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Attorney for Plaintiff  
CHARISSA TERADA

1ST CIRCUIT COURT  
STATE OF HAWAII  
FILED

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N. ANAYA  
CLERK

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

CHARISSA TERADA,

Plaintiff,

vs.

KAISER FOUNDATION HOSPITALS;  
NORMAN GIBSON; JOYCE GILBERT  
JOHN AND JANE DOES 1-10;  
DOE PARTNERSHIPS 1-10;  
DOE CORPORATIONS 1-10;  
and OTHER DOE ENTITIES 1-10,

Defendants.

CIVIL NO. 13-1-2611-09 KTN  
(Other Non-Motor Vehicle Tort)

COMPLAINT; VERIFICATION;  
DEMAND FOR JURY TRIAL;  
SUMMONS

COMPLAINT

NOW COMES the Plaintiff, CHARISSA TERADA, by and through undersigned counsel, SHAWN A. LUIZ, for a Complaint against the above-named Defendants, and alleges and avers as follows:

JURISDICTION AND VENUE

X COPY

1. This Court has jurisdiction of the claims asserted here pursuant to Hawaii Revised Statutes (hereinafter "HRS") § 603-21.5 and HRS 378-62, et al. [State whistleblower act]. The amount of damages or injuries in controversy exceeds, exclusive of attorneys fees, interest and costs, the sum of \$25,000.00.

2. Venue is proper in this Court pursuant to Hawaii Revised Statutes § 603-36(5) since a substantial part of the events or omissions giving rise to the claim occurred in the City and County of Honolulu, State of Hawaii.

3. Plaintiff CHARISSA TERADA is a resident of the City and County of Honolulu, State of Hawaii. Plaintiff is employed by Defendant KAISER FOUNDATION HOSPITALS as a Registered Nurse at the Waipio Clinic, Kapolei Clinic and the Moanalua Medical Center; on or about June 3, 2013, Plaintiff was to be transferred to the Kapolei Clinic. Defendant JOYCE GILBERT was stationed at the Kapolei-Dole Clinics at that time. Since then, part of Plaintiff's team has been moved to the Dole Center.

4. Defendant KAISER FOUNDATION HOSPITALS ("KAISER") is a Foreign Nonprofit Corporation whose purpose is to conduct a nonprofit, service-type hospital & medical care program. Kaiser Foundation Hospitals is incorporated under the laws of California.

5. Upon information and belief, Defendant JOYCE GILBERT ("GILBERT") is a resident of the City and County of Honolulu, State of Hawaii and is sued in her individual capacity and in her capacity as manager breast care department.

6. Upon information and belief, Defendant NORMAN GIBSON ("GIBSON") is a resident of the City and County of Honolulu, State of Hawaii and is sued in his individual capacity and in his capacity as Employee Assistance Program Counselor.

7. Defendants JOHN AND JANE DOES 1-10; DOE PARTNERSHIPS 1-10; DOE CORPORATIONS 1-10; and OTHER DOE ENTITIES 1-10, are individuals, partnerships, corporations and entities who are sued herein under fictitious names for the reason that their true names and/or responsibilities are presently unknown to Plaintiff except that Plaintiff is informed and believe that they are connected in some manner with known Defendants and/or are responsible for all or a portion of the conduct and damages alleged herein which occurred on or about the dates and times more particularly described in this Complaint, and who are or may be necessary parties in order for the Court to grant the appropriate relief in this matter. Plaintiff has initiated a review of the respective responsibilities relating to its Complaint, as described herein, as a diligent and good faith effort to ascertain the identity, actions and liability of said unidentified Defendants. Plaintiff will make the name or identity of the Defendants known within a reasonable time after Plaintiff identifies such Defendants and/or their responsibilities.

8. Plaintiff commenced work for Defendants on or about June of 1998.

9. Plaintiff met or exceeded job expectations for each of the annual performance evaluations (1998-2012).

10. Beginning in August of 2008, Plaintiff reported to management a re-incurring pattern of performing and billing for unnecessary medical services; Plaintiff also reported to management billing fraud she personally witnessed occurring at KAISER; Plaintiff reported these matters during weekly meetings. At that time, Plaintiff also reported to management her concerns about an employee who was behaving erratic.

