay prescribed by FRBP 4001(a)(3) is waived.
6. ☐ The order is binding and effective in any bankruptcy case commenced by or against the Debtor for a period of 180 days, so that no further automatic stay shall arise in that case as to the Nonbankruptcy Action.
7. ☐ The order is binding and effective in any future bankruptcy case, no matter who the debtor may be, without further notice
8. ☐ Other relief requested.

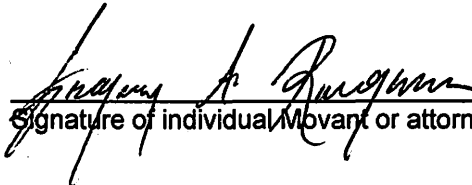
Date: 12/26/2019 \_\_

BRUNETTI ROUGEAU LLP

Printed name of law firm (if applicable)

Gregory A. Rougeau

Printed name of individual Movant or attorney for Movant

  
Signature of individual Movant or attorney for Movant

### DECLARATION RE ACTION IN NONBANKRUPTCY FORUM

I, (name of Declarant) Spencer J. Pahlke, declare as follows:

1. I have personal knowledge of the matters set forth in this declaration and, if called upon to testify, I could and would competently testify thereto. I am over 18 years of age. I have knowledge regarding (Nonbankruptcy Action) because:  
☐ I am the Movant.  
☒ I am Movant's attorney of record in the Nonbankruptcy Action.  
☐ I am employed by Movant as (title and capacity):  
☐ Other (specify):
2. I am one of the custodians of the books, records and files of Movant as to those books, records and files that pertain to the Nonbankruptcy Action. I have personally worked on books, records and files, and as to the following facts, I know them to be true of my own knowledge or I have gained knowledge of them from the business records of Movant on behalf of Movant, which were made at or about the time of the events recorded, and which are maintained in the ordinary course of Movant's business at or near the time of the acts, conditions or events to which they relate. Any such document was prepared in the ordinary course of business of Movant by a person who had personal knowledge of the event being recorded and had or has a business duty to record accurately such event. The business records are available for inspection and copies can be submitted to the court if required.
3. In the Nonbankruptcy Action, Movant is:  
☒ Plaintiff  
☐ Defendant  
☐ Other (specify):
4. The Nonbankruptcy Action is pending as:
  - a. Name of Nonbankruptcy Action: Cao v. Minimally Invasive Surgical Solutions Medical Corporation et al.
  - b. Docket number: 19-CV-344130
  - c. Nonbankruptcy court or agency where Nonbankruptcy Action is pending:  
Superior Court of California, County of Santa Clara
5. Procedural Status of Nonbankruptcy Action:
  - a. The Claims are:  
Movant has asserted a Complaint for Medical Negligence against several defendants, and has named Debtor O'Connor Hospital Foundation as a DOE defendant (no other debtors are parties to the Nonbankruptcy Action). The Debtor has not yet responded to the Movant's Complaint.
  - b. True and correct copies of the documents filed in the Nonbankruptcy Action are attached as Exhibit A.
  - c. The Nonbankruptcy Action was filed on (date) 03/06/2019.
  - d. Trial or hearing began/is scheduled to begin on (date) \_\_\_\_\_.
  - e. The trial or hearing is estimated to require 14 days (specify).
  - f. Other plaintiffs in the Nonbankruptcy Action are (specify):  
None.

g. Other defendants in the Nonbankruptcy Action are (*specify*):

Minimally Invasive Surgical Solutions Medical Corporation, Lindsey Pierce, M.D., Mitra Emami, M.D., Inc., Mitra Emami, M.D.

6. Grounds for relief from stay:

- a. ☐ Movant seeks recovery primarily from third parties and agrees that the stay will remain in effect as to enforcement of any resulting judgment against the Debtor or the Debtor's bankruptcy estate, except that Movant will retain the right to file a proof of claim under 11 U.S.C. § 501 and/or an adversary complaint under 11 U.S.C. § 523 or § 727 in this bankruptcy case.
- b. ☐ Mandatory abstention applies under 28 U.S.C. § 1334(c)(2), and Movant agrees that the stay will remain in effect as to enforcement of any resulting judgment against the Debtor or the Debtor's bankruptcy estate, except that Movant will retain the right to file a proof of claim under 11 U.S.C. § 501 and/or an adversary complaint under 11 U.S.C. § 523 or § 727 in this bankruptcy case.
- c. ☒ Movant seeks recovery only from applicable insurance, if any, and waives any deficiency or other claim against the Debtor or property of the Debtor's bankruptcy estate. The insurance carrier and policy number are (*specify*):

d. ☐ The Nonbankruptcy Action can be tried more expeditiously in the nonbankruptcy forum.

