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13
14 SUPERIOR COURT OF THE STATE OF CALIFORNIA
15 COUNTY OF LOS ANGELES
16

17 RAFAELI APOLLINAIRE,

18 Plaintiff,

19 v.

20 GLENDALE ADVENTIST MEDICAL CENTER, a
California corporation

21 Defendant.
22
23
24
25
26
27

Case No.

Date:

Time:

Dept.:

**COMPLAINT FOR DAMAGES AND
INJUNCTIVE RELIEF:**

1. Elder Abuse & Neglect (*Welfare & Institutions Code § 15600, et seq.*)
2. Negligence
3. Intentional Infliction of Emotional Distress
4. False Imprisonment

DEMAND FOR JURY TRIAL

Date Action Filed: June 29, 2015

Trial Date:

1 Plaintiff Rafaeli Apollinaire (“Mr. Apollinaire” or “Plaintiff”), by and through his
2 undersigned attorneys, and for each cause of action against Defendant, hereby alleges upon
3 personal knowledge with respect to his own acts, and upon information and belief as to all other
4 matters, as follows:

5 INTRODUCTION

6 1. On June 6, 2014, Defendant Glendale Adventist Medical Center (“GAMC”
7 or “Defendant”) prematurely discharged Mr. Apollinaire without his consent. At the time of his
8 discharge, Mr. Apollinaire was psychiatrically unstable, suicidal, and depressed. Despite repeated
9 requests, Defendant refused to tell Mr. Apollinaire where it intended to take him. Instead, GAMC
10 compelled Mr. Apollinaire to enter into a taxi cab that transported him to an undisclosed location
11 against his will. Ultimately, GAMC dumped and abandoned a visibly symptomatic Mr.
12 Apollinaire on Los Angeles’ Skid Row without confirmed placement in a shelter, and without the
13 necessary chest x-rays and prescription medications he would need in order to be admitted to a
14 shelter.

15 2. Mr. Apollinaire was hospitalized at GAMC after a failed suicide attempt.
16 On May 25, 2014, Mr. Apollinaire attempted to commit suicide by tying a cloth belt around his
17 neck and hanging himself from a kitchen cabinet, which gave way under his weight. Mr.
18 Apollinaire’s mother called the police, who took him to GAMC. When he arrived at GAMC, Mr.
19 Apollinaire was admitted under a section 5150 hold as a danger to himself and others. He then
20 spent two weeks as an inpatient and was released on June 6, 2014.

21 3. During the two weeks of Mr. Apollinaire’s stay at GAMC, GAMC failed to
22 sufficiently treat Mr. Apollinaire’s myriad mental health symptoms. The progress notes in Mr.
23 Apollinaire’s medical records from the day of his admission are virtually indistinguishable from
24 those leading up to his discharge. The medical records, on the first day of his stay at the hospital,
25 note that “the patient still [sic] having suicidal thoughts to hang himself.” Similarly, mere hours
26 before his discharge, Mr. Apollinaire’s records reveal that he was experiencing “intermittent
27 suicidal thoughts” and that he was a danger to himself and others.

28

1 4. Inexplicably, moments after noting that Mr. Apollinaire was having
2 “intermittent suicidal thoughts,” GAMC reversed course and recorded a radically different
3 diagnosis in order to initiate the discharge process.

4 5. To make matters worse, GAMC failed to engage in any individualized or
5 meaningful discharge planning prior to its decision to prematurely discharge Mr. Apollinaire.
6 Defendant ignored the fact that Mr. Apollinaire was a severely mentally ill, homeless person who
7 needed individualized discharge planning that addressed his post-hospitalization concerns, such as
8 help finding work and housing, ensuring access to critically needed medications, and connecting
9 with appropriate and accessible mental health treatment options. Rather than be the cornerstone
10 of Mr. Apollinaire’s care, GAMC’s discharge planning was cursory, generic, and did not pay any
11 attention to Mr. Apollinaire’s particular circumstances. Defendant refused to acknowledge that
12 Mr. Apollinaire was not ready for discharge and to collaborate with him when he specifically
13 requested assistance with his discharge plan. In fact, when Mr. Apollinaire reached out for
14 information regarding his discharge, he was rebuffed and warned that he would “get a shot” if he
15 continued to ask for post-hospitalization referrals.

16 6. When threatened with discharge, Mr. Apollinaire requested to be
17 discharged to Glendale, as that was where he had always lived, had a safe place to stay, and could
18 remain in close proximity to his mother. GAMC ignored this request and maneuvered to cause
19 Mr. Apollinaire to be taken to a street corner in the heart of an unknown and forbidding place—
20 Skid Row—without his consent.

21 7. Skid Row is a 50-block section of downtown Los Angeles, generally
22 bounded by Third Street to the north, Alameda Street to the east, Seventh Street to the south, and
23 Main Street to the west, and is known for extreme poverty, homelessness, rampant sale and use of
24 illicit drugs, and violent crime. Homeless people suffering from mental illness who inhabit these
25 dangerous streets are particularly vulnerable to victimization and exploitation by criminal
26 predators.

27 8. When Mr. Apollinaire realized that he was being discharged—but was not
28 told where to—he repeatedly pled with GAMC staff to allow him to go to Glendale, or at least be

1 informed as to his discharge destination. In response, a GAMC case worker told Mr. Apollinaire
2 that he was going to be taken some place in Los Angeles, but that he did “not need to know where
3 he was going,” and that if he continued to protest he would get some sort of “shot.” Thereafter,
4 the same case worker called for a security guard, who escorted Mr. Apollinaire outside to a taxi
5 cab, handed the taxi driver a ride voucher that contained a destination address, and relayed
6 GAMC’s instructions to the driver not to reveal to Mr. Apollinaire his destination.

