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9 JULIET VALDERRAMA



10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 COUNTY OF SACRAMENTO

12 JULIET VALDERRAMA

13 Plaintiff,

14 v.

15 THE PERMANENTE MEDICAL
16 GROUP, INC., a California Corporation;
17 LORI GOMES-HARRISON, individually;
18 and DOES 1 through 50, inclusive.

19 Defendants.

20 Defendants.

CASE NO.

COMPLAINT FOR DAMAGES

- 1) VIOLATION OF CFRA/FMLA RIGHTS
(Cal. Gov. Code § §12900 *et seq.*, 12945.1 *et seq.*)
- 2) PHYSICAL DISABILITY
DISCRIMINATION/PERCEIVED
PHYSICAL DISABILITY
DISCRIMINATION
(Cal. Gov. Code §12940(a))
- 3) PHYSICAL DISABILITY
HARASSMENT/PERCEIVED PHYSICAL
DISABILITY HARASSMENT
(Cal. Gov. Code §12940(j)(1))
- 4) FAILURE TO ACCOMMODATE
DISABILITIES (Cal. Gov. Code §12940(m))
- 5) FAILURE TO ENGAGE IN THE
INTERACTIVE PROCESS
(Cal. Gov. Code §12940(n))
- 6) RETALIATION (Cal. Gov. Code §12940(h))

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27 Plaintiff hereby alleges:
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**I.
INTRODUCTION**

1. This action is brought by Plaintiff, JULIET VALDERRAMA, who has sustained injuries or damages arising out of the conduct of Defendants, THE PERMANENTE MEDICAL GROUP, INC., LORI GOMES-HARRISON, an individual, and DOES 1 through 50.

2. This Complaint specifically asserts causes of action for the following: Violation of CFRA/FMLA Rights (California Government Code §12900 *et seq.*; §12945.1 *et seq.*); Physical Disability Discrimination/Perceived Physical Disability Discrimination (California Government Code §12940(a)); Physical Disability Harassment/Perceived Physical Disability Harassment (California Government Code §12940(a)); Failure to Accommodate Disabilities (California Government Code §12940(m)); Failure to Engage in the Interactive Process (California Government Code §12940(n)); Retaliation (California Government Code §12940(h)); and Violation of Public Policy.

3. Plaintiff, JULIET VALDERRAMA (hereinafter also referred to as "Plaintiff") is a former employee of THE PERMANENTE MEDICAL GROUP, INC. (herein referred to as "Defendant" or "TPMG"); and underwent training and provided services to Defendants in the State of California. As described herein, TPMG employed Plaintiff from approximately 2002 until on or about June 13, 2018.

4. TPMG is a medical group providing a variety of medical services.

5. LORI GOMES-HARRISON (herein referred to as "HARRISON"), an individual, performed duties of a clinical laboratory manager and was Plaintiff's direct supervisor during the times relevant to this Complaint.

6. Defendants, TPMG and DOES 1 through 50, are individuals and/or corporations, domiciled in the State of California. Plaintiff is informed and believes, and thereon alleges that there exists such a unity of interest and ownership between TPMG and DOES 1 through 50 that

1 the individuality and separateness of these Defendants have ceased to exist. The business affairs
2 of TPMG and DOES 1 through 50 are, and at all times relevant hereto were, so mixed and
3 intermingled that the same cannot be reasonably segregated, and the same are in inextricable
4 confusion. TPMG and DOES 1 through 50 are, and at all times relevant hereto, were used by
5 TPMG as mere shells and conduits for the conduct of certain of TPMG'S affairs. The recognition
6 of the separate existence of these entities would not promote justice, in that it would permit
7 Defendants to insulate themselves from liability to Plaintiff. Accordingly, these Defendants are
8 merely the alter egos of TPMG'S and the fiction of their separate existence must be disregarded.

10 7. Plaintiff is informed and believes, and thereon alleges that at all relevant times
11 herein, all Defendants were the agents, employees, and/or servants, masters or employers of the
12 remaining Defendants, and in doing the things alleged in this Complaint, were acting in the course
13 and scope of such agency or employment, and with the approval and ratification of each of the
14 other Defendants.

16 8. The true names and capacities, whether individual, corporate, associate, or
17 otherwise, of DOES 1 through 50 inclusive, are unknown to Plaintiff, who therefore sues such
18 Defendants by fictitious names. Plaintiff will amend this Complaint to show the Defendants' true
19 names and capacities when the same have been ascertained. Plaintiff alleges, upon information
20 and belief, that each of the Defendants, and DOES 1 through 50, inclusive, are legally responsible
21 in some manner negligently, in warranty, strictly, intentionally, or otherwise, for the events and
22 happenings herein referred to, and each of the Defendants proximately caused injuries and
23 damages to Plaintiff as herein alleged.

