



FILED
ALAMEDA COUNTY

JUL 13 2018

CLERK OF THE SUPERIOR COURT
By *[Signature]*

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SUPERIOR COURT FOR THE STATE OF CALIFORNIA

COUNTY OF ALAMEDA

LEMIA WILLIAMS, an individual,

Plaintiff,

v.

KAISER PERMANENTE; AMERICAN
MOBILE HEALTHCARE, INC., and DOES
1 through 50, inclusive,

Defendants.

Case No.:

2918912784
COMPLAINT FOR DAMAGES

1. Disability Discrimination in Violation of FEHA;
2. Failure to Prevent Discrimination, and/or Harassment in Violation of FEHA;
3. Retaliation
4. Wrongful Termination in Violation of Public Policy.
5. Failure to Accommodate
6. Failure to Engage in the Good Faith Interactive Process
7. Retaliation in Violation of Labor Code Section 1102.5

Plaintiff LEMIA WILLIAMS (hereafter "Plaintiff" or "WILLIAMS ") complains as follows:

THE PARTIES

1. Plaintiff is an individual over the age of 18 and is a resident of the State of California.
2. Defendant KAISER PERMANENTE is a health care provider located in Alameda County. Defendant AMERICAN MOBILE HEALTHCARE, INC. is a placement company that placed Plaintiff at her job working for Defendant Kaiser Permanente.
3. The true names and capacities, whether individual, corporate, associate or otherwise of DOES 1 through 50, inclusive, are unknown to Plaintiff. Plaintiff therefore sues such

BY FAX

1 defendants by such fictitious names and will amend this complaint to insert their true names and
2 capacities when ascertained. Plaintiff is informed and believes, and thereon alleges, that each
3 such fictitiously named defendant is in some manner, means or degree, connected with the
4 matters alleged and is liable to Plaintiff thereon.

5 4. Plaintiff is informed and believes, and thereon alleges, that at all times herein
6 mentioned each of the defendants was the agent and/or employee of each of the remaining
7 defendants and, in doing the things hereinafter alleged, was acting within the course and scope of
8 such agency and/or employment.

9 **STATEMENT OF FACTS**

10 5. Plaintiff Lemia Williams ("Plaintiff" or "Williams") worked as an employee for
11 Defendants Kaiser Permanente ("Kaiser") and American Mobile Healthcare, Inc. ("American
12 Mobile"-- collectively "Defendants") as an emergency room nurse from November 28, 2017 until
13 her termination in March of 2018. Plaintiff was placed to work with Kaiser by Defendant
14 American Mobile, which was a placement and recruitment agency.

15 6. On January 11, 2018, Plaintiff was severely injured in a rear end car crash, which
16 resulted in about \$5,600 in damages to her vehicle. Plaintiff was not at fault.

17 7. On January 12, 2018, Plaintiff went to the emergency room and was diagnosed with
18 a cervical strain/sprain of her neck and back pain. Plaintiff called Kaiser and notified her
19 employer that she would be out from work the next day and would return the following day to
20 work in the emergency room of Kaiser.

21 8. On or about January 31, 2018, Plaintiff started treating with Glenn Weirsma, a
22 Chiropractor. Plaintiff received treatment from Dr. Weirsma approximately 2-3 times a week
23 prior to and subsequent to her termination. Plaintiff was able to perform all of the essential
24 functions of her job in the emergency room at Kaiser after the accident.

25 9. On March 2, 2018, Plaintiff was assisting a 400+ pound patient who was in
26 respiratory distress and unable to move on his own and 200+ pound man who had a cardiac arrest
27 and was dead weight. As a result of lifting and moving these patients, Plaintiff's neck and back
28 problems were exacerbated.

1 10. On March 4, 2018, Plaintiff woke up with a severe viral cold and excruciating pain
2 in her right neck and right mid back. Plaintiff texted her Chiropractor about getting x-rays.
3 Plaintiff tried treating herself with ice and heat with no relief. Plaintiff made an appointment with
4 her primary care doctor for following week.

