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10 Attorneys for Plaintiff:
11 ALYSHA GRANEY

12 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
13 IN AND FOR THE COUNTY OF SACRAMENTO

14 ALYSHA GRANEY,
15 Plaintiff,
16 vs.

17 Kaiser Foundation Hospitals; Northern
18 California Permanente Medical Groups and
19 Kaiser Foundation Health Plan, Inc., and Does
20 1-10, inclusive

21 Defendants.

Case No.

Complaint for:

- (1) Disability Discrimination in violation of FEHA
- (2) Failure to prevent Discrimination in violation of FEHA
- (3) Failure to Provide Reasonable Accommodation in violation of FEHA
- (4) Failure to engage in the Interactive Process in violation of FEHA
- (5) Unlawful Retaliation in violation of FEHA
- (6) Defamation
- (7) Wrongful Termination in violation of Public Policy

JURY TRIAL DEMAND

Nature of Action

1. This is a wrongful termination and employment law related action.
2. Plaintiff seeks damages from her former employer for its acts of discrimination, failure to prevent discrimination, failure to accommodate, failure to continue to engage in the

1 interactive process, unlawful retaliation, defamation and wrongful termination in violation of public
2 policy.

3
4 **Parties**

5 3. Plaintiff ALYSHA GRANEY is an individual, residing in the County of Sacramento,
6 California.

7 4. Defendants KAISER FOUNDATION HEALTH PLAN, INC., NORTHERN
8 CALIFORNIA PERMANENTE MEDICAL GROUPS AND KAISER FOUNDATION
9 HOSPITALS (hereinafter, "Defendant KAISER" or "DEFENDANT EMPLOYER") is a
10 Corporation doing business in the County of Sacramento, California.

11 5. The true names and capacities, whether individual, corporate, associate or otherwise
12 and status and facts showing them to be liable are not presently known, and the Defendants are
13 named herein as DOES 1 through 10. Plaintiff therefore sues said Defendants by such fictitious
14 names pursuant to California Code of Civil Procedure §474. Plaintiff will seek leave to amend this
15 Complaint to allege the true names and capacities of DOES 1 through 10 when their names are
16 ascertained. Plaintiff is informed and believes, and based thereon alleges, that each of the DOE
17 Defendants is in some manner liable to Plaintiff for the events and actions alleged herein.

18 6. All named Defendants, and DOES 1 through 10, will be collectively referred to as
19 "Defendants." Plaintiff is informed and believes, and based thereon alleges, that at all times, each
20 Defendant was acting as an agent for each of the other Defendants and each were co-conspirators
21 with respect to the acts and the wrongful conduct alleged herein so that each is responsible for the
22 acts of the other in connection with the conspiracy in such wrongful acts in connection with the other
23 Defendants.

24 **Jurisdiction and Venue**

25 7. Pursuant to Article VI, §10 of the California Constitution, subject matter jurisdiction
26 is proper in the Superior Court of California, County of Sacramento, State of California.

27 8. Pursuant to §395 of the California Code of Civil Procedure, venue is proper in the
28 Superior Court of California, County of Sacramento, State of California, because this is where
Plaintiff was employed and it is where the wrongful conduct alleged herein occurred.

9. Plaintiff has exhausted applicable administrative remedies and obtained a right to sue letter, included as Exhibit A.

Factual Allegations

10. Plaintiff, a U.S. Citizen, is a former employee of Defendant KAISER.

11. Plaintiff is a forty-nine year-old female.

12. In 2001, Plaintiff began working for Defendant KAISER as a unit assistant. During Plaintiff's employment with Defendant KAISER, Plaintiff received many raises, favorable reviews and was regarded as a valuable asset to Defendant KAISER.

13. In June 2006, Plaintiff was in a major auto collision, sustaining serious injuries. These injuries qualify as a medical condition recognized under FEHA. As a result of the serious injuries sustained in the auto collision, Plaintiff has requested time off for treatment and pain management.

14. On April 24, 2013, Plaintiff had a TB test done with Defendant KAISER and provided a copy to her immediate supervisor.

