

San Francisco Superior Courts
Information Technology Group

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Aug-04-2008 2:14 pm

Case Number: CGC-08-478204

Filing Date: Aug-04-2008 2:11

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COMPLAINT

MYDRA MCGARR VS. TENDERLOIN HOUSING CLINIC, INC. et al

001C02208315

Instructions:

Please place this sheet on top of the document to be scanned.

**SUMMONS
(CITACION JUDICIAL)**

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

**NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):**
TENDERLOIN HOUSING CLINIC, INC., CHANEL SAMUEL
DOES 1 TO 25

**YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):**
MYDRA McGARR

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.courtinfo.ca.gov/selfhelp/espanol), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.courtinfo.ca.gov/selfhelp/espanol) o poniéndose en contacto con la corte o el colegio de abogados locales.

The name and address of the court is:
(El nombre y dirección de la corte es):
San Francisco County Superior Court
400 McAllister Street
San Francisco, California 94102-4514

CASE NUMBER:
(Número de caso):
CG-08-478204

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
William E. Weiss (SBN 73108), (415) 362-6765
130 Sutter Street, 7th Floor, San Francisco, California 94104

D. STEPPE

DATE: **AUG 04 2008** Clerk, by **GORDON PARK-LI** Deputy
(Fecha) (Secretario) (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

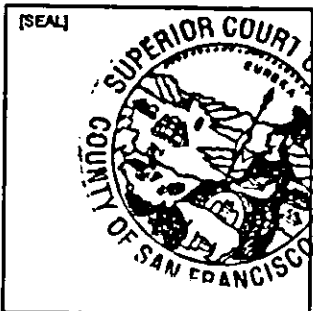
NOTICE TO THE PERSON SERVED: You are served

- 1. as an individual defendant.
- 2. as the person sued under the fictitious name of (specify):

on behalf of (specify):

- under: CCP 416.10 (corporation) CCP 416.60 (minor)
- CCP 416.20 (defunct corporation) CCP 416.70 (conservatee)
- CCP 416.40 (association or partnership) CCP 416.90 (authorized person)
- other (specify):

- 4. by personal delivery on (date):



FOR COURT USE ONLY

FILED
San Francisco County Superior Court

AUG 04 2008

GORDON PARK-LI, Clerk
BY: *Shehara Hester*
Deputy Clerk

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):
William E. Weiss (SBN 73108)
130 Sutter Street, 7th Floor
San Francisco, California 94104
TELEPHONE NO.: (415) 362-6765 FAX NO.: (415) 362-2405
ATTORNEY FOR (Name): Mydra McGarr, Plaintiff

SUPERIOR COURT OF CALIFORNIA, COUNTY OF San Francisco
STREET ADDRESS: 400 McAllister Street
MAILING ADDRESS:
CITY AND ZIP CODE: San Francisco, California 94102-4514
BRANCH NAME:

CASE NAME: McGarr v. Tenderloin Housing Clinic, Inc., Samuel, et al

CIVIL CASE COVER SHEET
 Unlimited (Amount demanded exceeds \$25,000) Limited (Amount demanded is \$25,000 or less)

Complex Case Designation
 Counter Joinder
Filed with first appearance by defendant (Cal. Rules of Court, rule 1811)

CASE NUMBER: **CGC-08-478204**
JUDGE:
DEPT:

