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Attorney for Plaintiff
MARIECEL CATINDIG

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

MARIECEL CATINDIG, an individual,

Plaintiff,

v.

KAISER FOUNDATION HEALTH PLAN,
INC.; WOOREE ALTERNATIVE MEDICAL
GROUP, INC.; JUNG CHANG; and DOES
1 to 50, inclusive,

Defendants

Case No.

COMPLAINT FOR DAMAGES:

1. **SEXUAL BATTERY (PENAL CODE § 243.4)**
2. **FALSE IMPRISONMENT**
3. **SEVERE EMOTIONAL DISTRESS**
4. **NEGLIGENT HIRING, SUPERVISION AND RETENTION OF EMPLOYEE**
5. **SEXUAL CONTACT BY A PHYSICIAN (BUS. & PROF. CODE § 729)**
6. **SEXUAL HARASSMENT (CIVIL CODE § 51.9)**
7. **SEXUAL BATTERY (CIVIL CODE 1708.5)**

COMPLAINT FOR DAMAGES

COMES NOW PLAINTIFF MARIECEL CATINDIG (hereinafter "Plaintiff"), by and
her undersigned Attorney, hereby sues the Defendants KAISER FOUNDATION HEALTH
PLAN, INC., WOOREE ALTERNATIVE MEDICAL GROUP, INC., JUNG CHANG, and
alleges as follows:

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JURISDICTION AND VENUE

1 1. The Court has personal jurisdiction over the parties because incident happened
2 in the State of California while Plaintiff was residing here and Defendant has an incorporated
3 business running in the State of California.

4 2. Venue is proper under *Code of Civil Procedure section 395* because Defendant
5 is a residents Los Angeles county at all times relevant herein.

6 3. Plaintiff is informed and believes and based upon such information and belief
7 alleges that at all times mentioned herein, the allegations, acts and harm to Plaintiff giving rise
8 to this lawsuit occurred in the county of Los Angeles, California.

PARTIES

9 4. Plaintiff MARIECEL CATINDIG ("Plaintiff"), is an individual and was at all
10 times mentioned herein was a resident of county of Los Angeles, State of California.

11 5. Plaintiff is informed and believes and thereon alleges that KAISER
12 FOUNDATION HEALTH PLAN, INC. ("KAISER") is a California corporation entity and is
13 doing business in the County of Los Angeles, State of California.

14 6. Plaintiff is informed and believes and thereon alleges that WOOREE
15 ALTERNATIVE MEDICAL GROUP INC. ("WOOREE") is a California corporation entity
16 and is doing business in the County of Los Angeles, State of California. WOOREE is a
17 KAISER contracted facility, a California entity and was/is doing business in the County of Los
18 Angeles, State of California at all relevant times mentioned herein.

19 7. Plaintiff is informed and believes and thereon alleges that JUNG CHANG
20 ("JUNG") was employed by WOOREE or otherwise worked for or at WOOREE as a licensed
21 acupuncturist and was residing and/or conducting business in the county of Los Angeles, State
22 of California at all relevant times mentioned herein.

23 The true names or capacities, whether individual, corporate, associate or
24 otherwise, of defendants DOES 1 through 50, inclusive, are unknown to Plaintiff and therefore
25 Plaintiff sues these defendants by such fictitious names. Plaintiff will amend this complaint to
26 allege their true names and capacities when ascertained. Plaintiff is informed and believes and
27 based thereon alleges that each of these fictitiously named defendants is responsible in some
28

1 manner for the occurrences herein alleged, and that Plaintiff's damages as herein alleged were
2 proximately caused by their conduct.

3 **FACTS COMMON TO ALL COUNTS**

4 9. Plaintiff is a KAISER patient and presented herself to WOOREE (KAISER
5 contracted facility) for her acupuncture treatment of her lower back on December 21, 2017.

6 10. As the Plaintiff was facing down, JUNG opened her gown to examine the lower
7 back for needle replacement but to Plaintiff's shock and surprise, JUNG pulled her pants lower
8 than usual and necessary which made Plaintiff very uncomfortable.

9 11. After placing the needle on Plaintiff's back, JUNG widely exposed her with
10 bright light focused on her private area(s) and left the main door of the treatment room open
11 and Plaintiff could see that other patients and staff passing by and looking inside at her.

12 12. At this moment, Plaintiff wanted to end the treatment immediately and asked
13 JUNG to remove the needles from her back immediately.

14 13. While JUNG was pulling out the needles, the needle that he retracted hurt the
15 most.

16 14. Mr. JUNG then asked the Plaintiff where it was hurting and started rubbing
17 Plaintiff's back and buttocks without her permission or consent and while Plaintiff was about to
18 point the area that was hurting, Mr. JUNG pulled her pants lower to the edge of Plaintiff's
19 private area(s) and suddenly felt an inappropriate touch in or on her private area(s).