7 9. GAMC had Mr. Apollinaire taken to 601 S. San Pedro Street. Without
8 escorting him or otherwise transitioning or “handing off” his care to others, the vehicle driver
9 dropped Mr. Apollinaire on a corner and drove away. Lost and alone on Skid Row, Mr.
10 Apollinaire asked strangers for directions to a nearby shelter, and ultimately found his way to the
11 Midnight Mission.

12 10. Concerned staff members at the Midnight Mission contacted the Los
13 Angeles City Attorney’s Office to report this incident. After an investigator from the City
14 Attorney’s Office interviewed Mr. Apollinaire, Los Angeles Police Department officers arrived at
15 the Midnight Mission. The officers performed their own their assessment of Mr. Apollinaire, and
16 upon detecting suicidal ideations, determined that he should be placed on a section 5150 hold.
17 The police handcuffed and physically restrained Mr. Apollinaire before transporting him to
18 Exodus East Medical Facility for immediate treatment.

19 11. The next day, on June 7, 2014, Mr. Apollinaire was admitted to
20 LAC+USC Medical Center (“LAC+USC”) under a Welfare and Institutions Code section 5150
21 hold as a danger to himself. He required and received treatment at LAC+USC for identical
22 symptoms that he exhibited and initially had sought treatment for at GAMC: depression and
23 suicidal ideation. He was discharged from LAC+USC two weeks later.

24 12. By failing to stabilize the conditions of a mentally ill, homeless man, not
25 engaging in any type of discharge planning process, and discharging him to the streets in an
26 unfamiliar and dangerous neighborhood contrary to his stated wishes, Defendant violated every
27 applicable standard of professional conduct.

28

1 **PARTIES**

2 13. Plaintiff Rafaeli Apollinaire is a 43-year-old man who suffers from mental
3 illness, who at the time of his hospitalization was homeless and living on the streets of his
4 hometown of Glendale, California.

5 14. Defendant Glendale Adventist Medical Center (GAMC), at all times
6 mentioned herein, was and is a California corporation that maintains an active California
7 corporate license number C0043789. At all times herein, GAMC was and is doing business in
8 Los Angeles County, California. GAMC is a licensed, general acute care hospital with OSHPD
9 ID number 106190323 that has its principal place of business at 1509 Wilson Terrace, Glendale,
10 California 91206.

11 15. At all relevant times, each of the acts alleged herein was committed by the
12 Defendant's staff, employees, nurses, doctors, agents, or servants, who were acting within the
13 course and scope of their agency, service, or employment relationships with Defendant.

14 16. Under Code of Civil Procedure § 2300 and the holdings of *Mejia v.*
15 *Community Hospital of San Bernardino*, 99 Cal. App. 4th 1448 (4th Dist. 2002) and *Whitlow v.*
16 *Rideout Memorial Hospital*, 2015 WL 3561730 (3d Dist. June 9, 2015), GAMC remains
17 vicariously liable under the theory of ostensible agency for the acts of its purportedly independent
18 contractor physicians. Ostensible agency exists if there is "(1) conduct by the hospital that would
19 cause a reasonable person to believe that the physician was an agent of the hospital, and (2)
20 reliance on that apparent agency relationship by the plaintiff." *Mejia*, 99 Cal. App. 4th at 1453;
21 *Whitlow*, 2015 WL 3561730, at *3. This inquiry involves "only one relevant factual issue:
22 whether the patient had reason to know that the physician was not an agent of the hospital." *Id.* at
23 1454. A plaintiff seeking to prove that a physician is an ostensible agent of a hospital "is not
24 required to show that the patient (1) actually believed that the doctors were employed by the
25 hospital, or (2) changed her position or otherwise relied to her detriment based upon her belief
26 that the doctors were agents of the hospital." *Eromian v. Desert Hosp.*, 152 Cal. App. 4th 475,
27 505 (4th Dist. 2007). As set forth in more detail below, Mr. Apollinaire's admission to GAMC
28

1 under a section 5150 hold and in an otherwise acutely stressful environment could not have
2 provided him reason to know that his treating physicians were allegedly independent contractors.

3 17. Whenever reference is made in this Complaint to any act or transaction of
4 GAMC, such allegation shall be deemed to mean that GAMC and its principals, officers,
5 directors, employees, agents, or representatives, while actively engaged within the actual or
6 ostensible scope of their employment, did or authorized such representations, acts, or transactions
7 on behalf of GAMC.

8 **JURISDICTION AND VENUE**

9 18. The Court has jurisdiction because Defendant's conduct, and Plaintiff's
10 injuries, occurred within the jurisdictional boundaries of this Court. The Court has personal
11 jurisdiction over the Defendant pursuant to California Constitution, Article VI, § 10 and Code of
12 Civil Procedure § 410.10 in that the Defendant is a corporation licensed in California and has its
13 principal place of business in California. The Defendant conducts substantial business within the
14 County of Los Angeles, California, has purposely availed itself of the benefits of doing business
15 in this State, and the Defendant's violations of law alleged herein occurred, in whole or in part, in
16 California.

17 **DEFENDANT'S TREATMENT OF MR. APOLLINAIRE**

18 19. Mr. Apollinaire has a history of suffering from mental illness. His
19 psychiatric problems worsened when he lost his job and became homeless. In early 2014, he was
20 homeless and living under a bridge by the Los Angeles River in Glendale.

