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8 Attorneys for Plaintiffs MEAGAN ALLEN,  
9 YOLANDA ALVARADO, VERONICA CLUCK,  
10 LAURA FENNER, and CARISSA WARD

**FILED**  
Superior Court of California  
County of Placer

JAN 07 2015

Jake Chatters  
Executive Officer & Clerk  
By: S. Marlatte, Deputy

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**SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
**COUNTY OF PLACER**

MEAGAN ALLEN, an individual, YOLANDA  
ALVARADO, an individual, VERONICA  
CLUCK, an individual, LAURA FENNER, and  
CARISSA WARD, an individual,

Plaintiffs,

vs.

KAISER PERMANENTE, a California  
corporation, TRACY NUNES, an individual, and  
CAROLYN PURVIS, an individual, and DOES 1  
through 25, inclusive,

Defendants.

Case No.:

**SCV0035678**

**COMPLAINT FOR DAMAGES**

1. RELIGIOUS DISCRIMINATION;
2. PREGNANCY DISCRIMINATION;
3. UNLAWFUL RETALIATION;
4. HOSTILE WORK ENVIRONMENT HARASSMENT;
5. FAILURE TO PREVENT HARASSMENT;
6. NEGLIGENT HIRING, SUPERVISION, AND RETENTION;
7. DEFAMATION
8. INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS;
9. WRONGFUL TERMINATION IN VIOLATION OF PUBLIC POLICY

**REQUEST FOR TRIAL BY JURY**

COMES NOW Plaintiffs, MEAGAN ALLEN, YOLANDA ALVARADO, VERONICA  
CLUCK, LAURA FENNER, and CARISSA WARD, and allege as follows:

**GENERAL ALLEGATIONS**

1. Plaintiff, MEAGAN ALLEN ("ALLEN"), is an adult resident of the County of  
Sacramento, California. Plaintiff is employed by Defendant, KAISER PERMANENTE.

1           2.       Plaintiff, YOLANDA ALVARADO ("ALVARADO"), is an adult resident of the County  
2 of Sacramento, California. Plaintiff was employed by Defendant, KAISER PERMANENTE, for the  
3 times relevant for this action.

4           3.       Plaintiff, VERONICA CLUCK ("CLUCK"), is an adult resident of the County of Yolo,  
5 California. Plaintiff is employed by Defendant, KAISER PERMANENTE.

6           4.       Plaintiff, LAURA FENNER ("FENNER"), is an adult resident of the County of  
7 Sacramento, California. Plaintiff was employed by Defendant, KAISER PERMANENTE, for the times  
8 relevant for this action.

9           5.       Plaintiff, CARISSA WARD ("WARD"), is an adult resident of the County of Placer,  
10 California. Plaintiff was employed by Defendant, KAISER PERMANENTE, for the times relevant for  
11 this action.

12          6.       Defendant, KAISER PERMANENTE ("KAISER"), is a corporation which regularly  
13 conducts business in the County of Placer, California. Defendant is subject to suit under the California  
14 Fair Employment and Housing Act, *Government Code* §12900 *et seq.* ("FEHA") because it regularly  
15 employs five or more persons.

16          7.       Defendant, TRACY NUNES ("NUNES"), was at all times herein acting in the course and  
17 scope of her employment as a supervisor and managing agent of Defendant KAISER responsible for the  
18 supervision of employees, including Plaintiffs, and establishing company policy. Defendant NUNES was  
19 at all times a supervisor as defined by *Government Code* §12926(r).

20          8.       Defendant, CAROLYN PURVIS ("PURVIS"), was at all times herein acting in the  
21 course and scope of her employment as a supervisor and managing agent of Defendant KAISER  
22 responsible for the supervision of employees, including Plaintiffs, and establishing company policy.  
23 Defendant PURVIS was at all times a supervisor as defined by *Government Code* §12926(r).

24          9.       Plaintiffs are unaware of the true names and capacities of Defendants sued herein as  
25 DOES 1 to 25, inclusive, and therefore sues these Defendants by such fictitious names. Plaintiffs will  
26 amend this Complaint to allege their true names and capacities when ascertained. Plaintiff is informed  
27 and believes and thereon alleges that each of these fictitiously named defendants is responsible in some  
28 manner for the occurrences herein alleged, and that Plaintiff's injuries as herein alleged were proximately

1 caused by the aforementioned defendants.

2 10. Plaintiffs are informed and believe and thereon allege that at all times herein mentioned  
3 each of the defendants was the agent and employee of each of the remaining defendants and, in doing the  
4 things hereinafter alleged, was acting within the course and scope of such agency and employment.

5 11. Venue and jurisdiction are proper because the majority of the events giving rise to this  
6 action took place in Placer County; because Defendant was doing business in Placer County; because  
7 Plaintiffs' employment was entered into in Placer County; because Plaintiffs worked for Defendant  
8 KAISER in Placer County; because the damages sought exceed the jurisdictional minimum of this Court;  
9 and because the majority of witnesses reside or work in Sacramento County.

10  
11 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

12 12. On July 22, 2014, Plaintiff ALLEN filed a timely charge of harassment, retaliation,  
13 denial of accommodation, denial of transfer, and failure to prevent discrimination or retaliation with the  
14 California Department of Fair Employment and Housing ("DFEH") against Defendants KAISER,  
15 NUNES, and PURVIS. The DFEH issued Plaintiff ALLEN's Right-to-Sue Letter the same day.

16 13. On December 23, 2013, Plaintiff ALVARADO filed a timely charge with the Equal  
17 Employment Opportunity Commission ("EEOC") stating that she faced retaliation, harassment, and a  
18 hostile work environment because of her age, race, and religion. The EEOC issued Plaintiff  
19 ALVARADO's Notice of Right to Sue on November 12, 2014.