20 15. Plaintiff felt extremely embarrassed and shocked and felt helpless.

21 16. After the unlawful touching, Plaintiff went to the front desk and requested that
22 the receptionist change her upcoming schedule with another acupuncturist and explained what
23 happened to her with JUNG.

24 17. While Plaintiff was on her way back home, she received a call from the
25 receptionist and JUNG spoke and apologized to what happened.

26 18. Upon Plaintiff's return back to her residence, she was extremely traumatized by
27 the events that took place with JUNG and proceeded to locked herself inside the bedroom
28 without having dinner with family and wrote a complaint letter in despair, which she sent to the
relevant concerned parties.

19. In response to Plaintiff's complaint, KAISER did not take any steps to remedy
the situation.

1 20. In response to Plaintiff's complaint, WOOREE did not take any steps to remedy
2 the situation, other than offering Plaintiff gift receipts.

3 21. As a result of Defendants' conduct, Plaintiff has suffered severe emotional
4 distress. Such symptoms include suffering, anguish, fright, horror, nervousness, grief, anxiety,
5 worry, shock, humiliation, and shame.

6 **FIRST CAUSE OF ACTION - SEXUAL BATTERY**

7 **(PENAL CODE § 243.4)**

8 **(As to all Defendants)**

9 22. Plaintiff re-alleges and incorporates by reference all prior paragraphs as though
10 stated here inclusive.

11 23. WOOREE is a KAISER contracted facility. Upon information and belief,
12 KAISER referred Plaintiff to WOOREE.

13 24. At all times relevant to this Complaint, JUNG was an employee of WOOREE,
14 or otherwise worked for or at WOOREE.

15 25. JUNG intended to cause an offensive contact with Plaintiff's private areas which
16 directly resulted in a sexually offensive contact with the Plaintiff.

17 26. JUNG in the guise of treatment and removal of the needle made offensive sexual
18 contact with Plaintiff's private areas.

19 27. Plaintiff did not consent to the touching.

20 28. Plaintiff was harmed by JUNG's conduct of touching her inappropriately by
21 suffering severe emotional distress.

22 29. In committing the acts described herein, JUNG, KAISER, WOOREE and DOES
23 I through 50, conduct was despicable, and done with malice and oppression, justifying an
24 award of punitive damages against them.

25 **SECOND CAUSE OF ACTION- NEGLIGENCE**

26 **(As to JUNG, DOES 1-50)**

27 30. Plaintiff re-alleges and incorporates by reference all prior paragraphs as though
28 stated here inclusive.

31. A reasonable person in JUNG's shoes would not have engaged in touching
Plaintiff's private areas without her prior consent or authorization.

1 32. A reasonable person in JUNG's shoes would not have exposed Plaintiff private
2 areas to passerby's in WOOREE's office by keeping the door open.

3 33. JUNG knew or should have known that such touching is offensive and wrong.

4 34. JUNG failed to use reasonable care to prevent harm to Plaintiff.

5 35. JUNG's conduct caused Plaintiff to suffer severe emotional distress. Such
6 symptoms include suffering, anguish, fright, horror, nervousness, grief, anxiety, worry, shock,
7 humiliation, and shame.

8 **THIRD CAUSE OF ACTION- NEGLIGENCE**

9 **(As to WOOREE, KAISER, DOES 1-50)**

10 36. Plaintiff re-alleges and incorporates by reference all prior paragraphs as though
11 stated here inclusive.

12 37. WOOREE is a KAISER contracted facility. Upon information and belief,
13 KAISER referred Plaintiff to WOOREE.

14 38. At all times relevant to this Complaint, JUNG was an employee of WOOREE,
15 or otherwise worked for or at WOOREE.

16 39. JUNG's conduct caused Plaintiff to suffer severe emotional distress.

17 40. JUNG failed to use reasonable care to prevent harm to Plaintiff.

18 41. A reasonable person in JUNG's shoes would not have engaged in touching
19 Plaintiff's private areas without her prior consent or authorization.

20 42. JUNG knew or should have known that such touching is offensive and wrong.

21 43. JUNG failed to use reasonable care to prevent harm to Plaintiff.

22 44. KAISER knew or should have known that Plaintiff would be subjected to the
23 type of conduct she experienced with JUNG, as described herein.

24 45. WOOREE knew or should have known that Plaintiff would be subjected to the
25 type of conduct she experienced with JUNG, as described herein.

26 46. Defendants' conduct caused Plaintiff to suffer severe emotional distress. Such
27 symptoms include suffering, anguish, fright, horror, nervousness, grief, anxiety, worry, shock,
28 humiliation, and shame.