Items 1-5 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:
- | | | |
|---|--|--|
| Auto Tort
<input type="checkbox"/> Auto (22)
<input type="checkbox"/> Uninsured motorist (46)
Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort
<input type="checkbox"/> Asbestos (04)
<input type="checkbox"/> Product liability (24)
<input type="checkbox"/> Medical malpractice (45)
<input checked="" type="checkbox"/> Other PI/PD/WD (23)
Non-PI/PD/WD (Other) Tort
<input type="checkbox"/> Business tort/unfair business practice (07)
<input type="checkbox"/> Civil rights (08)
<input type="checkbox"/> Defamation (13)
<input type="checkbox"/> Fraud (16)
<input type="checkbox"/> Intellectual property (19)
<input type="checkbox"/> Professional negligence (25)
<input type="checkbox"/> Other non-PI/PD/WD tort (35)
Employment
<input type="checkbox"/> Wrongful termination (36)
<input type="checkbox"/> Other employment (15) | Contract
<input type="checkbox"/> Breach of contract/warranty (06)
<input type="checkbox"/> Collections (09)
<input type="checkbox"/> Insurance coverage (18)
<input type="checkbox"/> Other contract (37)
Real Property
<input type="checkbox"/> Eminent domain/Inverse condemnation (14)
<input type="checkbox"/> Wrongful eviction (33)
<input type="checkbox"/> Other real property (26)
Unlawful Detainer
<input type="checkbox"/> Commercial (31)
<input type="checkbox"/> Residential (32)
<input type="checkbox"/> Drugs (38)
Judicial Review
<input type="checkbox"/> Asset forfeiture (05)
<input type="checkbox"/> Petition re: arbitration award (11)
<input type="checkbox"/> Writ of mandate (02)
<input type="checkbox"/> Other judicial review (39) | Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 1800-1812)
<input type="checkbox"/> Antitrust/Trade regulation (03)
<input type="checkbox"/> Construction defect (10)
<input type="checkbox"/> Mass tort (40)
<input type="checkbox"/> Securities litigation (28)
<input type="checkbox"/> Environmental/Toxic tort (30)
<input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41)
Enforcement of Judgment
<input type="checkbox"/> Enforcement of judgment (20)
Miscellaneous Civil Complaint
<input type="checkbox"/> RICO (27)
<input type="checkbox"/> Other complaint (not specified above) (42)
Miscellaneous Civil Petition
<input type="checkbox"/> Partnership and corporate governance (21)
<input type="checkbox"/> Other petition (not specified above) (43) |
|---|--|--|

2. This case is is not complex under rule 1800 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- | | |
|--|--|
| a. <input type="checkbox"/> Large number of separately represented parties | d. <input type="checkbox"/> Large number of witnesses |
| b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court |
| c. <input type="checkbox"/> Substantial amount of documentary evidence | f. <input type="checkbox"/> Substantial postjudgment judicial supervision |
3. Type of remedies sought (check all that apply):
a. monetary b. nonmonetary; declaratory or injunctive relief c. punitive
4. Number of causes of action (specify):
5. This case is is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case (You may use form CM-015)

Date: July 30, 2008
William E. Weiss
(TYPE OR PRINT NAME)

William E. Weiss
(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 201.8.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 1800 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a complex case, this cover sheet will be used for statistical purposes only.

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

To Plaintiffs and Others Filing First Papers

If you are filing a first paper (for example, a complaint) in a civil case, you must complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 5 on the sheet. In item 1, you must check one box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the primary cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. You do not need to submit a cover sheet with amended papers. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 201.8(c) and 227 of the California Rules of Court.

To Parties in Complex Cases

In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 1800 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES

Auto Tort

- Auto (22)—Personal Injury/Property Damage/Wrongful Death
- Uninsured Motorist (46) *(if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto)*

Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

- Asbestos (04)
 - Asbestos Property Damage
 - Asbestos Personal Injury/Wrongful Death
- Product Liability *(not asbestos or toxic/environmental)* (24)
- Medical Malpractice (45)
 - Medical Malpractice—Physicians & Surgeons
 - Other Professional Health Care Malpractice
- Other PI/PD/WD (23)
 - Premises Liability (e.g., slip and fall)
 - Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)
 - Intentional Infliction of Emotional Distress
 - Negligent Infliction of Emotional Distress
 - Other PI/PD/WD

Non-PI/PD/WD (Other) Tort

- Business Tort/Unfair Business Practice (07)
- Civil Rights (e.g., discrimination, false arrest) *(not civil harassment)* (08)
- Defamation (e.g., slander, libel) (13)
- Fraud (16)
- Intellectual Property (19)
- Professional Negligence (25)
 - Legal Malpractice
 - Other Professional Malpractice *(not medical or legal)*
- Other Non-PI/PD/WD Tort (35)

Employment

- Wrongful Termination (36)
- Other Employment (15)