20 14. On July 31, 2014, Plaintiff CLUCK filed a timely charge of harassment, retaliation,  
21 denial of accommodation, denial of transfer, and failure to prevent discrimination or retaliation with the  
22 California Department of Fair Employment and Housing ("DFEH") against Defendants KAISER,  
23 NUNES, and PURVIS. The DFEH issued Plaintiff CLUCK's Right-to-Sue Letter the same day.

24 15. On July 31, 2014, Plaintiff FENNER filed a timely charge of harassment, retaliation,  
25 denial of accommodation, denial of transfer, and failure to prevent discrimination or retaliation with the  
26 California Department of Fair Employment and Housing ("DFEH") against Defendants KAISER,  
27 NUNES, and PURVIS. The DFEH issued Plaintiff FENNER's Right-to-Sue Letter the same day.

28 16. On July 24, 2014, Plaintiff WARD filed a timely charge of harassment, retaliation, denial

1 of accommodation, denial of transfer, and failure to prevent discrimination or retaliation with the  
2 California Department of Fair Employment and Housing ("DFEH") against Defendants KAISER,  
3 NUNES, and PURVIS. The DFEH issued Plaintiff WARD's Right-to-Sue Letter the same day.

4  
5 **FACTUAL ALLEGATIONS COMMON TO ALL CAUSES OF ACTION**

6 17. Plaintiffs were employed by KAISER in the Surgery Scheduling Department located in  
7 Roseville, California in 2012.

8 18. When Ms. Nunes became the department manager for surgery scheduling at the  
9 Roseville, California KAISER facility in September 2012, the entire culture of the department changed.  
10 Ms. Nunes appeared to have an agenda that went beyond the quality of the work being performed by the  
11 employees.

12 19. Throughout the remainder of 2012 and all of 2013, Ms. Nunes discriminated against  
13 employees in the department who were active in their union and who stated that they had religious  
14 objections to performing abortions at KAISER.

15 20. Ms. Nunes used preferential treatment towards employees based on their religious  
16 affiliation, union affiliation, age and pregnancy in an attempt to gain influence and control over the staff  
17 of the department, creating an atmosphere in which older employees, union stewards, Christian  
18 employees, and a pregnant employee were subjected to harassment, intimidation, unequal treatment,  
19 discrimination, retaliation, embarrassment, injury, defamation, harm and censure when other employees  
20 of different status were favored.

21 21. At all times mentioned herein, Defendant KAISER was aware or should have been aware  
22 of Nunes' discriminatory, retaliatory, and harassing acts and the likelihood that she would violate the law  
23 as the manager of the department.

24 22. Ms. Nunes had previously been identified as a manager who discriminated against  
25 employees and retaliated against employees in violation of California law and public policy.

26 23. Ms. Purvis was informed repeatedly by Plaintiffs and others that Ms. Nunes was violating  
27 California law, Federal law, public policy, and KAISER policy.

28 24. Plaintiffs, and other employees, made repeated reports to their union of grievances with

1 Ms. Nunes and Ms. Purvis. When these grievances were provided to KAISER human resources, Ms.  
2 Nunes and Ms. Purvis became increasingly aggressive in creating a hostile work environment. Plaintiffs  
3 are informed and believe and therefore contend that Ms. Nunes and Ms. Purvis were provided information  
4 regarding allegedly confidential complaints.

5 25. Despite the repeated complaints of improper management and illegal activity within the  
6 department, Ms. Purvis and other KAISER managers chose to support Ms. Nunes' management decisions  
7 without investigation of the complaints that she was creating a hostile work environment and harassing,  
8 retaliating, and discriminating against employees, including Plaintiffs.

9 26. When union employees, including Plaintiffs, filed grievances regarding their treatment,  
10 KAISER management regularly held cursory meetings wherein they admitted that they did no  
11 independent investigation of the claims involved and had reviewed no paperwork. Despite the failure to  
12 prepare for these meetings, KAISER management repeatedly confirmed the personnel decisions made by  
13 Ms. Nunes and Ms. Purvis with a "rubber stamp" policy of supporting management.

14  
15 **ALLEGATIONS RELATING TO PLAINTIFF MEAGAN ALLEN**

16 27. Ms. Allen began working for KAISER in June 2002.

17 28. In June 2006, she started working as the surgical scheduler for neurosurgery. Ms. Allen  
18 worked in this position for the next seven years, earning positive reviews for her performance.

19 29. After Ms. Nunes became the manager for the department, Ms. Allen witnessed a pattern  
20 of behavior designed to harass employees who disagreed with Ms. Nunes.

21 30. Ms. Allen also began to feel harassed and discriminated, noting that the work  
22 environment became openly hostile to several employees.

23 31. She contacted human resources several times to report that KAISER policies and  
24 procedures were being violated and that she believed there was a concerted effort by Ms. Nunes and  
25 Carolyn Purvis to force certain employees out of the department.

26 32. The work environment became so hostile that Ms. Allen was required to take a stress  
27 leave due to the constant harassment from Ms. Nunes.

28 33. Ms. Nunes did not speak to Ms. Allen about the neurosurgery position or the details of

1 her functions in that position.

2 34. Ms. Allen was not given the opportunity to say she would not schedule abortions. She  
3 was told flat out that she would do abortion scheduling and was intimidated by Ms. Nunes so that she  
4 believed she would be fired if she said no.

5 35. Ms. Allen was required to schedule abortions for the remainder of her time in the  
6 department.

7 36. Ms. Nunes also began a series of "investigations" into Ms. Allen on trivial matters and  
8 used these as an excuse to write her up for discipline. For example, although many employees were  
9 allowed to leave the office early for appointments, Ms. Allen was written up and threatened with  
10 discipline for leaving to attend doctor appointments.

11 37. This hostile, discriminatory work environment resulted in Ms. Allen being forced to take  
12 a stress-related medical leave of approximately six weeks.

