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Superior Court of California
County of Los Angeles

NO SUMMON

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FILED BY FAX

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

ELIZABETH CROKIN, an individual,

CASE NO. **BC535279**

Plaintiff,

COMPLAINT FOR DAMAGES (PERSONAL INJURY):

v.

MALLORY HILL, an individual,

- 1) Battery;
- 2) Intentional Infliction of Emotional Distress;
- 3) Negligent Infliction of Emotional Distress;
- 4) Negligence Per Se;
- 5) Negligence;
- 6) Fraud by Intentional Concealment;
- 7) Fraud by Intentional Misrepresentation

Defendant.

Slovak Baron Empey Murphy & Pinkney LLP
1800 E. Tahquitz Canyon Way
Palm Springs, CA 92262

RECEIPT # 001361220707
DATE PAID: 02/04/14 01:12 PM
PAYMENT \$435.00
RECEIVED:
CHECK: \$0.00
CASH: \$0.00
CHARGE: \$0.00
CRED: \$435.00

I. PARTIES

1. Plaintiff, ELIZABETH CROKIN ("Plaintiff"), is and at all times mentioned herein was, an individual residing in the County of Los Angeles, California.

2. Defendant, MALLORY HILL ("Hill"), is and at all times mentioned herein was an individual residing in Orange County, California.

1 **II. JURISDICTION AND VENUE**

2 3. Jurisdiction is proper in this Court as the amount in controversy exceeds
3 \$25,000.00 and the subject matter of this dispute is otherwise within this court's jurisdiction.

4 4. Venue is proper in this Court because this is an action for injury to person
5 from the wrongful act and/or negligence of Hill and the injury was caused or occurred in this
6 judicial district.

7 **III. GENERAL ALLEGATIONS**

8 5. Plaintiff is a highly educated, successful broadcast and print journalist with
9 more than a decade of journalism experience. She has worked as a freelance contributor
10 to such nationally recognized media as the Chicago Tribune, In Touch, US Weekly and E!
11 News. Plaintiff has worked as an on-air personality on television shows such as AXS TV
12 and Prime Time Chicago, and, working out of Los Angeles she has most recently authored
13 a regular column for the Chicago Sun-Times.

14 6. Upon information and belief, Hill is a successful businessman who has
15 worked in the mortgage industry since the 1990s. Plaintiff is further informed and believes
16 that Hill has known for over 15 years that he is infected with the Herpes Simplex Virus,
17 Type 1 ("**oral herpes**") and the Herpes Simplex Virus, Type 2 ("**genital herpes**"). Plaintiff
18 is further informed and believes that Hills knew or had reason to know that oral herpes and
19 genital herpes may be easily transmitted through sexual contact.

20 7. Plaintiff and Hill met in early 2012 and communicated frequently. They first
21 engaged in sexual intercourse on or about May 31, 2012. Despite knowing that he was
22 infected with both oral herpes and genital herpes, Hill did not use a condom or other form
23 of protection when he engaged in sexual intercourse with Plaintiff. Furthermore, Hill failed
24 to advise Plaintiff before engaging in unprotected sexual intercourse that he was infected
25 with oral herpes and genital herpes.

26 8. Two days later, on or about June 2, 2012, Plaintiff, concerned about the fact
27 the two did not use a condom during intercourse, asked Hill if he had any sexually
28 transmitted diseases (STDs). Hill denied being infected and lied to Plaintiff, claiming, "I'm

1 clean” and STD-free. In reliance upon Hill’s express representation that he was not infected
2 with any STDs, and upon other representations, Plaintiff believed that they were in an
3 exclusive, monogamous relationship.

4 9. Within weeks, Hill told Plaintiff that he loved her and wanted a completely
5 monogamous long-term relationship. On or about August 3, 2012, Hill invited Plaintiff to
6 accompany him to his family reunion, at which he introduced Plaintiff to his family. Plaintiff
7 placed her trust and confidence in Hill because of their intimate relationship and mutual
8 promises of a monogamous relationship. As a result, over the following weeks and months,
9 Plaintiff and Hill had unprotected sexual intercourse almost daily.

