

FIRST CIRCUIT COURT  
STATE OF HAWAII  
FILED

LAW OFFICE OF VENETIA K. CARPENTER-ASUI  
A Law Corporation

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VENETIA K. CARPENTER-ASUI 6901  
The Richards Building  
707 Richards Street, Suite 717  
Honolulu, Hawaii 96813  
Telephone: (808) 523-6446  
Facsimile: (808) 523-6727  
Email: [vkcarpenter1@yahoo.com](mailto:vkcarpenter1@yahoo.com)

H. ANAYA  
CLERK

Attorney for Plaintiff  
BRAYSON K. L. CHANG

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

BRAYSON K. L. CHANG,

Plaintiff,

vs.

KAISER PERMANENTE; JOHN DOES  
1-10, DOE ENTITIES 1-10,

Defendants.

CIV NO. 16-1-0111-01  
(Other Civil Action)

VERIFIED COMPLAINT;  
DEMAND FOR JURY TRIAL;  
SUMMONS

**VERIFIED COMPLAINT**

Plaintiff BRAYSON K. L. CHANG (hereinafter "Plaintiff"), by and through his attorney, complaining of KAISER PERMANENTE (hereinafter "Defendant") alleges and states:

**I. JURISDICTION & VENUE**

1. All acts described herein occurred within the City and County of Honolulu, State of Hawaii, and within the jurisdiction of the First Circuit Court, State of Hawaii.

2. Venue is proper in the First Circuit Court, State of Hawaii, as the Plaintiff

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and each of the Defendant's reside and conduct business in this Circuit and the events and omissions giving rise to the Plaintiff's claims arose in this Circuit.

## **II. PARTIES**

3. Plaintiff at all times relevant herein was a resident of the City and County of Honolulu, State of Hawaii and a member of Defendant.

4. Defendant is a private for-profit health organization conducting business at 711 Kapiolani Boulevard, Honolulu, Hawaii 96813.

5. Defendants JOHN DOES 1-20, DOE ENTITIES 1-10, are sued herein under fictitious names for the reason that their true names and identities are presently unknown to Plaintiff, except that they are persons and/or entities who are in some manner presently unknown to Plaintiff and engaged in the activities alleged herein; and/or persons who conducted some activity in a negligent and/or willful manner; which conduct was the legal cause of the injuries or damages to Plaintiff and/or were in some manner related to the previously named Defendant engaged in the activities alleged herein; and Plaintiff prays leave to insert their true names and capacities, activities and/or responsibilities, whether individual, business or governmental when the same is ascertained. Plaintiff has been unable to ascertain the identities of these DOE Defendants through an examination of all documents available to him at this time.

6. All Defendants will be collectively referred to as "Defendant."

## **III. FACTS**

7. On December 27, 1991 Plaintiff was hired by the State of Hawaii, Department of Public Safety, Sheriff's Division for the position of Deputy Sheriff I (recruit).

8. In 1994 Plaintiff was promoted to the position of Deputy Sheriff II (journeyman).

9. In June 2001 Plaintiff was promoted to the position of Deputy Sheriff III (sergeant).

10. Plaintiff performed his duties well, received promotions in rank, received increases in pay, received numerous written commendations, and received fully successful annual performance evaluations.

11. On or about 2013 Plaintiff began seeing Defendant's Behavioral Health Services, Waipio Clinic's Hubert S. Hayakawa (L.C.S.W.) about problems in the workplace. Plaintiff also began taking extended leaves of absence from work after September 4, 2013 due to the problems in the workplace. Mr. Hayakawa provided Plaintiff with medical certificates excusing Plaintiff from work, for example:

- (a) 9/25/2013 - The patient continues to be seen and is unable to return back to work until his condition is better stabilized.
- (b) 10/16/2013 - The patient continues to be unable to return back to work until his condition and circumstances improve. Patient will be seen 2 weeks for follow up.
- (c) 10/30/2013 - The patient continues to be seen in Behavioral Medicine Services and will continue with supportive therapy once every 2 weeks.

12. On or about November 18, 2013 Plaintiff met with Defendant's Behavioral Health Service, Ala Moana Clinic's Daniel X. Meier (Psy.D.) about problems in the workplace. Mr. Meier provided Plaintiff with a medical certificate excusing Plaintiff from work dated the same day, "The patient was seen today for a clinical appointment. He is unable to return to work until 12/02/13." Mr. Meier also told Plaintiff, "you're fine, you can go back to work."

13. In a letter dated June 13, 2014 from Plaintiff's employer - the State of Hawaii, Department of Public Safety, Plaintiff was informed in part:

You are required to have the attached "Mental Residual Functional Capacity Assessment" form filled out by your treating physician. The MRFCA form must be filled out in its entirety and returned back to Mr. Robin Nagamine, Sheriff Administrator no later than June 30, 2014.

14. On Monday, June 16, 2014, Plaintiff delivered a copy of the June 13, 2014

letter, a signed Consent to Release Medical Information form, and the original Mental Residual Functional Capacity Assessment form (3 pages) to the receptionist at Defendant's Behavioral Health Services, Ala Moana Clinic and instructed her to give all of the paperwork to Daniel X. Meier (Psy.D.), who had previously cleared Plaintiff to return to work full duty.

15. About one week later, Plaintiff telephoned Defendant's Behavioral Health Services, Ala Moana Clinic at (808) 432-7600, and asked the receptionist whether Dr. Meier had submitted the above forms to the State of Hawaii, Department of Public Safety, Sheriff Administrator Robin Nagamine. The receptionist transferred Plaintiff to Defendant's Intake Psychologist on-duty (female) and Plaintiff repeated the above inquiry to her. The Intake Psychologist stated, "we do not fill out those type of forms and will not." Plaintiff explained that if Defendant did not fill out the forms, Plaintiff could not return to work and would lose his job. The Intake Psychologist simply repeated herself and did not provide Plaintiff with any other options or explanations.