5 11. On March 6, 2018, Plaintiff went to urgent care due to increasing pain and stiffness
6 in her back. The urgent care doctor gave Plaintiff a note to return to work with light duty until
7 Plaintiff could see and be cleared by her primary care doctor.

8 12. On March 8, 2018, Plaintiff came to work and talked with the charge nurse.
9 Plaintiff told the nurse that she would need light duty and that she thought triage would be best, as
10 it doesn't require lifting or pushing beds. Plaintiff then approached the triage to relieve the nurse
11 who was already there. As Plaintiff was getting report from him, another nurse told Plaintiff to
12 speak with Robin the manager.

13 13. Plaintiff took her note to Robin and explained to her that Plaintiff was injured and
14 had a note for light duty. She took the note and had Plaintiff wait in the break room. Plaintiff
15 waited for about 10 mins and she brought Plaintiff back in and said since Plaintiff could no longer
16 perform her duties that her contract was cancelled and that Plaintiff needed to leave.

17 14. Plaintiff asked if she could speak with her agency/recruiter and Plaintiff's doctor
18 and come back the next day. Robin said that she could not and demanded that Plaintiff provide
19 her with her badge. Plaintiff left and called her recruiter, Brennan, who emailed his supervisor
20 about the incident. Plaintiff asked about filing workers comp claim, but was told that she could
21 not because there was no reportable isolated incident. A few hours later, Brennan called Plaintiff
22 to inform her that, in order to get another assignment, Plaintiff would have to get full duty
23 clearance from her doctor and that for her to have accommodations would be a liability for the
24 company.

25 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

26 15. Plaintiff has filed an administrative charge with the Department of Fair
27 Employment and Housing within one year of the date of her termination.

28 **FIRST CAUSE OF ACTION**

DISABILITY DISCRIMINATION VIOLATION OF GOV. CODE § 12940 ET SEQ.

(Against DEFENDANTS and Does 1-25)

16. PLAINTIFF incorporates by reference the allegations set forth above as though fully restated herein.

17. At all times relevant herein, PLAINTIFF was employed by Defendants, and/or DOES 1-25, and each of them.

18. The FEHA requires defendants to refrain from discrimination against an employee on the basis of disability.

19. Defendants, and/or DOES 1-25, and each of them, made decisions that adversely affected PLAINTIFF in regards to the terms, conditions and privileges of employment culminating in her termination, on the basis of her disability.

20. As a direct, proximate, and foreseeable result of Defendants' conduct, and/or DOES 1-25, and each of their, acts and/or failures to act, as alleged herein, PLAINTIFF has suffered and continues to suffer substantial losses in earnings and employment benefits, injury to her career and reputation, and extreme and enduring emotional distress including but not limited to humiliation, shock, embarrassment, fear, anxiety and discomfort, all of which amount to PLAINTIFF's damage which totals in excess of the minimum jurisdiction of this court, the precise amount to be proven at trial.

21. Defendants, and/or DOES 1-25, and each of them, committed the acts herein alleged maliciously, fraudulently, and oppressively with the wrongful intention of injuring PLAINTIFF, and acted with an improper and evil motive amounting to malice, in conscious disregard for PLAINTIFF's rights and thus an award of exemplary and punitive damages is justified. Further, the actions directed at PLAINTIFF were carried out by supervising employees acting in a deliberate, callous and intentional manner in order to injure and damage PLAINTIFF. PLAINTIFF is therefore entitled to recover and herein prays for punitive damages in an amount sufficient to punish Defendant, and/or DOES 1-25, and each of them, in an amount to be proven in trial.

WHEREFORE, PLAINTIFF prays for judgment, including punitive damages, as more

1 fully set forth below.

2
3 **SECOND CAUSE OF ACTION**

4 **FAILURE TO PREVENT DISCRIMINATION AND/OR HARASSMENT**

5 **IN VIOLATION OF GOV. CODE § 12940 ET SEQ.**

6 (Against the DEFENDANTS and Does 1-25)

7 22. PLAINTIFF incorporates by reference the allegations set forth above as though
8 fully restated herein.

9 23. At all times relevant herein, PLAINTIFF was employed by DEFENDANTS and/or
10 DOES 1-25, and each of them.

