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KENDRA GREEN

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SACRAMENTO

KENDRA GREEN,

Plaintiff,

v.

KAISER FOUNDATION HOSPITALS dba
KAISER PERMANENTE; and DOES 1-50,
inclusive,

Defendant.

Case No.

**PLAINTIFF'S VERIFIED COMPLAINT
FOR DAMAGES**

1. Disability Discrimination (Gov't Code § 12940(a));
2. Failure to Accommodate (Gov't Code § 12940(m));
3. Failure to Engage in Timely and Good Faith Interactive Process (Gov't Code § 12940(n));
4. Patient Safety Whistleblowing (Health & Safety Code § 1278.5);
5. Retaliation (Gov't Code § 12940(h));
6. Failure to Prevent Discrimination, Harassment and Retaliation (Gov't Code § 12940(k)); and,
7. Wrongful Termination in Violation of Public Policy.

DEMAND FOR JURY TRIAL

FILED
Superior Court Of California,
Sacramento

02/14/2014

mchapman3

By _____, Deputy

Case Number:

34-2014-00158894

1 Plaintiff, KENDRA GREEN, respectfully submits the instant Verified Complaint for
2 Damages and Demand for Jury Trial and alleges as follows:

3 **OVERVIEW OF THE CASE**

4 Kaiser Permanente forced its employee to work at a desk where she had to use an
5 unsafely unstable tall chair on flooring lacking proper traction which any reasonable person
6 could see posed a safety hazard to this, or any other employee similarly forced to use that same
7 work station. Kaiser Permanente then discriminated against its employee who suffered
8 significant injuries to her knee and low back due to these very same unsafe working conditions.
9 This hospital and its managing agents disregarded laws intended to protect employee rights to
10 take medical leave, discriminated against the employee because of her disability, and
11 wrongfully terminated her in retaliation for taking statutorily authorized medical leave.

12 **PARTIES AND JURISDICTION**

13 1. Plaintiff KENDRA GREEN (hereafter "GREEN" or "Plaintiff") was at all times
14 relevant to this action, a recruit, employee, or wrongfully terminated employee of KAISER
15 FOUNDATION HOSPITALS dba KAISER PERMANENTE (hereafter "KAISER
16 PERMANENTE" or "Defendant"). While employed by KAISER PERMANENTE and at all
17 times relevant to this action, Plaintiff resided in the County of Sacramento.

18 2. Defendant operates a hospital in Sacramento, California, and was at all times
19 relevant to this action a California Corporation doing business in the County of Sacramento, in
20 the State of California. Defendant was at all times relevant an employer as defined by
21 Government Code § 12926(d).

22 3. Venue and jurisdiction are proper because the majority of the events giving rise
23 to this action took place in the County of Sacramento; because Defendant was doing business
24 in the County of Sacramento; because Plaintiff's employment was entered into in the County
25 Sacramento; because Plaintiff worked for Defendant in the County of Sacramento; because the
26 damages sought exceed the jurisdictional minimum of this Court; and because the majority of
27 witnesses and events occurred in the County of Sacramento.

28 4. Plaintiff is ignorant of the true names and capacities of the Defendants sued

1 herein as DOES 1 through 50. Defendants DOES 1 through 50 are sued herein under fictitious
2 names pursuant to California Code of Civil Procedure § 474. Plaintiff is informed and
3 believes, and on that basis alleges, that each defendant sued under such fictitious names is in
4 some manner responsible for the wrongs and damages as alleged herein. Plaintiff does not at
5 this time know the true names or capacities of said defendants, but prays that the same may be
6 inserted herein when ascertained.

7 5. At all times relevant, each and every defendant was an agent and/or employee of
8 each and every other defendant. In doing the things alleged in the causes of action stated
9 herein, each and every defendant was acting within the course and scope of this agency or
10 employment, and was acting with the consent, permission, and authorization of each remaining
11 defendant. All actions of each defendant as alleged herein were ratified and approved by every
12 other defendant or their officers or managing agents.

13 **STATEMENT OF FACTS**

14 6. On or about May 1, 2000, Plaintiff Kendra Green (hereafter "Plaintiff") began
15 her employment with Defendant Kaiser Permanente (hereafter "Defendant") as a Laboratory
16 Assistant at Defendant's laboratory facility located at 2025 Morse Avenue in Sacramento,
17 California (hereafter "Laboratory").