13 38. During this time, Ms. Allen became pregnant and reported to KAISER management that  
14 she would require future time from work for maternity leave.

15 39. In October 2013, Ms. Allen was told that she would be terminated immediately unless  
16 she changed positions within KAISER.

17 40. Ms. Allen applied for more than twenty positions and was able to find a new position as a  
18 cashier/receptionist in Women's Health. While sending out applications, Mr. Allen was subjected to  
19 repeated harassment from KAISER management.

20 41. This new position dropped her from a Grade 6 employee to a Grade 3, and her salary was  
21 reduced from \$29/hour to \$25.73/hour. Ms. Allen believes that her demotion was motivated by her  
22 religious beliefs, union affiliation, and her pregnancy.

23  
24 **ALLEGATIONS RELATING TO PLAINTIFF YOLANDA ALVARADO**

25 42. Ms. Alvarado worked for KAISER for 13 years with a good work history and positive  
26 evaluations, including since 2007 when she began in surgery scheduling.

27 43. Ms. Nunes targeted certain employees for harassing behavior, accusing them of  
28 violations of policies that did not exist (or were not enforced), acted in a hostile/unprofessional manner,

1 and singled employees out for differential treatment based on protected statuses.

2 44. In October 2012, Ms. Alvarado particularly noticed that her daughter, Laura Fenner, was  
3 targeted for harassment as the union steward for the department.

4 45. When Ms. Alvarado reported that Ms. Fenner was being targeted for harassment to  
5 Human Resources and upper management, she began to face more and more harassment in the workplace.

6 46. Ms. Alvarado went to the union for support in ending the hostile work environment, and  
7 an email was sent to management in January 2013 regarding her complaints of discrimination and  
8 harassment. The harassment only became worse after that point.

9 47. In Spring 2013, Ms. Alvarado was called into a meeting where she was informed that she  
10 would have to begin scheduling abortions. Ms. Alvarado informed Ms. Nunes and other management  
11 employees that she would not schedule abortions because of her religious beliefs.

12 48. Following this meeting, Ms. Alvarado faced repeated "investigations" by Ms. Nunes,  
13 write-ups for unjustified discipline, and repeated threats against her employment. Ms. Nunes placed Ms.  
14 Alvarado on a series of administrative leaves that were unjustified and discriminatory.

15 49. In fact, the work environment became so toxic that Ms. Alvarado was forced to consult  
16 with an employee health psychologist regarding her stress claims and ongoing concerns.

17 50. In June 2013, Ms. Alvarado was suspended, and she was terminated for alleged HIPPA  
18 violations in July 2013. KAISER stated that Ms. Alvarado was termination because she breached patient  
19 confidentiality by accessing information within the department's system without a valid reason.

20 51. Ms. Alvarado denied sharing any confidential patient information with improper persons,  
21 but she was terminated, even though other employees have similarly accessed matters in the past.  
22 Further, Ms. Alvarado explained to KAISER's personnel that she may have been accessing information in  
23 the system to assist other employees at Ms. Nunes' request. KAISER did not review these facts and  
24 moved forward with her termination.

25 52. Ms. Alvarado contends that she was targeted for termination because of her religious  
26 beliefs and because she supported other employees who were facing discrimination.

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**ALLEGATIONS RELATING TO PLAINTIFF VERONICA CLUCK**

53. Ms. Cluck began working for KAISER in September 2002. She transferred into surgery scheduling in July 2005 and maintained her position with good evaluations until 2014.

54. When Ms. Nunes first joined the department as the new manager, Ms. Cluck had a good working relationship with her and received a positive initial evaluation.

55. In February 2013, Ms. Cluck had a family crisis which required her to leave work and resulted in a trip to the emergency room. After this incident, Ms. Nunes asked Ms. Cluck a series of very personal questions regarding her romantic relationships and seemed upset when Ms. Cluck did not share details of her personal life.

56. After this incident, Ms. Nunes had a much more formal relationship with Ms. Cluck.

57. Ms. Nunes made changes to work flow, procedures, and various policies within the department over the coming month.

58. In September 2013, Ms. Cluck accidentally sent an email to her personal account which contained patient information. Ms. Cluck immediately brought this to Ms. Nunes' attention and worked to fix the system so that it would not occur again.

59. Approximately a month later she sent an email to a coworker which went to that coworker's personal account. Ms. Cluck corrected this situation.

60. During this time, Ms. Nunes and various employees in the department spoke openly regarding scheduling abortions and mocked employees who had reported having religious beliefs that would not allow them to perform this task.

61. Ms. Cluck is herself a Christian and shared the belief that she should not be forced to schedule abortions with a coworker who immediately went into Ms. Nunes' office for a closed-door meeting.

62. Following that incident, things became so stressful in the department that Ms. Cluck was forced to take a medical leave of absence.

63. Ms. Nunes and Ms. Purvis began a series of targeted investigations into Ms. Cluck's work performance and increased the hostile work environment Ms. Cluck faced as other employees were forced into demotion or terminated.



1           64.     Ms. Cluck believes that she was subjected to an ongoing hostile work environment  
2 because of her stated religious beliefs and because she reported ongoing harassment against other  
3 employees by Ms. Nunes and management.

4           65.     Ms. Cluck repeatedly informed KAISER personnel, including human resources, that she  
5 was being subjected to harassment and retaliation in the work place.

6           66.     Ms. Cluck's physician informed her that her work environment and the harassment from  
7 Ms. Nunes and Ms. Purvis was causing her to suffer physical effects that made it healthy for her to return  
8 to her prior position.

9           67.     Despite attempts to return to work, Ms. Cluck was informed by KAISER that she would  
10 be provided no accommodation either through changes to her position or transfer to another department to  
11 deal with her stress.