11 24. At all times mentioned herein, DEFENDANTS were prohibited by California
12 Government Code §12940, et seq., among other California statutes, from failing to take all
13 reasonable steps necessary to prevent discrimination, retaliation, and/or harassment from
14 occurring.

15 25. Defendants subjected PLAINTIFF to discrimination and harassment and/or ratified
16 discriminatory and harassing conduct towards PLAINTIFF and retaliated against her for opposing
17 practices prohibited by FEHA. PLAINTIFF is informed and believes, and thereon alleges, that
18 Defendant failed to act and/or to take all reasonable steps necessary to prevent discrimination and
19 harassment from occurring.

20 26. On information and belief, the DEFENDANTS failed to maintain and implement
21 and/or enforce adequate policies and procedures, failed to provide adequate training of personnel,
22 and failed to take other reasonable steps necessary to prevent the violations of the FEHA alleged
23 herein from occurring.

24 27. The above-described actions and omissions of the Defendants constitute failure to
25 prevent discrimination and retaliation under the FEHA.

26 28. As a direct and proximate result of Defendants' conduct, and/or DOES 1-25, and
27 each of their, their acts and/or failure to act, PLAINTIFF has suffered injury, damage, loss and
28 harm, including but not limited to, loss of income, humiliation, embarrassment, severe mental and

1 emotional distress, and discomfort, all of which amount to PLAINTIFF's damage which totals in
2 excess of the minimum jurisdiction of this court, the precise amount to be proven at trial.

3 29. Defendants, and/or DOES 1-25, and each of them, committed the acts herein
4 alleged maliciously, fraudulently, and oppressively with the wrongful intention of injuring
5 PLAINTIFF, and acted with an improper and evil motive amounting to malice, in conscious
6 disregard for PLAINTIFF's rights and thus an award of exemplary and punitive damages is
7 justified. Further, the actions directed at PLAINTIFF were carried out by supervising employees
8 acting in a deliberate, callous and intentional manner in order to injure and damage PLAINTIFF.
9 PLAINTIFF is therefore entitled to recover and herein prays for punitive damages in an amount
10 sufficient to punish Defendant, and/or DOES 1-25, and each of them, in an amount to be proven
11 in trial.

12 WHEREFORE, PLAINTIFF prays for judgment, including punitive damages, as more
13 fully set forth below.

14 **THIRD CAUSE OF ACTION**

15 **RETALIATION IN VIOLATION OF CAL. GOV. CODE SECTION 12940 ET SEQ.**

16 (Against DEFENDANTS and Does 1-25)

17 30. PLAINTIFF incorporate by reference the allegations set forth above as though fully
18 restated herein.

19 31. At all times herein mentioned, DEFENDANT qualified as an "employer" as defined
20 within California Fair Employment and Housing Act (California Government Code 12940, et.
21 seq., or "FEHA"), in that DEFENDANT regularly employed five or more workers.

22 32. FEHA, California Government Code § 12940(k)(4) et seq., and other applicable
23 provisions, make it unlawful for any employer to retaliate against an employee for engaging in
24 activity protected by FEHA.

25 33. After PLAINTIFF made a request for accommodation of her disability, and
26 DEFENDANT retaliated against by terminating her.

27 34. As a direct and proximate result of the unlawful conduct of DEFENDANTS,
28 PLAINTIFF has suffered damages including but not limited to past and future loss of income,

benefits, and other damages to be proven at time of trial.

35. As a direct and proximate result of DEFENDANT'S actions against PLAINTIFF, as alleged above, PLAINTIFF has suffered and will continue to suffer severe mental and emotional distress, including but not limited to frustration, depression, nervousness, anxiety and loss of self-worth, and damage her reputation.

36. The unlawful conduct alleged above was engaged in by the officers, directors, supervisors and/or managing agents of DEFENDANTS, and each of them, who were acting at all times relevant to this Complaint within the scope and course of their employment.

37. DEFENDANTS' actions directed at PLAINTIFF were carried out by supervising employees acting in a deliberate, callous and intentional manner in order to injure and damage PLAINTIFF.

