

ORIGINAL

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9 DR. HOMEIRA IZADI

10 SUPERIOR COURT OF CALIFORNIA
11 COUNTY OF STANISLAUS

JAN 22 2015

12 DR. HOMEIRA IZADI,

13 Plaintiff,

14 v.

15 THE PERMANENTE MEDICAL GROUP,
16 INC., KAISER FOUNDATION HOSPITALS,
17 KAISER FOUNDATION HEALTH PLAN,
18 INC., Defendants d.b.a. KAISER
19 PERMANENTE, and DOES 1 through 50,

20 Defendants.

Case No: 20130442

**PLAINTIFF'S VERIFIED COMPLAINT
FOR DAMAGES:**

- 1) Health & Safety Code § 1278.5
- 2) Disability Discrimination;
- 3) Retaliation;
- 4) Failure to Accommodate;
- 5) Failure to Engage in Interactive Process;
- 6) Failure to Prevent Discrimination and Retaliation;
- 7) Lab. Code §§ 98.6, 1102.5, 6403 & 6404;
- 8) Lab. Code §§ 2698 and 2699
- 9) Lab. Code § 6310;
- 10) Adverse Action in Violation of Public Policy;

DEMAND FOR JURY TRIAL

PLAINTIFF'S VERIFIED COMPLAINT FOR DAMAGES

Izadi v. The Permanente Medical Group, Inc., et al.
Case No.:

Lawrance A. Bohm, Esq.
Victoria L. Baiza, Esq.

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BY FAX

PARTIES AND JURISDICTION

1
2 1. Plaintiff DR. HOMEIRA IZADI (hereinafter referred to as "Dr. Izadi" or
3 "PLAINTIFF") was at all times relevant to this action, a recruit or employee of Defendant, THE
4 PERMANENTE MEDICAL GROUP, INC. While employed by THE PERMANENTE
5 MEDICAL GROUP, INC., and at all times relevant to this action, PLAINTIFF resided in the
6 State of California.

7 2. Defendant, THE PERMANENTE MEDICAL GROUP, INC., was at all times
8 relevant to this action, an entity of the state of California, with its principal office located at 1950
9 Franklin Street, Oakland, CA, 94612. Defendant, KAISER FOUNDATION HOSPITALS, was
10 at all times relevant to this action, an entity of the state of California with its principal office
11 located at 2710 Gateway Oaks Drive, Suite 150N, Sacramento, California 95833. Defendant,
12 KAISER FOUNDATION HEALTH PLAN, INC., was at all times relevant to this action, an
13 entity of the state of California, with its principal office located at 2710 Gateway Oaks Drive,
14 Suite 150N, Sacramento, California 95833.

15 3. Defendants, THE PERMANENTE MEDICAL GROUP, INC., KAISER
16 FOUNDATION HOSPITALS and KAISER FOUNDATION HEALTH PLAN, INC., are
17 collectively hereafter referred to as "KAISER." Defendants KAISER were at all times relevant to
18 this action a business corporation, operating a medical facility in Modesto, CA. Defendants
19 KAISER were at all times relevant, an employer as defined by Government Code §12926(d).
20 Defendants KAISER were at all times relevant to this action an acute care hospital facility and
21 providing professional medical services through licensed California physicians.

22 4. Venue and jurisdiction are proper because the majority of the events giving rise to
23 this action took place in Stanislaus County; because CORPORATE DEFENDANTS were doing
24 business in Stanislaus County; because PLAINTIFF'S employment was entered into in Stanislaus
25 County; because PLAINTIFF worked for CORPORATE DEFENDANTS in Stanislaus County,
26 because the damages sought exceed the jurisdictional minimum of this Court; and the majority of
27 witnesses are either employed in or live in Stanislaus County.

28 5. PLAINTIFF is ignorant of the true names and capacities of the Defendants sued

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

7 6. 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 herein,
9 each and every Defendant was acting within the course and scope of this agency or employment,
10 and was acting with the consent, permission, and authorization of each remaining Defendant. All
11 actions of each Defendant as alleged herein were ratified and approved by every other Defendant
12 or their officers or managing agents.

13 STATEMENT OF FACTS

14 7. In approximately January 2011, Dr. Izadi began employment, via contract, with
15 The Permanente Medical Group (hereafter referred to as "the group"). The group contracts with
16 both doctors and multiple Kaiser Health Facilities throughout California. The doctors are then
17 assigned to work at a Kaiser Health Facility. Dr. Izadi was assigned to work at Kaiser Modesto
18 with rotations at Kaiser Santa Clara.