11. On or about December 21, 2009, Plaintiff's boyfriend, Ethan, committed suicide. As a result, Plaintiff took leave until February of 2010. Upon her return to work on or about February 2, 2010, Plaintiff apprised GILBERT of the circumstances surrounding Ethan's death.

12. On or about February 5, 2010, GILBERT gave the very same the instrument [a crock pot liner bag] with which Ethan used to commit suicide as a gift to Plaintiff and six of Plaintiff's co-workers. GILBERT gave a crock pot liner bag to approximately six employees on Plaintiff's unit as a gift. On or about February 6, 2010, Plaintiff went on stress leave as a result of GILBERT'S actions.

13. Defendants were aware that Plaintiff had already been under the doctor's care since Ethan's suicide. Defendants were aware that Plaintiff was already a fragile Plaintiff and GILBERT and Plaintiff's Management were aware of this attendant circumstance when they commenced an intentional campaign of malicious actions against Plaintiff through the use of the crock pot liner bag. Defendants were aware (knew) or should have known that their actions were likely to cause Plaintiff severe emotional distress by giving the crock pot liner bags as gifts based on the foregoing circumstances. These actions were done with evil intent and ill will towards Plaintiff, an already fragile Plaintiff, and caused Plaintiff severe emotional distress.

14. On or about May of 2010, Plaintiff returned to work. Upon her return, Plaintiff discovered that the pattern of performing and billing for unnecessary medical services and billing fraud continued despite her prior reporting efforts.

15. On or about November of 2010, Plaintiff reported the pattern of performing and billing for unnecessary medical services and billing fraud to the Chief Physician, Joyce Nakamura. Plaintiff also reported the same to compliance officers Mert Gambino and Patty Lee.

16. On or about December of 2010, Plaintiff reported to the CEO and senior leadership that there was a campaign of harassment and retaliation by Joyce and Human Resources directed against Plaintiff as a result of Plaintiff reporting Medicare/Medicaid fraud in an attempt to get Plaintiff to resign.

17. Plaintiff did her best to suppress her trauma at the hands of GILBERT [Plaintiff underwent intensive psychiatric treatment as a result]. However, on or about May 2, 2013, Plaintiff began having severe and reoccurring nightmares after discovering the crock pot liner bag in packed belongings while getting ready for a move to another unit. The packed belongings had been stored by Plaintiff's co-workers when she went out on leave in February of 2010. Plaintiff was unaware that the crock pot liner bag was in her packed belongings from February of 2010 until May 2, 2013, when she began preparing for her relocation to the Kapolei Clinic.

18. On or about May 6, 2013, Plaintiff, due to her work schedule, was unable to see her treating psychiatrist until her scheduled day off. As a result she sought assistance through Defendants' Employee Assistance Program (EAP). Carolee Johnson directed her to Gibson whom she contacted. At the outset, Gibson assured Plaintiff that the content of their talk would remain confidential. Plaintiff really needed to discuss her dreams with someone until she could meet with her treating psychiatrist on her next scheduled day off. Based upon Gibson's assurances of confidentiality, Plaintiff disclosed to Gibson the troubling dream she had just nights before regarding Joyce and the crock pot liner bag. Plaintiff told Gibson that she wanted to go public with what Joyce did to her. Gibson in response counseled Plaintiff that she should find another job instead of going public because she was a nurse and would have no problem finding other work in the profession. Rather than just listening and comforting Plaintiff, Mr. Gibson began to twist Plaintiff's dream into a

real time event. This EAP session further traumatized Plaintiff. Mr. Gibson, was clearly unqualified to assist Plaintiff with this matter as clearly established later through his interaction with Plaintiff's treating psychiatrist. Despite this, Mr. Gibson continued to antagonize Plaintiff by discussing his own past employment experiences where he felt he was a victim and the Xerox case. At one point Mr. Gibson, despite claiming later that Plaintiff was an imminent threat to the health and safety of others, said he had to go to a prior scheduled meeting, hung up and called back later and talked with Plaintiff for an additional 40 minutes, only to tell Plaintiff that he had to report her discussion with him to both Joyce and Carolee at the very end of the second conversation.

19. Plaintiff was mortified as she was only explaining her dreams to Gibson. Plaintiff volunteered for Gibson to contact her treating psychiatrist in order for him to see that she is not a direct threat to the safety of herself or others.

20. By the end of the second conversation with Gibson, Plaintiff was further traumatized by Gibson. Plaintiff reasonably expected, based upon Gibson's assurances to complete confidentiality, that her conversation with him would remain confidential. Gibson used Plaintiff as a guinea pig on which to experiment.