(1) ☐ It is currently set for trial on (*date*) \_\_\_\_\_.

(2) ☐ It is in advanced stages of discovery and Movant believes that it will be set for trial by (*date*) \_\_\_\_\_. The basis for this belief is (*specify*):

(3) ☐ The Nonbankruptcy Action involves non-debtor parties and a single trial in the nonbankruptcy forum is the most efficient use of judicial resources.

e. ☐ The bankruptcy case was filed in bad faith specifically to delay or interfere with the prosecution of the Nonbankruptcy Action.

(1) ☐ Movant is the only creditor, or one of very few creditors, listed or scheduled in the Debtor's case commencement documents.

(2) ☐ The timing of the filing of the bankruptcy petition indicates it was intended to delay or interfere with the Nonbankruptcy Action based upon the following facts (*specify*):

(3) ☐ Multiple bankruptcy cases affecting the Property include:

(A) Case name:

Case number:

Chapter:

Date filed:

Date discharged:

Date dismissed:

Relief from stay regarding this Nonbankruptcy Action ☐ was ☐ was not granted.

(B) Case name:

Case number:

Chapter:

Date filed:

Date discharged:

Date dismissed:

Relief from stay regarding this Nonbankruptcy Action ☐ was ☐ was not granted.

(C) Case name:

Case number:

Chapter:

Date filed:

Date discharged:

Date dismissed:

Relief from stay regarding this Nonbankruptcy Action ☐ was ☐ was not granted.

☐ See attached continuation page for information about other bankruptcy cases affecting the Nonbankruptcy Action.

☐ See attached continuation page for additional facts establishing that this case was filed in bad faith.

f. ☐ See attached continuation page for other facts justifying relief from stay.

7. ☒ Actions taken in the Nonbankruptcy Action after the bankruptcy petition was filed are specified in the attached supplemental declaration(s).

a. ☒ These actions were taken before Movant knew the bankruptcy petition had been filed, and Movant would have been entitled to relief from stay to proceed with these actions.

b. ☐ Movant knew the bankruptcy case had been filed, but Movant previously obtained relief from stay to proceed with the Nonbankruptcy Action enforcement actions in prior bankruptcy cases affecting the Property as set forth in Exhibit \_\_\_\_

c. ☐ For other facts justifying annulment, see attached continuation page.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

12/23/2019

Spencer J. Pahlke

Date

Printed name

Signature



## PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:  
235 Montgomery Street, Suite 410, San Francisco, CA 94104

A true and correct copy of the foregoing document entitled: **NOTICE OF MOTION AND MOTION FOR RELIEF FROM THE AUTOMATIC STAY UNDER 11 U.S.C. § 362 (with supporting declarations) (ACTION IN NONBANKRUPTCY FORUM)** will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (b) in the manner stated below:

**1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF):** Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On (date) 12/28/2019, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:  
See Attached Service List

☒ Service information continued on attached page

**2. SERVED BY UNITED STATES MAIL:**

On (date) 12/28/2019, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

☒ Service information continued on attached page

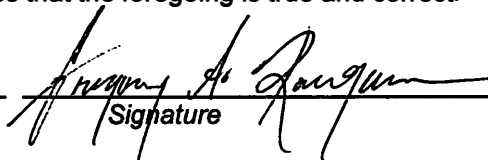
**3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL (state method for each person or entity served):** Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on (date) 12/28/2019, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

Honorable Ernest M. Robles- Judge Copy- 255 E. Temple St., Suite 1560, Los Angeles, CA 90012 (Via Overnight Delivery)

☐ Service information continued on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

12/28/2019      Gregory A. Rougeau  
Date                      Printed Name

  
Signature

**ATTACHMENT TO PROOF OF SERVICE**

**SERVICE VIA ECF:**

**Debtor's Counsel:**

**Shirley Cho**

Pachulski Stang Ziehl & Jones LLP  
10100 Santa Monica Bl 13th Fl  
Los Angeles, CA 90067-4100  
Email: scho@pszjlw.com

**Steven J Kahn**

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**Nicholas A Koffroth**

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**Tania M Moyron**

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**Rosa A Shirley**

Nelson Hardiman LLP  
1100 Glendon Avenue  
Suite 1400  
Los Angeles, CA 90024  
Email: rshirley@nelsonhardiman.com

**U.S. Trustee**

Office of the UST/DOJ  
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915 Wilshire Blvd., Suite 1850  
Los Angeles, CA 90017  
Email: hatty.yip@usdoj.gov