15. In the summer of 2013, Plaintiff requested and was granted unpaid leave.

16. While on unpaid leave, Plaintiff was told she was required to take a TB test.

17. Plaintiff informed Defendant KAISER that she had a current TB test on record. Further, Defendant KAISER administered the TB test and received a copy of Plaintiff's current TB test. Therefore, Defendant KAISER was aware of the fact that Plaintiff had a current TB test, which did not expire until April 24, 2014.

18. While on leave from work, in November 2013, Defendant KAISER terminated Plaintiff stating she did not have a valid TB test.

19. Plaintiff called Defendant KAISER and informed them that they had made an error. Plaintiff had a valid TB test. Defendant KAISER refused to reinstate Plaintiff.

20. In November 2013, Plaintiff applied for unemployment benefits. Defendant KAISER stated Plaintiff was discharged from her employment with Defendant Kaiser because she voluntarily left.

21. In December 2013, Plaintiff was denied unemployment benefits based upon statements made by Defendant KAISER employees that Plaintiff voluntarily left employment

1 because she failed to have a current TB test.

2 22. In January 2014, Plaintiff submitted her appeal to EDD appealing their decision
3 denying her unemployment benefits.

4 23. In February 2014, Plaintiff attended hearing at EDD hearing. At the hearing,
5 representative of Defendant KAISER, Esparanza Chavez stated Plaintiff was fired for not having a
6 current, valid TB test at the time her termination and the lack of the current, valid TB test was
7 grounds for Plaintiff's termination. Further, Defendant KAISER proffered the lack of a current, valid
8 TB test reached the level of employee misconduct, which if found to be true, would provide
9 justification for lack of unemployment benefits.

10 24. Plaintiff provided documentation that she did have a valid TB test administered in
11 April 2013 by Defendant KAISER. The statements by Defendant KAISER that she did not have a
12 valid TB test were false. In fact, Plaintiff's TB test results had been previously provided to Esparaza
13 Chavez in April 2013. Furthermore, before the hearing but after her termination, Plaintiff called
14 Defendant KAISER providing information that her TB test was current, the test was taken at
15 Defendant KAISER and a copy was in her file. At the time of the hearing, Defendant KAISER knew
16 Plaintiff had a valid TB test and purposely provided false information to the EDD administrative
17 judge.

18 25. The EDD judge found that Plaintiff had a valid TB test at the time of her termination
19 and denied Defendant Kaiser's request to deny Plaintiff unemployment benefits.

20
21 **FIRST CAUSE OF ACTION**

22 **(Violations of Fair Employment And Housing Act, California**
23 **Government Code § 12940, *et seq.*, for Disability Discrimination)**

24 **(Against All Defendants)**

25 26. Plaintiff restates and incorporates by reference the allegations in paragraphs 1 through
26 25, inclusive, as though fully set forth herein.

27 27. At all times herein mentioned, California Government Code § 12940, *et seq.* of the
28 Fair Employment and Housing Act ("FEHA") and the corresponding regulations of the California
Department of Fair Employment and Housing Act were in full force and effect and were binding on

1 Defendants. These sections of FEHA, require Defendant KAISER, as an employer, to refrain from
2 discriminating against any employee on the basis of, among other things, medical condition, physical
3 disability and age, including the prohibition against discrimination in the workplace based on any of
4 these characteristics.

5 28. At all times set forth herein, Defendant KAISER's actions toward Plaintiff were in
6 violation of public policy and the laws of the State of California including, but not limited to: the
7 Constitution of the State of California, including Article I § 8; the California Civil Code; and
8 California Government Code §§ 12900, *et seq.*, including, but not limited to sections 12920, 12921,
9 12940, etc.

10 29. Plaintiff alleges that based on the above-alleged misconduct, Defendant KAISER's
11 decision to terminate Plaintiff's employment was to discriminate against her based on existing
12 medical condition, physical disability or her perceived disability.

13 30. As a result of the statutory violations, Plaintiff has suffered damages, in an amount to
14 be determined according to proof at trial, but in excess of the jurisdictional minimum of this Court,
15 including past, present and future damages, injuries, losses, costs, and attorneys' fees.

16 31. As a further proximate result of the above-alleged misconduct, Plaintiff was required
17 to and did retain attorneys and is therefore entitled to an award of attorneys' fees according to proof.

