

Superior Court of California

County of Orange



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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ORANGE – CENTRAL JUSTICE CENTER

Judge Gregory H. Lewis

HIEU NGUYEN-HAZAMA, an individual,
Plaintiff,

CCASE NO.: 30-2017-00951549-CU-WT-CJC

vs.

KAISER FOUNDATION HEALTH PLAN,
INC., a corporation; KAISER
FOUNDATION HOSPITALS, a
corporation; SOUTHERN CALIFORNIA
PERMANENTE MEDICAL GROUP, a
partnership; Anne Hook, an individual, and
DOES 1 through 10, inclusive.

Defendants.

PLAINTIFF'S COMPLAINT FOR:

- 1. VIOLATIONS OF CALIFORNIA HEALTH & SAFETY CODE § 1278.5**
- 2. VIOLATION OF CALIFORNIA GOVERNMENT CODE § 12940(j) – HOSTILE WORK ENVIRONMENT BASED ON HARASSMENT**
- 3. VIOLATION OF CALIFORNIA GOVERNMENT CODE § 12940(k) – FAILURE TO PREVENT DISCRIMINATION OR HARASSMENT**
- 4. RETALIATION IN VIOLATION OF GOVERNMENT CODE § 12940**
- 5. AGE DISCRIMINATION IN VIOLATION OF GOVERNMENT CODE § 12940**
- 6. WRONGFUL TERMINATION IN VIOLATION OF PUBLIC POLICY**
- 7. DEFAMATION**

DEMAND FOR JURY TRIAL BY PLAINTIFF

1 Plaintiff complains and alleges as follows:

2 **INTRODUCTION & NATURE OF ACTION**

3 1. This is a lawsuit brought by Dr. Hieu Nguyen-Hazama, who worked as a pharmacist
4 for Kaiser Permanente for 34 years before she was wrongfully terminated on November 8, 2016.
5 During those 34 years patient volume grew significantly causing chronic under staffing in
6 pharmacists, support staff and equipment because Kaiser refused to spend the money to hire
7 sufficient personnel to meet the demand despite earning billion-dollar profits annually.
8 Notwithstanding this ever-increasing patient work load, Dr. Hazama consistently delivered high
9 quality service to her patients and was one of the most respected and oldest members of his
10 department until the malicious events described herein below. Plaintiff was born on February 13,
11 1957 and is now 60 years of age. Plaintiff was one of the oldest pharmacists in her department at
12 the time of her wrongful and retaliatory termination.

13 2. Plaintiff's job as a pharmacist at Kaiser included, but was not limited to, the
14 dispensing of medications to countless patients, responding to patient inquiries and supervising
15 other pharmacists and support staff. Over the many years of her service Plaintiff helped build the
16 department and held various administrative and leadership positions.

17 **JURISDICTION & VENUE**

18 3. This Court has personal jurisdiction over each of the defendants because they are
19 residents of and/or doing business in the State of California.

20 4. Under California Code of Civil Procedure section 395(a), venue is proper in this
21 county because the defendants, or some of them, reside in this county and/or injuries alleged herein
22 occurred in this county.

23 **PARTIES**

24 5. Plaintiff, at all times relevant hereto, has been a resident of the County of Orange,
25 State of California.

26 6. Plaintiff is informed and believes that Defendants Kaiser Foundation Health Plan,
27 Inc. ("KFHP") and Kaiser Foundation Hospitals ("KFH") are corporations organized and existing
28

1 under the laws of California, with their principal place of business located at 1 Kaiser Plaza,
2 Oakland, California.

3 7. Plaintiff is informed and believes that Defendant Southern California Permanente
4 Medical Group (“SCPMG”) is organized in form only as a partnership under the laws of California,
5 with its principal place of business located in Los Angeles County at 393 East Walnut Street,
6 Pasadena, California.

7 8. Plaintiff is informed and believes and thereon alleges that individual defendant,
8 Ann Hook (“HOOK”) is employed in the County of Orange and who, at all times relevant, was
9 Plaintiff’s supervisor acting for and on behalf of Kaiser Permanente.

10 9. Plaintiff is informed and believes KFHP, KFH and SCPMG do business jointly,
11 and with other entities owned and controlled by KFHP under the name “Kaiser Permanente.”