10 10. On and between September 21, 2012 and September 24, 2012, on
11 information and belief, Hill developed sores on and around his mouth. Plaintiff later learned
12 that these sores were oral herpes but Hill lied to Plaintiff about the sores claiming that they
13 were merely ingrown hairs. Hill grew facial hair which partially covered the sores and he
14 perpetuated the lie by asking Plaintiff to borrow her tweezers to treat the “ingrown hairs.”
15 Because of their relationship of trust and confidence, Plaintiff believed Hill and did not think
16 that he would do anything to harm her or put her health in jeopardy.

17 11. Hill, however, acted with willful indifference to Plaintiff’s health, well-being and
18 safety. Knowing that the sores on his mouth were an outbreak of oral herpes and not
19 ingrown hairs, and that such sores were contagious, Hill proceeded to perform oral sex on
20 Plaintiff and continued to engage in unprotected sexual intercourse with Plaintiff.

21 12. On or about September 27, 2012, Plaintiff began to experience vaginal pain.
22 She was initially treated for a urinary tract infection, but her symptoms continued to persist
23 and got worse. Plaintiff and Hill traveled to Northern California in the beginning of October.

24 13. Early in the morning of October 6, 2012, Plaintiff awoke with unbearable
25 vaginal pain. She located a medical facility nearby and Hill took her to the facility as soon
26 as it opened. The treating physician said it was most likely a severe urinary tract infection
27 that had spread to her kidneys or a sexually-transmitted disease.
28

1 14. Hill told Plaintiff that he would get tested for sexually-transmitted diseases
2 because he had insurance coverage. He persuaded Plaintiff not to get tested by telling her
3 that whatever Plaintiff had he would have and it would show up in his tests. Plaintiff is
4 informed and believes that Hill told the treating physician that he did not have any sexually-
5 transmitted diseases.

6 15. Plaintiff and Hill returned home to Los Angeles in the evening of October 7,
7 2012. The next day—October 8th—Plaintiff awoke with severe back and neck pain and
8 was extremely dizzy and confused. She went to the emergency room at Cedars-Sinai
9 Hospital. After Plaintiff described all of the symptoms she had been experiencing during the
10 previous weeks, the treating physician gave her a spinal tap. The results were positive for
11 meningitis but the doctor was very concerned about the sexually-transmitted disease-
12 related symptoms Plaintiff described.

13 16. Plaintiff's treating physician conducted a type specific HSV-1 and HSV-2 IgG
14 serum (blood) antibody test ("**October IgG Test**") which is used to detect an oral herpes
15 and/or genital herpes infection. The results from the October IgG Test were negative.

16 17. Plaintiff is informed and believes that Plaintiff's treating doctor was
17 nonetheless concerned about Plaintiff's symptoms and called Hill to determine whether he
18 had exposed Plaintiff to any sexually-transmitted diseases. Plaintiff is informed and
19 believes that Hill told the doctor that he was clean and did not have any sexually-
20 transmitted diseases and that he does not lead a "high-risk" sexual lifestyle.

21 18. Plaintiff was discharged from the hospital and returned home on October 9.
22 On October 10, Plaintiff became confused, and disoriented and experienced dizziness,
23 headache, back pain, fever, blurred vision and photophobia (light sensitivity). She
24 collapsed while out at an appointment and vomited multiple times. The next day she
25 returned to Chicago so her family could care for her.

26 19. The emergency room doctor from Cedar-Sinai called Plaintiff in Chicago on
27 October 15th. He told her that more test results came back from the spinal tap and that she
28

1 was positive for herpes meningitis. He advised Plaintiff to seek immediate medical
2 treatment because she was at risk for permanent brain damage.

3 20. Plaintiff told Hill she was diagnosed with herpes meningitis. Hill repeatedly
4 denied having any kind of herpes or other form of sexually-transmitted disease. Hill
5 reassured Plaintiff that he was not infected with herpes or any other type of sexually-
6 transmitted disease. Plaintiff is informed and believes that Hill's continued and repeated
7 insistence that he was not infected with genital herpes and oral herpes delayed an accurate
8 diagnosis of her condition and further aggravated her injuries.