21 20. On May 25, 2014, after an argument with his mother, Mr. Apollinaire
22 attempted to commit suicide by tying a cloth belt around his neck and hanging himself from a
23 kitchen cabinet. The cabinet gave way under his weight. Mr. Apollinaire became more
24 distraught when his mother reacted by accusing him of wanting to harm her. Though Mr.
25 Apollinaire attempted to assuage her concerns, she nonetheless called the police, who took him to
26 GAMC.

27 21. Upon arrival at GAMC, Mr. Apollinaire was admitted under a Welfare and
28 Institutions Code section 5150 hold as a danger to himself and others. Hospital staff noted Mr.

1 Apollinaire's suicidal and downtrodden state, indicating that he "want[ed] to die," was "very
2 depressed[,] and [did] not want to go on" because he was "despondent over his long-term
3 situation." The psychiatric social worker who performed his admission mental status exam
4 concluded that Mr. Apollinaire was "debilitated by his depression" and "require[d] prompting and
5 reminding to do basic [activities of daily life]." Nevertheless, multiple nurses described Mr.
6 Apollinaire as a "pleasant" and "cooperative" patient.

7 22. GAMC psychiatrist Dr. Mark Powers diagnosed Mr. Apollinaire with
8 multiple psychiatric conditions, including (i) major depression; (ii) suicidal ideation;
9 (iii) obsessional thoughts of causing harm to others; (iv) thoughts of deliberate self-harm;
10 (v) ineffective coping; and (iv) impulsive behavior.

11 23. Nothing in Mr. Apollinaire's medical records indicates that these
12 conditions abated during his 12-day hospitalization at GAMC. Every progress report from May
13 26 through June 5 is virtually identical and each documents that Mr. Apollinaire was "still having
14 suicidal thoughts to hang himself."

15 24. On June 5, 2014 at 11:30 a.m., Dr. Powers determined to discharge Mr.
16 Apollinaire the next day, even though at that time, his medical records noted that his suicidal
17 intentions were still "active."

18 25. Later, at 8:49 p.m. on June 5, 2014, and notwithstanding GAMC's
19 decision to discharge Mr. Apollinaire the next morning, his medical records reveal that he
20 continued to have active "suicidal thoughts to harm himself."

21 26. Again, on June 6, 2014 (the day of Mr. Apollinaire's discharge), at 10:02
22 a.m., his medical records note his "[i]ntermittent suicidal thoughts" and that he was a danger to
23 himself and others.

24 27. A mere five minutes later, at 10:07 a.m., GAMC nursing documentation
25 indicates a radically different diagnosis, noting that Mr. Apollinaire had "[n]o current suicidal
26 thoughts."

27 28. Given Mr. Apollinaire's fluctuating mental state towards the end of his
28 admission at GAMC, it is no surprise that several nurses noted that he was visibly anxious about

1 what would happen to him after discharge. In fact, the hospital staff’s comments highlight Mr.
2 Apollinaire’s need for the individualized, comprehensive discharge planning that he did not
3 receive. For instance, on June 3, 2014, Nurse Helen Dang wrote that Mr. Apollinaire was
4 “depressed, preoccupied” and “pacing,” and that he “need[ed] placement and to find a new job.”
5 Then, again, on June 5, 2014, Nurse Gabriele Merkel recorded that Mr. Apollinaire remained
6 “anxious” and “worrie[d] that he [would] have problems after discharge.” At 1:24 p.m. on June
7 6, 2014—about two hours prior to his ultimate discharge—Nurse Justin Muszalski noted in Mr.
8 Apollinaire’s records Mr. Apollinaire’s statement that he did not know what he was going to do
9 when he left GAMC.

10 **DEFENDANT’S CURSORY AND GENERIC DISCHARGE PLANNING**

11 29. Although Mr. Apollinaire suffers from mental health issues requiring
12 psychiatric care, he was able to mostly manage his hardships until he became unemployed and
13 homeless. A substantial part of Mr. Apollinaire’s treatment at GAMC should have included
14 individualized discharge planning addressing his post-hospitalization concerns, such as help
15 finding work and housing, ensuring access to critically needed medications, and connecting him
16 with appropriate and accessible mental health treatment options.

17 30. GAMC’s nursing documentation records foreshadow the perfunctory
18 discharge planning that ultimately took place. For instance, on May 25—the day of Mr.
19 Apollinaire’s admittance under a Welfare and Institutions Code section 5150 hold for a failed
20 suicide attempt—his medical records reveal that GAMC “[a]nticipated [his] discharge needs” to
21 be “[n]one.”

22 31. The first purported discharge planning, or “care conference,” occurred on
23 June 2, 2014. The only noted participants were Dr. Powers and Nurse Henri Yopez. At that
24 conference, these two participants indicated that Mr. Apollinaire’s anticipated discharge date
25 would be June 2, the exact same day. Mr. Apollinaire’s anticipated “discharge disposition” was
26 listed as his “home,” which, given his homelessness, evidences the fact that GAMC ignored and
27 did not consider Mr. Apollinaire’s particular circumstances in attempting to fashion a discharge
28 plan.

1 32. Fortunately, GAMC did not discharge Mr. Apollinaire on June 2, as his
2 mental state was such that he plainly was not ready for release. Subsequently, on June 5, 2014,
3 Dr. Powers, GAMC case manager Matthew Ghukassian, and a nurse met and decided to discharge
4 Mr. Apollinaire the next day, June 6. They made this decision despite the medical records
5 showing that Mr. Apollinaire’s suicidal intentions, on that very same day, were still “active.”
6 During this ostensible “care conference,” they again revealed their ignorance of Mr. Apollinaire’s
7 situation, ambiguously indicating that Mr. Apollinaire would be discharged to his “home,” despite
8 not having one.