12 10. Plaintiff is informed and believes that “Kaiser Permanente” is the registered
13 tradename of an “integrated” health care delivery system comprised of the insurance company,
14 KFHP, its doctors, organized here as SCPMG, and its hospitals, which are wholly owned and/or
15 controlled by KFHP through its captive entity, KFH, which has no separate existence or identity
16 apart from KFHP. The Board of Directors of Kaiser Foundation Health Plan is comprised of the
17 same people who constitute the Board of Directors of Kaiser Foundation Hospitals. Kaiser
18 Foundation Health Plan divided “Kaiser Permanente” into a number of regions throughout the
19 country. In each region, it has the same structure: a captive “regional” insurance company; a
20 captive entity in which to warehouse its doctors, and KFH which owns and controls the real estate
21 and most physical assets.

22 11. Plaintiff is informed and believes and thereon alleges that Defendant KFHP is an
23 insurance company which purports to provide comprehensive total medical care to its members.
24 KFHP describes itself as the largest Health Maintenance Organization in the country. KFHP
25 exercises total control over Defendants KFH, SCPMG and a number of other corporate and
26 partnership entities such that their very existence as purported separate entities is in fact a sham
27 designed to perpetuate the myth that KFHP and KFH are legitimate “non-profit” corporations.
28

1 Plaintiff is informed and believes that KFHP and KFH are in fact “for profit” enterprises regularly
2 reporting their profitability publicly. For example, on August 5, 2011, Kaiser reported:

3
4 Kaiser Foundation Hospitals, Kaiser Foundation Health Plan, Inc., and their
5 respective subsidiaries (KFH/HP) reported today a combined operating revenue of
6 \$11.9 billion for the quarter ending June 30, 2011, compared to \$11.0 billion in the
7 same period in 2010. Operating income was \$390 million in the second quarter of
8 2011, compared to \$313 million in the same quarter last year. Net non-operating
9 income was \$273 million in the second quarter of 2011, compared to \$91 million
in the same quarter last year. As a result, net income for the second quarter was
\$663 million versus net income of \$404 million in the same period last year. These
are the combined operating results for Kaiser Foundation Hospitals, Kaiser
Foundation Health Plan, Inc., and their respective subsidiaries.¹

10 12. KFHP’s total dominance over KFH and SCPMG is evidenced by the fact that KFHP
11 and SCPMG’s entire annual budget is set by, controlled by, and approved by KFHP; all funds for
12 KFH and SCPMG’s operations come from KFHP; KFHP determines what “profit” if any SCPMG
13 is allowed to make; money that SCPMG uses to pay bonuses to its doctors comes from KFHP;
14 SCPMG does not bill any patients for most of its services; barring emergencies or extremely rare
15 instances, SCPMG doctors are only allowed to work for KFHP members exclusively; and
16 SCPMG’s only source of money is from KFHP.

17 13. KFHP provides virtually all legal, human resources, insurance, communications,
18 advertising, billing, and other necessary services for KFH and SCPMG. Members buying health
19 care coverage only pay money to KFHP, not to SCPMG; they buy insurance from KFHP and they
20 receive services through SCPMG. Advertising for the health care offered by KFHP as health
21 insurance and provided through SCPMG doctors is done predominantly by KFHP, advertising as
22 “Kaiser Permanente” as seen in the multi-million dollar “Thrive” advertising campaign. SCPMG
23 does not own hospitals, medical buildings, or the clinics where they work; they are owned by
24 KFHP/KFH. KFHP provides all telephone, fax, and e-mail services for SCPMG. KFHP also
25 provides health insurance and medical malpractice insurance to SCPMG’s doctors. KFHP lawyers
26 routinely render legal advice and counsel to KFH, SCPMG, and have unfettered access to KFH
27

28 ¹ <http://xnet.kp.org/newscenter/pressreleases/nat/2011/080511q2financials.html>

1 and SCPMG's records; KFHP's Human Resources department routinely investigates any
2 EEOC/DFEH or other complaints of discrimination, as well as issues regarding reasonable
3 accommodations, regarding KFHP and SCPMG's practices and employees, reporting to KFHP's
4 legal department on all such investigations; KFHP lawyers and human resources staff do not obtain
5 privacy waivers when seeking records of KFHP and/or SCPMG employees or investigating their
6 claims; KFHP provides and pays for all facilities in which KFHP and SCPMG conduct business.