18 32. The above-alleged misconduct constitutes oppression, fraud or malice, thereby
19 entitling Plaintiff to an award of punitive damages.

20 21 **SECOND CAUSE OF ACTION**

22 **(Failure To Take Steps Reasonably Necessary To Prevent** 23 **Discrimination in Violation of the Fair Employment And Housing Act,** 24 **Government Code §§ 12940 (i), (j), and (k))** 25 **(Against All Defendants)**

26 33. Plaintiff restates and incorporates by reference the allegations in paragraphs 1 through
27 32, inclusive, as though fully set forth herein.

28 34. Defendants and/or their agents/employees, knew or should have known of the above-
described unlawful discrimination perpetrated against Plaintiff. Despite said knowledge, Defendant
KAISER failed to conduct an adequate investigation into the nature and substance of Plaintiff's

1 complaint or the nature and substance of the ongoing discrimination to which Plaintiff was
2 subjected. Further, said Defendants failed to take immediate and appropriate corrective action so as
3 to stop the conduct, and thereby remedy discrimination. Said Defendant KAISER also failed to take
4 all reasonable steps to prevent such discrimination from occurring.

5 35. The response of Defendants, and/or their agents/employees, to that knowledge was so
6 inadequate as to establish a deliberate indifference to, or tacit authorization of the alleged offensive
7 practices and an affirmative causal link existed between Defendant KAISER's inaction and the
8 injuries suffered by Plaintiff.

9 36. By failing to take all reasonable steps to prevent, investigate and/or remedy the
10 unlawful harassment and discrimination directed at Plaintiff, Defendants committed unlawful
11 employment practices as described and prohibited in California Government Code Section 12940, *et*
12 *seq.*

13 37. While engaging in the aforementioned conduct, Defendant KAISER participated in,
14 aided, abetted, incited, compelled, and/or coerced unlawful employment practices in violation of the
15 announced policy of this State against such practices.

16 38. Such failure to act and violation of FEHA caused Plaintiff to be discriminated against,
17 as alleged above.

18 39. As a direct and proximate result of the aforementioned acts and omissions of
19 Defendant KAISER, Plaintiff has suffered economic damages, including but not limited to a
20 reduction in past and current income and benefits, a reduction in future income and income potential
21 and a reduction in future benefits, and will continue to suffer in the further, in an amount to be
22 proved at trial.

23 40. As a direct and proximate result of the foregoing conduct by Defendant KAISER,
24 Plaintiff has suffered general damages, in an amount to be proved at trial.

25 41. As a direct and proximate result of the foregoing conduct, which violated the
26 provisions of Government Code Section 12940, *et seq.*, Plaintiff has been forced to and will incur
27 attorney's fees and costs in the prosecution of this claim, in an amount to be proved at trial.

28 42. Plaintiff is informed and believes and thereon alleges that Defendant KAISER failed

1 to take all steps reasonably necessary to prevent discrimination and harassment from occurring.

2 41. The foregoing conduct engaged in by Defendant KAISER and each of their owners,
3 directors, officers and/or managing agents, constitutes malice, fraud and oppression and was carried
4 on with a conscious and wilful disregard of Plaintiff's right to be free from discrimination in the
5 workplace, thereby entitling Plaintiff to an award of punitive and exemplary damages.

6
7 **THIRD CAUSE OF ACTION**

8 **(Failure To Make Reasonable Accommodations in Violation of the Fair Employment and**
9 **Housing Act, Government Code §§ 12926.1(e), 12940(m), and 12940 (n))**
10 **(Against All Defendants)**

11 42. Plaintiff restates and incorporates by reference the allegations in paragraphs 1 through
12 41, inclusive, as though fully set forth herein.

13 43. At all relevant times, Plaintiff was an employee of Defendant KAISER. Plaintiff
14 suffered from medical conditions and physical disability known to Defendant KAISER, was a
15 qualified employee able to perform her job duties with or without accommodations and was entitled
16 to receive reasonable accommodations.

17 44. Defendant KAISER failed to provide reasonable accommodations to Plaintiff, as
18 required by FEHA, California Government Code § 12940, *et seq.* when requested by Plaintiff and
19 terminated Plaintiff while on extended leave. Defendant KAISER's conduct directly caused Plaintiff
20 to suffer damages subject to proof at the time of trial.