9 33. Over the course of the next day (June 6), GAMC’s lack of discharge
10 planning for Mr. Apollinaire became even clearer. Initially, at 9:41 a.m., hospital records indicate
11 that GAMC was planning to discharge Mr. Apollinaire to the Midnight Mission. At 9:50 a.m.,
12 though, Mr. Ghukassian revised the discharge order, noting that Mr. Apollinaire would be
13 discharged to the People Assisting The Homeless shelter. That plan—discharge to the People
14 Assisting The Homeless shelter—is noted again at 10:47 a.m. Three hours later, at 1:47 p.m.,
15 Nurse Gabriele Merkel amended the discharge order yet again, recording that Mr. Apollinaire
16 would be discharged to the Midnight Mission.

17 34. No one at GAMC spoke with any person of authority at the Midnight
18 Mission who could arrange to receive and process Mr. Apollinaire. The notation in Mr.
19 Apollinaire’s medical records that indicates that Mr. Ghukassian spoke with “Nicole” at the
20 Midnight Mission fails to record that Nicole was a new security officer there whose role was
21 strictly limited to the functions of security guard, and not admissions to the shelter.

22 35. Had someone at GAMC spoken with anyone with responsibility and
23 authority for receiving homeless patients from a hospital, GAMC would have learned that Mr.
24 Apollinaire was ineligible for admission at the Midnight Mission. For an individual to be
25 admitted there, the person must have—at a minimum—(i) a 30-day supply of their prescription
26 medications and (ii) a clean chest x-ray indicating the absence of tuberculosis. As explained
27 herein, Mr. Apollinaire had neither of these in his possession when he arrived at the Midnight
28 Mission.

1 36. As Mr. Apollinaire’s records demonstrate, throughout the day of his
2 discharge GAMC was uncertain and uninformed as to how it would discharge him. Moreover,
3 there is no indication that GAMC made any meaningful attempt at arranging for individualized,
4 post-hospitalization care or connecting Mr. Apollinaire with information about or access to any
5 community or supportive services.

6 37. Mr. Apollinaire’s case worker, Mr. Ghukassian, entered only one case
7 management narrative during Mr. Apollinaire’s entire hospitalization. In fact, when Mr.
8 Apollinaire reached out for information regarding his discharge, Mr. Ghukassian rebuffed him.
9 Mr. Apollinaire asked Mr. Ghukassian for assistance with discharge planning, only to have Mr.
10 Ghukassian menacingly warn Mr. Apollinaire that he would “get a shot” (*i.e.*, sedate him with an
11 injection) if he continued asking about referrals related to his post-hospitalization situation.

12 38. On the morning of June 6, Mr. Ghukassian passed Mr. Apollinaire in the
13 hall and notified him that he was being discharged to a shelter that day, but did not specify which
14 shelter. Mr. Apollinaire asked to be taken to a shelter close to Glendale, but Mr. Ghukassian
15 ignored that request and slammed his office door shut.

16 39. Mr. Apollinaire then called the head nurse and attempted to speak with her
17 about Mr. Ghukassian’s refusal to discuss his imminent discharge. The head nurse told Mr.
18 Apollinaire that she had an emergency and hung up the phone.

19 40. Undeterred, Mr. Apollinaire obtained and filled out a “Beneficiary/Client
20 Grievance/Appeal & Authorization Form,” in which he documented Mr. Ghukassian’s repeated
21 and threatening refusals to discuss Mr. Apollinaire’s post-discharge situation.

22 41. Shortly after slamming his office door in Mr. Apollinaire’s face, Mr.
23 Ghukassian approached Mr. Apollinaire with discharge forms. Mr. Ghukassian stated that Mr.
24 Apollinaire would be going a shelter, but refused to tell him the shelter’s name, saying only that it
25 was in downtown Los Angeles. Mr. Apollinaire reiterated his desire to stay in Glendale, as that
26 was where he had always lived, where he had found a “safe” place to stay under a bridge, and
27 where he could visit his mother. Mr. Ghukassian replied that Mr. Apollinaire could not go to
28 Glendale. Mr. Apollinaire further reiterated how he did not feel well enough mentally to be

1 discharged, only to be threatened by Mr. Ghukassian for the second time with some sort of
2 tranquilizing injection.

3 42. During this conversation, Mr. Apollinaire began signing the forms that Mr.
4 Ghukassian presented to him. Mr. Apollinaire believes that he signed about three forms, but is
5 uncertain what they were. However, when Mr. Ghukassian again would not tell him the name of
6 his destination, Mr. Apollinaire stopped cooperating, refusing to sign at least one remaining form,
7 which sought Mr. Apollinaire's "acknowledg[ment] [and] receipt and understanding of the
8 discharge instructions."

9 43. Mr. Ghukassian then waited with Mr. Apollinaire by the nurses' station for
10 a security guard to arrive and oversee Mr. Apollinaire's discharge. When the security guard
11 arrived, Mr. Ghukassian handed the guard a taxi voucher and instructed him not to tell Mr.
12 Apollinaire what the voucher said. Mr. Ghukassian stated that Mr. Apollinaire did "not need to
13 know where he was going."

14 44. Mr. Apollinaire asked Mr. Ghukassian how he would get back to where he
15 usually lives in Glendale if GAMC dropped him in downtown Los Angeles, only to have Mr.
16 Ghukassian respond to the effect of "you will have to figure that out."