19 8. Dr. Izadi held the position of a Pediatric Hospitalist, more frequently known as a
20 Pediatrician. Upon arrival at Kaiser Modesto, she worked in the Labor and Delivery Unit and the
21 Neonatal Intensive Care Unit (hereafter referred to as "NICU").

22 9. As a Pediatrician in those units, Dr. Izadi was familiar with the roles doctors,
23 nurses, and hospital personnel played in order to provide safe medical care. Specifically, during
24 the birth of a baby, it is Dr. Izadi's responsibility to make sure each person is, in other words,
25 doing his or her part in the carrying out the delivery. Dr. Izadi was also given the responsibility
26 of correcting nurses and hospital personnel's actions when she saw an action completed
27 incorrectly that could affect patient safety.

28 10. Immediately upon working at Kaiser Modesto and Kaiser Santa Clara, Dr. Izadi

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1 observed physicians working in different departments that lacked the basic skills necessary to
2 manage sick patients. For example, she was the only Pediatrician who could place an Umbilical
3 Arterial ("UA") and Umbilical Venous ("UV") catheter in an infant patient. Being able to place
4 lines are vital to the baby patient's survival and prognosis. Dr. Yesli Arias, Chief of Inpatient
5 Pediatrics herself, was unable to do this procedure, and was instrumental in the hiring of unskilled
6 physicians. Dr. Yuri Kanauer confirmed that Kaiser Santa Clara was surprised when they
7 received patients already intubated with UA and UV lines because prior to Dr. Izadi's hiring, the
8 Kaiser pediatricians were unable to do so.

9 11. On approximately December 13, 2011, Dr. Izadi submitted a letter of support to
10 Gail Willingham, then Manager of Kaiser Modesto's Maternal Child Healthcare Department,
11 regarding a nurse named Dawn Smith who had recently been terminated. Dr. Izadi's letter
12 explained that Smith's actions were appropriate and she was one of the best nurses Dr. Izadi had
13 worked with. An attorney named Deborah Schwartz, from the firm of Nixon Peabody, and Kaiser
14 Foundation Hospital's attorneys of record, contact Dr. Izadi several times asking her to stop
15 supporting Dawn Smith. Further, Dr. Izadi was told by Mrs. Schwartz not to give Smith a letter
16 of recommendation and to stop assisting her in a job search. Mrs. Schwartz proceeded to tell Dr.
17 Izadi that helping Smith was against Kaiser policy. The last time Dr. Izadi spoke to Mrs.
18 Schwartz, Mrs. Schwartz ordered Dr. Izadi not to write a letter of recommendation for Smith. Dr.
19 Izadi thereafter requested from Mrs. Schwartz a copy of the Kaiser policy prohibiting her from
20 supporting Smith.

21 12. In approximately 2012, Dr. Izadi immediately diagnosed a newborn infant with
22 necrotizing enterocolitis ("NEC"). Her diagnosis necessitated a transfer to a medical facility with
23 immediate access to a surgical team (Kaiser Santa Clara is such a facility). Dr. Izadi proceeded
24 to call Dr. Lawrence Dong at Kaiser Santa Clara to transfer the patient from Kaiser Modesto. Dr.
25 Dong then instructed Dr. Izadi to call Dr. Meizner, the neonatologist on call to evaluate the
26 newborn infant. Dr. Izadi proceeded to tell Dr. Dong that she was confident that the newborn
27 infant was sick enough to be transferred immediately. Dr. Dong refused to send the transfer team
28 and again asked that Dr. Meizner first confirm. Dr. Izadi proceeded to write in the chart that she

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1 disagreed with Dr. Dong and started triple antibiotics, placed an endotracheal tube, and ordered
2 "NPO" (not to be fed by mouth), in an effort to improve the newborn baby's prognosis. The
3 newborn infant's transfer was, therefore, delayed. The newborn infant was eventually transferred
4 to Kaiser Santa Clara and later died at the hospital.