Alvin Mar  
915 Wilshire Boulevard, Ste 1850  
Los Angeles, CA 90017  
Email: alvin.mar@usdoj.gov

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Email: Robert.Hirsh@arentfox.com

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**Debtor**

**O'Connor Hospital Foundation**

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San Jose, CA 95128

**Verity Health System of California, Inc.**

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Dentons US LLP

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New York, NY 10020-1001

212-768-6700

## **EXHIBIT A**

E-FILED  
3/6/2019 10:38 AM  
Clerk of Court  
Superior Court of CA,  
County of Santa Clara  
19CV344130  
Reviewed By: L Del Mundo

LAW OFFICES OF  
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ATTORNEYS FOR PLAINTIFF  
DIEM ANH CAO

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF SANTA CLARA

19CV344130

DIEM ANH CAO,

Case No.

Plaintiff,

**COMPLAINT FOR DAMAGES  
[Medical Negligence][Amount  
Exceeds \$25,000]**

v.

MINIMALLY INVASIVE SURGICAL  
SOLUTIONS MEDICAL  
CORPORATION, LINDSEY PIERCE,  
M.D., MITRA EMAMI, M.D., INC.,  
MITRA EMAMI, M.D., and DOES ONE  
through ONE HUNDRED,

Defendants.

**FIRST CAUSE OF ACTION**  
**[Medical Negligence]**

Plaintiff complains of Defendants, and each of them, and for a First Cause of  
Action alleges as follows:

1. The true names, capacities, or involvement, whether individual,  
corporate, governmental, or associate of the Defendants named herein as Doe, is  
unknown to Plaintiff who therefore sues said Defendants by such fictitious names.  
Plaintiff prays leave to amend this Complaint to show their true names and  
capacities when the same have been finally determined.



1 Plaintiff is informed and believes, and upon such information and belief  
2 alleges, that each of the Defendants designated herein as Doe is negligently or  
3 otherwise legally responsible in some manner for the events and happenings herein  
4 referred to, and negligently or otherwise caused injury and damages legally thereby  
5 to Plaintiff as is hereinafter alleged.

6 2. At all times herein mentioned, each and every of the Defendants herein  
7 was the agent, servant, partner, joint venturer, employee, and/or franchisee of each  
8 of the other Defendants, and each was at all times acting within the course and scope  
9 of such agency, service, employment, joint venture, partnership, and/or franchise.

10 3. At all times herein mentioned, Defendants Minimally Invasive Surgical  
11 Solutions Medical Corporation, and Does One through Ten, and each of them, were  
12 business organizations, the precise form and nature of which are unknown to  
13 Plaintiff. Said business organizations were at all times involved in the provision of  
14 healthcare and hospital services. Said Defendants are headquartered in and have a  
15 principal place of business in the City of San Jose, County of Santa Clara, State of  
16 California.

17 4. At all relevant times herein, Defendants Lindsey Pierce, M.D., and Does  
18 Eleven through Twenty, and each of them, were physicians and other medical  
19 practitioners, licensed under the laws of the State of California, providing medical,  
20 diagnostic, surgical, and other care to paying patients in and about the State of  
21 California, within the County of Santa Clara.

22 5. At all times herein mentioned, Defendants Mitra Emami, MD., Inc., and  
23 Does Twenty-One through Thirty, and each of them, were business organizations, the  
24 precise form and nature of which are unknown to Plaintiff. Said business  
25 organizations were at all times involved in the provision of healthcare and hospital  
26 services. Said Defendants are headquartered in and have a principal place of  
27 business in the City of San Jose, County of Santa Clara, State of California.

28 ////



1           6.       At all relevant times herein, Defendants Mitra Emami, M.D., and Does  
2 Thirty-One through Forty, and each of them, were physicians and other medical  
3 practitioners, licensed under the laws of the State of California, providing medical,  
4 diagnostic, surgical, and other care to paying patients in and about the State of  
5 California, within the County of Santa Clara.

6           7.       On or about July 16, 2018, Plaintiff Diem Anh Cao was under the care  
7 and treatment of the Defendants, and each of them, for treatment of dizziness and  
8 vertigo. At said time, Defendants, and each of them, undertook to examine, evaluate,  
9 treat, diagnose, test, and provide medical services for Plaintiff Diem Anh Cao. On  
10 said day, Defendants, and each of them, independently and through their agents,  
11 servants, and employees, carelessly and negligently examined, evaluated, treated,  
12 diagnosed, tested, and transferred Plaintiff Diem Anh Cao.