17 45. Upon information and belief, the security guard who escorted Mr.
18 Apollinaire from the premises was named Andrew.¹ Like Mr. Ghukassian, Andrew also would
19 not tell Mr. Apollinaire where he was going. Andrew waited outside with Mr. Apollinaire for the
20 taxi that GAMC had called to transport Mr. Apollinaire. When the taxi arrived, Andrew handed
21 the driver the voucher and passed along the instruction not to reveal to Mr. Apollinaire where he
22 was going.

23 **DEFENDANT DUMPS MR. APOLLINAIRE IN SKID ROW**

24 46. The taxi voucher that GAMC would not show to Mr. Apollinaire instructed
25 the driver to take Mr. Apollinaire to 601 South San Pedro Street. The voucher did not contain the
26 name of any shelter. When the taxi approached its destination, the driver could not find building

27 ¹ Mr. Apollinaire is not certain that Andrew was his name, but describes him as about six
28 feet tall and of East Asian heritage.

1 601, so he dropped Mr. Apollinaire off at a corner.² Lost and alone on Skid Row, Mr. Apollinaire
2 asked strangers for directions to a nearby shelter, and ultimately found his way to the Midnight
3 Mission.

4 47. When Mr. Apollinaire arrived at the Midnight Mission, all he had with him
5 was a sheaf of papers that Mr. Ghukassian had handed him without explanation. No one at
6 GAMC explained to Mr. Apollinaire the nature of his post-discharge care plan or provided any
7 information with regard to finding a primary care physician who could address the anomaly
8 discovered in a one of his chest x-rays. Moreover, Mr. Apollinaire did not have any medications,
9 even though he had been taking five prescription medicines while hospitalized. One of the papers
10 he was given listed his prescriptions, yet GAMC did not give Mr. Apollinaire an opportunity to
11 visit the pharmacy and obtain medication before discharging him. To the contrary, after GAMC
12 determined to discharge Mr. Apollinaire and escorted him outside, he was prohibited from even
13 re-entering the medical center where the pharmacy was located.

14 48. Upon arrival at the Midnight Mission, Mr. Apollinaire concluded that he
15 was at a drug rehabilitation center and told a staff member that because he does not have a drug
16 problem, he did not belong there. Concerned, the Midnight Mission's director became involved
17 and contacted the Los Angeles City Attorney's Office.

18 49. On June 7, 2014, Mr. Apollinaire was admitted to LAC+USC under
19 another section 5150 hold as a danger to himself. At LAC+USC, Mr. Apollinaire was treated for
20 his acute psychiatric symptoms: depression and suicidal ideation. These were the same symptoms
21 for which he initially had sought treatment at GAMC, and which GAMC failed to adequately
22 treat. GAMC also failed to provide Mr. Apollinaire with medication upon release for his
23 psychiatric ailments. Two weeks after being admitted to LAC+USC, Mr. Apollinaire was
24 discharged to Park View Board and Care Home. In contrast to GAMC's discharge of Mr.
25 Apollinaire, LAC+USC ensured that Mr. James Corley of Integrated Recovery Services picked
26 Mr. Apollinaire up from the hospital, and provided him with thirty days of current medications.

27 _____
28 ² On Google Street View, the name "Midnight Mission" is visible, but the street number of
the building is not.

1 LAC+USC medical records also indicate that Mr. Apollinaire was no longer suffering from
2 hallucinations or suicidal or homicidal ideations when it implemented his discharge plan.

3 50. At bottom, GAMC engaged in a cursory discharge planning process,
4 disregarded Mr. Apollinaire's particular needs and requests, and ultimately dumped him in a
5 dangerous, alien neighborhood without any medication and while he still required medical care.

6 **FIRST CAUSE OF ACTION**

7 **(Abuse and Neglect of a Dependent Adult, CAL. WELF. & INST. CODE § 15600, et seq.)**

8 51. Mr. Apollinaire realleges and incorporates by reference all preceding
9 paragraphs as though fully set forth herein.

10 52. At all times relevant to this action, Mr. Apollinaire was a "dependent adult"
11 within the meaning of Welfare & Institutions Code § 15610.23 because (a) he had mental
12 limitations that restricted his ability to carry out normal activities or to protect his rights; and
13 (b) he was an inpatient at a 24-hour health facility.

14 53. At all times relevant to this action, GAMC undertook, accepted, and
15 assumed care and custody of Mr. Apollinaire. GAMC was Mr. Apollinaire's care custodian
16 within the meaning of Welfare & Institutions Code § 15610.17(a) because GAMC is a 24-hour
17 health facility that provides psychiatric healthcare services. As such, GAMC had a duty to
18 provide health care services to meet its patients' (including Mr. Apollinaire's) individual health
19 care needs. GAMC provided inpatient care for and to Mr. Apollinaire from May 25, 2014
20 through and including June 6, 2014.

21 54. GAMC failed to exercise the degree of care that a reasonable person in a
22 like position would exercise because it (i) failed to treat Mr. Apollinaire's persistent mental illness
23 and psychiatric crisis that precipitated his hospitalization, opting instead to discharge him via an
24 illegal patient dump; and (ii) failed to protect Mr. Apollinaire from health and safety hazards by
25 illegally dumping him in Skid Row. Consequently, GAMC's conduct described above constitutes
26 actionable neglect within the meaning of Welfare & Institutions Code § 15610.57.

