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CIRCUIT COURT  
FOR MULTNOMAH COUNTY

IN THE CIRCUIT COURT OF THE STATE OF OREGON

FOR THE COUNTY OF MULTNOMAH

RADHIKA BREADEN, MD, MPH,

Plaintiff,

v.

KAISER FOUNDATION HEALTH PLAN  
OF THE NORTHWEST, a corporation;  
KAISER FOUNDATION HEALTH PLAN,  
INC., a corporation;  
NORTHWEST PERMANENTE, P.C.,  
a professional corporation,  
KAISER FOUNDATION HOSPITALS,  
a corporation;  
and, Does 1 – 15, inclusive,

Defendants.

No.

14CV12719

COMPLAINT

( whistle blower retaliation )

( gender discrimination )

( wrongful discharge )

*not subject to court-annexed arbitration*

Amount claimed – \$9,000,000

ORS 21.160(1)(d) filing fee \$793

For her Complaint, on information and belief, plaintiff Radhika Breaden, MD, MPH,  
alleges as follows:

1.

Plaintiff Radhika Breaden, MD, MPH (“Plaintiff” or “Dr. Breaden”) is an extraordinarily  
well qualified and highly skilled physician who began working as a physician at Kaiser (defined  
below) in 2000. Although she is board certified in Internal Medicine, Clinical Informatics, and  
Sleep Medicine, in 2007 Plaintiff began focusing on Sleep Medicine. She was held in high

1 esteem by her colleagues, support staff, and the patients. She was a strong advocate for  
2 improving patient care and doing everything medically possible to help Kaiser's patients  
3 achieve the best outcomes that medicine could deliver. She had one of the largest patient loads  
4 in her department.

5 2.

6 In the Fall of 2011, Kaiser brought in Jeffrey Weisz ("Dr. Weisz") from his position as  
7 head of its Southern California Permanente Medical Group ("SCPMG") to take over Kaiser's  
8 Northwest Permanente entity as its President and Executive Medical Director. During Dr.  
9 Weisz's tenure at SCPMG, he established a reputation as a ruthless administrator who found  
10 ways to minimize payrolls by shrinking staff while patient loads skyrocketed, often leaving the  
11 remaining staff members trying to cope with impossible patient care demands, which  
12 ultimately harmed Kaiser's patients.

13 3.

14 Prior to Dr. Weisz's arrival at Kaiser, open dialogue among the physicians was part of  
15 the working culture and patient care was prioritized above all else. However, when Dr. Weisz  
16 arrived that changed. Dr. Weisz prioritized saving costs and increasing Kaiser's profits above  
17 patient care. He enacted policies that decreased patient care and jeopardized the lives of many  
18 Kaiser patients.

19 4.

20 Prior to Dr. Weisz taking over as Kaiser's Executive Medical Director, Kaiser physicians,  
21 including Plaintiff, were able to refer their patients to outside medical providers if it was  
22 necessary for patient care. However, in order to maximize profits, Dr. Weisz instituted a new

1 policy to dramatically decrease any such outside referrals and demanded that all patient care  
2 be “internalized” and treated at Kaiser, disregarding the needs of the patients. Dr. Weisz  
3 created a zero-tolerance policy for referring patients to external health care providers, even  
4 if it was required by the Kaiser patient’s treating physician and without ensuring proper and  
5 adequate resources were available within Kaiser.

6 5.

7 For example, some elderly patients being treated by Plaintiff at Kaiser’s Sleep Medicine  
8 department specifically expressed that they were unable to drive long distances and wished  
9 to have sleep care closer to their homes. Plaintiff expressed concern that Kaiser did not have  
10 adequate facilities, the facilities were short-staffed, and that many of the patients requiring  
11 sleep medicine evaluation and treatment were in danger of getting in sleep-related motor  
12 vehicle accidents. Plaintiff was told that there would be no circumstances by which these  
13 patients’ wishes would be honored.

14 6.

15 Ultimately, Plaintiff was retaliated against, humiliated, and ostracized for expressing  
16 her concerns and interfering with Kaiser’s attempts to make as much money as possible at the  
17 expense of patient care. Plaintiff also reasonably believed that Kaiser’s new policy put her in  
18 danger of violating certain laws. Plaintiff was forced to provide patient care she knew was well  
19 below the acceptable standard of care, which dramatically changed her working conditions.  
20 As a result, Plaintiff was forced to either continue providing significantly substandard patient  
21 care or resign. Plaintiff’s employment was constructively terminated.