12          68.     Ms. Cluck was terminated from her position on the theory that she failed to return to  
13 work from her leave. Ms. Cluck contends that she was terminated because of her religious beliefs and her  
14 medical condition and that the reasons given by KAISER for her termination were pretextual.

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16                   **ALLEGATIONS RELATING TO PLAINTIFF LAURA FENNER**

17          69.     Ms. Fenner worked for KAISER for approximately six years, including a position in  
18 surgery scheduling where she also served as the union shop steward.

19          70.     Shortly after Ms. Nunes became the department's manager, Ms. Fenner began facing  
20 harassment in the workplace. She was targeted for bullying and a differential application of policies and  
21 procedures.

22          71.     As an example, the department previously had a policy of allowing employees to take a  
23 personal call as long as the employee took their cell phone outside the department. In October 2012, Ms.  
24 Fenner received a medical call regarding her daughter and stepped outside the department. Ms. Nunes  
25 followed her outside and stood with her arms crossed listening to the telephone call. Ms. Nunes then  
26 threatened to write Ms. Fenner up for insubordination for taking the call.

27          72.     Approximately a week later, Ms. Fenner received a telephone call in her capacity as a  
28 union steward and was again followed outside by Ms. Nunes and another employee. Ms. Fenner asked

1 why she was being followed when other employees also stepped outside to take calls.

2 73. Ms. Nunes attempted to intimidate Ms. Fenner, and Ms. Fenner filed a grievance  
3 regarding the incident and stated that she believed it was harassment and discrimination. However,  
4 KAISER did not timely or effectively respond to this complaint.

5 74. Instead, Ms. Nunes began a campaign of writing up Ms. Fenner with "investigations" into  
6 further breaches of policy.

7 75. Ms. Nunes ignored similar "breaches" of policy from other employees and used these  
8 disciplinary proceedings as a way of intimidating Ms. Fenner.

9 76. Ms. Fenner was placed on back to back administrative leaves. When she returned, Ms.  
10 Nunes and Ms. Purvis made the work environment so abusive that she was required to take a six month  
11 stress leave of absence.

12 77. Upon her return, she was immediately placed on another administrative leave for an  
13 "investigation" by Ms. Nunes and yet another discipline process.

14 78. Ms. Fenner reported on multiple occasions that she was being subjected to harassment,  
15 discrimination, and retaliation based on (1) her role as a shop steward supporting other employees who  
16 brought forward complaints of discrimination against Ms. Nunes and (2) her support of employees in the  
17 department who made religious objections to scheduling abortions.

18 79. Despite making multiple complaints about Ms. Nunes and the department, nothing was  
19 done to correct the situation.

20 80. Ms. Fenner was finally terminated in November 2013 for failure to follow a work  
21 directive. Although Ms. Nunes claimed that the termination was based on work performance, Ms. Fenner  
22 contends that her termination was actually based on a discriminatory and harassing pattern of behavior by  
23 Ms. Nunes and supported by KAISER.

24  
25 **ALLEGATIONS RELATING TO PLAINTIFF CARISSA WARD**

26 81. Ms. Ward began working as a surgery scheduled for KAISER in January 2010 where she  
27 had a history of good evaluations in the department prior to Ms. Nunes' entrance as manager.

28 82. After Ms. Nunes became her manager, Ms. Ward began to feel that the work environment

1 was hostile. Ms. Nunes gave preferential treatment to certain employees and appeared to focus discipline  
2 on others in an inequitable manner.

3 83. In Spring 2013, Ms. Ward attended a meeting with Ms. Nunes and Carolyn Purvis where  
4 she was informed that she would be booking abortions for KAISER. Ms. Ward refused and informed  
5 management that her decision was based on her religious beliefs.

6 84. Ms. Ward was informed that this was a new part of her position and that only one  
7 employee in the department would be given an exception from this requirement.

8 85. Ms. Ward asked repeatedly how this was possible as it seemed to be religious  
9 discrimination.

10 86. Instead, employees made comments to Ms. Nunes in Ms. Ward's presence claiming that  
11 she was only upset about the situation because she had issues with fertility.

12 87. Ms. Ward filed a complaint about this incident, but no action was taken to protect her  
13 rights to deal with the hostile environment in the department.

14 88. In August 2013, Ms. Ward was terminated from her position. KAISER stated that she  
15 was termination because she breached confidentiality for a patient by accessing information within the  
16 department's computer system without a valid reason.

17 89. Ms. Ward denied sharing any confidential patient information with improper persons, but  
18 she was terminated, even though other employees have similarly accessed matters in the past. Further,  
19 Ms. Ward explained to KAISER's personnel that she was involved in training several other employees at  
20 the time the access allegedly occurred, and that she may have been accessing information on a case they  
21 were handling to show them how to properly log information in the system.

22 90. Despite the fact that there was no actual breach of confidentiality and Ms. Ward had a  
23 valid reason for possibly being in the system, her employment remained terminated. Ms. Ward contends  
24 that her termination was motivated by illegal discrimination and in retaliation for her multiple complaints  
25 about the work environment.

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**FIRST CAUSE OF ACTION**

**(Religious Discrimination in Violation of Government Code §12940(I) by**

**All Plaintiffs against Defendant KAISER and DOES 1 to 25)**

91. The allegations of paragraphs 1 through 90 are re-alleged and incorporated herein by reference.

92. Plaintiffs are Christians and made several requests to be accommodated so that they would not need to schedule abortions. Defendants and their agents and employees knew of Plaintiffs' religion and requests for accommodation at the time of the above-entitled actions.

93. Plaintiffs openly informed KAISER management that they objected to scheduling abortions and stated that they supported that no employee should be forced to book abortions when the surgical scheduling staff was large and included numerous employees who did not object to scheduling abortions.