27 55. Mr. Apollinaire was admitted to GAMC under a section 5150 hold as a
28 danger to himself and others. As evidenced by Mr. Apollinaire's subsequent, weeks-long

1 hospitalization at LAC+USC for the exact same symptoms he exhibited at GAMC, GAMC did
2 not provide medical care for Mr. Apollinaire’s mental health needs. His GAMC medical records
3 make clear that he was having suicidal thoughts and feelings of depression days—and even
4 hours—before his discharge from GAMC. Tellingly, upon admittance at LAC+USC on June 7,
5 2014, Mr. Apollinaire’s records show that Mr. Apollinaire “told [GAMC doctors] that he was still
6 suicidal/not ready for [discharge] but was [discharged] anyway.” That fact was made abundantly
7 clear by the subsequent section 5150 hold LAC+USC placed on Mr. Apollinaire immediately
8 following his premature discharge from GAMC.

9 56. GAMC provided Mr. Apollinaire a brief respite from his mental crisis, but
10 made no attempt to ensure that the crisis and its aftereffects were under control or help him seek
11 possible long-term solutions following discharge. GAMC did not even provide Mr. Apollinaire
12 with the medications that its own employees had prescribed. In fact, after Mr. Apollinaire
13 realized that GAMC had no intention of providing him the medical attention he needed, he took
14 affirmative steps to arrange for discharge planning and post-hospitalization care, only to be
15 rebuffed and threatened by Mr. Ghukassian.

16 57. GAMC compounded its neglect by failing to protect Mr. Apollinaire from
17 health and safety hazards—and in fact exposed him to such hazards—when it dumped him in
18 Skid Row in a particularly vulnerable and fragile emotional state and contrary to his multiple
19 requests to be taken elsewhere.

20 58. GAMC’s conduct toward Mr. Apollinaire was reckless and oppressive.
21 GAMC knew of Mr. Apollinaire’s myriad complaints and medical conditions, but nonetheless
22 ignored his request for additional treatment and meaningful, individualized post-treatment care
23 options. GAMC knew that Mr. Apollinaire was homeless and unemployed. It knew that he had
24 tried to commit suicide and that he was still experiencing and expressing the desire to kill himself.
25 Mr. Apollinaire specifically asked for help with discharge planning, but GAMC ignored his
26 requests and had him escorted from the premises by security.

27 59. GAMC’s conduct toward Mr. Apollinaire was also oppressive in that it
28 subjected him to cruel and unjust hardship by refusing to tell him where he was going upon

1 discharge and instructing the taxi driver not to reveal his destination. Mr. Ghukassian's comment
2 that Mr. Apollinaire did "not need to know where he is going" was despicable and subjected Mr.
3 Apollinaire to cruel and unjust hardship.

4 60. At all relevant times, GAMC personnel were acting pursuant to corporate
5 authority and within the scope of their employment. After learning of its personnel's despicable
6 conduct toward Mr. Apollinaire, GAMC subsequently ratified their collective behavior. GAMC
7 issued a press release after this incident in which it asserted that its actions in discharging patients
8 such as Mr. Apollinaire were not wrongful. Further, GAMC's management retained Mr.
9 Ghukassian as an employee for months after it had actual knowledge of his glaring misconduct in
10 arranging for Mr. Apollinaire's inadequate and illegal discharge. Upon information and belief,
11 GAMC retained Mr. Ghukassian for at least two months after the events at issue, and may still be
12 employing other professionals whose conduct toward Mr. Apollinaire likewise was reprehensible.
13 Additionally, the Los Angeles City Attorney's lawsuit against GAMC, *People v. Glendale*
14 *Adventist Medical Center*, Case No. BC 555301 (Aug. 20, 2014), based upon the same set of
15 facts—and GAMC's decision to settle that lawsuit—imparted actual knowledge to GAMC
16 management of the outrageous facts that are alleged herein.

17 61. As a direct, legal, and proximate result of the above-described conduct of
18 GAMC, Mr. Apollinaire suffered extreme emotional distress. Despite being a particularly
19 vulnerable individual, GAMC's conduct throughout the course of Mr. Apollinaire's treatment and
20 discharge exacerbated his fragile emotional state and resulted in subsequent emotional pain. Mr.
21 Apollinaire experienced serious anxiety when his numerous attempts at arranging, or at least
22 discussing, post-treatment community and supportive care options were rebuffed. His anxiety
23 and fear were magnified when his repeated attempts to ascertain where GAMC intended to take
24 him likewise were spurned. GAMC denied Mr. Apollinaire the simple dignity of at least knowing
25 where GAMC was planning to take him.

26 62. Dumped on a corner in Skid Row, Mr. Apollinaire was lost, alone, and
27 scared. In unfamiliar surroundings, he navigated the streets and had to rely on the help of
28 strangers to locate a shelter where he could temporarily stay until he could make his way back to

1 his familiar territory in Glendale. GAMC's improper discharge of Mr. Apollinaire led directly to
2 his acute feelings of fear, embarrassment, anxiety, and humiliation. Furthermore, Mr. Apollinaire
3 required subsequent hospitalization to address the physical and mental symptoms that persisted
4 following his discharge from GAMC. In light of the foregoing, Mr. Apollinaire sustained general
5 and non-economic damages in an amount that is in excess of this Court's minimum jurisdictional
6 amount and that will be stated according to proof, pursuant to Code of Civil Procedure § 425.10.

7 63. Mr. Apollinaire alleges that he is entitled to prejudgment interest pursuant
8 to Civil Code § 3288 from the date of his discharge from GAMC on June 6, 2014 up to and
9 including the date of judgment, according to proof.

10 **SECOND CAUSE OF ACTION**

11 **(Negligence)**

12 64. Mr. Apollinaire realleges and incorporates by reference all preceding
13 paragraphs as though fully set forth herein.