21 45. As a direct and proximate result of the aforementioned acts and omissions of
22 Defendants, Plaintiff has suffered economic damages, including but not limited to a reduction in past
23 and current income and benefits, a reduction in future income and income potential and a reduction
24 in future benefits, and will continue to suffer in the further, in an amount to be proved at trial.

25 46. Plaintiff is entitled to recover attorneys' fees pursuant to the provisions of
26 Government Code §§ 12940, *et seq.*

27 47. The foregoing conduct engaged in by Defendant KAISER and each of their owners,
28 directors, officers and/or managing agents, constitutes malice, fraud and oppression and was carried
on with a conscious and wilful disregard of Plaintiff's rights, thereby entitling Plaintiff to an award

1 of punitive and exemplary damages.

2
3 **FOURTH CAUSE OF ACTION**

4 **(Failure to Engage in the Interactive Process in Violation of the Fair Employment and**
5 **Housing Act, Government Code §§ 12940(m), and 12940 (n))**
6 **(Against All Defendants)**

7 48. Plaintiff restates and incorporates by reference the allegations in paragraphs 1 through
8 47 inclusive, as though fully set forth herein.

9 49. At all relevant times, Plaintiff was an employee of Defendant KAISER. Plaintiff
10 suffered from disabilities known to Defendant KAISER and was entitled to an interactive process
11 within the meaning of FEHA, California Government Code § 12940, *et seq.*, as Plaintiff was a
12 qualified individual who was able to perform her job duties with or without accommodations.

13 50. By engaging in the course of conduct as alleged above, Defendant KAISER failed to
14 engage in a timely, good faith, interactive process with Plaintiff to determine effective reasonable
15 accommodations in response to Plaintiff's accommodation request.

16 51. As a result of Defendant KAISER's failure to continue to engage in a good faith
17 interactive process, Defendant KAISER caused a breakdown in the interactive process and Plaintiff
18 was terminated.

19 52. As a direct and proximate result of the aforementioned acts and omissions of
20 Defendant KAISER, Plaintiff has suffered economic damages, including but not limited to a
21 reduction in past and current income and benefits, a reduction in future income and income potential
22 and a reduction in future benefits, and will continue to suffer in the further, in an amount to be
23 proved at trial.

24 53. As a direct and proximate result of the foregoing conduct by Defendant KAISER,
25 Plaintiff has suffered general damages, in an amount to be proved at trial.

26 54. As a further proximate result of the above-alleged misconduct, Plaintiff was required
27 to and did retain attorneys and is therefore entitled to an award of attorneys' fees according to proof.

28 55. Plaintiff is informed and believes, and based thereon alleges, that in committing the
aforesaid wrongful acts, Defendants acted with malice, oppression, and disregard of Plaintiff's rights

1 and interests, thereby entitling Plaintiff to an award of punitive and exemplary damages.
2

3 **FIFTH CAUSE OF ACTION**

4 **(Unlawful Retaliation)**

5 **(Against All Defendants)**

6 56. Plaintiff restates and incorporates by reference the allegations in paragraphs 1 through 55, inclusive, as though fully set forth herein.

7 57. Defendant KAISER, DOES 1-10, and/or their agents, are entities subject to suit for
8 unlawful retaliation under the California Fair Employment and Housing Act, Government Code
9 section 12940, et seq.

10 58. During her employment, Plaintiff requested and was granted leave for her medical
11 condition.

12 59. After Plaintiff requested leave from work, Plaintiff was subjected to adverse
13 employment action when she was fired.

14 60. The foregoing described adverse employment actions were taken in part or in whole
15 because of Plaintiff's request for time off to deal with her medical condition.

16 61. In engaging in the aforementioned conduct, Defendants, and each of them,
17 participated in, aided, abetted, incited, compelled, and/or coerced unlawful employment practices in
18 violation of the announced policy of this State against such practices.

19 62. The foregoing conduct engaged in by Defendant KAISER and DOES 1-10, constitutes
20 malice, fraud and oppression and was carried on with a conscious and willful disregard of Plaintiff's
21 right to work in an environment free of unlawful retaliation in the workplace.