13           8.       By reason of the premises, and as a direct and legal result of the  
14 negligence and carelessness of the Defendants, and each of them, as above-described,  
15 Plaintiff Diem Anh Cao was caused to suffer a stroke as well as an unreasonable and  
16 negligent delay in treatment of said stroke, resulting in severe and extensive  
17 cognitive deficits. Plaintiff is informed and believes, and therefore alleges upon such  
18 information and belief, that certain of said injuries and disabilities will be permanent  
19 in nature, the extent of said permanent injuries being at this time unknown to  
20 Plaintiff.

21           9.       By reason of the premises, it became necessary for Plaintiff Diem Anh  
22 Cao to incur expenses for medical care and treatment, and related costs and expenses  
23 required in the care and treatment of her injuries, and Plaintiff's damage in this  
24 respect is presently unascertained as said services are still continuing, and Plaintiff  
25 prays leave to insert her elements of damage in this respect when the same are  
26 finally determined.

27           10.      By reason of the premises, Plaintiff Diem Anh Cao has been unable at  
28 times to attend her regular employment, and her earning capacity has been



1 diminished to her special damage in a presently unascertained sum, as said loss is  
2 not yet finally determined. Plaintiff prays leave to amend this Complaint in this  
3 respect when these elements of damage are finally determined.

4 11. By reason of the premises, Plaintiff has sustained general (non-  
5 economic) damages in a sum in excess of the minimum jurisdictional limits of this  
6 court.

7 WHEREFORE, Plaintiff prays judgment against the Defendants, and each of  
8 them, as follows:

- 9 a. For general (non-economic) damages according to proof;  
10 b. For special (economic) damages according to proof;  
11 c. For pre-judgment interest as permitted by law;  
12 d. For costs of suit incurred herein; and  
13 e. For such other and further relief as this Court may deem proper.

14  
15 Dated: March 6, 2019

16 WALKUP, MELODIA, KELLY &  
17 SCHOENBERGER

18  
19 SPENCER J. PAHLKE  
20 SARA M. PETERS  
21 Attorneys for Plaintiff  
22  
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27  
28

**DEMAND FOR JURY TRIAL**

Plaintiff hereby demands a jury trial.

Dated: March 6, 2019

WALKUP, MELODIA, KELLY &  
SCHOENBERGER

---

SPENCER J. PAHLKE  
SARA M. PETERS  
Attorneys for Plaintiff

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, state bar number, and address): Spencer J. Pahlke / Sara M. Peters 250914 / 260610 Walkup, Melodia, Kelly & Schoenberger 650 California Street, 26th Floor San Francisco, CA 94108 spahlke@walkuplawoffice.com TELEPHONE NO.: 415-981-7210 FAX NO.: 415-391-6965 ATTORNEY FOR (Name): Plaintiff Diem Anh Cao	<b>RESERVED FOR CLERK'S FILE STAMP</b>  Electronically filed by Superior Court of CA, County of Santa Clara, on 5/2/2019 3:14 PM Reviewed By: S. Uy Case #19CV344130 Env #2837560
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF Santa Clara</b> 191 N. First Street  San Jose, CA 95113	
PLAINTIFF: Diem Anh Cao	
DEFENDANT: Minimally Invasive Surgical Solutions Medical Corporation, et al.	
<b>AMENDMENT TO COMPLAINT</b> <b>(Fictitious/Incorrect Name)</b>	CASE NUMBER: 19CV344130

☒ **FICTITIOUS NAME (No order required)**

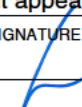
Upon the filing of the complaint, the plaintiff, being ignorant of the true name of the defendant and having designated the defendant in the complaint by the fictitious name of:

FICTITIOUS NAME  
DOE ONE

and having discovered the true name of the defendant to be:

TRUE NAME  
O'CONNOR HOSPITAL

amends the complaint by substituting the true name for the fictitious name wherever it appears in the complaint.

DATE May 2, 2019	TYPE OR PRINT NAME Spencer J. Pahlke	SIGNATURE OF ATTORNEY 
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☐ **INCORRECT NAME (Order required)**

The plaintiff, having designated a defendant in the complaint by the incorrect name of:

INCORRECT NAME

and having discovered the true name of the defendant to be:

TRUE NAME

amends the complaint by substituting the true name for the incorrect name wherever it appears in the complaint.

DATE	TYPE OR PRINT NAME	SIGNATURE OF ATTORNEY
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### ORDER

THE COURT ORDERS the amendment approved and filed.

Dated

\_\_\_\_\_  
JUDICIAL OFFICER