38. DEFENDANTS committed the acts herein alleged maliciously, fraudulently, and oppressively with the wrongful intention of injuring PLAINTIFF, and acted with an improper and evil motive amounting to malice, and in conscious disregard for PLAINTIFF's rights, and such acts were committed by, authorized by, and/or ratified by officers, directors, and/or managing agents of DEFENDANTS. PLAINTIFF is therefore entitled to recover and herein prays for punitive damages in an amount sufficient to punish and deter DEFENDANT and others for such conduct.

39. PLAINTIFF has incurred, and will continue to incur, attorneys' fees and costs in the prosecution of this action, and PLAINTIFF therefore seeks attorneys' fees and costs under all applicable provisions of law.

WHEREFORE, PLAINTIFF prays for judgment as set forth below.

FOURTH CAUSE OF ACTION

Wrongful Termination in Violation of Public Policy

(Against the DEFENDANTS and Does 1-25)

40. PLAINTIFF incorporates by reference the allegations set forth above as though fully restated herein.

41. At all times relevant herein, PLAINTIFF was employed by the DEFENDANTS

1 until her termination.

2 42. California has a fundamental, substantial, and well-established public policy, as
3 expressed in FEHA and other laws and regulations, against discrimination, harassment, and
4 retaliation in the workplace. DEFENDANT violated these important public policies by
5 terminating PLAINTIFF, because of PLAINTIFF's disability, her requests for leave, her requests
6 for accommodation and her complaints to management about the manner in which they were
7 treating her complaints.

8 43. As a direct and proximate result of the unlawful conduct of PLAINTIFF has
9 suffered damages including but not limited to past and future loss of income, benefits, and other
10 damages to be proven at time of trial.

11 44. As a direct and proximate result of DEFENDANTS' actions against PLAINTIFF,
12 as alleged above, PLAINTIFF has suffered and will continue to suffer severe mental and
13 emotional distress, including but not limited to frustration, depression, nervousness, anxiety and
14 loss of self-worth, and damage to her reputation.

15 45. The unlawful conduct alleged above was engaged in by the officers, directors,
16 supervisors and/or managing agents of DEFENDANTS, and each of them, who were acting at all
17 times relevant to this Complaint within the scope and course of their employment.

18 46. DEFENDANTS' actions directed at PLAINTIFF were carried out by supervising
19 employees acting in a deliberate, callous and intentional manner in order to injure and damage
20 PLAINTIFF.

21 47. DEFENDANTS committed the acts herein alleged maliciously, fraudulently, and
22 oppressively with the wrongful intention of injuring PLAINTIFF, and acted with an improper and
23 evil motive amounting to malice, and in conscious disregard for PLAINTIFF's rights, and such
24 acts were committed by, authorized by, and/or ratified by officers, directors, and/or managing
25 agents of DEFENDANT. PLAINTIFF is therefore entitled to recover and herein prays for
26 punitive damages in an amount sufficient to punish and deter DEFENDANTS and others for such
27 conduct.

28 48. As a result of the conduct of DEFENDANTS' conduct, PLAINTIFF was forced to

1 retain an attorney in order to protect her rights. Accordingly, PLAINTIFF seeks the reasonable
2 attorneys' fees and costs incurred in this litigation in an amount according to proof at trial.

3 WHEREFORE, PLAINTIFF prays for judgment as more fully set forth below.

4 **FIFTH CAUSE OF ACTION**

5 **Failure to Accommodate in Violation of Government Code § 12940**

6 (Against All Defendants)

7 49. Plaintiff incorporates all previously paragraphs as though fully set forth herein.

8 50. Defendants had an affirmative duty to make a reasonable accommodation for
9 Plaintiff's disability. The duty arises even if Plaintiff did not request an accommodation.

10 51. Here, Plaintiff requested that she be allowed to work in her position as a
11 Radiology Technologist with reasonable accommodations. Defendants failed to accommodate
12 those restrictions and terminated Plaintiff's employment to avoid having to further
13 accommodate her request for accommodations.

14 52. At all relevant times, Defendants had actual and constructive knowledge of the
15 failure to accommodate described and alleged herein, and condoned, ratified and participated
16 in the discrimination.