16. Plaintiff immediately telephoned the State of Hawaii, Department of Public Safety, Sheriff Administrator Robin Nagamine, and upon finally getting a hold of him, Plaintiff informed him what Defendant's Intake Psychologist just told Plaintiff. Sheriff Administrator Robin Nagamine stated that Plaintiff would have to find a way to get the forms filled out before he could return to work. Plaintiff asked Sheriff Administrator Robin Nagamine if he could be cleared to return to work if he saw the State of Hawaii Doctor. Sheriff Administrator Robin Nagamine related that he did not know, and he would look into it and get back to Plaintiff.

17. A couple of weeks later, Plaintiff was able to get a hold of Sheriff Administrator Robin Nagamine about the status of Plaintiff being examined by a State of Hawaii Doctor. Sheriff Administrator Robin Nagamine stated that Plaintiff could not see a State of Hawaii Doctor unless it was for a workers compensation case.

18. Plaintiff did not know where to turn for help and consulted with several different attorneys.

19. On September 11, 2014 the State of Hawaii, Department of Public Safety Director Ted Sakai sent Plaintiff a letter stating in part:

...You were required to have your treating physician fill out a "Mental Residual Functional Capacity Assessment" form and this form was to be returned no later than June 20, 2014. Mr. Robin Nagamine, Sheriff Administrator has advised that you contacted him and said your treating physician would not fill out the MRFCA form. For your information and that of your physician, you will not be returned to work unless you are fully cleared to return to full duty. It is imperative that the MRFCA form be filled out in its entirety. Attached for your use is a "Consent to Release Medical Information" form that you can present to your doctor and another copy of the MRFCA form. You must return the MRFCA form to Mr. Nagamine no later than the close of business on Friday, September 26, 2014.

20. Upon receipt of the September 11, 2014 letter, Plaintiff hired the law firm of Bervar & Jones to write a letter to Defendant to once again ask Defendant to complete the Mental Residual Functional Assessment form so that Plaintiff would not lose his job. In a letter dated September 19, 2014, Thuan Costa, Esq. wrote to Defendant and once again requested that Defendant complete the Mental Residual Functional Assessment form and asked Defendant to "Please respond within ten (10) days of the date of this letter."

21. On September 23, 2014 Daniel X. Meier (Psy.D.) telephoned Plaintiff and stated that he received the letter from Bervar & Jones dated September 11, 2014, but Defendant does not provide functional assessments as they are not a covered benefit. Mr. Meier did not provide Plaintiff with any other options or suggestions. Mr. Meier followed up this telephone call with a letter to Plaintiff stating the same.

22. Upon receipt of Mr. Meier's September 24, 2014 letter, Plaintiff telephoned Bervar & Jones and read Mr. Meier's September 24, 2014 letter to them.

23. In a letter dated October 3, 2014, Bevar & Jones, Thuan Costa, Esq. sent Defendant a second letter, this one addressed to Cherry Rose Rosales, MD - Plaintiff's primary care physician, asking her to complete the "Mental Residual Functional Assessment" and to "Please respond within ten (10) days of the date of this letter."

24. In a letter dated October 7, 2014 the State of Hawaii, Department of Public Safety informed Plaintiff that he would be considered resigned effective October 21, 2014 for failure to submit the "Mental Residual Functional Capacity Assessment" form.

25. On or about October 15, 2014 Plaintiff telephoned Cherry Rose Rosales, MD's office at Defendant's Waipio Clinic at (808) 432-3100 and left an audio message that he urgently needed the "Mental Residual Functional Capacity Assessment" form filled out or his employer would resign him effective October 21, 2014.

26. October 21, 2014 passed without any response from Defendant.

27. On December 4, 2014 Cherry Rose Rosales, MD's nurse telephoned Plaintiff and stated that she wanted to schedule an appointment to have the "Mental Residual Functional Capacity Assessment" form filled out. By then, Plaintiff had already lost his job.

28. It is an established standard practice for Defendant to fill out "Mental Residual Functional Capacity Assessment" forms for its patients.

29. Plaintiff filed a timely State of Hawaii, Regulated Industries Complaints Office, Consumer Resource Center, Department of Commerce and Consumer Affairs complaint against Defendant, which is presently under investigation, with that office.

### **COUNT I**

#### **(INTENTIONAL INTERFERENCE WITH ECONOMIC RELATIONS)**


30. Plaintiff repeats and realleges each and every allegation set forth in paragraphs 1 through 28 above as though fully set forth herein.

31. Defendant committed intentional interference with economic relations because (a) there existed a valid business relationship (employment) between Plaintiff and the State of Hawaii, Department of Public Safety; (b) Defendant committed an intentional interference with that relationship; (c) by a third party (Defendant); (d) accomplished through improper means or for an improper purpose, (e) a causal effect

WHEREFORE, Plaintiff prays as follows:

- a. That Plaintiff be awarded compensatory damages, assessed jointly and severally against all Defendants, in an amount to be determined at trial;
- b. That Plaintiff be awarded special damages, assessed jointly and severally against all Defendants, in an amount to be determined at trial;
- c. That Plaintiff be awarded attorney's fees and litigation expenses of filing and prosecuting this lawsuit;
- d. That Plaintiff be awarded exemplary or punitive damages against Defendant, in an amount to be determined at trial.
- e. That Plaintiff be awarded such other and further relief as this Court deems necessary and proper.

DATED: Honolulu, Hawaii, January 20, 2016.



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VENETIA K. CARPENTER-ASUI  
Attorney for Plaintiff  
BRAYSON K. L. CHANG