1 7.

2 Plaintiff worked for Kaiser from 2000 until she was serially retaliated against, harassed,  
3 constructively terminated. She was forced to resign by Dr. Weisz and his surrogates because  
4 she refused to remain silent when Dr. Weisz and the corporate defendants repeatedly  
5 threatened the quality of patient care and safety, and, in material part, because Plaintiff is a  
6 woman.

7 - PARTIES -

8 8.

9 Plaintiff is informed and believes that defendant Kaiser Foundation Health Plan, Inc.  
10 ("KFHP") is a corporation organized and existing under the laws of the state of California with  
11 its principal place of business in Oakland, California. KFHP is in form a "non-profit  
12 corporation" for tax purposes only. KFHP has a physical presence in Multnomah County.  
13 KFHP conducts business in and avails itself to the laws of the State of Oregon both directly and  
14 through the various surrogates it owns or controls, which include the other defendants.

15 9.

16 Plaintiff is informed and believes that defendant Kaiser Foundation Hospitals ("KFH")  
17 is a corporation created, wholly owned, and controlled by, KFHP as a vehicle to hold title to and  
18 own most if not all hospitals and other facilities where the doctors of the other corporate  
19 defendants practice medicine and where the Kaiser Permanente member patients go for  
20 treatment or consultation.

21 10.

22 Plaintiff is informed and believes that defendant Northwest Permanente, P.C. ("NWP")

1 is an Oregon professional corporation created by and on behalf of defendant KFHP to employ  
2 the physicians used by KFHP to provide medical services to its member patients in the state  
3 of Oregon. NWP has no existence apart from KFHP. The physician employees of this entity  
4 may only perform services on Kaiser member patients (except in medical emergency  
5 situations) and derive virtually all their income directly and indirectly from KFHP. KFHP  
6 approves its budget and controls much of the manner in which its physicians can provide  
7 services to their patients.

8 11.

9 Plaintiff is informed and believes that defendant Kaiser Foundation Health Plan of the  
10 Northwest ("KFHPNW") is and was a non-profit corporation organized and existing under the  
11 laws of Oregon. KFHPNW has a physical presence in Multnomah County. KFHPNW conducts  
12 business in and avails itself to the laws of the State of Oregon. KFHPNW is in fact merely the  
13 alter ego and surrogate for defendant KFHP described below, wholly owned and controlled by  
14 that entity.

15 12.

16 Plaintiff is informed and believes and thereon alleges that KFHP oversees and controls  
17 the operations of all Kaiser Permanente entities located across the United State of America  
18 including all the entity defendants in this case.

19 13.

20 KFHP, KFHPNW, KFH and NWP are referred to herein collectively as "Kaiser."

21 14.

22 Plaintiff is informed and believes that Kaiser Permanente (all the Kaiser entities and

1 surrogates) is an “integrated health care delivery system” comprised of the insurance  
2 company; KFHP; and, KFHPNW, which has no actual separate existence or identity apart from  
3 KFHP and only exists as a convenience for KFHP in the states of Oregon and Washington as an  
4 artifice to mislead state and local regulators and the public at large. Each and every insurance  
5 policy which is sold in the states of Oregon and Washington is in fact authored and approved  
6 by KFHP. KFHP imposes its code of conduct on all Oregon employees, including all those  
7 employed under the entity known as Northwest Permanente P.C. No insurance policy is sold  
8 in the State of Oregon which was not approved in advance and created in conformity with the  
9 desires and mandates imposed by KFHP.

10 15.

11 Throughout the United States, KFHP has created various geographic regions under  
12 which it operates in virtually identical fashion. In each region, it creates and operates its  
13 surrogate insurance company, here KFHPNW, which markets KFHP’s insurance policies and  
14 enrolls members who look to Kaiser Permanente for their medical care. All of the monies paid  
15 by members of the defendants in Oregon are remitted directly and indirectly to KFHP.

16 16.

17 In order to service its member patients, Kaiser creates an entity to employ its doctors  
18 in each such region. In Oregon it is NWP. The money used to operate NWP comes directly from  
19 KFHP via KFHPNW. KFHPNW and NWP are wholly owned and controlled by KFHP. The board  
20 of directors of KFHP is identical to the board of directors of KFHP. The budgets for KFHPNW  
21 and NWP are in fact controlled and approved by KFHP. The KFHP legal department routinely  
22 oversees and controls the legal activities of KFHPNW and NWP. Kaiser employees are

1 routinely permitted to transfer to or from any other Kaiser entity without loss of pay or  
2 seniority. Dr. Weisz was for many years an employee of KFHP and SCPMG in Southern  
3 California. He was identified as a partner of the Southern California Permanente Medical  
4 Group, and in fact was its head until his mandatory retirement. He was then hired by NWP in  
5 his present capacity.