94. Plaintiffs were subjected to inequitable treatment and a hostile work environment from KAISER management after voicing that they did not wish to schedule abortions or speaking out in support of other employees who voiced those objections.

95. The actions of Defendants and their agents and employees, committed a continuing series of unlawful discriminatory actions by reason of plaintiff's religion, constituting unlawful discrimination in employment in contravention of the Fair Employment and Housing Act, *Government Code* §12900, *et seq.*, and the corresponding regulations of the California Department of Fair Employment and Housing which forbid discrimination in the workplace and termination of an employee on account of religion.

96. The discriminatory acts of Defendants, including but not limited to the facts alleged above, were committed by Defendants.

97. Defendants had actual and/or constructive knowledge of the intolerable conditions and hostile work environment created by the acts of discrimination alleged above, but failed to take any steps to end those conditions.

98. Defendants did not exercise reasonable care to prevent and promptly correct any discriminatory behavior.

99. As a direct result of Defendants' inactions in arresting and eliminating the hostile work

environment, plaintiffs suffered economic injuries in an amount to be established according to proof.

100. Plaintiffs are informed and on that basis contend that Defendants could have reasonably anticipated the possibilities of discrimination on the basis of religion occurring at its workplace.

101. Plaintiffs are informed and believe, and on that basis allege, that the above-recited actions were done with malice, fraud, and oppression, and in reckless disregard of Plaintiffs' rights under California law.

102. As a proximate result of Defendants' discriminatory actions against Plaintiffs, as alleged above, Plaintiffs have been harmed and suffered humiliation, embarrassment, mental and emotional distress, and discomfort, all to Plaintiffs' damages in an amount to be established according to proof.

103. Defendants' conduct as alleged in this complaint, constitutes an unlawful employment practice in violation of Government Code §12940(a), and plaintiffs are thus entitled to recover punitive damages from Defendants, in an amount according to proof.

104. Plaintiffs have incurred and continues to incur legal expenses and attorney's fees. Plaintiffs are currently unaware of the precise amount of these expenses and fees and prays leave of court to amend this complaint when the amounts are more fully known.

## **SECOND CAUSE OF ACTION**

### **(Pregnancy Discrimination in Violation of Government Code §12940 by Plaintiffs Meagan Allen Against Defendant KAISER and DOES 1 to 25)**

105. The allegations of paragraphs 1 through 104 are re-alleged and incorporated herein by reference.

106. At the times relevant to this matter, including the time of her termination, Plaintiff Allen was a pregnant woman who was entitled to protection from discrimination as defined by *Government Code* §12926(q), and thus is a member of a class of persons protected by FEHA from employment discrimination based on her pregnancy.

107. Defendants knew that Ms. Allen was pregnant as defined by *Government Code* §12926(q).

108. Defendants discriminated against Plaintiff in violation of *Government Code* §12940(a)

1 and consistent with Title 2 of the California Code of Regulations §7291.2(b) by (1) harassing and  
2 retaliating against Plaintiff due to her pregnancy; (2) denying Plaintiff accommodation; (3) failing to  
3 prevent discrimination and retaliation against Plaintiff due to her pregnancy; and (4) otherwise  
4 discriminating against Plaintiff with regard to the terms and conditions of her employment because of her  
5 pregnancy.

6 109. Further, Plaintiff reasonably believes that Defendants have made material  
7 misrepresentations regarding her employment and her work status in an attempt to harm her and  
8 negatively impact her credibility.

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

12 111. In doing the acts and/or failing to do the acts alleged above, Defendants, and each of  
13 them, engaged in discriminatory acts and conduct with malice towards Plaintiff and/or reckless  
14 indifference to her statutorily protected rights and in conscious disregard of the rights, both statutory and  
15 common law, guaranteed to plaintiff by the State of California. The unlawful and discriminatory conduct  
16 was perpetrated or ratified by the owners, supervisors, and managing agents of Defendants. As such,  
17 Defendants are guilty of oppression and malice for which Plaintiff seeks the recovery of punitive  
18 damages, in an amount to be proven at trial.

19 112. The unlawful employment practices stated above were intentional and designed to cause  
20 Plaintiff to suffer emotional distress. The unlawful employment practices stated above were done with  
21 malice or reckless indifference to Plaintiff's protected legal rights.

### 22 23 **THIRD CAUSE OF ACTION**

24 **(Unlawful Retaliation in violation of Government Code §12940(l) by**

25 **All Plaintiffs Against Defendant KAISER and DOES 1 to 25)**

26 113. The allegations of paragraphs 1 through 112 are re-alleged and incorporated herein by  
27 reference.

28 114. As stated in detail above, Plaintiffs reported the hostile work environment created by

1 Defendants on several occasions before being demoted or terminated based on their religious beliefs and  
2 other protected statuses as alleged above.

3 115. Plaintiffs made repeated comments to Ms. Nunes, Ms. Purvis, and other KAISER  
4 management that their religious beliefs would not permit them to provide abortion scheduling services.  
5 Instead of confirming that their religious beliefs would be respected, Defendants maintained that Plaintiffs  
6 would face discipline and termination if they refused to schedule abortions.

7 116. When Plaintiffs again reported the hostile work environment created by Defendants and  
8 requested an affirmative plan regarding how their discriminatory treatment would end, Defendants denied  
9 any hostile work environment, harassment, retaliation, or any other negative acts against Plaintiffs.

10 117. Rather than cease their retaliation and engage in a good faith interactive process or grant  
11 Plaintiffs' requests for reasonable accommodation and an end to the repeated harassment, Defendants  
12 retaliated against Plaintiffs because they had attempted to protect their rights against discrimination and  
13 harassment.

14 118. Plaintiffs' protected activities were motivating factors for Defendants' decision to deny  
15 them a good faith interactive process and reasonable accommodation.