Contract

- Breach of Contract/Warranty (06)
 - Breach of Rental/Lease Contract *(not unlawful detainer or wrongful eviction)*
- Contract/Warranty Breach—Seller Plaintiff *(not fraud or negligence)*
- Negligent Breach of Contract/Warranty
- Other Breach of Contract/Warranty
- Collections (e.g., money owed, open book accounts) (09)
 - Collection Case—Seller Plaintiff
 - Other Promissory Note/Collections Case
- Insurance Coverage *(not provisionally complex)* (18)
 - Auto Subrogation
 - Other Coverage
- Other Contract (37)
 - Contractual Fraud
 - Other Contract Dispute

Real Property

- Eminent Domain/Inverse Condemnation (14)
- Wrongful Eviction (33)
- Other Real Property (e.g., quiet title) (26)
 - Writ of Possession of Real Property
 - Mortgage Foreclosure
 - Quiet Title
 - Other Real Property *(not eminent domain, landlord/tenant, or foreclosure)*

Unlawful Detainer

- Commercial (31)
- Residential (32)
- Drugs (38) *(if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential)*

Judicial Review

- Asset Forfeiture (05)
- Petition Re: Arbitration Award (11)
- Writ of Mandate (02)
 - Writ—Administrative Mandamus
 - Writ—Mandamus on Limited Court Case Matter
- Writ—Other Limited Court Case Review
- Other Judicial Review (39)
 - Review of Health Officer Order
 - Notice of Appeal—Labor Commissioner Appeals

Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 1800–1812)

- Antitrust/Trade Regulation (03)
- Construction Defect (10)
- Claims Involving Mass Tort (40)
- Securities Litigation (28)
- Environmental/Toxic Tort (30)
- Insurance Coverage Claims *(arising from provisionally complex case type listed above)* (41)

Enforcement of Judgment

- Enforcement of Judgment (20)
 - Abstract of Judgment (Out of County)
 - Confession of Judgment *(non-domestic relations)*
 - Sister State Judgment
 - Administrative Agency Award *(not unpaid taxes)*
 - Petition/Certification of Entry of Judgment on Unpaid Taxes
 - Other Enforcement of Judgment Case

Miscellaneous Civil Complaint RICO (27)

- Other Complaint *(not specified above)* (42)
 - Declaratory Relief Only
 - Injunctive Relief Only *(non-harassment)*
 - Mechanics Lien
 - Other Commercial Complaint Case *(non-tort/non-complex)*
 - Other Civil Complaint *(non-tort/non-complex)*

Miscellaneous Civil Petition

- Partnership and Corporate Governance (21)
- Other Petition *(not specified above)* (43)
 - Civil Harassment
 - Workplace Violence
 - Elder/Dependent Adult Abuse
 - Election Contest
 - Petition for Name Change
 - Petition for Relief from Late Claim
 - Other Civil Petition

AUG 04 2008

GORDON PARK-LI, Clerk
BY: *[Signature]*
Deputy Clerk

SUMMONS ISSUED

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):
— William E. Weiss, Esq. (SBN 73108)
LAW OFFICES OF WILLIAM E. WEISS
130 Sutter Street, 7th Floor
San Francisco, California 94104
TELEPHONE NO: (415) 362-6765 FAX NO. (Optional): (415) 362-2405
E-MAIL ADDRESS (Optional): weisslaw1@willameweiss.com
ATTORNEY FOR (Name): Mydra McGarr, Plaintiff

SUPERIOR COURT OF CALIFORNIA, COUNTY OF San Francisco
STREET ADDRESS: 400 McAllister Street
MAILING ADDRESS:
CITY AND ZIP CODE: San Francisco, California 94102-4514
BRANCH NAME:

PLAINTIFF: Mydra McGarr

DEFENDANT: Tenderloin Housing Clinic, Inc., Chanel Samuel

DOES 1 TO 25

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

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:

CGC-08-478204

1. Plaintiff (name or names): Mydra McGarr
alleges causes of action against defendant (name or names): Tenderloin Housing Clinic, Inc., Chanel Samuel, et al

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.