6 17.

7 Plaintiff is informed and believes that the Kaiser Defendants jointly employed the  
8 Plaintiff.

9 18.

10 Plaintiff is informed and believes that KFHP is an insurance company which purports  
11 to provide comprehensive total medical care to its members. KFHP describes itself as the  
12 largest Health Maintenance Organization ("HMO") in the country.

13 19.

14 KFHP exercises total control over the other Kaiser Defendants such that their very  
15 existence as a purported separate entity is a subterfuge designed to present the image that  
16 KFHP is a legitimate non-profit corporation. Plaintiff is informed and believes and thereon  
17 alleges that KFHP is in fact a for-profit enterprise regularly reporting its profitability publicly.

18 20.

19 KFHP's controls the other corporate defendants, in part, by -

20 (a) Each entity's budget is set by, controlled and approved by KFHP;

21 (b) Each entity funds its operations with monies received directly or indirectly from  
22 KFHP;

- 1 (c) Each entity's operating margins is controlled by KFHP;
- 2 (d) KFHP provides virtually all legal, human resources, insurance, communications,  
3 advertising, billing, and other necessary services for the other entities;
- 4 (e) KFHP lawyers exclusively render legal advice and counsel to the other corporate  
5 defendants, and oversee and control the work of the local attorneys employed by such entities  
6 to assist with local compliance, and have unfettered access to their records;
- 7 (f) KFHP's Human Resources department routinely investigates any EEOC/DFEH  
8 complaints regarding Kaiser Permanente employees and reports to KFHP's legal department  
9 on all such investigations;
- 10 (g) KFHP lawyers and human resources staff do not obtain privacy waivers when  
11 seeking records of KFHPNW or NWP employees or investigating their claims; and
- 12 (h) KFHP provides and pays for all facilities in which NWP and KFHPNW conduct  
13 business.

14 21.

15 Plaintiff is informed and believes that each of the Defendants was at all times relevant  
16 the agent, representative, subsidiary or alter ego of the other Defendants acting, in part, within  
17 the course and scope of such relationship in doing the acts alleged herein.

18 22.

19 At all relevant times, Plaintiff was an employee covered by ORS 659A.001(3).

20 23.

21 At all relevant times, Defendants were employers within the meaning of ORS  
22 659A.001(4)(9).



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25.

Plaintiff joined Kaiser in 2000 as a physician practicing Internal Medicine. She participated in several committees and workgroups to improve the organization, she was a co-chair on the Kaiser Prevention Steering Committee, and she was as an active participant in other Board committees throughout her employment by Kaiser.

In 2007, Plaintiff chose to pursue further study in Sleep Medicine, as this had been an ongoing interest which she had discussed several times with leadership in the organization, as there was a chronic shortage of sleep medicine physicians and sleep medicine care within the Kaiser region. She completed her practical training in Sleep Medicine at Kaiser and

1 intended to continue her career serving Kaiser patients in the capacity of a Sleep Medicine  
2 physician.

3 27.

4 Plaintiff subsequently joined the Kaiser Pulmonology department as a sleep physician  
5 and practiced in that department under Jonathan Rettmann, Chief of Pulmonology, from 2009-  
6 2012. She was consistently praised by patients and was praised by Dr. Rettmann and  
7 frequently perform extra clinics, read additional sleep studies, and did what was necessary to  
8 improve or expedite the care of Kaiser patients.

9 28.

10 Plaintiff treated sleep medicine patients at the Kaiser Interstate Clinic in Portland  
11 Oregon; the Mother Joseph Plaza campus of Kaiser Permanente in Portland, Oregon; and, the  
12 Kaiser North Lancaster Clinic in Salem, Oregon. In addition to evaluating patients in clinic, she  
13 interpreted polysomnograms and home sleep studies that were performed at the Kaiser  
14 Sunnyside Medical Center. She also worked in the Department of Medical Informatics to  
15 improve functionalities in the Electronic Medical Record (EMR), working under Dr. Homer  
16 Chin and Dr. Michael McNamara. She regularly worked to improve the system for the benefit  
17 of the physicians and patients.

18 29.

19 Before Dr. Weisz's arrival, Kaiser had a culture of open dialogue and putting patient  
20 care first. The primary goal of all discussions was preservation and improvement of the quality  
21 of patient care.