17 53. Defendants' acts were malicious, oppressive or fraudulent with intent to vex,
18 injure, annoy, humiliate and embarrass Plaintiff, and in conscious disregard of the rights or
19 safety of Plaintiff and other employees of Defendants, and in furtherance of Defendants'
20 ratification of the wrongful conduct of the managers of Defendants. Accordingly, Plaintiff is
21 entitled to recover punitive damages from Defendants.

22 54. By reason of the conduct of Defendants and each of them as alleged herein,
23 Plaintiff has necessarily retained attorneys to prosecute the within action. Plaintiff is therefore
24 entitled to reasonable attorney's fees and litigation expenses, including expert witness fees and
25 costs, incurred in bringing the within action. As a result of Defendants' and each of their
26 actions, Plaintiff sustained economic damages to be proven at trial. As a further result of
27 Defendants' and each of their actions, Plaintiff suffered emotional distress; resulting in
28 damages to be proven at trial.

1 55. The above discriminatory conduct violates FEHA, Government Code §§ 12940
2 and 12941 and California Public Policy and entitles Plaintiff to all categories of damages,
3 including exemplary or punitive damages.

4 WHEREFORE, Plaintiff prays for judgment as more fully set forth herein.

5 **SIXTH CAUSE OF ACTION**

6 **Failure to Engage in the Good Faith Interactive Process in Violation of Government**

7 **Code § 12940, et seq.**

8 (Against All Defendants)

9 56. Plaintiff incorporates all previous paragraphs as though fully set forth herein.

10 57. Defendants, and each of them, were required under California Government Code
11 §12940, et seq., among other California statutes, to engage in an interactive dialogue with all
12 qualified, disabled employees, designed to find ways to reasonably accommodate said
13 employees' disabilities in the workplace (the "interactive process").

14 58. Plaintiff was a qualified disabled employee. Defendants were, therefore,
15 required to engage in the interactive process with Plaintiff.

16 59. Defendants, and each of them, failed to engage in the interactive process with
17 Plaintiff.

18 60. As a direct, proximate and foreseeable result of Defendants' acts and failures to
19 act as alleged herein, plaintiff has suffered and continues to suffer substantial losses in
20 earnings and employment benefits, injury to her career and reputation and extreme and
21 enduring emotional distress including but not limited to humiliation, shock, embarrassment,
22 fear, anxiety and discomfort, all to his damage in an amount to be determined according to
23 proof at trial.

24 61. Defendants and each of them, committed the acts herein alleged despicably,
25 maliciously, fraudulently, and oppressively, with the wrongful intention of injuring plaintiff,
26 and acted with an improper and evil motive amounting to malice and in conscious disregard of
27 plaintiff's rights. Because the acts taken toward plaintiff were carried out by managerial
28 employees acting in a deliberate, cold, callous, despicable, and intentional manner in order to

1 injure and damage plaintiff, he is entitled to punitive damages from Defendants, and each of
2 them, in an amount according to proof.

3 WHEREFORE, Plaintiff prays for judgment as more fully set forth herein.

4 **SEVENTH CAUSE OF ACTION**

5 **Retaliation in Violation of Labor Code Section 1102.5**

6 **(AGAINST ALL DEFENDANTS)**

7 62. Plaintiff incorporates all previous paragraphs as though fully set forth herein.

8 63. Defendants, through their agents and employees engaged in a pattern and
9 practice of retaliating against Plaintiff for complaining Defendants' failure to accommodate
10 her work restrictions. Defendants also engaged in legally protected activity when she
11 requested medical leaves.

12 64. Plaintiff was subjected to an adverse employment action because of her requests
13 for modified work duties, and Defendants' failure to engage in the good faith interactive
14 process with her around her request for modified work duties.

15 65. Defendants' acts were malicious, oppressive or fraudulent with intent to vex,
16 injure, annoy, humiliate and embarrass Plaintiff, and in conscious disregard of the rights or
17 safety of Plaintiff and other employees of Defendants, and in furtherance of Defendants'
18 ratification of the wrongful conduct of the managers of Defendants. Accordingly, Plaintiff is
19 entitled to recover punitive damages from Defendants.