7 14. KFHP further dominates and enforces control over all of its subsidiaries and
8 affiliates business by forcing them to do business under the tradename "Kaiser Permanente" and
9 by the imposition of a company-wide employee handbook entitled "PRINCIPLES OF
10 RESPONSIBILITY – KAISER PERMANENTE'S CODE OF CONDUCT" (hereinafter "POR").
11 By its express terms it is binding on "Anyone who works for or on behalf of Kaiser Permanente is
12 required to follow all applicable laws, policies **and this code of conduct** Failing to comply
13 with this code of conduct is a serious violation and could result in disciplinary action, up to and
14 including termination of employment and possible civil and criminal charges."

15 15. This "Kaiser Permanente" Code of Conduct, the POR, was written, imposed and
16 enforced by Kaiser Foundation Health Plan. In addition to the POR, Kaiser enacted a number of
17 policies and procedure governing and defining the terms and conditions of Plaintiff's employment.
18 These additional policies were imposed as conditions of Plaintiff's employment and included an
19 express progressive discipline policy

20 16. Defendants KFHP, KFHP and SCPMG, if not separately noted are hereinafter
21 collectively referred to as "Kaiser." These Defendants are collectively liable under either a joint
22 employer theory or a single enterprise theory. The true names and capacities of the defendants
23 named herein as Does 1 through 10, inclusive, whether individual, corporate, associate or
24 otherwise, are unknown to Plaintiff who therefore sues such defendants by fictitious names
25 pursuant to California Code of Civil Procedure section 474. Plaintiff is informed and believes that
26 all of the Doe defendants are California residents. Plaintiff will amend this Complaint to show
27 such true names and capacities when they have been determined.

1 17. Plaintiff is informed and believes that at all times relevant herein, each defendant
2 designated, including Does 1 through 10, was the agent, managing agent, principal, owner, partner,
3 joint venturer, representative, manager, servant, employee and/or co-conspirator of each of the
4 other defendants, and was at all times mentioned herein acting within the course and scope of said
5 agency and employment, and that all acts or omissions alleged herein were duly committed with
6 the ratification, knowledge, permission, encouragement, authorization and consent of each
7 defendant designated herein.

8 **FACTS COMMON TO ALL CAUSES OF ACTION**

9 18. Plaintiff was hired by Kaiser as a pharmacist on June 16, 1982. During the
10 intervening years, she rose through the ranks as a Kaiser pharmacist becoming, at the time of her
11 termination, the Pharmacist in Charge of the Outpatient Pharmacy Department at Kaiser's Yorba
12 Linda facility. Over the entire 34 years of Plaintiff's tenure, she was consistently rated as one of
13 the best performing pharmacists in the Kaiser system. At the time of the events leading up to her
14 wrongful termination, she was one of Kaiser's oldest pharmacists and at the top of the Kaiser pay
15 scale for pharmacists.

16 19. Prior to the events at issue herein, Plaintiff had never been written up or disciplined
17 for any misconduct in her entire 34 years as a Kaiser pharmacist.

18 20. Plaintiff enjoyed an excellent reputation and was well respected among her peers
19 until the event described herein. She repeatedly spoke up to ask for help when something was
20 wrong or something might be a threat to patients. Indeed, Kaiser's Principles of Responsibility
21 made it mandatory that Plaintiff (or any Kaiser employee) speak up if she became aware of actual
22 or perceived violations of the POR or the law.

23 21. When Plaintiff complained about the increased prescription volume and the need
24 to add more pharmacists and staff to competently deal with the ever-increasing number of patients
25 that required pharmacy services, the typical Kaiser response was to send a "floater" pharmacist
26 who was usually a mediocre performer who did little to ease the pressure and stress in the
27 pharmacy.
28

1 22. Kaiser membership had grown and was growing dramatically in the years prior to
2 Plaintiff's termination. Virtually every patient contact required documentation. Documentation
3 takes time. This ever-increasing patient growth placed an incredibly high demand on the
4 pharmacists and their support staff at Kaiser forcing Plaintiff and her peers to do more with less.
5 In order to maximize its profits, Kaiser consistently understaffed the Pharmacy department with
6 full knowledge that by doing so, they would tax the ability of the pharmacists and staff to meet the
7 demands thrust upon them. Kaiser also knew that by stretching their staff too thin they were
8 placing immense stress on the pharmacy staff thereby increasing the chances of human errors,
9 employee burn-out and illness, and threats to patient care.