1 30.

2 After Dr. Weisz came in the Fall of 2011, he changed the culture of Kaiser to one of  
3 retaliation, fear, and cutting costs, even at the expense of patient care. He created a Sleep  
4 Medicine department and appointed Dr. Praseeda Sridharan as Chief. Dr. Sridharan was  
5 charged with complete internalization of all sleep studies from outlying areas, so that all  
6 patients ranging from Salem, Oregon, to Longview, Washington, would have to drive to the  
7 Kaiser Sleep Laboratory at Clackamas, Oregon, for in-laboratory polysomnography. Dr.  
8 Sridharan was also charged to reduce utilization by mandating home sleep studies for most  
9 patients, even if the patients had already been evaluated and in-lab polysomnograms were  
10 required by their treating sleep medicine physicians. External providers of sleep medicine and  
11 other specialties in the Salem, Oregon, and Longview and Vancouver, Washington, areas who  
12 had been highly respected and regarded for their care of Kaiser patients prior to that time  
13 were demonized by Dr. Weisz and his administration, and their use discontinued. This was  
14 done to reduce costs to increase Kaiser's profits but was to the detriment of Kaiser's patients  
15 who required these external providers, especially whenever Kaiser did not have adequate  
16 resources.

17 31.

18 At that time, the Kaiser Sleep Medicine department was already short-staffed for the  
19 volume of care needed for Kaiser's sleep medicine patients. In addition, the Kaiser sleep  
20 laboratory was not accredited by the American Academy of Sleep Medicine (AASM), in part due  
21 to the lack of time available for board certified Sleep Medicine physicians to carefully review  
22 the polysomnographic data of all patients referred for polysomnography. As a result, patients

1 were regularly seen and evaluated by physicians not board certified in Sleep Medicine. Despite  
2 long waits and the lack of adequate staff, the internalization of Sleep Medicine for Kaiser  
3 patients from Salem to Longview became the policy.

4 32.

5 When Dr. Weisz became the Executive Medical Director on January 1, 2012, he created  
6 a zero-tolerance policy for referring patients to external health care providers, even if it was  
7 required by the Kaiser physician treating the patient. On January 28, 2012, Plaintiff was  
8 contacted by a colleague, Dr. Alistair J. Scriven regarding a denial he received on a request for  
9 an external provider for a Kaiser patient's sleep medicine care in the Salem, Oregon area.  
10 Plaintiff responded to this email and expressed her concern that these referrals were being  
11 internalized without ensuring that proper and adequate resources were available internally  
12 within Kaiser. At that time, other patient care cases were being discussed around Kaiser,  
13 including the denial of care for a child requiring specialized neurosurgery and the delay of care  
14 of a patient requiring a specialized lung resection due to the desire to expeditiously internalize  
15 these services within Kaiser.

16 33.

17 Dr. Sridharan received a copy of the email communication in which Plaintiff encouraged  
18 Dr. Scriven to appeal this decision and in which Plaintiff expressed her concern over the  
19 change in care at Kaiser. To quote Dr. Praseeda Sridharan's email on 1/28/2012:

20 "Please be very careful while blaming Dr. Weisz ....in his decisions. We as an  
21 organization have been irresponsible in loosing [sic] \$570million [sic] dollars  
22 at outside cost and providing poor care at outside facility and bleeding large  
23 amount of \$\$ to physicians who are trying to milk out of Kaiser..... We also are  
24 great at reimbursement and hence made several folks like Dr. Gaber [sic]  
25 millionaires."

1 Dr. Sridharan subsequently forwarded this email to Dr. Jeffrey Weisz.

2 34.

3 Following this email, Plaintiff was specifically and systematically targeted by Dr.  
4 Sridharan. Issues became so severe that Plaintiff requested mediation services within Kaiser  
5 through Dr. Rettmann in order to see if the working relationship could be improved. Messages  
6 were sent to Tim Borne, MA, Senior Performance Consultant, to start the mediation process.  
7 Mediation occurred on May 7, 2012.

8 35.

9 Kaiser continued its policy of internalizing patient care in sleep medicine despite the  
10 increased wait times and the lack of adequate resources. Plaintiff continued to express  
11 concern over this issue. Many of the patients requiring sleep medicine evaluations and  
12 polysomnograms had sleepiness issues, which put them in danger of sleep-related incidents,  
13 including motor vehicle accidents. Many patients stated that they would not be able to drive  
14 to the Clackamas area due to sleepiness while driving. At least one sleep medicine patient fell  
15 asleep while driving home to Salem from Kaiser Sunnyside, resulting in a major motor vehicle  
16 accident and severe injuries.