18 7. On or about October 2010, Silvan Sung (hereafter "Sung") began serving as
19 Defendant's Assistant Administrator for the Laboratory and in this capacity was the primary
20 manager of Defendant's Laboratory.

21 8. At all times relevant to this action, Valerie Webber (hereafter "Webber") served
22 Defendant as an Assistant Laboratory Administrative Director at the Laboratory and in this
23 capacity she acted as Plaintiff's immediate supervisor.

24 9. At all times relevant to this action, Lisa Runion (hereafter "Runion") served
25 Defendant as an Assistant Laboratory Administrative Director at the Laboratory and in this
26 capacity she acted as Plaintiff's immediate supervisor.

27 10. As of January 2011, Defendant had designed Plaintiff's work station in the
28 Laboratory to consist of a tile floor atop which Defendant intended Plaintiff to sit in a high

1 rolling chair.

2 11. On or about early January 2011, Plaintiff took approximately ten sick days off of
3 work to take care of her children who were suffering from illness.

4 12. During the ten-day period described in the preceding paragraph, Webber began
5 demanding that Plaintiff provide "Verification of Treatment" forms (hereafter "VOT" or
6 "VOTs") the day after any and all medical appointments when Plaintiff took her children to be
7 treated by a health care provider during this ten-day period.

8 13. On or about late January 2011, Plaintiff complained to Webber and Runion
9 about the lack of rugs or a mat under the high rolling chair Defendant had provided her to sit on
10 at her assigned work station. Plaintiff complained about this as a safety concern due to her
11 belief that, absent some kind of method to provide more traction and/or stability for her
12 assigned high rolling chair, there was a high likelihood that such a chair could easily topple
13 over when Plaintiff or any other Laboratory worker using that work station and thereby cause
14 injury to the victim of such a fall. In the process of communicating this complaint to Webber
15 and Runion, Plaintiff told them she was concerned about how this unsafe seating situation may
16 impact the safety of Defendant's patients to the extent that Plaintiff or any other Laboratory
17 working forced to use this work station could be distracted by the need to focus an inordinate
18 amount of attention on preventing themselves from falling over. In response to Plaintiff's safety
19 complaint as described herein, Runion indicated that Plaintiff was free to lay down a heavy
20 industrial mat on the tile floor under her high rolling chair. However, the heavy industrial mat
21 provided by Defendant for this purpose was too heavy and unwieldy for Plaintiff to lift.

22 14. On or about late January 2011, Plaintiff advised Webber and Runion that the
23 heavy industrial mat that Defendant had provided for her to place under her high rolling
24 workstation chair was too heavy and unwieldy for Plaintiff to lift. Consequently, Plaintiff was
25 unable to utilize the heavy industrial mat provided by Defendant for placement under the high
26 rolling workstation chair.

27 15. On or about February 13, 2011, Plaintiff was working at her assigned work
28 station. During the course of her shift, the high chair Plaintiff had been assigned by Defendant

1 began to topple over with Plaintiff seated in it. Midway through the fall to the floor, Plaintiff
2 was able to arrest her fall by grabbing a hold of the edge of the countertop of her work station.
3 While Plaintiff did not hit the floor, the force exerted by Plaintiff which was needed to stop
4 herself from falling out of the high chair and onto the floor resulted in her suffering significant
5 injuries to her left knee and low back.

6 16. On or about February 14, 2011, Plaintiff visited Dr. Joseph Flores (hereafter "Dr.
7 Flores") and complained to him of pain in her left knee and low back resulting her fall on
8 February 13, 2013 as described above.

9 17. On or about February 18, 2011, Plaintiff filed a Worker's Compensation
10 (hereafter "WC") claim related to the injuries she suffered from her fall on February 13, 2013 as
11 described above.

12 18. On or about February 22, 2011, Plaintiff was again seen by Dr. Flores. During
13 this appointment, Dr. Flores prescribed Plaintiff pain medication for her injuries and
14 administered an injection of cortisone to treat pain as well.

15 19. On or about March 8, 2011, Plaintiff visited Dr. Douglas Merrill (hereafter, "Dr.
16 Merrill") who diagnosed her as suffering patellar tendonitis in her left knee. During this
17 appointment, Dr. Merrill further diagnosed Plaintiff as being unable to do any kneeling,
18 squatting, twisting or climbing, or to engage in any prolonged walking or standing.

19 20. On or about March 14, 2011, Plaintiff visited Dr. Richard Ashby (hereafter, "Dr.
20 Ashby"). Dr. Ashby subsequently diagnosed Plaintiff as needing to be on temporary disability
21 from February 2011 until September 12, 2011.