20 **EIGHTH CAUSE OF ACTION**

21 **RETALIATION IN VIOLATION OF CAL. GOV. CODE SECTION 12940 ET SEQ.**

22 **(Against DEFENDANT and Does 1-25)**

23 65. PLAINTIFF incorporate by reference the allegations set forth above as though fully
24 restated herein.

25 66. At all times herein mentioned, DEFENDANTS qualified as an "employer" as
26 defined within California Fair Employment and Housing Act (California Government Code
27 12940, et. seq., or "FEHA"), in that DEFENDANTS regularly employed five or more workers.

28 67. Plaintiff requested and received medical leave pursuant to Government Code

1 Section 12945.2, et seq. ("CFRA"). After Plaintiff took medical leave, Defendants terminated her
2 employment in retaliation for her exercising her rights to take medical leave under FEHA.

3 68. As a direct and proximate result of the unlawful conduct of DEFENDANTS,
4 PLAINTIFF has suffered damages including but not limited to past and future loss of income,
5 benefits, and other damages to be proven at time of trial.

6 69. As a direct and proximate result of DEFENDANTS' actions against PLAINTIFF,
7 as alleged above, PLAINTIFF has suffered and will continue to suffer severe mental and
8 emotional distress, including but not limited to frustration, depression, nervousness, anxiety and
9 loss of self-worth, and damage her reputation.

10 70. The unlawful conduct alleged above was engaged in by the officers, directors,
11 supervisors and/or managing agents of DEFENDANTS, and each of them, who were acting at all
12 times relevant to this Complaint within the scope and course of their employment.

13 71. DEFENDANTS' actions directed at PLAINTIFF were carried out by supervising
14 employees acting in a deliberate, callous and intentional manner in order to injure and damage
15 PLAINTIFF.

16 72. DEFENDANTS committed the acts herein alleged maliciously, fraudulently, and
17 oppressively with the wrongful intention of injuring PLAINTIFF, and acted with an improper and
18 evil motive amounting to malice, and in conscious disregard for PLAINTIFF's rights, and such
19 acts were committed by, authorized by, and/or ratified by officers, directors, and/or managing
20 agents of DEFENDANTS. PLAINTIFF is therefore entitled to recover and herein prays for
21 punitive damages in an amount sufficient to punish and deter DEFENDANTS and others for such
22 conduct.

23 73. PLAINTIFF has incurred, and will continue to incur, attorneys' fees and costs in the
24 prosecution of this action, and PLAINTIFF therefore seeks attorneys' fees and costs under all
25 applicable provisions of law.

26 WHEREFORE, Plaintiff makes the following demand:

27 (a) That process be issued and served as provided by law, requiring Defendants, and
28 each of them, to appear and answer or face judgment;

(b) For general, special, actual, compensatory and/or nominal damages, as against Defendants, and each of them, in an amount to be determined at trial;

(c) For back pay and other benefits Plaintiff would have been afforded but-for Defendants', and each of their, unlawful conduct;

(d) For declaratory relief, as against Defendants, and each of them, in an amount to be determined at trial;

(e) For statutory penalties as allowed by law;

(f) For costs and expenses of this litigation;

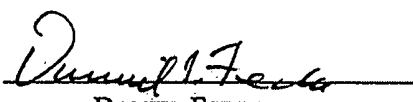
(g) For reasonable attorneys' fees where appropriate;

(h) For pre and post-judgment interest on all damages and other relief awarded herein from all entities against whom such relief may be properly awarded; and,

(i) For all such other relief as this Court deems just and appropriate.

Dated: July 13, 2018

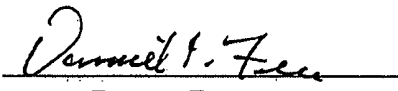
Law Offices of Daniel Feder


DANIEL FEDER
Attorneys for Plaintiff

PLAINTIFF DEMANDS TRIAL BY JURY.

Dated: July 13, 2018

Law Offices of Daniel Feder


DANIEL FEDER
Attorneys for Plaintiff