17 36.

18 Plaintiff reviewed the Medicare rules on care provision with Regina Tipton, CHC,  
19 Regional Billing Compliance Manager for Integrity, Compliance and Ethics. Ms. Tipton  
20 indicated that based on Medicare rulings and national Kaiser Permanent policy, patients  
21 should be offered care within a 30-minute/30-mile radius of their homes. Per the email from  
22 Regina Tipton dated 1/23/2012: "When applying to provide insurance coverage in a

1 geographical area, one requirement is that we are able to provide medical services within that  
2 area. The 30 mile/30 minute rule is valid for most services. We are also not allowed to  
3 provide free transportation to and from our facilities.”

4 37.

5 The issues of patient safety and legal/regulatory compliance in the care of sleep  
6 medicine patients were brought to Dr. Sridharan’s attention. However, she was not amenable  
7 to such concerns and remained focused on internalizing patient care at Kaiser and to cut costs.  
8 Plaintiff then addressed her concerns about patient safety and regulatory issues to the  
9 attention of Dr. Diana Antoniskis, Kaiser’s Director of Operations for Medical Specialties.

10 38.

11 Plaintiff was scheduled for a specialized corneal transplant known as a DALK surgery,  
12 which had been approved by Kaiser Permanente Health Plan in December 2011. During  
13 multiple consultations with her Kaiser ophthalmologist, Dr. Peter Marsh, he recommended that  
14 Plaintiff have this surgery performed by Dr. Mark Terry, a local ophthalmologist who  
15 specialized in this type of corneal transplant as there was no physician who had regularly  
16 performed this type of surgery within Kaiser and a standard corneal transplant was not  
17 recommended. This surgery had been scheduled for April 10, 2012. Two weeks of recovery  
18 time was required.

19 39.

20 In February, 2012, approximately one week after the email to Dr. Sridharan was  
21 forwarded to Dr. Weisz, Plaintiff received a denial of the corneal transplant procedure, despite  
22 the fact that it had been approved prior to the arrival of Dr. Weisz and would routinely have

1 been approved prior to his arrival at NWP. She was stunned at this retroactive denial of the  
2 surgery, as it had been approved in December, 2011. She started a laborious appeal process  
3 including visits with another ophthalmologist within Kaiser Permanente. Her appeal was  
4 ultimately successful and she underwent her corneal transplant on April 10, 2012.

5 40.

6 Over the months of February to May, 2012, patient care tasks such as patient triaging  
7 and care recommendations that are performed by sleep medicine physicians were directed to  
8 sleep technologists in a Case Management program directed by a protocol written by Dr.  
9 Sridharan. Plaintiff, as well as other sleep clinicians, raised their concerns over the quality of  
10 patient care and errors that such a program could cause. These concerns did not delay the  
11 implementation of the Case Management program, which Dr. Sridharan implemented. In part,  
12 patients who could not transport themselves to Clackamas for care were offered free cab  
13 service. The patients were not given the choice to obtain care locally in accord with Medicare  
14 regulations.

15 41.

16 On May 16, 2012, Plaintiff was informed that in-laboratory polysomnograms ordered  
17 for two patients were denied. These patients both specifically expressed that they were unable  
18 to drive to the local Portland area for care and wished to have sleep care closer to their homes  
19 in Salem and Vancouver, respectively. One of these patients was a 79-year old resident of the  
20 Salem area. Plaintiff was contacted by Dr. Sridharan and told that she was required to cancel  
21 the external referrals, to order the referrals internally, and to have the patients take a cab from  
22 their homes to Kaiser Sunnyside. Per Dr. Sridharan's communication, there would be no

1 circumstances in which a patient outside of the Portland area would receive local in-laboratory  
2 polysomnography, regardless of the circumstances. Such a rule that disregards the patient's  
3 needs shocked Plaintiff and significantly changed her work conditions as she was no longer  
4 able to provide her patients with the best quality of care, only the quality of care that Kaiser  
5 could afford if it were to maximize its profits. Dr. Sridharan herself stated that she would not  
6 cancel the external referrals because it was the policy that the physician who "had the  
7 relationship with the patient" should call the patient to tell them that the external referral  
8 request was denied.

9 42.