22 21. Subsequent to Dr. Ashby's diagnosis but before the end of March 2011, Plaintiff
23 submitted an application to the Employment Development Department (hereafter "EDD") to
24 receive financial assistance related to the temporary disability she had suffered from the injuries
25 she suffered from her fall on February 13, 2013, as described above.

26 22. On or about March 30, 2011, Plaintiff received her first disability check from
27 EDD.

28 23. On or about September 1, 2011, Plaintiff had an appointment with Dr. Ashby. At

1 the conclusion of this appointment, Dr. Ashby provided Plaintiff with a reasonable
2 accommodation prescription which stated, among other things, that "[i]f employer offers
3 modified work as specified below, [Plaintiff] can return to modified work." Further, Dr.
4 Ashby's reasonable accommodation prescription stated that "if employer cannot accommodate
5 these restrictions, [Plaintiff] must be regarded as being unable to work [from September 12,
6 2011 through September 1, 2012]." Dr. Ashby's September 1, 2011 reasonable accommodation
7 prescription described Plaintiff's restrictions as follows: "No repeated bending at the waist. No
8 climbing on chair. No lifting or pushing/pulling >25#."

9 24. On or about September 13, 2011, Plaintiff returned to work on modified/light
10 duty. During this time, Plaintiff continued experiencing significant pain related to the injuries
11 she suffered on February 13, 2011. Shortly after her return to work in September 13, 2011,
12 Plaintiff communicated to Webber that she was still in a great deal of pain.

13 25. On or about October 10, 2011, Plaintiff visited Dr. Cort Ehlman (hereafter, "Dr.
14 Ehlman"). Dr. Ehlman prescribed Plaintiff further temporary disability from October 11, 2011
15 through October 24, 2011.

16 26. On or about October 24, 2011, Dr. Ashby prescribed Plaintiff additional
17 temporary disability from October 24, 2011 through November 19, 2011.

18 27. On or about November 14, 2011, Plaintiff visited Dr. Richard Fink (hereafter,
19 "Dr. Fink"). Dr. Fink prescribed that Plaintiff should be able to return to work on light duty.
20 Plaintiff provided Dr. Fink's recommendation to Defendant but Plaintiff's supervisor(s) delayed
21 her return to modified/light duty employment until January 27, 2012.

22 28. From October 11, 2011 until January 26, 2012, Plaintiff was not working as she
23 was on temporary disability.

24 29. On or about January 27, 2012, Plaintiff returned to work on modified/light duty
25 in response to a request by Defendant to have her come in and have her reasonable
26 accommodation request be evaluated by Defendant's Disability Case Manager, Heather Hiatt
27 (hereafter "Hiatt").

28 30. At the conclusion of Hiatt's evaluation of Plaintiff on January 27, 2012, Webber

1 sent Plaintiff home and indicated to Plaintiff that Defendant cannot modify her work station as
2 needed to comply with the reasonable accommodation recommended by Dr. Ashby.
3 Additionally, at the conclusion of this conversation, Webber indicated to Plaintiff that Webber
4 would inform Sung of the result of disability evaluation conducted by Hiatt and the status of
5 Plaintiff's request that Defendant provide a reasonable accommodation consistent with Dr.
6 Ashby's recommendation. Further, Webber indicated to Plaintiff that she would soon thereafter
7 let Plaintiff know whether Sung directed Webber to take any action contrary to what Webber
8 had already told Plaintiff.

9 31. Subsequent to the meeting described in the preceding paragraph, Defendant
10 refused to allow Plaintiff to come back to work, despite Plaintiff's myriad requests to do so.

11 32. From January 28, 2012 through the summer of 2012, Plaintiff called and left
12 voicemail messages for Webber on average three to four times a week to ask for an update on
13 whether Defendant had changed its position on her requested reasonable accommodations and
14 work station modifications. Webber failed to provide Plaintiff any response to these myriad
15 voicemails.

16 33. Additionally, during the summer of 2012, Hiatt began pressing Plaintiff to
17 provide Defendant VOTs for every single medical appointment she went to as needed to treat
18 her pain and symptoms resulting from the accident of February 13, 2011.

19 34. During the summer of 2012, in response to Plaintiff's inquiries about whether
20 Defendant had changed its position on her requested reasonable accommodations and work
21 station modifications, Hiatt told Plaintiff that Defendant could not understand Dr. Ashby's
22 recommendations regarding reasonable accommodations.