9 21. Placing her faith and trust in Hill, Plaintiff continued her relationship with Hill
10 not knowing the cause of her infection. She returned to work as a journalist in November
11 2012, but she could barely make it through the day. As a result of the meningoencephalitis,
12 Plaintiff experienced severe vertigo, headaches, fatigue, dizziness, depression, anxiety,
13 vision problems, light sensitivity and memory loss. These conditions impaired Plaintiff's
14 ability to perform her work and continue her career. In less than a month, Plaintiff was laid
15 off and has since been unable to work in her chosen profession because of the effects she
16 continues to suffer from her infection.

17 22. As Plaintiff suffered the effects of her infection and the meningoencephalitis,
18 Hill continued to deny that he was infected with any type of herpes or sexually-transmitted
19 disease. On or about March 26, 2013, Hill sent a text message to Plaintiff in which he said,
20 "I went and got tested," and, "There is no way in hell I caused your illness." Hill's statement
21 was false and he knew it.

22 23. Two days later on March 28, 2013, Hill sent another text to Plaintiff in which
23 he claimed that he "was tested for everything under the sun," and that he was STD-free.
24 Hill's statement was false and he knew it.

25 24. Plaintiff's treating physicians performed another HSV type-specific serum IgG
26 test on March 29, 2013 ("**March IgG Test**"). By this time, Plaintiff's immune system had
27 developed antibodies in response to the herpes infection and the test results were positive
28 for genital herpes.

1 25. Plaintiff is informed and believes that the results of the October IgG Test and
2 the March IgG Test indisputably confirmed that during the late September early October
3 2012 period Plaintiff was suffering from an initial primary outbreak of genital herpes and
4 that the infection was transmitted to her by Hill.

5 26. Plaintiff also learned that Hill was infected with genital herpes and oral herpes
6 from his ex-wife. On or about April 1, 2013, Hill's ex-wife told Plaintiff that Hill knew he was
7 infected with genital herpes and that he has been infected for over 15 years. She also said
8 that he has been taking prescription medication to treat it for over 15 years. Hill's ex-wife
9 also confirmed that Hill infected her and she believed that Hill had infected at least one
10 other person with genital herpes.

11 27. Upon learning that she was infected with genital herpes, Plaintiff once again
12 confronted Hill about whether he was infected with genital herpes. Hill finally admitted to
13 Plaintiff that he was infected with genital herpes during a telephone conversation on May
14 27, 2012. Hill also admitted to knowing he was infected for over 15 years; that genital
15 herpes is contagious and incurable, and that he had experienced at least one genital
16 breakout before having unprotected sexual intercourse with Plaintiff.

17 28. Plaintiff is informed and believes that Hill has engaged in unprotected sexual
18 intercourse with other women before, during and after his relationship with Plaintiff without
19 disclosing beforehand that he is infected with an incurable and contagious venereal
20 disease, i.e., genital herpes. Plaintiff is further informed and believes that Hill is engaging in
21 a similar pattern and practice with other women and by doing so he is placing women's
22 health and safety at risk by engaging in unprotected sexual intercourse without first
23 disclosing his genital herpes infection. Hill admitted that he knew genital herpes is highly
24 contagious and can be transmitted via sexual contact and Plaintiff is informed and believes
25 that Hill has infected at least one, if not multiple, other women with genital herpes.