10 Plaintiff reviewed this issue again with Regina Tipton and was again told that based on  
11 current Medicare and Kaiser Health Plan policies, the "30 minute/30 mile" rule needed to be  
12 followed. Ms. Tipton further indicated that Medicare had, in the past, considered violation of  
13 the rule as constituting Medicare fraud and indicated that Plaintiff could be personally liable  
14 if she violated Medicare rules. After this discussion with the Medicare Compliance Officer,  
15 Plaintiff indicated that she did not feel comfortable ordering this care within Kaiser.

16 43.

17 Richard O'Dell, Chief of Staff and Director of Communications, shouted at Plaintiff,  
18 telling her that she was required to refer these patients internally. She was repeatedly  
19 humiliated and criticized for indicating that she was concerned about both patient safety and  
20 Medicare compliance. She was severely intimidated and was very fearful for her continued  
21 career within Kaiser. Plaintiff documented this event as she was concerned about compliance  
22 issues for Northwest Permanente and Kaiser as a whole and she forwarded this information



1 to two members of the NWP Board of Directors, who indicated that they would refer the  
2 Medicare issue to Dr. Steve Renwick, Chairman of the Board of Directors, and Molly Hermann,  
3 Chief Legal Counsel of NWP. No follow up was discussed and no information or decision from  
4 Kaiser Permanente on the legality of the capping policy was provided.

5 44.

6 Following this Medicare issue, Plaintiff was subjected to continued retaliatory actions  
7 by Dr. Sridharan, including threatened cancellations of vacation time that had been approved  
8 over 6 months prior to that time; cancellation of Kaiser teaching time despite commitments  
9 and extra clinics performed to ensure that timely patient care was not affected by this; and,  
10 was ostracized from monthly staff meetings, in which any comments made by Plaintiff were  
11 ignored or belittled.

12 45.

13 Plaintiff was told that her limited vacation time, requested to be taken in August, 2012,  
14 could be retroactively denied by Dr. Sridharan as a new policy had been instituted that  
15 vacations might be cancelled if the patients in a particular department were not seen within  
16 9 days of referral. This policy was to be enforced in sleep medicine despite the fact that the  
17 staffing levels were still significantly inadequate to the patient demand and that the support  
18 staff was unable to keep up with the scheduling demand.

19 46.

20 Plaintiff contacted Dr. Rasjad Lints, Human Resources Director for Northwest  
21 Permanente, about this policy. In what she believed was a confidential meeting, she also  
22 expressed to him her serious concerns about the retaliation she was receiving regarding the

1 concerns that she had raised regarding Medicare issues. Plaintiff was later called by Dr.  
2 Sridharan who said, "You complained against me to Rasjad Lints . . . "

3 47.

4 In June, 2012, continued issues with sleep medicine access were occurring. The  
5 following was received from the Pulmonology/Sleep nurses to the Sleep Medicine physician  
6 group and leadership: "Nursing has been receiving an increase in member concerns regarding  
7 the wait time for their sleep lab appointment, and we have shared this feedback with Lisa. We  
8 of course do everything we can when we are talking with the patient to both apologize for the  
9 delay and assure them that we will be appointed. If someone is highly upset or anxious or  
10 sleepy, or worried about losing their job due to sleepiness, etc., then we also often call Julie and  
11 make sure that this person is on the list for short notice if there is a cancellation."

12 48.

13 Plaintiff and other sleep medicine clinicians continued to have concerns over Dr.  
14 Sridharan's leadership. They contacted the Board of Directors and the Human Resources  
15 department as Dr. Sridharan had been appointed as the Chief of Sleep Medicine without the  
16 previous standard of Department Chief selection that had been in place at Kaiser for many  
17 years.

18 49.

19 After Plaintiff and other Kaiser providers in Sleep Medicine questioned the  
20 appointment as Chief, Dr. Sridharan was considered "in charge of the Sleep Division" of the  
21 Pulmonology department. She was styled as a "Director" as well as "Division leader" and other  
22 similar titles and referred to herself as the Chief of the Sleep Department despite the lack of

1 appropriate selection process. She attended and was introduced as the "Chief of Sleep  
2 Medicine" by Dr. Weisz at the Department Chief meetings.

3 50.

4 Plaintiff attempted to ensure that the appropriate NWP Policies and Process on Chief  
5 selection were followed and contacted several members of the NWP Board of Directors.  
6 Following the NWP Board meeting on June 21, 2012, Plaintiff was informed that there would  
7 be no vote allowed for the appointment of Dr. Sridharan. Dr. Weisz stated on multiple  
8 occasions that he was extremely pleased with Dr. Sridharan's performance in reducing in-  
9 laboratory polysomnograms and transitioning these studies to home sleep studies instead, as  
10 well as implementing non-clinician triage programs similar to the programs in Kaiser  
11 Permanente Southern California, as both of these were resulting in savings of costs for Kaiser  
12 Permanente.