16 119. As a proximate result of the wrongful conduct of Defendants, and each of them, Plaintiffs  
17 have suffered and continues to sustain damages in an amount according to proof, but in excess of the  
18 jurisdiction of this Court.

#### 19 20 **FOURTH CAUSE OF ACTION**

21 **(Harassment in Violation of Government Code §12940(l) by**

22 **All Plaintiffs against Defendants KAISER, NUNES, PURVIS, and DOES 1 to 25)**

23 120. The allegations of paragraphs 1 through 119 are re-alleged and incorporated herein by  
24 reference.

25 121. At all times mentioned in this complaint, *Government Code* §§12940-12951 were in full  
26 force and effect and were binding on Defendants. These sections require Defendants to refrain from  
27 discriminating against and harassing any employee on the basis of religion, among other things. As stated  
28 above in greater detail, within the time provided by law, Plaintiff filed a complaint with the DFEH, in full

1 compliance with these sections, and received a right-to-sue letter.

2 122. During the course of Plaintiffs' employment, Defendants created and allowed a hostile  
3 work environment to exist and discriminated against and harassed Plaintiffs on the basis of Plaintiffs'  
4 religion, pregnancy, and age. Such discrimination and harassment was in violation of Government Code  
5 §§12940-12951 and the public policy embodied therein, and has resulted in damage and injury to  
6 Plaintiffs as alleged herein.

7 123. As a proximate result of Defendants' conduct, Plaintiffs have suffered and continue to  
8 suffer humiliation, emotional distress, and mental and physical pain and anguish, all to their damage in a  
9 sum according to proof.

10 124. As a proximate result of the wrongful conduct of Defendants, Plaintiffs suffered and  
11 continues to suffer substantial losses in earnings and other employment benefits in an amount according  
12 to proof at the time of trial.

13 125. Defendants' conduct as described above was willful, despicable, knowing, and  
14 intentional; accordingly, Plaintiffs seek an award of punitive and exemplary damages in an amount  
15 according to proof.

16 126. Plaintiffs have incurred and continues to incur legal expenses and attorney fees.  
17 Plaintiffs are presently unaware of the precise amount of these expenses and fees and prays leave of court  
18 to amend this complaint when the amounts are more fully known.

19  
20 **FIFTH CAUSE OF ACTION**

21 **(Failure to Prevent Harassment, Discrimination, and Harassment in Violation of Government Code**  
22 **§12940 by All Plaintiffs against Defendants KAISER and DOES 1 to 25)**

23 127. The allegations of paragraphs 1 through 126 are re-alleged and incorporated herein by  
24 reference.

25 128. California *Government Code* §12940, in pertinent part states:  
26 "It shall be an unlawful employment practice... (a) For an employer, because of the ...  
27 physical disability... of any person... to discharge the person from employment... or to  
28 discriminate against the person in compensation or in terms, conditions, or privileges of  
employment... (k) For an employer... to fail to take all reasonable steps necessary to prevent  
discrimination and harassment from occurring."



1           129. Defendants harassed, discriminated, retaliated against, demoted, and terminated Plaintiffs  
2 because of their religious beliefs and protected activities. Further, Defendants failed to conduct a  
3 meaningful investigation of Plaintiffs' allegations of misconduct.

4           130. The actions and statements by the Defendants, as well as their agents, representatives,  
5 and employees, created a work environment that was intimidating, hostile, oppressive, and offensive to  
6 Plaintiffs, so that they were deprived of the benefit of a work environment free of discrimination and  
7 harassment in violation of *Government Code* §12900, et seq.

8           131. Defendants failed to engage in a prompt and meaningful investigation of Plaintiffs'  
9 complaints of harassment and discrimination. Defendants failed to halt the offending conduct. Instead,  
10 Defendants retaliated against Plaintiffs for reporting and opposing ongoing discrimination and harassment  
11 by subjecting plaintiff to additional retaliation.

12           132. As a direct and proximate result of Defendants' acts of discrimination, harassment, and  
13 retaliation, Plaintiffs have suffered and continues to suffer substantial economic losses, in earnings and  
14 other benefits which she would have received. Plaintiffs have suffered and continues to suffer injuries,  
15 including severe emotional distress, humiliation, embarrassment, and mental anguish in an amount  
16 according to proof.

17           133. In doing the acts and/or failing to do the acts alleged above, Defendants, and each of  
18 them, engaged in discriminatory acts and conduct with malice towards Plaintiffs and/or reckless  
19 indifference to their statutorily protected rights and in conscious disregard of the rights, both statutory and  
20 common law, guaranteed to Plaintiffs by the State of California. The unlawful and discriminatory  
21 conduct was perpetrated or ratified by a managing agent of Defendants. As such, Defendants are guilty of  
22 oppression and malice for which Plaintiffs seek the recovery of punitive damages, in an amount to be  
23 proven at trial.

24           134. Plaintiffs also seek the recovery of their reasonable attorneys' fees and costs herein  
25 incurred. *Code of Civil Procedure* §1021 provides that attorneys' fees are recoverable in an action for  
26 which they are specifically provided by statute. *Government Code* §12940, et seq. provides that  
27 reasonable attorney's fees and costs are recoverable by the prevailing party, at the discretion of the court.  
28 Plaintiffs have retained counsel for the prosecution of this action.

**SIXTH CAUSE OF ACTION**

**(Negligent Supervision and Retention by Plaintiffs Against Defendants KAISER and DOES 1 to 25)**

135. The allegations of paragraphs 1 through 134 are re-alleged and incorporated herein by reference.

136. At all times mentioned in this complaint, KAISER retained employees, including but not limited to, Ms. Nunes and Ms. Purvis. Defendants breached their duty to exercise reasonable care and acted negligently in the training and retention of these employees by failing to ensure that they would comply with regulations in place by Defendants for harassment and discrimination.