26 29. As a result of contracting genital herpes from Hill and herpes-induced
27 meningitis, Plaintiff has suffered permanent physical and emotional injuries. Her symptoms
28 include physical and mental fatigue, blurred vision, inability to focus or concentrate,

1 dizziness and confusion, vaginal pain, as well as severe mental and emotional distress.
2 Plaintiff has further experienced embarrassment, shame, anxiety and revulsion at having
3 been infected with genital herpes and herpes-induced meningitis by Hill. Further, upon
4 information and belief, Plaintiff's health may be compromised in the future as a result of an
5 increased risk of cervical cancer, shingles and other medical conditions derived from
6 herpes. Plaintiff has further been damaged by having to monitor her condition, attend
7 additional doctors' appointments, and take prescription medications, all to her physical,
8 emotional and financial detriment. Plaintiff's prospect of enjoying a full and healthy life has
9 been compromised and diminished. Her ability to have and enjoy a personal, intimate or
10 sexual relationship has been eroded and diminished, as has her prospect of entering into a
11 future marriage and having children.

12 **IV. CAUSES OF ACTION**

13 **FIRST CAUSE OF ACTION**

14 **(Battery)**

15 30. Plaintiff incorporates in this paragraph each and every allegation of
16 paragraphs 1 through 29 above as though set forth verbatim herein.

17 31. When Hill and Plaintiff first engaged in unprotected sexual intercourse on May
18 31, 2012, and on every occasion after that, Hill was infected with an incurable venereal
19 disease (oral herpes and genital herpes).

20 32. When Hill and Plaintiff first engaged in unprotected sexual intercourse on May
21 31, 2012, and on every occasion after that, Hill knew he was infected with an incurable
22 venereal disease (oral herpes and genital herpes).

23 33. Hill knowingly, intentionally, and willfully engaged in unprotected sexual
24 intercourse with Plaintiff, fully aware that he was infected with an incurable and highly
25 contagious venereal disease.

26 34. Having sexual contact with an uninfected person and knowingly exposing
27 them to an incurable and highly contagious venereal disease as Hill did to Plaintiff would be
28 harmful and offensive to a reasonable person.

1 35. Exposing Plaintiff to an incurable and highly contagious venereal disease
2 during unprotected sexual intercourse was and is harmful and offensive to Plaintiff. As a
3 direct and proximate result of Hill's wrongful and offensive conduct, Plaintiff was infected
4 with an incurable and highly contagious venereal disease.

5 36. Plaintiff did not consent to being exposed to an incurable and highly
6 contagious venereal disease when she engaged in sexual intercourse with Hill on or about
7 May 31, 2012. Plaintiff similarly did not consent to being repeatedly exposed to an
8 incurable and highly contagious venereal disease when she engaged in subsequent acts of
9 sexual intercourse with Hill.

10 37. As a result of Hill's fraudulent misrepresentations and concealment, Plaintiff
11 did not lawfully consent to engage in sexual intercourse with Hill, as any purported consent
12 was vitiated by the fact Hill did not disclose to her that he was infected with a contagious
13 and incurable venereal disease.

14 38. Plaintiff asked Hill on multiple occasions if he was infected with herpes,
15 genital herpes, or any other form of STD and each time Hill lied to and deceived Plaintiff
16 and her health care providers by misrepresenting that he was "clean" and not infected.
17 Plaintiff reasonably relied on Hill's assurances and promises based on their intimate
18 relationship and the trust and confidence that she had placed in him.

19 39. Hill's fraudulent scheme to deceive Plaintiff about his condition delayed
20 Plaintiff's diagnosis. The delay in diagnosis and treatment caused the virus to infect her
21 spinal cord and brain resulting in herpes meningoencephalitis. Plaintiff's
22 meningoencephalitis aggravated Plaintiff's condition and has caused severe and likely
23 irreversible damage to her physical and mental well-being.

24 40. As a direct and proximate cause of Hill's offensive and harmful contact,
25 Plaintiff has suffered injury, damage, loss, and harm to her body and mind. Plaintiff has
26 suffered pain and irritation to her body; embarrassment and anxiety as a result of
27 contracting and incurable venereal disease; confusion and disorientation as a result of
28 contracting herpes meningoencephalitis; personal invasion, humiliation, and

1 inconvenience; financial expense associated with continued medical examinations,
2 screenings, testing, monitoring and medication; financial loss as a result of an inability to
3 maintain useful employment because of her injuries; and emotional distress because of an
4 increased risk of contracting various other diseases, including cervical cancer and HIV.