25 9. In perpetrating the acts and omissions alleged herein, Defendants, and each of them,
26 acted pursuant to, and in furtherance of a policy and practice of discriminating, and/or harassing,
27 and/or retaliating against, their disabled employees.

10. Plaintiff is informed and believes, and thereon alleges, that each and every of the acts and omissions alleged herein were performed by, and are attributable to, all Defendants, each acting as agents and/or employees, and/or under the direction and control of each of the other Defendants, and that said acts or failures to act were within the course and scope of said agency, employment, and/or direction and control.

II. GENERAL ALLEGATIONS

11. Plaintiff began her employment with TPMG in February of 2002. She performed duties as a Laboratory Assistant and continuously received good performance reviews.

12. Plaintiff suffers from Diabetes Type II and orthopedic back disc disease. Beginning in 2016, TPMG approved and placed Plaintiff on an approved FMLA/CFRA intermittent leave. The approved FMLA/CFRA leave was renewed annually based on the proper medical certifications.

13. In about 2015, HARRISON became the laboratory unit manager and a direct supervisor of Plaintiff. HARRISON continuously harassed Plaintiff based on her disability. HARRISON would accuse Plaintiff of work deficiencies including calling in sick. Plaintiff responded that she called in sick due to her physical disabilities of diabetes. HARRISON responded, "your absenteeism is unacceptable." HARRISON continued to harass Plaintiff due her physical disabilities. The harassment altered plaintiff's work environment to that of a hostile work environment. HARRISON demanded that Plaintiff call in sick at least several hours in advance. However, Plaintiff's diabetes complications did not follow HARRISON's time table requirements. Each time Plaintiff called in sick over her diabetic condition, HARRISON would make negative comments to Plaintiff. Write-ups followed and a last chance write up was issued by HARRISON. Despite bringing in medical notes excusing Plaintiff's absences due to her physical disability of Diabetes, HARRISON and TPMG Kaiser continued to harass plaintiff.

1 14. In 2016, Plaintiff began experiencing excessive bloating. The instances of bloating
2 were insignificant at first, but increasing progressively by 2017, when Plaintiff began experiencing
3 swelling in the abdomen, severe pressure and nausea. As a result, Plaintiff sought and was
4 approved for FMLA/CFRA leave due to "chronic condition requiring treatment, periodic visits,
5 which may continue over time or may cause episodic incapacity." Plaintiff was allowed to take
6 intermittent time off as follows: "From October 2, 2017 through April 4, 2018 – 1-3 days per
7 month off as needed..."

9 15. Plaintiff, who had stellar reviews for over a decade of her employment with TPMG,
10 suddenly received a write up on August 10, 2017.

12 16. On November 2, 2017, Plaintiff was presented with the results of the alleged
13 investigation and subsequent placement on one-day suspension due to accusations against Plaintiff
14 of the alleged performance issues in August of 2017. None of the allegations stated in the
15 disciplinary action were true.

16 17. On November 27, 2017, Plaintiff presented Defendant with a modified duty
17 documentation requiring Plaintiff to take breaks of up to five (5) minutes on intermittent basis to
18 "address her blood sugar."

19 18. Plaintiff's medical condition worsened and by January of 2018, Plaintiff was being
20 treated for chronic nausea and hypoglycemia. Defendant was timely notified of Plaintiff's medical
21 condition.

23 19. On February 22, 2018, Plaintiff was placed on a medical leave with a return to full
24 duty date of March 29, 2018. Plaintiff timely provided the proper documentation to TPMG. On
25 the initial return to work date, it became evident to Plaintiff's medical provider that her condition
26 required additional time off. She was placed on a medical leave beginning March 30, 2018 through
27 April 8, 2018. TPMG was timely and properly notified of the necessity of additional time off.
28

1 20. Plaintiff returned to work on April 9, 2018. Her health, however, did not improve
2 and on May 11, 2018, Plaintiff was placed on modified duty, from May 11, 2018 through August
3 10, 2018, which required "1-3 days per month off as needed per FMLA guidelines for chronic
4 condition. Renew every 3 months." The work note also stated, "if modified duty is not
5 accommodated by the employer, then this patient is considered temporary and totally disabled
6 from their regular work for the designated time and separate off work order is not required."
7 TPMG allowed Plaintiff to return to work on modified duty.

9 21. On June 13, 2018, Plaintiff was provided with a letter of termination based on
10 several reasons, all of which were insignificant, unsubstantiated and unjustified. TPMG
11 unlawfully terminated Plaintiff's employment in violations of her CFRA/FMLA rights.