10 23. As the increasing work load began to take its toll on the pharmacy department,
11 Plaintiff complained on several occasions about the chronic understaffing and the dangers it posed
12 to patients and staff alike to upper Kaiser Management. Plaintiff's complaints about the ever
13 increasing patient load and understaffing put Kaiser on notice that the quality of patient health care
14 and the health and well-being of pharmacy employees was being threatened and compromised.

15 24. Kaiser knew that younger less seasoned pharmacists with little or no seniority
16 would be less likely to cause them problems and far less likely to speak up about chronic
17 understaffing and the threat to patient care. Kaiser knew that if they could find a justification to
18 terminate Plaintiff's employment, they could replace her with a much younger pharmacist at a
19 much lower pay rate, thus eliminating senior pharmacist who was not afraid to speak up while
20 saving money for annual bonus distribution.

21 25. As the patient volume increased, placing tremendous strain on the pharmacy staff
22 and resources available, Kaiser chose to put profits ahead of patients, by requiring pharmacists and
23 staff to see an ever-increasing number of patients each day, fill thousands and thousands of
24 prescriptions while keeping up with the ever-increasing demands to document patient records on
25 a daily basis, while prohibiting overtime. Thus, Kaiser created a catch-22 situation wherein
26 Plaintiff and other pharmacists were forced to see more patients than was appropriate and still
27 complete the ever-increasing paperwork required for each patient.
28

1 26. Plaintiff's supervisor, Defendant HOOK, began a campaign of mental harassment
2 and verbal abuse intended to inflict pain and embarrassment on Plaintiff. HOOK would repeatedly
3 blame Plaintiff for things she had no control over or didn't do. When Plaintiff needed help, HOOK
4 would ignore her requests for assistance or delay getting help unreasonably so as to impose
5 additional stress and burdens on Plaintiff. These are but a few examples of HOOK's intentional
6 infliction of emotional distress in a campaign to set Plaintiff up for failure or to force Plaintiff to
7 quit. The abuse became so regular and so pervasive that Plaintiff was reluctant to report anything
8 to HOOK for fear of being chastised.

9 **KAISER'S PROGRESSIVE DISCIPLINE POLICY**

10 27. Every pharmacist at Kaiser makes mistakes. Kaiser has a stated "progressive
11 discipline policy" which gives its managers a wide range of responses to consider if a mistake is
12 made ranging from a verbal coaching ultimately up to potential termination. Kaiser's Pharmacy
13 Policy Reference 7.0.1 expressly provides that in the event of any Drug Furnishing Incident
14 ("DFI") "The principles of progressive discipline shall be followed. As with any progressive
15 discipline, the severity of discipline may be adjusted in proportion to the seriousness of the error
16 and the overall employee performance record." Plaintiff's record was unblemished!

17 28. On or about November 6, 2015, as a result of Plaintiff being physically sick, under
18 immense pressure and stress, and mentally and emotionally exhausted, and having been harassed
19 and abused by HOOK, Plaintiff made an error resulting in a drug furnishing incident. She
20 inadvertently gave the wrong medication to a patient. Plaintiff discovered the error, recovered the
21 wrong medication, and retrieved the unused and untouched drugs to the pharmacy. She failed to
22 write the drug furnishing report. In addition, HOOK inflicted emotional distress to Plaintiff by her
23 harassment and verbal made the same day.

24 29. In 34 years of dedicated and committed service to Kaiser she had never made any
25 errors of this type whatsoever. Notwithstanding her exemplary record over 34 years, Kaiser
26 purported to do an "investigation" and then fired Plaintiff destroying her career and reputation and
27 causing her enormous additional emotional and financial harm.

1 30. Plaintiff's age was a substantial motivating factor in defendants' decision to
2 terminate her employment. Over the many years of her employment, Plaintiff has seen many other
3 younger pharmacists commit errors far more egregious than what occurred here without being
4 fired. In fact, in most instances of errors of this type Kaiser used the younger pharmacist's error as
5 a teaching device to reinforce proper practices and procedures.

6 31. Plaintiff timely filed a charge of discrimination with the California Department of
7 Fair Employment and Housing and has received a Notice of Case Closure and "right to sue letter"
8 from that Department. Attached hereto as **Exhibit A** is a true and correct copy of the Complaint
9 filed with the DFEH on October 22, 2017.