14 65. On March 4, 2015, Mr. Apollinaire served notice to Defendant, pursuant to
15 Code of Civil Procedure § 364, of his intention to sue Defendant for, among other things,
16 professional negligence arising out of the factual allegations alleged in this Complaint.

17 66. At all relevant times, GAMC held itself out to the general public and to Mr.
18 Apollinaire as a healthcare provider duly qualified and licensed to practice medicine and/or
19 nursing or related healthcare services in Los Angeles County. Having undertaken to treat Mr.
20 Apollinaire, GAMC had a duty to use the level of skill, knowledge, and care in Mr. Apollinaire's
21 diagnosis and treatment that other reasonably careful healthcare providers would use in similar
22 circumstances.

23 67. GAMC's diagnosis and treatment of Mr. Apollinaire fell below this
24 standard of care by, *inter alia*:

- 25 a. not providing meaningful therapeutic opportunities or one-on-one interaction with
- 26 psychiatrists, therapists, or case workers;
- 27 b. not planning Mr. Apollinaire's discharge in advance;
- 28 c. failing to recognize until the day of discharge that Mr. Apollinaire was homeless;

- d. refusing to take Mr. Apollinaire to his desired location;
- e. not planning Mr. Apollinaire's discharge in relation to the cause and nature of his illness and its likelihood of recurrence;
- f. threatening Mr. Apollinaire with a "shot" when he requested information regarding referrals and discharge placement;
- g. discharging Mr. Apollinaire despite acknowledging in the hours prior to discharge that he was still suicidal and a threat to himself and others;
- h. discharging Mr. Apollinaire without allowing him to fill his prescriptions;
- i. failing to secure Mr. Apollinaire placement in a shelter upon discharge;
- j. failing to familiarize itself with the requirements for admission at the Midnight Mission, including providing Mr. Apollinaire the requisite thirty-day supply of prescription medications and chest x-rays showing that he did not have tuberculosis;
- k. failing to disclose to Mr. Apollinaire where it was discharging him to; and
- l. instructing the taxi driver to withhold from Mr. Apollinaire his destination information.

68. These acts, among others, breached GAMC's duty of care to Mr. Apollinaire. Instead of discharging Mr. Apollinaire as it should have, GAMC caused Mr. Apollinaire to be dumped on a street corner in Skid Row without necessary psychiatric medications or any identification and while he was still suicidal.

69. GAMC's myriad statutory violations also give rise to negligence per se, a doctrine that provides an alternate basis for establishing GAMC's duty of care and breach thereof.

70. GAMC's violation of the Los Angeles patient dumping ordinance gives rise to negligence per se. Los Angeles Municipal Code § 41.60 states that "[a] health facility may not transport or cause a patient to be transported to a location other than the patient's residence without written consent." (Los Angeles, Cal., Ordinance No. 179913 (May 27, 2008) (ordinance adopting the new § 41.60)). For purposes of that section, "residence" is defined to include, "in the case of a patient reasonably perceived to be homeless, the location the patient

1 gives as his or her principal place of dwelling.” Section 41.60 makes clear that its purpose is to
2 protect homeless individuals like Mr. Apollinaire, as the ordinance specifically states that it is
3 addressing the “practice known as homeless patient dumping.”

4 71. Mr. Apollinaire has always lived in Glendale, and he so informed GAMC.
5 Mr. Apollinaire requested to be placed in Glendale, as that was where he had a place to stay and
6 where he could remain in close proximity to his mother, but Mr. Ghukassian refused this request.
7 Rather than honor Mr. Apollinaire’s stated desire, and without his written consent, GAMC caused
8 Mr. Apollinaire to be taken to a street corner in the heart of an unknown and forbidding place—
9 Skid Row. GAMC’s conduct caused Mr. Apollinaire the exact type of wrong that Los Angeles
10 Municipal Code § 41.60 aims to eliminate.

11 72. As discussed in the First Cause of Action, GAMC’s violation of the Elder
12 Abuse Act also supports a negligence per se finding. Mr. Apollinaire is within the class of
13 persons the statute is designed to protect insofar as he is both a dependent adult due to his
14 extensive mental illness and was an in-patient at GAMC, a 24-hour care facility. Moreover,
15 GAMC’s failure to provide medical care for Mr. Apollinaire’s mental health needs and to protect
16 Mr. Apollinaire from health and safety hazards are the precise types of harm the Elder Abuse Act
17 expressly aims to prevent.

18 73. As a direct, legal, and proximate result of the above-described negligent
19 conduct of GAMC—both professionally and through negligence per se—Mr. Apollinaire suffered
20 extreme emotional distress. Mr. Apollinaire will seek damages from GAMC on account of the
21 severe emotional distress that he experienced as a result of GAMC’s negligent conduct. In light
22 of the foregoing, Mr. Apollinaire sustained general and non-economic damages in an amount that
23 is in excess of this Court’s minimum jurisdictional amount and that will be stated according to
24 proof, pursuant to Code of Civil Procedure § 425.10.

25 74. Mr. Apollinaire alleges that he is entitled to prejudgment interest pursuant
26 to Civil Code § 3288 from the date of his discharge from GAMC on June 6, 2014 up to and
27 including the date of judgment, according to proof.

28

1 **THIRD CAUSE OF ACTION**

2 **(Intentional Infliction of Emotional Distress)**

3 75. Mr. Apollinaire realleges and incorporates by reference all preceding
4 paragraphs as though fully set forth herein.