12 22. Within the time provided by law, Plaintiff made a charge with the Department of
13 Fair Employment and Housing and received a right to sue letter.

15 **III.**
16 **PLAINTIFF'S CLAIMS**

17 **FIRST CAUSE OF ACTION**

18 **Violation of CFRA Rights**

19 **California Government Code §12945.1 et seq.**

20 22. Plaintiff hereby re-alleges, and incorporates by reference as though fully set forth
21 herein, the allegations contained above and below.

22 23. Government Code §12945.2(a), provides, in part, that "it shall be an unlawful
23 employment practice for any employer...to refuse to grant a request by an employee ... to take up
24 to a total of 12 workweeks in any 12-month period for family care and medical leave. Family care
25 and medical leave...shall not be deemed to have been granted unless the employer provides the
26 employer, upon granting the leave request, a guarantee of employment in the same or a comparable
27 position upon the termination of the leave."

1 24. Government Code §12945.2(c)(3) permits leave due to an employee's own serious
2 health condition that makes an employee unable to perform the functions of the position of that
3 employee. "Serious health condition" means an illness, injury, impairment, or physical or mental
4 condition that involves, among other factors, "continuing treatment or continuing supervision by
5 a health care provider." (Cal. Gov. Code §12945.2(c)(8))
6

7 25. Plaintiff was eligible for medical leave due to her own serious health conditions,
8 (diabetes, hypoglycemia) that rendered him unable to perform the functions of her job or required
9 modified work.

10 26. Plaintiff provided all the necessary documentation to TPMG. The documentation
11 expressly stated that Plaintiff's modified duty was extended through August of 2018. Defendants
12 approved Plaintiff's intermittent medical leave.
13

14 27. Plaintiff's medical leave under CFRA, to which he was legally entitled under
15 California law, was a motivating reason for Defendants' decision to terminate his employment.

16 28. As a proximate result of the wrongful conduct of Defendants, and each of them,
17 Plaintiff has suffered and continues to sustain substantial losses in earnings and other employment
18 benefits in amount according to proof at the time of trial.
19

20 29. As a proximate result of the acts of Defendants, Plaintiff has suffered humiliation,
21 embarrassment, mental and emotional distress, increased physical pain, and discomfort in the form
22 of fatigue, nervousness, anxiety, nausea, gastrointestinal disorders, worry, and indignity.

23 30. In committing the foregoing acts, officers, directors, and/or managing agents of
24 Defendants were guilty of malice, fraud, and oppression, and acted in conscious disregard of
25 Plaintiff's rights, and Plaintiff is therefore also entitled to an award of punitive damages in addition
26 to the actual damages caused thereby, for the sake of example and by way of punishing Defendants
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1 31. As a direct cause of the acts alleged above, Plaintiff has had to hire the services of
2 an attorney. Plaintiff has incurred and continues to incur legal expenses and attorneys' fees, and
3 is entitled to an award of attorneys' fees and costs pursuant to California Government Code §
4 12965(b).

5
6 32. Within the time provided by law, Plaintiff filed charges with the California
7 Department of Fair Employment and Housing ("DFEH"), setting forth his claims against
8 Defendants, in full compliance with California law.

9 WHEREFORE, Plaintiff prays judgment as set forth below.

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11 **SECOND CAUSE OF ACTION**
12 **Physical Disability Discrimination/Perceived Physical Disability Discrimination**
13 **California Government Code §12940(a)**

14 33. Plaintiff hereby re-alleges, and incorporates by reference as though fully set forth
15 herein, the allegations contained above and below.

16 34. The Fair Employment and Housing Act ("FEHA") codified in Government Code
17 §12940, et seq., makes it unlawful for an employer to discriminate against an employee on the
18 basis of the employee's disabilities/perceived disabilities.

19 35. Plaintiff suffered from diabetes and hypoglycemia a condition that affects and
20 limits Plaintiff's ability to participate in major life activities, and qualifies for a physical disability
21 within the meaning of the FEHA. (Gov. Code, §12926 (m)(1))

22 36. Defendants engaged in unlawful employment practices in violation of the FEHA
23 by terminating Plaintiff from his position as Lab Assistant II on the basis of her disability.

24
25 37. Plaintiff is informed and believes and based thereon alleges that her disability was
26 a motivating reason in Defendants' decision to terminate his employment, and was also a
27 motivating reason for the other discriminatory acts against her, in violation of California
28 Government Code §12940(a).