23 35. On or about September 10, 2012, Sung and Webber called Plaintiff and asked
24 her to provide a VOT for her most recent medical appointment. In response, Plaintiff informed
25 Sung and Webber that she would try to get it as soon as possible, but that the doctor she had
26 seen around that time, Dr. Sadeqh Saki (hereafter, "Dr. Saki"), had a Roseville office that is not
27 open every day because Dr. Saki also has an office in Stockton.

28 36. On or about September 12, 2012, Plaintiff called Webber and told her that she is

1 unable to get the requested VOT until September 14, 2012. In response, Webber indicated to
2 Plaintiff that this was acceptable.

3 37. On or about Friday, September 14, 2012, Plaintiff obtained the requested VOT
4 and called the Laboratory at approximately 4:00 p.m. that day in an effort to speak with Sung
5 and/or Webber to inform them that she had the VOT and to inquire as to what would be the
6 most expedient way to get it to them. However, by the time Plaintiff called that day around 4:00
7 p.m., Sung and Webber had already gone home for the day. Uncertain how best to proceed,
8 Plaintiff decided she would simply bring the VOT to Sung and/or Webber the following
9 Monday, September 17, 2012.

10 38. However, on or about September 15, 2012, Plaintiff received a termination letter
11 from Defendant signed by Webber and dated September 14, 2012. The letter's stated reason for
12 termination: failure to provide VOTs.

13 39. On or about September 18, 2012, Plaintiff filed a union grievance regarding
14 Defendant's refusal to reinstate her to her job and the constant harassment she had been
15 receiving from Hiatt with respect to the VOT notes.

16 40. Shortly after filing her union grievance, but prior to October 3, 2012, Webber
17 and Plaintiff's union representative at the time, Doris Horn (hereafter "Horn"), participated in a
18 meeting regarding Plaintiff's union grievance. During this meeting, Webber informed Plaintiff
19 that she does not know what she can do, but that she will talk to Sung about Plaintiff's
20 complaints of harassment regarding the provision of VOTs and Plaintiff's ongoing request for
21 the reasonable accommodations and work station modifications needed to enable her to return
22 to work.

23 41. On or about October 3, 2012, Plaintiff and Horn had their second meeting with a
24 representative of Defendant regarding Plaintiff's union grievance. Plaintiff, Horn and
25 Defendant's Human Resources staff representative, Debra Morrison (hereafter "Morrison") met
26 to discuss Plaintiff's union grievance. During this meeting Morrison told Plaintiff that Morrison
27 needed to get more information from Defendant's management staff to determine how best to
28 move forward.

43. Plaintiff has exhausted all administrative requirements. On February 2, 2013, Plaintiff filed a Charge of Discrimination (hereafter "Charge") with the United States Equal Employment Opportunity Commission (hereafter "EEOC"). On March 18, 2013, the EEOC sent Plaintiff a letter advising her that a copy of her Charge would be automatically filed with California's Department of Fair Employment and Housing (hereafter "DFEH"); on March 18, 2013, DFEH issued to Plaintiff a Notice To Complainant Of Right-To-Sue.

19 (Disability Discrimination, Gov't Code § 12940(a))

20 44. Plaintiff incorporates the allegations contained in the above paragraphs as
21 though fully set forth herein.

45. At all times relevant to this matter, Plaintiff suffered from a “physical disability” as defined by Government Code § 12926(k) and Title 2 of the California Code of Regulations § 7293.6(e). In spite of her disability, Plaintiff was able to perform the essential functions of her position as defined by Government Code § 12926(f) and Title 2 of the California Code of Regulations § 7293.8 (g) and was otherwise able to perform her job had Defendant provided the reasonable accommodation required by Government Code § 12926(n) and Title 2 of the California Code of Regulations § 7293.9(a).

46. Defendant's conduct violated Government Code § 12940(a) consistent with Title 2 of the California Code of Regulations § 7293.7. Specifically, Defendant denied Plaintiff reasonable accommodations by: consistently refusing to implement the reasonable accommodations recommended by Dr. Ashby; consistently refusing to engage in the interactive process in good faith; consistently harassing Plaintiff for VOTs when she exercised her right to take intermittent medical leave pursuant to the federal Family and Medical Leave Act (29 U.S.C. §§ 2601, *et seq.*) and/or the California Family Rights Act (Gov't Code § 12945.2), or temporary disability. Further, as described in ¶¶ 23, 29-32, 34, 40, and 42, above, Defendant refused to accommodate Plaintiff and then retaliated against her for exercising her right to take medical leave by terminating her. Defendant did so despite Plaintiff's experience in her job and knowledge that she could perform the duties of the position.