22 63. As a direct and proximate result of the aforementioned acts and omissions of
23 Defendants, Plaintiff has suffered economic damages in an amount to be proved at trial, and has
24 suffered general damages, in an amount to be proved at trial.

25 64. As a direct and proximate result of the foregoing conduct, which violated the provisions
26 of Government Code Section 12940, et seq., Plaintiff has been forced to and will incur attorney's
27 fees and costs in prosecution of this claim, in an amount to be proved at trial.
28 //

SIXTH CAUSE OF ACTION
DEFAMATION
(Against all Defendants)

65. Plaintiff restates and incorporates by reference the allegations in paragraphs 1 through 64, inclusive, as though fully set forth herein.

66. In April 2013, Plaintiff took her required TB test at Defendant KAISER facility.

67. Plaintiff immediately provided Defendant KAISER a copy of her TB test. This TB test expired April 2014.

66. In October 2013, while on unpaid leave from work, Defendant Kaiser terminated Plaintiff's employee stating she did not have a valid TB test.

67. Plaintiff called Defendant KAISER and informed them that they had made an error. Plaintiff informed Defendant KAISER that her TB test was valid and she had previously provided a copy to Defendant KAISER. Defendant KAISER refused to reinstate Plaintiff.

68. In November 2013, Plaintiff applied for unemployment benefits. Defendant KAISER stated Plaintiff was discharged from her employment with Defendant KAISER because she voluntarily left.

69. In November 2013, Plaintiff was denied unemployment benefits based upon Defendant KAISER statement that Plaintiff voluntarily left employment because she failed to have a current TB test.

70. In January 2014, Plaintiff submitted her appeal to EDD appealing their decision denying her unemployment benefits.

71. In February 2014, Plaintiff attended hearing at EDD hearing. At the hearing, representative of Defendant KAISER, Esparaza Chavez stated Plaintiff was fired for not having a current, valid TB test at the time her termination and the lack of the current, valid TB test was grounds for Plaintiff's termination. Further, Defendant KAISER proffered the lack of a current, valid TB test reached the level of employee misconduct, which if found to be true, would provide justification for lack of unemployment benefits.

72. Plaintiff provided documentation that she did have a valid TB test administered in

1 April 2013 by Defendant KAISER. The statements by Defendant Kaiser that she did not have a
2 valid TB test were false. In fact, Plaintiff's TB test results had been previously provided to Espinoza
3 Chavez in April 2013. Furthermore, before the hearing but after her termination, Plaintiff called
4 Defendant KAISER providing information that her TB test was current, the test was taken at
5 Defendant KAISER and a copy was in her file. At the time of the hearing, Defendant KAISER knew
6 Plaintiff had a valid TB test and purposely provided false information to the EDD administrative
7 judge.

8 73. The EDD judge found that Plaintiff had a valid TB test at the time of her termination
9 and denied Defendant KAISER's request to deny Plaintiff unemployment benefits.

10 74. Employees of Defendant KAISER in Human Resources are knowledgeable that a
11 statement that Plaintiff committed fraud would impact Plaintiff's ability to be hired. Esparaza
12 Chavez was employed with Defendant KAISER and a supervisor and is knowledgeable that a
13 statement alleging lack of valid TB test would impact Plaintiff's ability to keep her job and was
14 grounds for termination.

15 75. Defendant KAISER employees alleged that Plaintiff did not have a valid TB test and
16 reasonably understood the statement was an allegation injurious to Plaintiff's trade, occupation or
17 profession, because if true, the lack of current TB test rendered Plaintiff unqualified for employment.

18 76. Defendant KAISER employees in Human Resources and Esparanza Chavez's job was
19 to ensure that tasks were done correctly and they failed to use reasonable care to determine the truth
20 or falsity of the statement on the termination paperwork. Further, Defendant KAISER conducted a
21 reckless investigation into whether or not Plaintiff had a valid TB test.

22 77. Defendant KAISER employees and Esparanza Chavez acted with malice toward
23 Plaintiff because Plaintiff requested time off. The statement that Plaintiff did not have a valid TB test
24 was published with express or implied malice with design and intent to injure Plaintiff in her good
25 name, reputation and employment, in that Defendant KAISER's employee Esparanza Chavez had ill
26 will toward Plaintiff. In fact, Esparanza Chavez on multiple occasions expressed her frustration that
27 Plaintiff created scheduling problems with all of Plaintiff's time off.