10 **FIRST CAUSE OF ACTION**

11 **VIOLATIONS OF CALIFORNIA HEALTH & SAFETY CODE § 1278.5**

12 **(Against All Defendants and Does 1 through 10)**

13 32. Plaintiff incorporates by this reference paragraphs 1 through 42 of this complaint
14 as if set forth herein in full and with the same full force and effect.

15 33. Plaintiff was retaliated against prior to her termination in a campaign orchestrated
16 by defendants to inflict pain, humiliation and abuse on Plaintiff in an attempt to either force her to
17 quit or set her up for termination. This retaliation for patient and safety advocacy was in violation
18 of Health and Safety Code section 1278.5.

19 34. Kaiser is a patient care facility covered by Health & Safety Code Section 1278.5.

20 35. At the time Plaintiff made the complaints, instead of Kaiser addressing methods to
21 remedy the patient health and safety issues reported by Plaintiff, by and through its managing
22 offers, focused on retaliating against Plaintiff and engaging in a pattern of objectionable conduct,
23 as alleged herein, designed to retaliate against Plaintiff and to dissuade other employees, for fear
24 of similar retaliation, from reporting any patient health and safety issue.

25 36. Kaiser's conduct, as alleged herein, violated the provisions of Health & Safety
26 Code Section 1278.5. As the California Legislature has declared in Health & Safety Code Section
27 1278.5, "it is the public policy of the State of California to encourage patients, nurses, members
28 of the medical staff, and other health care workers to notify government entities of suspected

1 unsafe patient care and condition.” As such, “(b)(1) No health facility shall discriminate or
2 retaliate, in any manner, against any ... employee, member of the medical staff, or any other health
3 care worker ... because that person has ... (A) [pr]esented a grievance, complaint or report to the
4 facility ... or the medical staff of the facility.”

5 37. Plaintiff was retaliated against and terminated because of her protests and
6 complaints regarding substandard patient care as alleged herein. Plaintiff’s termination and other
7 adverse actions against Plaintiff, occurred within 120 days of her protests and complaints.
8 Accordingly, under Health & Safety Code Section 1278.5(d)(1). Plaintiff is entitled to a rebuttable
9 presumption that the adverse actions taken against her were attributable to her complaints and
10 protests regarding patient care.

11 38. In so doing, said managing agents and/or officers of Kaiser, acted with oppression,
12 fraud and malice, as those terms are used in California Civil Code section 3294. Such conduct
13 includes, but is not limited to, Plaintiff’s supervisor, Defendant HOOK beginning a campaign of
14 mental harassment and verbal abuse intended to inflict pain and embarrassment on Plaintiff.
15 HOOK would repeatedly blame Plaintiff for things she had no control over or didn’t do. When
16 Plaintiff needed help, HOOK would ignore her requests for assistance or delay getting help
17 unreasonably so as to impose additional stress and burdens on Plaintiff. These are but a few
18 examples of HOOK’s intentional infliction of emotional distress in a campaign to set Plaintiff up
19 for failure or to force Plaintiff to quit. The abuse became so regular and so pervasive that Plaintiff
20 was reluctant to report anything to Hook for fear of being chastised.

21 39. As a direct and proximate result, Plaintiff has suffered, and will continue to suffer,
22 economic and compensatory damages, including lost wages, lost benefits, and loss of promotional
23 opportunity, in an amount to be ascertained at the time of trial.

24 40. As a further proximate result, Plaintiff has suffered, and will continue to suffer,
25 humiliation, mental, emotional, and physical distress, anxiety, and nervousness and has been
26 generally damaged in an amount to be ascertained at the time of trial.

27 41. Plaintiff is entitled to legal costs pursuant to Health & Safety Code Section
28 1278.5(g).

SECOND CAUSE OF ACTION

**VIOLATION OF CALIFORNIA GOVERNMENT CODE § 12940(j) – HOSTILE WORK
ENVIRONMENT BASED ON HARASSMENT**

(Against All Defendants and Does 1 through 10)

42. Plaintiff incorporates by this reference all preceding and subsequent paragraphs.

43. Pursuant to California Government Code section 12940(k), Defendants owe Plaintiff the duty to take all reasonable steps necessary to prevent harassment against Plaintiff based on her age.

44. As alleged herein and in violation of California Government Code section 12940(k), Defendants violated the California Fair Employment and Housing Act by, among other things, failing to take all reasonable steps to prevent such harassment from occurring.