47. Defendant's discriminatory conduct was a substantial factor causing Plaintiff to suffer general and special damages including economic damages and non-economic damages in excess of this court's jurisdiction according to proof at trial.

48. As an actual and proximate result of the aforementioned violations, Plaintiff has been damaged in an amount according to proof, but in an amount in excess of the jurisdiction of this Court. Plaintiff also seeks "affirmative relief" or "prospective relief" as defined by Government Code § 12926(a).

49. The above-described actions were perpetrated and/or ratified by a managing agent or officer of Defendant. These acts were done with malice, fraud, oppression, and in reckless disregard of Plaintiff's rights. Further, said actions were despicable in character and warrant the imposition of punitive damages in a sum sufficient to punish and deter Defendant's future conduct.

WHEREFORE, Plaintiff prays for judgment as hereinafter set forth.

SECOND CAUSE OF ACTION

(Failure to Accommodate, Gov't Code § 12940(m))

50. Plaintiff incorporates the allegations contained in the above paragraphs as though fully set forth herein.

1 51. At all times relevant to this matter, Plaintiff suffered from a “physical disability”
2 as defined by Government Code § 12926(l) and Title 2 of the California Code of Regulations
3 § 7293.6(d) Plaintiff was able to perform the essential functions of her position as defined by
4 Government Code § 12926(f) and Title 2 of the California Code of Regulations § 7293.6(e) and
5 was otherwise able to perform her job had Defendant provided the reasonable accommodation
6 required by Government Code § 12926(n) and Title 2 of the California Code of Regulations
7 § 7291.7.

8 52. Defendant’s conduct violated Government Code § 12940(a) and was
9 inconsistent with Title 2 of the California Code of Regulations § 7291.6, by: (1) terminating
10 Plaintiff without consideration or in the alternative without regard to her physical disability; (2)
11 terminating Plaintiff because she exercised her right to take medical leave pursuant to the
12 federal Family and Medical Leave Act (29 U.S.C. §§ 2601, *et seq.*) and/or the California
13 Family Rights Act (Gov’t Code § 12945.2); and, (3) otherwise discriminating against Plaintiff
14 with regard to the terms and conditions of her employment because of her physical disability.

15 53. Defendant cannot establish that allowing Plaintiff’s accommodation was an
16 “undue hardship” as defined by Government Code § 12926(s) and Title 2 of the California
17 Code of Regulations § 7293.9(i). Accordingly, Defendant’s conduct violated Government Code
18 § 12940(m).

19 54. Defendant’s discriminatory conduct was a substantial factor causing Plaintiff to
20 suffer general and special damages including economic damages and non-economic damages
21 in excess of this court’s jurisdiction according to proof at trial.

22 55. As an actual and proximate result of the aforementioned violations, Plaintiff has
23 been damaged in an amount according to proof, but in an amount in excess of the jurisdiction
24 of this Court. Plaintiff also seeks “affirmative relief” or “prospective relief” as defined by
25 Government Code § 12926(a).

26 56. The above-described actions were perpetrated and/or ratified by a managing
27 agent or officer of Defendant. These acts were done with malice, fraud, oppression, and in
28 reckless disregard of Plaintiff’s rights. Further, said actions were despicable in character and

warrant the imposition of punitive damages in a sum sufficient to punish and deter Defendant's future conduct.

WHEREFORE, Plaintiff prays for judgment as hereinafter set forth.

THIRD CAUSE OF ACTION

(Failure to Engage in Timely and Good Faith Interactive Process (Gov't Code § 12940(n))

57. Plaintiff incorporates the allegations contained in the above paragraphs as though fully set forth herein.

58. At all times relevant to this matter, Plaintiff suffered from a "physical disability" as defined by Government Code § 12926(i) and Title 2 of the California Code of Regulations § 7293.6(f). In spite of her disability, Plaintiff was able to perform the essential functions of her position as defined by Government Code § 12926(f) and Title 2 of the California Code of Regulations § 7293.8 (g) and was otherwise able to perform her job had Defendant provided the reasonable accommodation required by Government Code § 12926(n) and Title 2 of the California Code of Regulations § 7293.9(a).