5 41. As a direct and proximate result of Hill's offensive and harmful sexual contact,
6 Plaintiff has been damaged in an amount to be determined according to proof at the time of
7 trial, but which is presently believed to be in excess of \$4,000,000.00.

8 SECOND CAUSE OF ACTION

9 (Intentional Infliction of Emotional Distress)

10 42. Plaintiff incorporates in this paragraph each and every allegation of
11 paragraphs 1 through 29, and 31 through 40 as if the allegations were set forth in full in this
12 paragraph.

13 43. During the events alleged in this complaint, Plaintiff and Hill were engaged an
14 intimate sexual relationship. Based on their intimate relationship, Plaintiff placed her faith,
15 trust and confidence in Hill and Hill was aware that Plaintiff placed her trust and confidence
16 in him. As a result of their relationship of trust and confidence, Hill owed Plaintiff a legal
17 duty to use ordinary care to avoid causing any injury to her.

18 44. Knowing that he was infected with an incurable and highly contagious
19 venereal disease, Hill breached his duty to Plaintiff by, but not limited to, the following:

- 20 A. Exposing Plaintiff to an incurable and highly contagious venereal
21 disease knowing that he was infected;
- 22 B. Engaging in unprotected sexual intercourse with Plaintiff on repeated
23 occasions knowing that he was infected with an incurable and highly
24 contagious venereal disease;
- 25 C. After Plaintiff started exhibiting the symptoms of an initial outbreak of
26 genital herpes, failing to inform and advise Plaintiff that he was
27 infected with an incurable and highly contagious venereal disease;
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D. After Plaintiff continued to exhibit symptoms of an initial outbreak of genital herpes and sought medical treatment for the as yet unknown condition, falsely telling Plaintiff that he was not infected with any STDs; and

E. After Plaintiff continued to exhibit symptoms of an initial outbreak of genital herpes and had to be hospitalized for treatment for the as yet unknown condition, falsely telling Plaintiff's treating physicians that he was not infected with any STDs which interfered with and delayed their diagnosis of Plaintiff's condition further aggravating the damage and causing her to suffer herpes meningoencephalitis, among other things.

45. Hill breached the duty of care intentionally and with reckless disregard for the probability that severe injury would result by engaging in unprotected sexual intercourse with Plaintiff without advising Plaintiff that he was infected with an incurable venereal disease before any sexual contact. Hill further breached his duty of care by engaging in sexual intercourse without taking any precautions to prevent Plaintiff from getting infected.

46. In fact, Hill lied to Plaintiff and lulled her into a false sense of security by telling her repeatedly that he was not infected. When the events alleged in this complaint took place, Hill knew he was infected with genital herpes, and knew or should have known that he could infect Plaintiff with the genital herpes. Plaintiff is informed and believes and on that basis alleges that Hill knew or should have known that genital herpes was contagious and incurable.

47. The above-referenced conduct of Hill was outrageous and beyond the bounds of decency such that no reasonable person could be expected to endure it. As a result of being infected with an incurable and highly contagious venereal disease and thereby contracting herpes meningoencephalitis from Hill, Plaintiff has been forced to endure physical pain, severe mental anguish, shock and continued humiliation, feelings of helplessness and desperation. Each of these injuries is severe and enduring. Plaintiff was physically and emotionally abused by Hill as a result of being infected with the incurable

1 venereal disease, which thereafter proximately caused her to contract herpes
2 meningoencephalitis.

3 48. As a direct and proximate result of Hill's intentional, malicious, harmful,
4 unlawful and offensive acts, Plaintiff sustained severe and serious injury to her person,
5 including but not limited to, contracting a contagious and incurable venereal disease,
6 contracting a severe brain tissue infection known as herpes meningoencephalitis, and
7 suffering an increased risk of developing cervical cancer and other serious medical
8 conditions, such as HIV. Plaintiff has further suffered severe emotional distress and
9 anxiety.

10 49. Plaintiff has been damaged in an amount to be determined according to proof
11 at the time of trial, but which is presently believed to be in excess of \$4,000,000.00.