1 38. As a proximate result of the wrongful conduct of Defendants, and each of them,
2 Plaintiff has suffered and continues to sustain substantial losses in earnings and other employment
3 benefits in amount according to proof at the time of trial.

4 39. As a proximate result of the acts of Defendants, Plaintiff has suffered humiliation,
5 embarrassment, mental and emotional distress, increased physical pain, and discomfort in the form
6 of fatigue, nervousness, anxiety, nausea, gastrointestinal disorders, worry, insomnia and indignity.

7 40. In committing the foregoing acts, officers, directors, and/or managing agents of
8 Defendants were guilty of malice, fraud, and oppression, and acted in conscious disregard of
9 Plaintiff's rights, and Plaintiff is therefore also entitled to an award of punitive damages in addition
10 to the actual damages caused thereby, for the sake of example and by way of punishing Defendants.

11 41. As a direct cause of the acts alleged above, Plaintiff has had to hire the services of
12 an attorney. Plaintiff has incurred and continues to incur legal expenses and attorneys' fees, and
13 is entitled to an award of attorneys' fees and costs pursuant to California Government Code
14 §12965(b).

15 44. Within the time provided by law, Plaintiff filed charges with the California
16 Department of Fair Employment and Housing ("DFEH"), setting forth his claims against
17 Defendants, in full compliance with California law.

18 WHEREFORE, Plaintiff prays judgment as set forth below.

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22 **THIRD CAUSE OF ACTION**
23 **Physical Disability Harassment/Perceived Physical Disability Harassment**
24 **California Government Code §12940(j)(1)**

25 45. Plaintiff hereby re-alleges, and incorporates by reference as though fully set forth
26 herein, the allegations contained above and below.
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1 46. The Fair Employment and Housing Act ("FEHA") codified in Government Code
2 §12940, et seq., makes it unlawful for an employer to harass against an employee on the basis of
3 the employee's disabilities/perceived disabilities.

4 47. Plaintiff suffered from diabetes and hypoglycemia a condition that affects and
5 limits Plaintiff's ability to participate in major life activities, and qualifies for a physical disability
6 within the meaning of the FEHA. (Gov. Code, §12926 (m)(1))

7 48. At all times herein relevant, Plaintiff had a protected medical condition and/or
8 physical disability. Plaintiff's physical disabilities were communicated to Defendants TPMG
9 through Plaintiff and Plaintiff's medical providers. Additionally, Defendants TPMG, through its
10 actions, acknowledged Plaintiff's physical disability. As set forth above, Defendant HARRISON
11 harassed Plaintiff because of her protected medical condition and/or physical disability. Defendant
12 HARRISON _____. The harassment was severe and pervasive and
13 altered Plaintiff's work environment to that of a hostile work environment.
14

15 49. As a proximate result of the wrongful conduct of Defendants, and each of them,
16 Plaintiff has suffered and continues to sustain substantial losses in earnings and other employment
17 benefits in amount according to proof at the time of trial.

18 50. As a proximate result of the acts of Defendants, Plaintiff has suffered humiliation,
19 embarrassment, mental and emotional distress, increased physical pain, and discomfort in the form
20 of fatigue, nervousness, anxiety, nausea, gastrointestinal disorders, worry, insomnia and indignity.
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22 51. In committing the foregoing acts, officers, directors, and/or managing agents of
23 Defendants were guilty of malice, fraud, and oppression, and acted in conscious disregard of
24 Plaintiff's rights, and Plaintiff is therefore also entitled to an award of punitive damages in addition
25 to the actual damages caused thereby, for the sake of example and by way of punishing Defendants.
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1 52. As a direct cause of the acts alleged above, Plaintiff has had to hire the services of
2 an attorney. Plaintiff has incurred and continues to incur legal expenses and attorneys' fees, and
3 is entitled to an award of attorneys' fees and costs pursuant to California Government Code
4 §12965(b).

5
6 53. Within the time provided by law, Plaintiff filed charges with the California
7 Department of Fair Employment and Housing ("DFEH"), setting forth his claims against
8 Defendants, in full compliance with California law.

9 WHEREFORE, Plaintiff prays judgment as set forth below.

10 **FOURTH CAUSE OF ACTION**
11 **Failure to Accommodate Disabilities**
12 **California Government Code §12940(m)**

13 54. Plaintiff hereby re-alleges, and incorporates by reference as though fully set forth
14 above and below.

15 55. California Government Code §12940(m) provides that it is unlawful for an
16 employer to fail to make reasonable accommodations for the known physical disabilities of an
17 employee.

18 56. Defendants failed to make reasonable accommodation for Plaintiff's known
19 disability of diabetes, hypoglycemia, did not allow her to take the needed time off for her medical
20 condition and, instead discharged her from her employment.