SHORT TITLE: McGarr v. Tenderloin Housing Clinic, Inc., Samuel, etal	CASE NUMBER:
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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): Doe
 (1) a business organization, form unknown
 (2) a corporation
 (3) an unincorporated entity (describe):
 (4) a public entity (describe):
 (5) other (specify): Individual
- 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):
- 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):
- 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): 1-20 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): 1-5 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):

SHORT TITLE: McGarr v. Tenderloin Housing Clinic, Inc., Samuel, etal	CASE NUMBER:
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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):
Exemplary Damages

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):
Exemplary Damages

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: July 25, 2008

William E. Weiss
(TYPE OR PRINT NAME)


(SIGNATURE OF PLAINTIFF OR ATTORNEY)

SHORT TITLE:

McGarr v. Tenderloin Housing Clinic, Inc., Samuel, etal

CASE NUMBER:

ONE
(number)

CAUSE OF ACTION—General Negligence

Page 4

ATTACHMENT TO Complaint Cross-Complaint

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

GN-1. Plaintiff (name): Mydra McGarr

alleges that defendant (name): Tenderloin Housing Clinic, Inc., Chanel Samuel

Does 1 to 25

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): May 30, 2008

at (place): Hartland Hotel, 909 Geary Blvd., in San Francisco, California 94115.

(description of reasons for liability):

On May 30, 2008, at approximately 11:26 am, plaintiff MYDRA McGARR, was viciously assaulted by a co-employee, Chanel Samuel, who violently beat McGARR with a metal pipe, causing severe personal injuries. The incident occurred at the Hartland Hotel where plaintiff McGARR and defendant SAMUEL were employed and where SAMUEL was a resident. Defendant TENDERLOIN HOUSING CLINIC, INC. owned operated and managed the Hartland Hotel during the time of the incident. Defendant TENDERLOIN HOUSING CLINIC, INC., had written and oral complaints about SAMUEL's propensity for violent, threatening and intimidating behavior prior to her attack on the plaintiff. Despite repeated complaints, Defendant, TENDERLOIN HOUSING CLINIC, INC., failed to discipline SAMUEL or prevent the assault on plaintiff, thereby ratifying, adopting and condoning her violent conduct.

Further, Defendant, TENDERLOIN HOUSING CLINIC, INC., had actual and/or constructive notice that Defendant SAMUEL exhibited other aberrant behavior and was addicted to crack and/or methamphetamines. Further still, Defendant, TENDERLOIN HOUSING CLINIC, INC., had actual and or constructive knowledge that said drug addiction coupled with Defendant SAMUEL's aberrant behavior was likely to lead to her committing an act of violence against co-employees.

SHORT TITLE:

McGarr v. Tenderloin Housing Clinic, Inc., Samuel, etal

CASE NUMBER:

TWO

(number)

CAUSE OF ACTION—Premises Liability

Page 5

ATTACHMENT TO Complaint Cross-Complaint

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

Prem.L-1. Plaintiff (name): Mydra McGarr

alleges the acts of defendants were the legal (proximate) cause of damages to plaintiff.

On (date): May 30, 2008 plaintiff was injured on the following premises in the following

fashion (description of premises and circumstances of injury):

The incident occurred at the Hartland Hotel in San Francisco, California which is owned, operated and managed by defendant TENDERLOIN HOUSING CLINIC INC., when an employee and resident of the Hartland Hotel, viciously assaulted plaintiff McGARR when defendant SAMUEL violently and repeatedly struck her with a metal pipe causing plaintiff multiple and severe physical injuries.

Prem.L-2. **Count One—Negligence** The defendants who negligently owned, maintained, managed and operated the described premises were (names): TENDERLOIN HOUSING CLINIC INC.

Does 1 to 25

Prem.L-3. **Count Two—Willful Failure to Warn** [Civil Code section 846] The defendant owners who willfully or maliciously failed to guard or warn against a dangerous condition, use, structure, or activity were (names): TENDERLOIN HOUSING CLINIC INC.

Does 1 to 25

Plaintiff, a recreational user, was an invited guest a paying guest.

Prem.L-4. **Count Three—Dangerous Condition of Public Property** The defendants who owned public property on which a dangerous condition existed were (names):

Does _____ to _____

a. The defendant public entity had actual constructive notice of the existence of the dangerous condition in sufficient time prior to the injury to have corrected it.

b. The condition was created by employees of the defendant public entity.