137. Plaintiffs made multiple complaints, orally and in writing, to KAISER regarding the hostile work environment they suffered and the improper treatment they received in violation of California and Federal law.

138. Plaintiffs repeatedly informed KAISER's Human Resource personnel that Ms. Nunes and Ms. Purvis were engaging in discrimination, retaliation, and harassment of employees in the surgery scheduling department, including making false claims against employees to create a record of discipline so that employees could be terminated.

139. Further, KAISER was aware that Ms. Nunes was already being sued by another KAISER employee for discrimination, retaliation, and harassment in the workplace for the position she held prior to moving to the surgery scheduling department.

140. KAISER's Human Resource personnel repeatedly held meetings regarding the Plaintiffs' situation in which they admitted they did not review documentation or speak to witnesses, yet they made findings in favor of management.

141. KAISER issued findings and made statements regarding Plaintiffs' claims that did not match the facts or accurately reflect the complaints themselves. Plaintiffs reasonably believe, and therefore contend, that KAISER personnel were attempting to falsify documentation to support management positions and to justify illegal activity against Plaintiffs and other KAISER employees.

142. Based on the above-mentioned facts, Defendants knew there was a problem with harassment and discrimination with Ms. Nunes' prior position as a manager at KAISER. Defendants failed to take reasonable steps to protect their employees from the discriminatory actions by Ms. Nunes.

1 143. Ms. Nunes was moved into the surgical scheduling department and repeated her pattern  
2 of discrimination, harassment, and retaliation against KAISER employees. Despite repeated reports of  
3 illegal activities by Ms. Nunes and Ms. Purvis, Defendants allowed the hostile work environment to  
4 continue and failed to take steps to protect Plaintiffs.

5 144. As alleged in detail above, Plaintiffs were all terminated or demoted from their positions  
6 based on their protected classifications.

7 145. As a further direct and proximate result of the negligence of Defendants as set forth  
8 above, Plaintiffs suffered mental anguish and pain and continues to suffer from humiliation,  
9 embarrassment, mental and emotional distress, and discomfort all to their damage in an amount to be  
10 determined by proof at trial.

11 146. The conduct of Defendants was done with an intent to injure Plaintiffs. As a  
12 consequence of the aforesaid oppressive, malicious, and despicable conduct, Plaintiffs are entitled to an  
13 award of punitive damages in a sum to be shown according to proof.

#### 14 15 **SEVENTH CAUSE OF ACTION**

##### 16 **(Defamation by All Plaintiffs Against All Defendants)**

17 147. The allegations of paragraphs 1 through 146 are re-alleged and incorporated herein by  
18 reference.

19 148. By the acts described herein, Defendants caused to be published false and unprivileged  
20 communications tending directly to injure Plaintiffs in their business and professional reputations.  
21 Specifically, Plaintiff is informed and believes and thereon alleges that, both before and during the time  
22 Plaintiff was on medical leave, Defendant KAISER's personnel and Defendants Ms. Nunes and Ms.  
23 Purvis intentionally misrepresented to persons inside and outside KAISER that Plaintiffs had engaged in  
24 improper activity and falsified information regarding their employment at KAISER.

25 149. Plaintiff is further informed and believes that, Defendants Ms. Nunes and Ms. Purvis  
26 intentionally misrepresented that Plaintiffs had engaged in misconduct and that Plaintiffs were  
27 incompetent and untrustworthy employees. Plaintiffs further believe and therefore contend that  
28 Defendants informed other persons within Defendant KAISER that Plaintiffs were discipline problems,

1 lacked training and experience, and she had previously gained to prevent her from transferring within the  
2 company. Defendants also informed other employees with Defendant KAISER, including management  
3 and executive employees, that Plaintiffs were disciplinary problems and was facing discipline. Such  
4 representations were false, and Defendants knew them to be false at the time they were made. In fact,  
5 Plaintiffs had not engaged in misconduct and were at all material times competent and trustworthy  
6 employees.

7 150. Although Plaintiffs informed Defendant KAISER repeatedly of misconduct by  
8 Defendants Ms. Nunes and Ms. Purvis, Defendant KAISER took no steps to investigate Defendants' false  
9 claims or Plaintiffs' innocence. Defendant KAISER instead violated Plaintiffs' due process rights by  
10 repeating the misstatements made regarding Plaintiffs' work performance.

11 151. Plaintiffs are informed and believe that at all times herein Defendant KAISER's  
12 management ratified and republished the above-described statements with knowledge that they were  
13 false.

14 152. The statements set forth above were published with express and implied malice by  
15 Defendants with the design and intent to injure Plaintiffs' good name, reputation, and employment.

16 153. As a proximate result of the defamatory statements made by Defendants, Plaintiffs have  
17 suffered injury to their business and professional reputation, and further have suffered and continue to  
18 suffer embarrassment, humiliation, and anguish all to their damage in an amount according to proof.

19 154. Defendants committed the acts alleged herein maliciously, fraudulently, and  
20 oppressively, with the wrongful intention of injuring Plaintiffs, from an improper and evil motive  
21 amounting to malice, and in conscious disregard of Plaintiffs' rights. Plaintiffs are thus entitled to recover  
22 punitive damages from Defendants and each of them in an amount according to proof.

#### **EIGHTH CAUSE OF ACTION**

##### **(Intentional Infliction of Emotional Distress by All Plaintiffs Against All Defendants)**

26 155. The allegations of paragraphs 1 through 154 are re-alleged and incorporated herein by  
27 reference.

28 156. By the acts described herein, Defendants caused to be published false and unprivileged

1 communications tending directly to injure Plaintiffs in their business and professional reputations.  
2 Specifically, Plaintiffs are informed and believe and thereon allege that, both during and after the time  
3 Plaintiffs were employed by Defendant KAISER, Defendant's personnel and Defendants NUNES and  
4 PURVIS intentionally misrepresented to persons inside and outside Defendant KAISER that Plaintiffs  
5 had engaged in improper activity and were falsifying charges to avoid disciplinary action.