5 76. The factual and legal contentions stated above also give rise to a claim for
6 intentional infliction of emotional distress. GAMC abused its special relationship with Mr.
7 Apollinaire by engaging in the above-described extreme and outrageous conduct. GAMC did so
8 with the intent of causing, or at least with reckless disregard to the probability of causing, Mr.
9 Apollinaire extreme emotional distress—distress that GAMC’s outrageous behavior directly and
10 legally caused.

11 77. As a direct, legal, and proximate result of GAMC’s above-described
12 conduct, Mr. Apollinaire suffered extreme emotional distress. Mr. Apollinaire will seek damages
13 from GAMC on account of the severe emotional distress that he experienced as a result of
14 GAMC’s tortious conduct. In light of the foregoing, Mr. Apollinaire sustained general and non-
15 economic damages in an amount that is in excess of this Court’s minimum jurisdictional amount
16 and that will be stated according to proof, pursuant to Code of Civil Procedure § 425.10.

17 78. Mr. Apollinaire alleges that he is entitled to prejudgment interest pursuant
18 to Civil Code § 3288 from the date of his discharge from GAMC on June 6, 2014 up to and
19 including the date of judgment, according to proof.

20 **FOURTH CAUSE OF ACTION**

21 **(False Imprisonment)**

22 79. Mr. Apollinaire realleges and incorporates by reference all preceding
23 paragraphs as though fully set forth herein.

24 80. GAMC is responsible for its actions in effectuating Mr. Apollinaire’s
25 dumping on Skid Row, which included Mr. Apollinaire’s non-consensual, intentional
26 confinement, without lawful privilege, for an appreciable length of time.

27 81. After rapidly determining and preparing Mr. Apollinaire’s discharge,
28 GAMC exacerbated its unlawful conduct by falsely imprisoning Mr. Apollinaire in a vehicle

1 against his will. Despite Mr. Ghukassian's repeated refusals to engage with Mr. Apollinaire
2 regarding his discharge, Mr. Apollinaire continually asked Mr. Ghukassian whether he could be
3 discharged to a part of Glendale with which he is familiar and has relatives nearby. Mr.
4 Ghukassian continually ignored this request and slammed his office door in Mr. Apollinaire's
5 face.

6 82. Shortly thereafter, the same Mr. Ghukassian approached Mr. Apollinaire,
7 stated that he would be going to a shelter in Los Angeles, not Glendale, and waited with Mr.
8 Apollinaire for a security guard to arrive. Mr. Apollinaire continued to plead with Mr.
9 Ghukassian to allow him to go to Glendale (or at least be told of his destination), only to be
10 threatened for the second time by Mr. Ghukassian with some form of "shot." Mr. Apollinaire
11 believed this "shot" to constitute hospital staff forcibly administering a prescription substance that
12 would sedate him against his will. When the guard arrived, Mr. Ghukassian instructed him not to
13 tell Mr. Apollinaire where he was headed. The security guard then physically escorted Mr.
14 Apollinaire outside to the vehicle, personally handed the taxi driver the ride voucher, and relayed
15 Mr. Ghukassian's instructions not to reveal to Mr. Apollinaire his destination.

16 83. The combined conduct of GAMC personnel unjustifiably and inexcusably
17 caused Mr. Apollinaire to be confined inside a taxi cab, against his will, and transported to Skid
18 Row without his consent. Mr. Ghukassian—who twice threatened Mr. Apollinaire when he asked
19 about his discharge procedure—physically oversaw the discharge and placement of Mr.
20 Apollinaire in a taxi cab. Mr. Ghukassian's presence, coupled with that of a security guard,
21 demonstrates that GAMC intended to confine Mr. Apollinaire in that taxi cab, even though
22 GAMC knew that Mr. Apollinaire did not wish to go where GAMC instructed the taxi to take
23 him. As GAMC desired and decided, Mr. Apollinaire was confined in the taxi for approximately
24 ten miles en route to Skid Row, a distance that comprises a tortiously sufficient period of time.

25 84. As a direct, legal, and proximate result of the above-described tortious
26 conduct of GAMC, Mr. Apollinaire suffered extreme emotional distress. Mr. Apollinaire will
27 seek damages from GAMC on account of the severe emotional distress that he experienced as a
28 result of GAMC's unlawful conduct. In light of the foregoing, Mr. Apollinaire sustained general

1 and non-economic damages in an amount that is in excess of this Court's minimum jurisdictional
2 amount and that will be stated according to proof, pursuant to Code of Civil Procedure § 425.10.

3 85. Mr. Apollinaire alleges that he is entitled to prejudgment interest pursuant
4 to Civil Code § 3288 from the date of his discharge from GAMC on June 6, 2014 up to and
5 including the date of judgment, according to proof.

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PRAYER FOR RELIEF

WHEREFORE, Plaintiff Rafaeli Apollinaire prays for relief as follows:

1. That the Court order Defendant, and its agents, servants, employees, partners, associates, officers, representatives, and all persons acting under or in concert with or for them, to comply with all laws and regulations regarding the treatment and discharge of dependent adults;
2. For general, special, and compensatory damages in amounts to be proven at trial;
3. For prejudgment interest as allowed by law;
4. For costs and reasonable attorneys' fees on the First Cause of Action pursuant to Welfare & Institutions Code § 15657; and
5. For such other relief as is just and equitable.

DEMAND FOR JURY TRIAL

Plaintiff Rafaeli Apollinaire hereby demands a trial by jury for all issues triable to a jury.

Dated: June 30, 2015

SIMPSON THACHER & BARTLETT LLP
PUBLIC COUNSEL

By: /s/ _____
Michael D. Kibler

PUBLIC COUNSEL

By: /s/ _____
Patrick Dunlevy

Attorneys for Plaintiff Rafaeli Apollinaire