12 50. Hill's conduct as alleged herein was willful, fraudulent, despicable,
13 outrageous, and with conscious disregard and indifference to Plaintiff's health and safety.
14 Such conduct, as specifically alleged in the foregoing paragraphs, constitutes oppression,
15 fraud, and/or malice as defined in *California Civil Code* section 3294, thereby entitling
16 Plaintiff to punitive damages in an amount appropriate to punish and/or make an example
17 of Hill.

18 THIRD CAUSE OF ACTION

19 (Negligence Per Se—Violation of Statute)

20 51. Plaintiff incorporates in this paragraph each and every allegation of
21 paragraphs 1 through 29 as if the allegations were set forth in full in this paragraph.

22 52. California Health and Safety Code section 120600 prohibits, among other
23 things, a person infected with a venereal disease, and who knows of the condition, from
24 having sexual intercourse with and/or infecting an uninfected person. Plaintiff is informed
25 and believes that a violation of section 120600 is a misdemeanor.

26 53. Plaintiff is informed and believes that Hill violated section 120600 because of
27 the following:
28

- 1 A. Hill is infected with an incurable and highly contagious venereal
2 disease and was infected before he engaged in sexual intercourse with
3 Plaintiff;
4 B. Hill knows and knew he was infected before he engaged in sexual
5 intercourse with Plaintiff;
6 C. Hill knows and knew his infection is and was contagious before he
7 engaged in sexual intercourse with Plaintiff; and
8 D. Hill infected Plaintiff with an incurable and infectious venereal disease.

9 54. Plaintiff is informed and believes that Hill's violation of section 120600 was a
10 substantial factor in causing Plaintiff's injury.

11 55. Hill is therefore liable to Plaintiff for negligence per se. As a direct and
12 proximate result of Hill's violation of statute and negligence per se, Plaintiff sustained
13 severe and serious injury to her person, including but not limited to, contracting a
14 contagious and incurable venereal disease, contracting a severe brain tissue infection
15 known as herpes meningoencephalitis, and suffering an increased risk of developing
16 cervical cancer and other serious medical conditions, such as HIV. Plaintiff has further
17 suffered severe emotional distress and anxiety.

18 56. Plaintiff has been damaged in an amount to be determined according to proof
19 at the time of trial, but which is presently believed to be in excess of \$4,000,000.00.

20 **FOURTH CAUSE OF ACTION**

21 **(Negligence)**

22 57. Plaintiff incorporates in this paragraph each and every allegation of
23 paragraphs 1 through 29 as if the allegations were set forth in full in this paragraph.

24 58. Hill owed a legal duty to disclose to Plaintiff before engaging in sexual
25 intercourse with her that he was infected with a contagious and incurable venereal disease
26 and to otherwise use ordinary care to prevent injury to her.

27 59. Hill breached that duty of care when he engaged in sexual intercourse,
28 including oral sex, with Plaintiff without informing and advising her that he was infected with

1 a contagious and incurable venereal disease. Hill further breached that duty when he
2 provided false information to Plaintiff's health care providers and misled them about his
3 venereal disease infections.

4 60. Hill's breach of duty proximately caused significant injury to Plaintiff, as she
5 was infected with genital herpes which led meningoencephalitis. Hill's breach further
6 delayed Plaintiff's diagnosis and treatment aggravating her injuries and causing great
7 bodily harm.

8 61. As a result of said injury, Plaintiff has been damaged in an amount to be
9 determined according to proof at the time of trial, but which is presently believed to be in
10 excess of \$4,000,000.00.

11 **FIFTH CAUSE OF ACTION**

12 **(Negligent Infliction of Emotional Distress)**

13 62. Plaintiff incorporates herein by reference each and every allegation of
14 paragraphs 1 through 29, 52 through 55, and 58 through 60 above as if the allegations
15 were set forth in full in this paragraph.