21 57. As a proximate result of the wrongful conduct of Defendants, and each of them,
22 Plaintiff has suffered and continues to sustain substantial losses in earnings and other employment
23 benefits in amount according to proof at the time of trial.

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25 58. As a proximate result of the acts of Defendants, Plaintiff has suffered humiliation,
26 embarrassment, mental and emotional distress, increased physical pain, and discomfort in the form
27 of fatigue, nervousness, anxiety, nausea, gastrointestinal disorders, worry, insomnia and indignity.
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59. In committing the foregoing acts, officers, directors, and/or managing agents of Defendants were guilty of malice, fraud, and oppression, and acted in conscious disregard of Plaintiff's rights, and Plaintiff is therefore also entitled to an award of punitive damages in addition to the actual damages caused thereby, for the sake of example and by way of punishing Defendants.

60. As a direct cause of the acts alleged above, Plaintiff has had to hire the services of an attorney. Plaintiff has incurred and continues to incur legal expenses and attorneys' fees, and is entitled to an award of attorneys' fees and costs pursuant to California Government Code § 12965(b).

61. Within the time provided by law, Plaintiff filed charges with the California Department of Fair Employment and Housing (“DFEH”), setting forth his claims against Defendants, in full compliance with California law.

WHEREFORE, Plaintiff prays judgment as set forth below.

FIFTH CAUSE OF ACTION
Failure to Engage in the Interactive Process
California Government Code §12940(n)

62. Plaintiff hereby re-alleges, and incorporates by reference as though fully set forth above and below.

63. California Government Code §12940(n) provides that it is unlawful for an employer to fail to engage in a timely, good faith, interactive process with the employee to determine effective reasonable accommodations, if any.

64. Defendants failed to engage in a timely, good faith, interactive process with Plaintiff to determine effective reasonable accommodations for Plaintiff's known disability of diabetes, hypoglycemia, and instead discharged her from her employment.

1 65. As a proximate result of the wrongful conduct of Defendants, and each of them,
2 Plaintiff has suffered and continues to sustain substantial losses in earnings and other employment
3 benefits in amount according to proof at the time of trial.

4 66. As a proximate result of the acts of Defendants, Plaintiff has suffered humiliation,
5 embarrassment, mental and emotional distress, increased physical pain, and discomfort in the form
6 of fatigue, nervousness, anxiety, nausea, gastrointestinal disorders, worry, and indignity.

7 67. In committing the foregoing acts, officers, directors, and/or managing agents of
8 Defendants were guilty of malice, fraud, and oppression, and acted in conscious disregard of
9 Plaintiff's rights, and Plaintiff is therefore also entitled to an award of punitive damages in addition
10 to the actual damages caused thereby, for the sake of example and by way of punishing Defendants.

11 68. As a direct cause of the acts alleged above, Plaintiff has had to hire the services of
12 an attorney. Plaintiff has incurred and continues to incur legal expenses and attorneys' fees, and
13 is entitled to an award of attorneys' fees and costs pursuant to California Government Code §
14 12965(b).

15 69. Within the time provided by law, Plaintiff filed charges with the California
16 Department of Fair Employment and Housing ("DFEH"), setting forth his claims against
17 Defendants, in full compliance with California law.

18 WHEREFORE, Plaintiff prays judgment as set forth below.

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22 **SIXTH CAUSE OF ACTION**
23 **Retaliation**
24 **California Government Code §12940(h)**


25 70. Plaintiff hereby re-alleges, and incorporates by reference as though fully set forth
26 herein above and below.

27 71. During her employment, Plaintiff engaged in protected activities by asserting her
28 rights under CFRA, and the harassment and physical disability discrimination.

6. For an award of interest, including prejudgment interest, at the legal rate;
7. For punitive damages pursuant to California Civil Code § 3294; and
8. For all such other and further relief as the Court may deem just and proper.

Dated: June 21, 2019

THE VELEZ LAW FIRM. P.C.

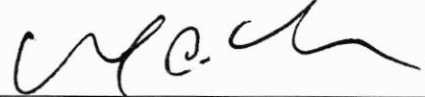
By: 
Mark P. Velez, Esq.
Natalya V. Grunwald, Esq.
Attorneys for Plaintiff
JULIET VALDERRAMA

DEMAND FOR JURY TRIAL

Plaintiff hereby demands trial by jury.

Dated: June 21, 2019

THE VELEZ LAW FIRM. P.C.

By: 
Mark P. Velez, Esq.
Natalya V. Grunwald, Esq.
Attorneys for Plaintiff
JULIET VALDERRAMA