Prem.L-5. a. **Allegations about Other Defendants** The defendants who were the agents and employees of the other defendants and acted within the scope of the agency were (names):

Does _____ to _____

b. The defendants who are liable to plaintiffs for other reasons and the reasons for their liability are

described in attachment Prem.L-5.b as follows (names):

SHORT TITLE: McGarr v. Tenderloin Housing Clinic, Inc., Samuel, etal	CASE NUMBER:
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Exemplary Damages Attachment

ATTACHMENT TO Complaint Cross - Complaint

EX-1. As additional damages against defendant (name):

Plaintiff alleges defendant was guilty of

- malice
- fraud
- oppression

as defined in Civil Code section 3294, and plaintiff should recover, in addition to actual damages, damages to make an example of and to punish defendant.

EX-2. The facts supporting plaintiff's claim are as follows:

Defendant TENDERLOIN HOUSING CLINIC INC., owned, managed and operated the Hartland Hotel in San Francisco, where Defendant CHANEL SAMUEL was an employee and a resident. Based on a number of previous complaints made regarding SAMUEL's conduct, defendant TENDERLOIN HOUSING CLINIC INC., had advance actual and/or constructive knowledge of SAMUEL's unfitness as an employee and the likelihood that SAMUEL would commit an act of violence against a co-employee. Since the incident Defendant TENDERLOIN HOUSING CLINIC INC., has acted to suppress, destroy information concerning the assailant, such as CHANEL SAMUEL's propensity for violence and drug use and of any complaints whatsoever or other evidence indicating defendant SAMUEL was potentially violent so as to avoid liability.

By acting as alleged herein Defendant TENDERLOIN HOUSING CLINIC INC., was grossly negligent and further its conduct as alleged herein was malicious, fraudulent and despicable, thus entitling Plaintiff McGARR to punitive damages in an amount according to proof.

EX-3. The amount of exemplary damages sought is

- a. not shown, pursuant to Code of Civil Procedure section 425.10.
- b. \$

SHORT TITLE: McGarr v. Tenderloin Housing Clinic, Inc., Samuel, etal	CASE NUMBER
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THREE

(number)

CAUSE OF ACTION—Intentional TortPage 7ATTACHMENT TO Complaint Cross - Complaint*(Use a separate cause of action form for each cause of action.)*

IT-1. Plaintiff (name):

alleges that defendant (name):

 Does 1 to 25

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

on (date): May 30, 2008

at (place): Hartland Hotel, 909 Geary Blvd., in San Francisco, California 94115.

(description of reasons for liability):

Defendant SAMUEL with premeditation and after tying in in wait, viciously beat plaintiff with a metal pipe and defendant TENDERLOIN HOUSING CLINIC, INC., ratified, adopted and condoned said actions by ignoring its actual and/or constructive knowledge that defendant SAMUEL was addicted to crack and and/or methamphetamines, and that she had a history of violent, threatening and intimidating behavior at work and her residence.

Further, defendant TENDERLOIN HOUSING CLINIC, INC., acted to destroy, alter or modify any and all documents and evidence of its actual and/or constructive knowledge of SAMUEL, as stated above, in order to avoid liability.

Said acts by defendants, and each of them, was willful, malicious, fraudulent and despicable in complete derogation of the rights of Plaintiff McGARR and caused her severe emotional distress.

SHORT TITLE: McGarr v. Tenderloin Housing Clinic, Inc., Samuel, etal	CASE NUMBER
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FOUR CAUSE OF ACTION—Intentional Tort Page 8
 (number)

ATTACHMENT TO Complaint Cross - Complaint

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

IT-1. Plaintiff (name): Mydra McGarr
 alleges that defendant (name): Chanel Samuel

Does _____ to _____

was the legal (proximate) cause of damages to plaintiff. By the following acts or omissions to act, defendant intentionally caused the damage to plaintiff
 on (date): May 30, 2008
 at (place): Hartland Hotel, 909 Geary Blvd., in San Francisco, California 94115.

(description of reasons for liability):

Viciously and with premeditation assaulted and battered plaintiff McGARR by lying in wait for plaintiff to come to the coatroom at the end of plaintiff's shift, and then beating her with a metal pipe thus causing Plaintiff severe personal injuries.