59. Although Plaintiff provided multiple notices pertaining to her disability, Defendant failed to engage in a good faith interactive process to the extent needed to communicate to Plaintiff that Defendant believed business necessity required that the parameters of the accommodation be reassessed. Defendant did not in good faith discuss the nature and extent of Plaintiff's health condition, the advice and recommendation of her health care providers, the extent and underlying medical necessity of the accommodation, and the need for future accommodation as well as other important areas of inquiry recognized in the United States Equal Employment Opportunity Commission's "Enforcement Guidance: Reasonable Accommodation and Undue Hardship Under the Americans With Disabilities Act" noted by the California Legislature in Government Code § 12926.1(e). Defendant's obligation to engage in the interactive process of accommodation was not excused or waived by Plaintiff. Since Defendant failed to engage in good faith in the important interactive process between employee and the employer in determining reasonable accommodation, Defendant's conduct violated Government Code § 12940(n).

60. Defendant's discriminatory conduct was a substantial factor causing Plaintiff to suffer general and special damages including economic damages and non-economic damages in excess of this court's jurisdiction according to proof at trial.

61. As an actual and proximate result of the aforementioned violations, Plaintiff has been harmed in an amount according to proof, but in an amount in excess of the jurisdiction of this court. Plaintiff also seeks "affirmative relief" or "prospective relief" as defined by Government Code § 12926(a).

62. As an actual and proximate result of Defendant's unlawful conduct, Plaintiff has lost wages, benefits, and other out of pocket expenses.

63. As an actual and proximate result of the aforementioned acts of Defendant, Plaintiff has become mentally upset, distressed, and aggravated. Plaintiff claims general damages for mental and emotional distress in an amount according to proof at time of trial.

64. The above-described actions were perpetrated and/or ratified by a managing agent or officer of Defendant. These acts were done with malice, fraud, oppression, and in reckless disregard of Plaintiff's rights. Further, said actions were despicable in character and warrant the imposition of punitive damages in a sum sufficient to punish and deter Defendant's future conduct.

WHEREFORE, Plaintiff prays for judgment as hereinafter set forth.

FOURTH CAUSE OF ACTION

(Patient Safety Whistleblowing, Health and Safety Code § 1278.5)

65. Plaintiff incorporates the allegations contained in the above paragraphs as though fully set forth herein.

66. At all times relevant to this matter, Plaintiff was an employee, health care worker, and medical staff member as defined under this code working at Defendant's laboratory facility ("Laboratory") located at 2025 Morse Avenue in Sacramento, California, a hospital and health facility.

67. Plaintiff complained to Defendant about her concerns of patient care, safety and hospital conditions based on her belief that, absent some kind of method to provide more

1 traction and/or stability for her assigned high rolling chair, there was a high likelihood that such
2 a chair could easily topple over when Plaintiff or any other Laboratory worker used that work
3 station and thereby cause injury to the victim of such a fall. In the process of orally
4 communicating this complaint to Defendant, Plaintiff expressed her concern about how this
5 unsafe seating situation may impact the safety of Defendant's patients to the extent that
6 Plaintiff or any other Laboratory working forced to use this work station could be distracted by
7 the need to focus an inordinate amount of attention on preventing themselves from falling over.

8 68. Defendant discharged Plaintiff on or about September 14, 2012. Plaintiff's
9 discharge occurred within 120 days of making protected complaints. Plaintiff's complaints
10 were a motivating factor in Defendant's decision to terminate Plaintiff's employment.

11 69. Defendant's retaliatory conduct was a substantial factor causing Plaintiff to
12 suffer general and special damages including economic damages and non-economic damages
13 in excess of this court's jurisdiction according to proof at trial.

14 70. As an actual and proximate result of Defendant's conduct, Plaintiff has been
15 damaged in an amount according to proof. Plaintiff also seeks "affirmative relief" or
16 "prospective relief" as defined by Health and Safety Code § 1278.5.

17 71. As an actual and proximate result of Defendant's willful and intentional
18 conduct, Plaintiff has lost wages, benefits, and other out of pocket expenses.

19 72. As an actual and proximate result of the aforementioned acts of Defendant,
20 Plaintiff has become mentally upset, distressed, and aggravated. Plaintiff claims general
21 damages for mental and emotional distress in an amount according to proof at time of trial.