6 157. Plaintiffs are further informed and believe that, Defendants Ms. Nunes and Ms. Purvis  
7 intentionally misrepresented that Plaintiffs had engaged in misconduct and that Plaintiffs were  
8 incompetent and untrustworthy employees. Defendants Ms. Nunes and Ms. Purvis further informed other  
9 persons within Defendant KAISER that Plaintiffs lacked training and experience to prevent their  
10 transferring within the company. Defendants Ms. Nunes and Ms. Purvis also informed other employees  
11 with Defendant KAISER, including management and executive employees, that Plaintiffs were  
12 disciplinary problems and was facing discipline. Such representations were false, and Defendants knew  
13 them to be false at the time they were made. In fact, Plaintiffs had not engaged in misconduct and were at  
14 all material times competent and trustworthy employees.

15 158. Although Plaintiffs informed Defendant KAISER repeatedly of misconduct by  
16 Defendants Ms. Nunes and Ms. Purvis, Defendant KAISER took no steps to investigate these false claims  
17 or Plaintiffs' innocence. Defendant KAISER instead violated Plaintiffs' due process rights by repeating  
18 the misstatements Defendants Ms. Nunes and Ms. Purvis made regarding Plaintiffs' work performance.

19 159. Plaintiffs are informed and believe that at all times herein Defendant KAISER's  
20 management ratified and republished the above-described statements with knowledge that they were  
21 false.

22 160. The statements set forth above were published with express and implied malice by  
23 Defendants with the design and intent to injure Plaintiffs' good name, reputation, and employment.

24 161. As a proximate result of the defamatory statements made by Defendants, Plaintiffs have  
25 suffered injury to their business and professional reputation, and further have suffered and continue to  
26 suffer embarrassment, humiliation, and anguish all to their damage in an amount according to proof.

27 162. Defendants committed the acts alleged herein maliciously, fraudulently, and  
28 oppressively, with the wrongful intention of injuring Plaintiffs, from an improper and evil motive

1 amounting to malice, and in conscious disregard of Plaintiffs' rights. Plaintiffs are thus entitled to recover  
2 punitive damages from Defendants and each of them in an amount according to proof.

### 3 4 **NINTH CAUSE OF ACTION**

#### 5 **(Wrongful Termination in Violation of Public Policy By Plaintiffs Alvarado, Cluck, Fenner, and** 6 **Ward Against Defendant KAISER and Does 1 to 25)**

7 163. The allegations of paragraphs 1 through 162 are re-alleged and incorporated herein by  
8 reference.

9 164. Plaintiffs are informed and believe that the acts committed by Defendants and described  
10 in detail above are contrary to both state and federal laws, including discrimination based on Plaintiffs'  
11 age, race, and religious beliefs, and were the basis for Defendants' decision to allow the continuation of a  
12 hostile work environment against Plaintiffs and to terminate Plaintiffs' employment.

13 165. Defendant KAISER has repeatedly failed to timely respond to Plaintiffs' complaints and  
14 failed to make reasonable efforts to remedy their employment situation. Defendant KAISER's failure to  
15 provide a meaningful interactive process about Plaintiffs' grievances and the termination of their  
16 employment on false charges brought by managers previously identified as discriminatory, has led to  
17 great emotional damage to Plaintiffs.

18 166. Defendant KAISER intentionally created and/or knowingly permitted Plaintiffs to be  
19 exposed to working conditions that were so intolerable at that a reasonable person would suffer emotional  
20 damages.

21 167. As a proximate result of Defendants' conduct, Plaintiffs have sustained and continue to  
22 suffer humiliation, emotional distress, and mental and physical pain and anguish, all to their damage in a  
23 sum according to proof.

24 168. Defendants' conduct as described above was willful, despicable, knowing, and  
25 intentional. The unlawful and discriminatory conduct was perpetrated or ratified by a managing agent of  
26 Defendant; accordingly, Plaintiffs seek an award of punitive and exemplary damages in an amount  
27 according to proof.

28 169. Plaintiffs have incurred and continues to incur legal expenses and attorney fees. Plaintiffs

1 are presently unaware of the precise amount of these expenses and fees and pray leave of court to amend  
2 this complaint when the amounts are more fully known.

3  
4 **PRAYER FOR RELIEF**

5 WHEREFORE, Plaintiffs pray as follows:

- 6 1. For general damages in excess of the jurisdictional minimum of this Court, according to  
7 proof;
- 8 2. For special damages according to proof;
- 9 3. For exemplary damages;
- 10 4. For interest on the amount of losses incurred in earnings, deferred compensation, and  
11 other employee benefits at the prevailing rate;
- 12 5. For costs of suit, including reasonable attorneys' fees;
- 13 6. For declaratory judgment that Defendants have engaged in unlawful, unfair, and  
14 fraudulent business practices and violated Section 12940 et seq. of the Government Code; and
- 15 6. For such other and further relief as the Court may deem just and proper.
- 16

17 Dated: January 7, 2015

BOWEN LAW FIRM

18  
19 By: 

20 WILLIAM L. BOWEN  
21 Attorney for Plaintiffs MEAGAN ALLEN,  
22 YOLANDA ALVARADO, VERONICA  
23 CLUCK, LAURA FENNER, and CARISSA  
24 WARD  
25  
26  
27  
28


**REQUEST FOR JURY TRIAL**

Plaintiffs hereby request a trial by jury.

Dated: January 7, 2015

BOWEN LAW FIRM

By:

  
WILLIAM L. BOWEN  
Attorney for Plaintiffs MEAGAN ALLEN,  
YOLANDA ALVARADO, VERONICA  
CLUCK, LAURA FENNER, and CARISSA  
WARD

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