16 63. During the events alleged in this complaint, Plaintiff and Hill were engaged an
17 intimate sexual relationship. Based on their intimate relationship, Plaintiff placed her faith,
18 trust and confidence in Hill and Hill was aware that Plaintiff placed her trust and confidence
19 in him. As a result of their relationship of trust and confidence, Hill owed Plaintiff a legal
20 duty to use ordinary care to avoid causing any injury to her.

21 64. Hill breached that duty of care when he engaged in sexual intercourse,
22 including oral sex, with Plaintiff without informing and advising her that he was infected with
23 a contagious and incurable venereal disease. Hill further breached that duty when he
24 provided false information to Plaintiff's health care providers and misled them about his
25 venereal disease infections.

26 65. Hill knew or should have known that exposing Plaintiff to and infecting her
27 with an incurable and contagious venereal disease would cause serious emotional distress
28 to Plaintiff.

1 sexual relationship and Plaintiff reasonably relied on Hill's assurances that he was clean
2 and disease free. Plaintiff further relied on Hill's expressions of love and affection for her,
3 and that he would protect her from harm.

4 73. As a proximate and legal result of Hill's concealment as alleged, Plaintiff was
5 damaged physically and mentally by contracting genital herpes and herpes
6 meningoencephalitis from Hill. Plaintiff has suffered permanent and great bodily injury, in
7 addition to embarrassment, anxiety as a result of contracting an incurable sexually-
8 transmitted disease; personal invasion, humiliation, inconvenience and financial expense
9 associated with continued medical examinations, screening, testing, monitoring and
10 medication, and emotional stress as a result of now having an increased risk for various
11 other diseases, including cervical cancer and HIV.

12 74. As a direct and proximate result of Hill's acts, Plaintiff has damaged in an
13 amount to be determined according to proof at the time of trial, but which is presently
14 believed to be in excess of \$4,000,000.00.

15 75. Hill, by knowingly concealing the fact he was infected with an incurable and
16 contagious venereal disease before engaging in unprotected sexual intercourse with
17 Plaintiff, was willful, despicable, and in conscious disregard for Plaintiff's health and safety.
18 Such conduct constitutes oppression, fraud, and/or malice pursuant to *California Civil Code*
19 *Section 3294*, thereby entitling Plaintiff to punitive damages in an amount appropriate to
20 punish and/or make an example of Hill.

21 SEVENTH CAUSE OF ACTION

22 (Fraud by Intentional Misrepresentation against Hill)

23 76. Plaintiff incorporates herein by reference each and every allegation of
24 paragraphs 1 through 29 and 43 through 49 though each were set forth in full in this
25 paragraph.

26 77. On or about June 2, 2012, Plaintiff was concerned about her health because
27 during her first sexual encounter with Hill he did not use a condom or other form of
28 protection against the transmission of a venereal disease.

1 78. Plaintiff asked Hill directly and specifically if he was free of sexually
2 transmitted diseases. Hill had a legal duty to answer truthfully and honestly. Whether Hill
3 was infected with an incurable sexually transmitted disease was a material fact that was
4 important to Plaintiff and to her decision whether to continue to engage in an intimate
5 relationship with Hill. Hill responded falsely by telling Plaintiff that he was not infected with
6 any sexually-transmitted and that "he was clean" despite having actual knowledge at the
7 time that he was infected with genital herpes and oral herpes.

8 79. By continuing to engage in unprotected sexual intercourse with Plaintiff after
9 falsely telling her that he was disease-free, Hill breached his duty to disclose said facts to
10 Plaintiff. Plaintiff is informed and believes and on that basis alleges that Hill made the
11 knowing and intentionally false representation to mislead Plaintiff so that she would
12 continue to engage in sexual intercourse with him.

13 80. Plaintiff relied on Hill to respond to her question truthfully and honestly.
14 Plaintiff and Hill were at the very beginning of an intimate sexual relationship and Plaintiff
15 reasonably relied on Hill's assurances that he was clean. Had Plaintiff known that Hill was
16 infected with genital herpes and oral herpes she would not have continued to have sexual
17 intercourse with him.