22 73. The above described actions were perpetrated and/or ratified by a managing
23 agent or officer of Defendant. These acts were done with malice, fraud, oppression and in
24 reckless disregard of Plaintiff's rights. Defendant's actions were authorized, ratified, or
25 perpetrated by a managing agent, office or Director of Defendants. Further, said actions were
26 despicable in character and warrant the imposition of punitive damages in a sum sufficient to
27 punish and deter Defendant's future conduct.

28 WHEREFORE, Plaintiff prays for judgment as hereinafter set forth.

FIFTH CAUSE OF ACTION

(Retaliation; Gov't Code § 12940(h))

74. Plaintiff incorporates the allegations contained in the above paragraphs as though fully set forth herein.

75. At all times relevant to this matter, Plaintiff suffered from a "physical disability" as defined by Government Code § 12926(k) and Title 2 of the California Code of Regulations § 7293.6(d). Plaintiff was able to perform the essential functions of her position as defined by Government Code § 12926(f) and Title 2 of the California Code of Regulations § 7293.6(e).

76. Plaintiff had requested a reasonable accommodation of a physical disability that was known to Defendant. This activity is protected by the California Fair Employment and Housing Act. Accordingly, Defendant's conduct violated Government Code §§ 12940(h).

77. Adverse employment actions suffered by Plaintiff include, but are not limited to: (1) Defendant failed to engage in the interactive process of reasonable accommodation in good faith; (2) Defendant constructively demoted Plaintiff from her position by refusing to allow her to resume her normal duties following her January 27, 2012 return to work in response to a request by Defendant to have her come in and have her reasonable accommodation request be evaluated by Defendant's Disability Case Manager, Ms. Hiatt; and, (3) Defendant otherwise harassed and discriminated against Plaintiff with regard to the terms and conditions of her employment because she engaged in activities protected by the California Fair Employment and Housing Act. Defendant's actions were motivated, at least in part, because Plaintiff engaged in protected activities.

78. Defendant was motivated to retaliate because Plaintiff asserted her rights to take medical leave, requested accommodations related to her physical disabilities, and complained about Defendant's refusal to allow Plaintiff to resume her normal duties with reasonable accommodations. Accordingly, Defendant's conduct violated Government Code § 12940(h) and Title 2 of the California Code of Regulations § 7287.8.

79. Defendant's discriminatory conduct was a substantial factor causing Plaintiff to suffer general and special damages including economic damages and non-economic damages

1 in excess of this court's jurisdiction according to proof at trial.

2 80. As an actual and proximate result of the aforementioned violations, Plaintiff has
3 been damaged in an amount according to proof, but in an amount in excess of the jurisdiction
4 of this Court. Plaintiff also seeks "affirmative relief" or "prospective relief" as defined by
5 Government Code § 12926(a).

6 81. The above described actions were perpetrated and/or ratified by a managing
7 agent or officer of Defendant. These acts were done with malice, fraud, oppression, and in
8 reckless disregard of Plaintiff's rights. Further, said actions were despicable in character and
9 warrant the imposition of punitive damages in a sum sufficient to punish and deter Defendant's
10 future conduct

11 WHEREFORE, Plaintiff prays for judgment as hereinafter set forth.

12 **SIXTH CAUSE OF ACTION**

13 **(Failure to Prevent Discrimination, Harassment and Retaliation; Gov't Code § 12940(k))**

14 82. Plaintiff incorporates the allegations contained in the above paragraphs as though
15 fully set forth herein.

16 83. At all times relevant to this matter, the Fair Employment and Housing Act and
17 Gov't Code § 12940 were in full force and effect and binding on Defendant

18 84. Plaintiff was subjected to unwanted harassing conduct because of her physical
19 disabilities. This harassing conduct by Defendant created an environment that, among other
20 things, tolerated and encouraged further harassment and discrimination against Plaintiff that
21 impacted the terms and conditions of Plaintiff's employment. The statements and conduct on
22 the part of Defendant complained of herein represent a violation of Gov't Code § 12940(j) and
23 Title 2 of the California Code of Regulations §§ 7287.6 and 7287.7.

24 85. The harassment was severe and pervasive and impacted the terms and
25 conditions of Plaintiff's employment.

26 86. A reasonable person with a disability in Plaintiff's circumstances would have
27 considered the work environment to be hostile or abusive.

28 87. Defendant's discriminatory conduct was a substantial factor causing Plaintiff to

1 suffer general and special damages including economic damages and non-economic damages
2 in excess of this court's jurisdiction according to proof at trial.