45. By the aforesaid acts and omissions of Defendants, Plaintiff has been directly and legally caused to suffer actual damages including, but not limited to, loss of earnings and future earning capacity, attorneys' fees, costs of suit and other pecuniary loss not presently ascertained.

46. As a further direct and legal result of the acts and conduct of Defendants as aforesaid, Plaintiff has been caused to and did suffer and continues to suffer severe emotional and mental distress, anguish, humiliation, embarrassment, insomnia, fright, shock, panic, discomfort and anxiety. The exact nature and extent of said injuries is presently unknown to Plaintiff. Plaintiff does not know at this time the exact duration or permanence of said injuries, but is informed and believes and thereon alleges that some if not all of the injuries are reasonably certain to be permanent in character.

47. Plaintiff is informed and believes, and thereon alleges, that the Defendants, by engaging in the aforementioned acts and/or in authorizing and/or ratifying such acts, engaged in wilful, malicious, intentional, oppressive and despicable conduct, and acted with wilful and conscious disregard of the rights, welfare and safety of Plaintiff, thereby justifying the award of punitive and exemplary damages in an amount to be determined at trial.

55. The actions alleged herein were taken by managing agents and/or officers of Defendants and/or ratified by managing agents and/or officers of Defendants. In so doing, said managing agents and/or officers of Defendants acted with oppression, fraud and malice, as those terms are used in California Civil Code section 3294. As such, Plaintiff is entitled to an award of punitive damages.

56. Government Code § 12965(b) permits the court to award reasonable attorneys' fees to a plaintiff that successfully pursues a FEHA claim. Plaintiff has and will continue to incur attorneys' fees in the pursuit of this action. As such, Plaintiff is entitled to an award of reasonable attorneys' fees.

FOURTH CAUSE OF ACTION
RETALIATION IN VIOLATION OF GOVERNMENT CODE § 12940
(Against All Defendants and Does 1 through 10)

57. Plaintiff incorporates by this reference all preceding and subsequent paragraphs.

58. At all times mentioned herein, California Government Code § 12940 *et seq.* was in full force and effect and was binding on Defendants, as each defendant regularly employed five (5) or more persons in the State of California.

59. California Government Code section 12940(h) makes it unlawful for any person to retaliate against an employee who has opposed a discriminatory practice.

60. During her employment with Defendants, Plaintiff opposed and complained that she was being forced to work in a hostile work environment, and retaliated against for her patient advocacy.

61. Defendants terminated Plaintiff's employment and took the other adverse actions against Plaintiff alleged herein, at least in substantial part, in retaliation for Plaintiff's protected activities set forth herein.

62. In so doing, said managing agents and/or officers of Kaiser, acted with oppression, fraud and malice, as those terms are used in California Civil Code section 3294.

63. As a direct and proximate result, Plaintiff has suffered, and will continue to suffer, economic and compensatory damages, including lost wages, lost benefits, and loss of promotional opportunity, in an amount to be ascertained at the time of trial.

64. As a further proximate result, Plaintiff has suffered, and will continue to suffer, humiliation, mental, emotional, and physical distress, anxiety, and nervousness and has been generally damaged in an amount to be ascertained at the time of trial.

65. As a proximate result of the wrongful acts of Defendants, Plaintiff has been forced to hire attorneys to prosecute her claims herein, and has incurred and is expected to continue to incur attorneys' fees and costs in connection therewith. Plaintiff is entitled to recover attorneys' fees and costs under California Government Code § 12965(b).

FIFTH CAUSE OF ACTION

AGE DISCRIMINATION IN VIOLATION OF GOVERNMENT CODE § 12940

(Against All Defendants and Does 1 through 10)

66. Plaintiff incorporates by this reference all preceding and subsequent paragraphs.

67. Kaiser is an employer, as that term is used in Government Code § 12926(d), in that it regularly employs five or more persons in the state of California.

68. At all times of the adverse employment actions alleged herein, Plaintiff was an employee of Kaiser.

69. At the time Plaintiff was terminated, she was 60 years old.

70. At all times relevant, Plaintiff was qualified for her position of Pharmacist at Kaiser and performed her duties satisfactorily. In fact, Plaintiff possessed superior skills and qualities compared to significantly younger individuals with similar training.

71. Plaintiff is informed and believes that Kaiser's decision to not give Plaintiff a severance package (including financial compensation and extended dental benefits) was an adverse employment action based solely on Plaintiff's age and therefore constituted age discrimination in violation of Government Code § 12940(a).