21. Gibson was aware that Plaintiff was at work when she spoke with him both times and never called security or the police to remove her despite claiming later that she was an imminent threat. Gibson let Plaintiff finish her shift and even called Plaintiff back on the work line for the second EAP call.

22. The next day, GILBERT passed out Ghirardelli chocolates in order to celebrate Plaintiff's anticipated removal from the workplace based upon Gibson's report concerning Plaintiff to her.

23. As a result of Gibson practicing psychiatry without a license, Plaintiff was set back further in her treatment with her treating psychiatrist. Gibson even contacted Plaintiff's treating psychiatrist and inquired whether she was going to hospitalize Plaintiff.

24. Plaintiff's treating psychiatrist assured Gibson that Plaintiff was not an imminent threat to anyone as she was in a better position to know as she had been Plaintiff's treating psychiatrist since 2001. Gibson, not satisfied with the expert opinion of Plaintiff's treating psychiatrist, further escalated the situation by contacting GILBERT and management and disclosing the confidential EAP session with Plaintiff. Kaiser ratified Mr. Gibson's actions by contacting Kaiser Security and the police.

25. On or about May of 2013, Defendants fabricated serious workplace violence allegations against Plaintiff. At no time was Plaintiff a direct threat to the health and safety of herself or others.

26. On or about May of 2013, Defendants did a pre-textual investigation in order to gather and establish wrongdoing on the part of Plaintiff in order to terminate her employment. Defendants attempted to terminate Plaintiff's employment in May of 2013, despite Plaintiff having called out sick first as a result of Defendants' misconduct.

27. Defendants engaged in a pattern and practice of retaliatory action against Plaintiff, some of which but not all of which, is within the applicable statute of limitations. Conduct pled in this complaint outside the statute of limitations is pled in order to show the totality of the pattern and practice evidence upon which Plaintiff intends to rely at trial.

28. Defendants previously turned a blind eye to unsafe workplace practices and fraudulent billing practices that put employees and patients at risk; Defendants singled Plaintiff out and made

an example of her for reporting unsafe workplace practices and fraudulent billing practices after first falsely accusing her of being an imminent threat to the health and safety of others.

29. Defendant retaliated against Plaintiff in violation of HRS 378-62, et al. [State whistleblower act] for reporting unsafe workplace practices and fraudulent billing practices - to where she suffers from nightmares; loss of appetite; chest pains; loss of sleep; loss of self worth; increase in blood pressure; and depression. Because of Defendants' attempted wrongful termination, Plaintiff has had to remain on TDI, thereby causing further emotional pain and suffering and lack of stable employment as she cannot engage in her profession until her injuries at the hands of defendants are resolved.

30. Defendant created a hostile workplace environment based upon false and defamatory accusations of workplace violence rather than addressing unsafe workplace practices and fraudulent billing practices that put employees and patients at risk.

31. Upon information and belief, Defendants retaliated and are attempting to build a case in order to discharge Plaintiff from employment based upon reporting unsafe workplace and fraudulent billing practices that put employees and patients at risk. Defendants attempted to suspend Plaintiff on or about May of 2013. The Union blocked that action. All of the foregoing actions of Defendants were within the course and scope of employment. Alternatively, Gilbert and Gibson are individually liable for any acts deemed outside the course and scope of employment.

#### PRAYER FOR RELIEF

WHEREFORE, the Plaintiff respectfully requests the Court enter judgment for the Plaintiff and against the Defendants and order the following relief:

A. Award to Plaintiff Declaratory and Injunctive Relief;



B. Award to Plaintiff special damages, including lost wages as may be proven at trial, general damages as may be proven at trial, compensatory damages for pain and suffering and Post Traumatic Stress Disorder as may be proven at trial, joint and severally against all named Defendants;

C. Award payment of Plaintiff's litigation costs, including reasonable expert and attorney's fees and pre-judgment interest;

D. Punitive damages as the actions of Defendants as described above are oppressive, outrageous, and otherwise characterized by aggravating circumstances sufficient to justify the imposition of punitive or exemplary damages; and

E. Such other and further relief as the Court may deem just and proper.

DATED: Honolulu, Hawaii, September 25, 2013.



SHAWN A. LUIZ

Attorney for Plaintiff