3 88. As an actual and proximate result of the aforementioned violations, Plaintiff has
4 been harmed in an amount according to proof, but in an amount in excess of the jurisdiction of
5 this court. Plaintiff also seeks "affirmative relief" or "prospective relief" as defined by Gov't
6 Code § 12926(a).

7 89. The above-described actions were perpetrated and/or ratified by a managing
8 agent or officer of Defendant. These acts were done with malice, fraud, oppression, and in
9 reckless disregard of Plaintiff's rights. Further, said actions were despicable in character and
10 warrant the imposition of punitive damages in a sum sufficient to punish and deter Defendant's
11 future conduct.

12 WHEREFORE, Plaintiff prays for judgment as hereinafter set forth.

13 **SEVENTH CAUSE OF ACTION**

14 **(Wrongful Termination in Violation of Public Policy)**

15 90. Plaintiff incorporates the allegations contained in the above paragraphs as though
16 fully set forth herein.

17 91. Defendant's termination of Plaintiff based upon Plaintiff's physical disabilities
18 constituting serious medical conditions, Plaintiff's requests for reasonable accommodation, and
19 the need to engage in the interactive process, violated important public policies codified in
20 Government Code §§ 12940(a), 12940(h), 12940(j), 12940(k), 12940(m), 12940(n), and Title 2
21 of the California Code of Regulations §§ 7287.6, 7287.7, 7287.8, 7291.6, 7293.7, and, 7293.9.

22 92. Plaintiff alleges that Defendant's termination of her employment on or around
23 September 14, 2012, was a discriminatory and retaliatory act in violation of the FEHA that was
24 motivated, at least in part, by Plaintiff having: (1) exercised her right to take medical leave
25 pursuant to the federal Family and Medical Leave Act (29 U.S.C. §§ 2601, *et seq.*) and/or the
26 California Family Rights Act (Gov't Code § 12945.2); and, (2) requesting that Defendant
27 provide the reasonable accommodation required by Government Code § 12926(n) and Title 2
28 of the California Code of Regulations § 7293.9(a).

93. Defendant's discriminatory conduct was a substantial factor causing Plaintiff to suffer general and special damages including economic damages and non-economic damages in excess of this court's jurisdiction according to proof at trial.

94. As an actual and proximate result of the aforementioned violations, Plaintiff has been damaged in an amount according to proof, but in an amount in excess of the jurisdiction of this Court.

95. The above-described actions were perpetrated and/or ratified by a managing agent or officer of Defendant. These acts were done with malice, fraud, oppression, and in reckless disregard of Plaintiff's rights. Further, said actions were despicable in character and warrant the imposition of punitive damages in a sum sufficient to punish and deter Defendant's future conduct.

WHEREFORE, Plaintiff prays for judgment as hereinafter set forth.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff demands judgment against Defendant and any other defendants who may be later added to this action as follows:

1. For reinstatement and compensatory damages, including, but not limited to lost wages and emotional distress in an amount according to proof;
2. For attorneys' fees and costs pursuant to all applicable statutes or legal principles;
3. For costs of suit incurred;
4. For punitive damages pursuant to all applicable statutes or legal principles;
5. For prejudgment interest on all amounts claimed pursuant to Civil Code section(s) 3287 and/or 3288;
6. For injunctive relief preventing further discrimination and retaliation and as otherwise deemed appropriate;

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1 7. For such other and further relief as the court may deem proper.

2
3 Respectfully Submitted,

4
5 Dated: February 14, 2014

6 By: Erik Roper
 LAWRANCE A. BOHM, ESQ.
 ERIK M. ROPER, ESQ.

7 Attorneys for Plaintiff,
8 KENDRA GREEN

9
10 DEMAND FOR JURY TRIAL

11 Plaintiff hereby demands trial by jury for this matter.

12
13 Dated: February 14, 2014

14 By: Erik Roper
 LAWRANCE A. BOHM, ESQ.
 ERIK M. ROPER, ESQ.

15 Attorneys for Plaintiff,
16 KENDRA GREEN

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COUNTY OF SACRAMENTO

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VERIFICATION OF COMPLAINT FOR DAMAGES

I, Kendra Green, have read the attached Complaint for Damages and hereby attest to the truth of all matters asserted therein except for those alleged on information and belief.

I declare under penalty of perjury, pursuant to the laws of the State of California that the foregoing is true and correct to the best of my personal knowledge.

Feb. 14, 2014
Date

Kendra Green
Kendra Green

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COUNTY OF SACRAMENTO

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