1 federal statutes, including (but not limited to) California Government Code § 12940, et al.
2 (prohibiting discrimination based on age).

3 81. As a proximate result of the aforementioned acts of Kaiser, Plaintiff has lost, and
4 will continue to lose, substantial earnings, and fringe benefits, and has suffered and/or will suffer
5 other actual, consequential, and incidental financial losses, in an amount to be proven at trial in
6 excess of the jurisdictional minimum of this court.

7 82. As a proximate result of the aforementioned acts of Kaiser, Plaintiff has become
8 mentally upset, physically distressed, embarrassed, humiliated, and aggravated. As a result of the
9 acts of retaliation, Plaintiff suffered harm to her reputation and claims general damages for such
10 mental and physical distress and aggravation in a sum in excess of the jurisdictional minimum of
11 this court.

12 83. The actions alleged herein were taken by managing agents and/or officers of Kaiser
13 and/or ratified by managing agents and/or officers of Kaiser. In so doing, said managing agents
14 and/or officers of Kaiser acted with oppression, fraud and malice, as those terms are used in
15 California Civil Code § 3294. As such, Plaintiff is entitled to an award of punitive damages.

16 84. Plaintiff also seeks an award of attorneys' fees and costs to counsel where permitted
17 by applicable law, including under California Code of Civil Procedure § 1021.5 because: (a) this
18 action confers a significant benefit to the general public or a large class of persons impacted by
19 the practices alleged herein (i.e., Kaiser's policy holders, and Kaiser's patients); (b) the necessity
20 and financial burden of private enforcement makes the award appropriate; and (c) such fees should
21 not in the interest of justice be paid out of the recovery to Plaintiff.

22 SEVENTH CAUSE OF ACTION

23 DEFAMATION

24 (Against All Defendants and Does 1 through 10)

25 85. Plaintiff incorporates by this reference all preceding and subsequent paragraphs.

26 86. Defendants falsely accused Plaintiff of a pattern of incompetence and dishonesty
27 which directly injured her in her career and in her profession.
28

1 87. Defendants knew the statements were false at the time they made them and/or failed
2 to use reasonable care to determine the truth or falsity of the aforementioned statements.

3 88. The statements constitute defamation per se.

4 89. As a proximate result of Defendants' actions, Plaintiff has suffered and continues
5 to suffer substantial losses incurred in earnings, bonuses, deferred compensation and other
6 employment benefits.

7 90. As a proximate result of Defendants' actions, Plaintiff has suffered and continues
8 to suffer emotional distress, mental anguish, embarrassment, humiliation and anxiety all to his
9 damage in an amount in excess of the minimum jurisdictional limits of this court. Plaintiff will
10 seek leave of court to amend his complaint to allege the correct amount at the time of trial or
11 according to proof at trial.

12 91. Defendants, and each of them, did the acts herein alleged maliciously, fraudulently,
13 and oppressively, amounting to despicable conduct, and in conscious disregard of Plaintiff's rights.
14 The acts alleged herein were known to, authorized and ratified by Defendants. Plaintiff is thus
15 entitled to recover punitive damages from Defendant, and each of them, in an amount according
16 to proof.

17 **JURY TRIAL DEMANDED**

18 92. Plaintiff demands a jury as to all causes of action.

19 **PRAYER FOR RELIEF**

20 WHEREFORE, Plaintiff requests relief as follows:

- 21 1. For compensatory economic damages according to proof including losses incurred in
22 seeking substitute employment and loss of earnings, and other employment benefits;
- 23 2. For compensatory non-economic damages for losses resulting from humiliation, mental
24 anguish, and emotional distress according to proof;
- 25 3. For interest on the amount of losses incurred in earnings, deferred compensation and
26 other employee benefits at the prevailing legal rate;
- 27 4. For a \$25,000 civil penalty pursuant to Health and Safety Code section 1278.5;
- 28 5. For punitive damages according to proof;

6. For restitution and injunctive relief;
7. For reinstatement;
8. For costs incurred by plaintiff, including reasonable attorneys' fees;
9. For such other and further relief as the Court may deem proper.

Date: October 24, 2017

THE MATHEWS LAW GROUP



By _____
Charles T. Mathews
Attorneys for Plaintiff,
HIEU NGUYEN-HAZAMA