28 78. Defendant KAISER cannot allege a conditional privilege as the statement was made

1 with malice, as a result of the ill will toward Plaintiff for requesting time off. Further the quick and
2 reckless nature of Defendant KAISER's investigation into whether or not Plaintiff had actually
3 committed time card fraud demonstrates the mindset to negate the assertion of an applicable
4 privilege.

5 79. Plaintiff is entitled to recover his actual damages as Defendant KAISER wrongful
6 conduct was a substantial factor in causing harm to Plaintiff's trade, profession and occupation, as
7 well as expenses Plaintiff had to pay as a result of the defamatory statements to be proven at trial.

8 80. As a proximate result of Defendant KAISER, Plaintiff suffered damages, including
9 but not limited to stress, emotional injury and shame in an amount to be proven at trial.

10 81. Plaintiff is entitled to recover punitive damages as Defendant KAISER acted with
11 malice and oppression as outlined above.

12
13 **SEVENTH CAUSE OF ACTION**
14 **(Wrongful Discharge in Violation of Public Policy)**
15 **(Against All Defendants)**

16 82. Plaintiff restates and incorporates by reference the allegations in paragraphs 1 through
17 81, inclusive, as though fully set forth herein.

18 83. During the time that Plaintiff worked for Defendant KAISER, Plaintiff suffered
19 discrimination based on medical condition and physical disability.

20 84. Plaintiff is informed and believes and based thereon alleges that Defendant KAISER
21 terminated Plaintiff's employment because of her medical condition, physical disability or her
22 perceived disability.

23 85. Plaintiff's termination was wrongful because it was in violation of the public policy
24 of the State of California in that Plaintiff's termination was based on Plaintiff's disability status or
25 perceived disability status in the workplace.

26 86. Defendant KAISER's discharge of Plaintiff violated the public policy of the State of
27 California, as expressed in provisions of Government Code § 12940, *et seq.*, which prohibits
28 discrimination and the termination of an employee's employment because of age, medical condition,
physical disability or perceived disability.

1 87. As a direct, foreseeable, and proximate result of Defendant KAISER's Plaintiff has
2 sustained damages in the form of lost and continued loss of income and benefits, and has suffered
3 and continues to suffer humiliation, embarrassment, mental and emotional distress, and discomfort
4 all to Plaintiff's damage, the precise amount of which will be proven at trial.

5 88. Because the acts taken toward Plaintiff were carried out by managerial employees
6 acting in a deliberate, cold, callous, malicious, oppressive, and intentional manner in order to injure
7 and damage Plaintiff, Plaintiff requests the assessment of punitive damages against Defendant
8 KAISER in an amount appropriate to punish and make an example of Defendant KAISER.

9
10 **PRAYER FOR RELIEF**

11 WHEREFORE, Plaintiff prays for judgment against Defendants as follows:

12 For penalties, special damages, and general damages in an amount to be proven at trial;

- 13 1. For punitive damages as allowed by law;
14 2. Loss of income incurred and to be incurred according to proof;
15 3. For reasonable attorneys' fees as applicable;
16 4. For costs of suit incurred herein;
17 5. For interest provided by law including, but not limited to, California Civil
18 Code §3291; and
19 6. For such other and further relief as the court deems just and proper.

20
21 DATE: December 1, 2014

Daugherty & Daugherty

22
23 BY: 

RYAN M. DAUGHERTY
LORI MAE DAUGHERTY
Attorneys for Plaintiff
ALYSHA GRANEY

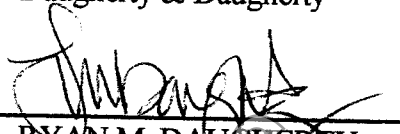
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DEMAND FOR JURY TRIAL

Plaintiff hereby demands a jury trial.

DATE: December 1, 2014

Daugherty & Daugherty

BY: 
RYAN M. DAUGHERTY
LORI MAE DAUGHERTY
Attorneys for Plaintiff
ALYSHA GRANEY

Courthouse News Service