18 81. In or about September 2012, Hill had actual knowledge or should have known
19 that he was suffering an active herpes outbreak of lesions in and around his mouth. Hill
20 knew or should have known, that he was highly contagious, and that he could readily
21 transmit the herpes virus to Plaintiff.

22 82. To conceal his infection, Hill misrepresented to Plaintiff that the outbreak was
23 "ingrown hairs." Plaintiff did not know his representation was false and she had no reason
24 to believe it was false. She relied on their relationship of trust and confidence and based on
25 that reliance Plaintiff allowed Hill to perform oral sex on her during what she later learned
26 was an active herpes outbreak. Hill knew or should have known that he could infect Plaintiff
27 with herpes by engaging in oral sex during an active outbreak of herpes.
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83. As alleged above, Hill further misrepresented his infected condition to Plaintiff and her treating physicians. When Plaintiff started exhibiting the symptoms of an initial outbreak of genital herpes, she asked Hill if he was infected with any venereal disease and he lied. After Plaintiff continued to exhibit symptoms of an initial outbreak of genital herpes and sought medical treatment for the as yet unknown condition, Plaintiff again asked Hill if he was infected with any sexually-transmitted diseases and he again lied.

84. After Plaintiff had to be hospitalized for treatment for the as yet unknown condition, she and her doctors asked Hill if he was infected with any sexually-transmitted diseases. Hill again lied about his condition. In reliance on Hill's knowingly false representations Plaintiff, among other things, refrained from pursuing treatment which would have mitigated the damage caused by her infection. Hill's knowingly false representations further interfered with and delayed the diagnosis of Plaintiff's condition further aggravating the damage and causing her to suffer herpes meningoencephalitis, among other things.

85. Plaintiff reasonably relied on Hill's misrepresentations and was ignorant of the true facts concealed by Hill's misrepresentations and did not know she could contract genital herpes or herpes meningoencephalitis from engaging in sexual intercourse with Hill.

86. As a proximate and legal result of the misrepresentations as alleged herein, Plaintiff was damaged physically and mentally as a consequence of being infected by Hill with genital herpes, which led to herpes-meningitis. Plaintiff has suffered in body and mind, and is entitled to compensatory damages in an amount to be proven at trial.

87. By knowingly misrepresenting material facts to Plaintiff regarding his infection with an incurable sexually-transmitted disease, Hill engaged in acts there were willful, despicable, outrageous, and in conscious disregard for Plaintiff's health and safety. Such conduct constitutes oppression, fraud, or malice pursuant to *California Civil Code* Section 3294, thereby entitling Plaintiff to punitive damages in an amount appropriate to punish and/or make an example of Levin.

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V. PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays judgment against Defendants as follows:

A. **ON THE FIRST, SECOND, SIXTH AND SEVENTH CAUSES OF ACTION**

1. For economic damages in an amount according to proof at trial;
2. For non-economic damages in an amount according to proof at trial;
3. For punitive damages as permitted by law;
4. For recoverable costs of suit as allowed by statute; and
5. For such other and further relief as this court may deem just and proper.

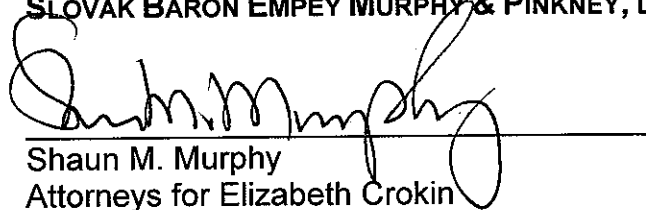
B. **ON THE THIRD, FOURTH AND FIFTH CAUSES OF ACTION**

1. For economic damages in an amount according to proof at trial;
2. For non-economic damages in an amount according to proof at trial;
3. For recoverable costs of suit as allowed by statute; and
4. For such other and further relief as this court may deem just and proper.

Respectfully Submitted,

SLOVAK BARON EMPEY MURPHY & PINKNEY, LLP

By:



Shaun M. Murphy
Attorneys for Elizabeth Crokin

DATE: February 4, 2014