13 51.

14 In August, 2012, Plaintiff was excluded from multiple activities of physicians in the  
15 Sleep Medicine department. As one example, she was excluded from the individual  
16 interviewing of a new candidate for Sleep Medicine department. She was told this information  
17 by another member of the Sleep Department and belatedly asked to attend a group interview.  
18 Plaintiff received a call at her home by Dr. Sridharan who shouted at her and indicated that she  
19 had not invited Plaintiff to interview the candidate because she did not want him to meet  
20 "doctors like you". Plaintiff immediately contacted Dr. Antoniskis and was told, "Well, it will  
21 always be a 'she-said/she-said' situation."

1 52.

2 Plaintiff also received increased retaliation after she submitted information to the NWP  
3 Quality Assurance department regarding specific patient quality issues. After several  
4 submissions, Plaintiff began receiving QA "complaints" about her own care that were clearly  
5 meant to portray Plaintiff negatively. In one of these "QA" complaints against Plaintiff, it  
6 suggested that she should delay the care of a particular patient with urgent needs in order to  
7 await data that could be obtained more inexpensively but with longer delays.

8 53.

9 On August 10, 2012, Plaintiff met with Dr. Steve Renwick, Chairman of the NWP Board  
10 of Directors, about her significant concerns about hostile work environment, retaliation, lack  
11 of evidence-based care, increased patient quality concerns, delays of care and regulatory  
12 compliance issues.

13 54.

14 In August, 2012, Plaintiff was working on sleep study interpretation at the Clackamas  
15 Sleep Lab. Dr. Sridharan came into the office and spoke to the sleep technologist, Hollie  
16 Weikel, and ignored the presence of Plaintiff completely. Ms. Weikel told Plaintiff this was an  
17 extremely odd way for a Director to behave toward a colleague and fellow physician.

18 55.

19 After repeated humiliations, being forced to provide substandard patient care, and  
20 possibly put herself in a position where she reasonably believed she would be violating the  
21 law, Plaintiff was in a position that was unreasonable and which no reasonable person in her  
22 position would have found tolerable. Accordingly, Plaintiff was constructively terminated.



1 amount of \$4,000,000.

2 61.

3 As a direct and proximate result of Defendants' actions, Plaintiff has suffered emotional  
4 distress, mental anguish, injury to her personal and professional reputation, and loss of self-  
5 esteem and dignity, to her damage in the amount of \$5,000,000.

6 - SECOND CLAIM FOR RELIEF -

7 ( Whistle blower retaliation in violation of ORS 441.057 )

8 ( Plaintiff against all Defendants )

9 62.

10 Plaintiff realleges and incorporates by this reference ¶¶ 1 through 61.

11 63.

12 Defendants' health care facility in Portland, Oregon where Plaintiff worked is a health  
13 care facility for purposes of ORS 441.

14 64.

15 Plaintiff reported inappropriate treatment of patients as described herein. Plaintiff's  
16 reports were thus protected by ORS 441.057.

17 65.

18 As a result of Plaintiff's reports of inappropriate treatment of patients, Defendants took  
19 adverse employment actions against Plaintiff, including shouting at Plaintiff and humiliating  
20 her in front of her peers, and forcing Plaintiff to choose between providing quality health care  
21 or not providing basic treatment for her clients, thus constructively discharging her.

1 - THIRD CLAIM FOR RELIEF -

2 ( Whistle blower retaliation in violation of ORS 659A.199 )

3 ( Plaintiff against all Defendants )

4 66.

5 Plaintiff realleges and incorporates by this reference ¶¶ 1 through 65.

6 67.

7 Plaintiff reported conduct she believed to be a violation of a rule, law, or statute. The  
8 conduct reported by Plaintiff included gender discrimination, unsafe patient care that fell  
9 below the standard of care, and failure to provide necessary treatment for patients who  
10 required such treatment to live.

11 68.

12 As a result of Plaintiff's reports of such conduct she believed to be violations of rules,  
13 laws, or statutes, Defendants retaliated against Plaintiff. Specifically, Defendants took adverse  
14 employment actions against Plaintiff, including shouting at Plaintiff and humiliating her in  
15 front of her peers, and forcing Plaintiff to choose between providing quality health care or not  
16 providing basic treatment for her clients, thus constructively discharging her.