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FOURTH CAUSE OF ACTION
INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

(As to JUNG, DOES 1-50)

47. Plaintiff re-alleges and incorporates by reference all prior paragraphs as though stated here inclusive.

48. JUNG's conduct, as described herein, was outrageous.

49. JUNG intended to cause Plaintiff emotional distress or acted with reckless disregard of the probability that Plaintiff would suffer emotional distress.

50. Plaintiff suffered severe emotional distress.

51. Defendant's conduct was a substantial factor in causing Plaintiff's severe emotional distress.

52. In committing the acts described herein, JUNG and DOES 1 through 50's conduct was despicable, and done with malice and oppression, justifying an award of punitive damages against them.

FIFTH CAUSE OF ACTION
NEGLIGENT HIRING, SUPERVISION AND RETENTION OF EMPLOYEE

(As to WOOREE, KAISER, DOES 1-50)

53. Plaintiff re-alleges and incorporates by reference all prior paragraphs as though stated here inclusive.

54. KAISER hired and contracted WOOREE, which in turn hired, contracted or otherwise employed JUNG.

55. JUNG was and is incompetent to perform his job duties for which he was hired due to his sexually abusive tendencies and the sexually offensive contact he made on Plaintiff while supposedly treating her.

56. KAISER and WOOREE knew or should have known that JUNG was incompetent as he was sexually abusive towards his patients and this incompetence created a particular risk to patients while ongoing treatment.

57. KAISER and WOOREE's negligence in hiring, retaining and lack of supervision is a substantial factor in causing harm to the Plaintiff.

1 58. As a direct result of the acts or omissions to act of Defendants, Plaintiff suffered
2 injuries including, but not limited to, physical and mental pain and suffering, emotional
3 distress, physical injuries, future costs of medical care and treatment, future loss of earnings
4 and earning capacity, and other damages, in an amount not yet ascertained, but which exceed
the minimum jurisdictional limits of this Court.

5 59. In committing the acts described herein, JUNG, KAISER, WOOREE and DOES
6 1 through 50's conduct was despicable, and done with malice and oppression, justifying an
7 award of punitive damages against them.

8 60. Defendants KAISER, WOOREE and DOES 1-50 are also liable for punitive
9 damages because said Defendants had advance knowledge of the unfitness and incompetence
10 of their employee, JUNG, and continued to employ him with a conscious disregard of the rights
11 and safety of others, including Plaintiff, and said Defendants were otherwise personally guilty
12 of oppression, fraud, or malice, and otherwise ratified JUNG's conduct.

13 **SIXTH CAUSE OF ACTION - SEXUAL CONTACT BY A PHYSICIAN**

14 **(BUS. & PROF. CODE § 729)**

15 **(As to all Defendants)**

16 61. Plaintiff re-alleges and incorporates by reference all prior paragraphs as though
17 stated here inclusive.

18 62. WOOREE is a KAISER contracted facility. Upon information and belief,
19 KAISER referred Plaintiff to WOOREE.

20 63. At all times relevant to this Complaint, JUNG was an employee of WOOREE,
21 or otherwise worked for or at WOOREE.

22 64. KAISER hired and contracted WOOREE, which in turn hired, contracted or
23 otherwise employed JUNG.

24 65. JUNG engaged in offensive sexual contact with Plaintiff while supposedly
25 treating her.

26 66. As a legal result, Plaintiff suffered damages as otherwise alleged in the
27 complaint.

28 67. JUNG's conduct was done within the course and scope of his employment with
KAISER and WOOREE and was ratified by them.

1 68. As a direct result of the acts or omissions to act of Defendants, Plaintiff suffered
2 injuries including, but not limited to, physical and mental pain and suffering, emotional
3 distress, physical injuries, future costs of medical care and treatment, future loss of earnings
4 and earning capacity, and other damages, in an amount not yet ascertained, but which exceed
the minimum jurisdictional limits of this Court.

5 69. In committing the acts described herein, JUNG, KAISER, WOOREE and DOES
6 1 through 50's conduct was despicable, and done with malice and oppression, justifying an
7 award of punitive damages against them.

8 70. Defendants KAISER, WOOREE and DOES 1-50 are also liable for punitive
9 damages because said Defendants had advance knowledge of the unfitness and incompetence
10 of their employee, JUNG, and continued to employ him with a conscious disregard of the rights
11 and safety of others, including Plaintiff, and said Defendants were otherwise personally guilty
12 of oppression, fraud, or malice, and otherwise ratified JUNG's conduct.

13 **SEVENTH CAUSE OF ACTION - SEXUAL HARASSMENT**

14 **(CIVIL CODE § 51.9)**

15 **(As to all Defendants)**

16 71. Plaintiff re-alleges and incorporates by reference all prior paragraphs as though
17 stated here inclusive.