17 69.

18 Plaintiff's reports of such conduct was a substantial motivating factor in Defendants'  
19 decision to constructively discharge Plaintiff.

20 70.

21 Because of Defendants' violations of ORS 659A.199, Defendants are liable to Plaintiff  
22 for damages.

1 71.

2 Plaintiff is entitled to judgment against the Defendants in the amount of her reasonable  
3 attorney fees incurred herein.

4 - FOURTH CLAIM FOR RELIEF -

5 ( Gender discrimination in violation of ORS 659A.030 )

6 ( Plaintiff against all Defendants )

7 72.

8 Plaintiff realleges and incorporates by this reference ¶¶ 1 through 71.

9 73.

10 At all relevant times, Plaintiff was qualified and able to perform her job duties while  
11 employed by Defendants pursuant to ORS 659A.009.

12 74.

13 Defendants, acting through their agents and/or employees, subjected Plaintiff to gender  
14 discrimination in the workplace, as alleged above, in that Defendants' policies and practices  
15 have an unlawful, disparate impact on female employees.

16 75.

17 As a result of the disparate impact of the aforementioned policy, Plaintiff suffered  
18 adverse employment actions and was forced to resign.

19 76.

20 In perpetrating the actions described above, Defendants violated Oregon Revised  
21 Statute 659.030 et seq., causing Plaintiff to suffer economic and non-economic damages.



1 - FIFTH CLAIM FOR RELIEF -

2 ( Wrongful Discharge In Violation Of Public Policy )

3 ( Plaintiff against all Defendants )

4 77.

5 Plaintiff realleges and incorporates by this reference ¶¶ 1 through 76.

6 78.

7 Plaintiff fulfilled an important public duty when she reported mistreatment of patients  
8 and gender discrimination.

9 79.

10 Plaintiff pursued an important right related to employment when she objected to Dr.  
11 Weisz's demands that she and her fellow physicians provide substandard patient care and  
12 reported it.

13 80.

14 As a result of Plaintiff's reports of such conduct she believed to be violations of rules,  
15 laws, or statutes, Defendants retaliated against Plaintiff. Defendants took adverse employment  
16 actions against Plaintiff, including shouting at Plaintiff and humiliating her in front of her peers  
17 and forcing Plaintiff to choose between providing quality health care or not providing basic  
18 treatment for her clients, thus constructively discharging her. Her working conditions became  
19 so intolerable that a reasonable person in Plaintiff's position would have resigned because of  
20 them. Defendants knew, or had reason to know, that Plaintiff would be forced to resign if she  
21 was forced to choose between providing proper treatment for her patients and live up to her  
22 oath, or provide substandard patient care as Defendants' policies her to do.

1 81.

2 Plaintiff was forced to terminate her employment with Defendants.

3 82.

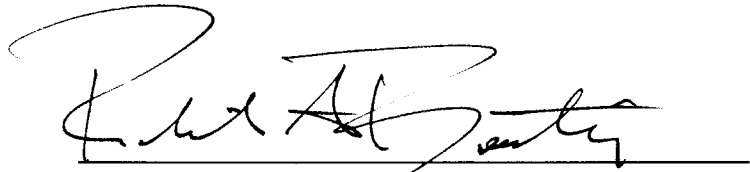
4 Defendants' constructive discharge of Plaintiff's employment was substantially  
5 motivated by Plaintiff's reports of unsafe patient care, inappropriate mistreatment of patients,  
6 and was in retaliation for Plaintiff's pursuit of her rights related to her role as an employee and  
7 a physician. These rights are important to the public interest.

8 *Wherefore*, Plaintiff prays for judgment against all Defendants as follows:

- 9 A. For an award of noneconomic damages in an amount of at least \$5,000,000.00, or in  
10 such greater amount as may be proven at trial;  
11 B. For an award of economic damages in an amount of at least \$4,000,000.00, or in such  
12 greater amount as may be proven at trial;  
13 C. For an award of her costs and disbursements incurred herein;  
14 D. For an award of her reasonable attorney fees incurred here; and  
15 E. For such other and further relief as the Court determines to be just and proper in light  
16 of the circumstances hereof.

17 *Respectfully submitted* this 8<sup>th</sup> day of September, 2014.

18 BOUTIN LAW FIRM

19   
20 Roderick A. Boutin, OSB No. 82199  
21 Attorney for the Plaintiff