18 72. WOOREE is a KAISER contracted facility. Upon information and belief,
19 KAISER referred Plaintiff to WOOREE.

20 73. At all times relevant to this Complaint, JUNG was an employee of WOOREE,
21 or otherwise worked for or at WOOREE.

22 74. KAISER hired and contracted WOOREE, which in turn hired, contracted or
23 otherwise employed JUNG.

24 75. Plaintiff presented herself to WOOREE, a KAISER contracted facility for her
25 lower back treatment with JUNG and hence had a professional relationship with all three
persons/entities.

26 76. JUNG made sexual advances while Plaintiff was in pain/discomfort and could
27 not move, JUNG used that opportunity to make sexually offensive contact with Plaintiff while
28 supposedly treating her.

1 77. JUNG's conduct was unwelcome, without consent and also pervasive in nature.

2 78. Plaintiff suffered personal injury and her constitutional rights were violated as a
3 result of JUNG's conduct.

4 79. As a direct result of the acts or omissions to act of Defendants, Plaintiff suffered
5 injuries including, but not limited to, physical and mental pain and suffering, emotional
6 distress, physical injuries, future costs of medical care and treatment, future loss of earnings
7 and earning capacity, and other damages, in an amount not yet ascertained, but which exceed
8 the minimum jurisdictional limits of this Court.

9 80. In committing the acts described herein, JUNG, KAISER, WOOREE and DOES
10 1 through 50's conduct was despicable, and done with malice and oppression, justifying an
11 award of punitive damages against them.

12 81. Defendants KAISER, WOOREE and DOES 1-50 are also liable for punitive
13 damages because said Defendants had advance knowledge of the unfitness and incompetence
14 of their employee, JUNG, and continued to employ him with a conscious disregard of the rights
15 and safety of others, including Plaintiff, and said Defendants were otherwise personally guilty
16 of oppression, fraud, or malice, and otherwise ratified JUNG's conduct.

17 **EIGHTH CAUSE OF ACTION - SEXUAL BATTERY**

18 **(CIVIL CODE 1708.5)**

19 **(As to all Defendants)**

20 82. Plaintiff alleges and incorporates by reference all prior paragraphs as though
21 stated here inclusive.

22 83. WOOREE is a KAISER contracted facility. Upon information and belief,
23 KAISER referred Plaintiff to WOOREE.

24 84. At all times relevant to this Complaint, JUNG was an employee of WOOREE,
25 or otherwise worked for or at WOOREE.

26 85. JUNG intended to cause an offensive contact with Plaintiff's private areas which
27 directly resulted in a sexually offensive contact with the Plaintiff.

28 86. JUNG in the guise of treatment and removal of the needle made offensive sexual
contact with Plaintiff's private areas.

87. Plaintiff did not consent to the touching.

1 88. Plaintiff was harmed by JUNG's conduct of touching her inappropriately by
2 suffering severe emotional distress.

3 89. In committing the acts described herein, JUNG, KAISER, WOOREE and DOES
4 1 through 50's conduct was despicable, and done with malice and oppression, justifying an
5 award of punitive damages against them.

6 **NINTH CAUSE OF ACTION – BATTERY**
7 **(As to JUNG, DOES 1-50)**

8 90. Plaintiff re-alleges and incorporates by reference all prior paragraphs as though
9 stated here and inclusive.

10 91. JUNG intended to cause an offensive contact with Plaintiff's private areas which
11 directly resulted in a sexually offensive contact with Plaintiff.

12 92. JUNG in the guise of treatment made offensive contact with Plaintiff's private
13 areas.

14 93. Plaintiff did not consent to touching.

15 94. Plaintiff was harmed by JUNG'S conduct of touching her inappropriately which
16 offended her personal dignity.

17 **PRAYER FOR RELIEF**

18 WHEREFORE, Plaintiff respectfully prays that judgment be entered against the
19 Defendants for the following:

- 20 1. For an award of general and special damages according to proof.
- 21 2. For punitive damages as to all causes of action mentioned int is complaint.
- 22 3. For attorney's fees according to proof;
- 23 4. For interest based on damages, as well as pre-judgment and post - judgment interest as
24 allowed by law;
- 25 5. For costs of suit incurred herein; and
- 26 6. For such other and further relief as the Court deems just and proper.

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PLAINTIFF HEREBY REQUESTS A TRIAL BY JURY

PLEASE TAKE NOTICE that PLAINTIFF MARIECEL CATINDIG demands a jury trial in this case.

Dated: June 24, 2019

LAW OFFICE OF ERIC SAPIR

By: *Eric Saper*

Eric Saper, Esq.

Attorney for Plaintiff,

MARIECEL CATINDIG