5 13. In approximately 2013, there was a midwife at Kaiser named Jackie. She was very
6 vocal about the fact that she did not believe in meconium aspiration and intubation for suctioning
7 of the infant's trachea. This viewpoint was against Neonatal Resuscitation Guidelines ("NRP")
8 and the standard of care. Dr. Izadi was called into a delivery for a meconium stained fluid
9 ("MSF") birth where Jackie was the midwife. Per NRP, as soon as the infant is born, the midwife
10 hands the infant to the pediatrician without stimulation or touch. Jackie was unwilling to hand
11 the infant to Dr. Izadi. Jackie proceeded to stimulate the infant until the baby cried. This went
12 directly against NRP procedure, Dr. Izadi's directive, and the standard of care. Later on the same
13 day, Dr. Izadi was going to be involved with Jackie in another MSF delivery. Dr. Izadi
14 approached Jackie and asked her not to stimulate the infant as it was contrary to NRP. Initially,
15 Jackie did not acknowledge the conversation and after Dr. Izadi repeated herself, Jackie stated "I
16 heard you." As in the first case, Jackie again stimulated the infant until a cry which put the
17 infant's life in jeopardy because of the meconium delivery and the possibility of the infant
18 aspirating the meconium. Dr. Izadi asked for a meeting regarding this dangerous incident and
19 sent an e-mail to the head of both Kaiser Modesto's OB and Midwives Departments.

20 14. During Dr. Izadi's tenure at Kaiser, she witnessed yet another compromise in
21 patient safety. She received a call from the ER physician to evaluate an infant who was not eating
22 well, but looked ok to the physician who was about to discharge the infant. As Dr. Izadi entered
23 into the room, she found the infant too mottled, pale, and in shock. As soon as she placed her
24 stethoscope on the baby's chest, she noticed that his heart rate was over 200BPM (beats per
25 minute) and he was in cardiogenic shock (the ER physician did not notice this). Dr. Izadi then
26 proceeded to tell the ER physician that the patient could not go home and was in cariogenic shock,
27 at the same time, she was paged to attend a meconium delivery. She directed him to place an IV
28 line immediately and start an Adenosine push with Electrocardiogram confirmation. Dr. Izadi

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1 then told the mother that she had to attend a delivery and she would be back as soon as possible.
2 The mother asked if they could go home and Dr. Izadi stated "No." The baby needed to be
3 transferred to UC San Francisco Medical Center. Dr. Izadi's shift ended at 7:30 a.m., however
4 she stayed until 12:00 p.m., to care for the baby and to report the almost miss to Dr. Arias.

5 15. During Dr. Izadi's tenure at Kaiser, she was at times required to work with Dr.
6 Indu Gupta. Dr. Gupta frequently made inaccurate diagnoses. During one such incident, Dr.
7 Gupta diagnosed a newborn baby with a serious staff skin infection. Dr. Gupta suggested the
8 newborn baby be admitted to the hospital. However, as a general rule, if there is any local
9 infection in a newborn baby, since their immune system is still immature, Kaiser would need to
10 do a full sepsis work-up and treat them with IV antibiotics. Dr. Izadi, therefore, refused to directly
11 admit the infant then asked that the newborn infant be sent to the ER, so she could evaluate the
12 status prior to an invasive intervention. The infant was found to only have a newborn rash. The
13 infant did not have a serious staff skin infection. The mother of the infant was upset as Dr. Gupta
14 had worried her by diagnosing her infant with a serious infection.

15 16. In approximately September 2013, Dr. Izadi received an offer from Dr. Arias to
16 join the NICU team. Unfortunately, Dr. Izadi had to turn it down as it would alter her schedule.
17 Prior to Dr. Izadi's hiring and one of the terms used in getting Dr. Izadi to join The Permanente
18 Medical Group, Dr. Arias promised Dr. Izadi that she would work shorter shifts per month and
19 she would not have to travel to Santa Clara often. Immediately after Dr. Izadi refused the position,
20 she began to be retaliated against with her work schedule. Dr. Izadi was now worked almost
21 every weekend, worked long hours, and was scheduled to commute to Santa Clara multiple days
22 out of the week.

23 17. In approximately November 2013, Dr. Izadi received a call from an Emergency
24 Room ("ER") physician requesting to admit a seventeen-year-old for observation. The patient
25 had presented with a severe headache. After a brain magnetic resonance imaging ("MRI") was
26 conducted, the patient was diagnosed with intracranial bleeding do to an arteriovenous
27 malformation ("AVM"). The neurologist on call, through the ER physician, directed Dr. Izadi to
28 observe the patient overnight. The patient needed immediate surgical intervention before

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1 herniation of the brain stem (which would result in death). Dr. Izadi proceeded to ask the ER
2 physician why the patient was being kept at Kaiser Modesto as opposed to being transferred to a
3 surgery center (like Oakland) to have immediate surgical intervention. Dr. Izadi proceeded to tell
4 him that in the case of increased intracranial pressure leading to herniation of the brain stem, no
5 doctor would be able to make a hole in the patient's skull to save his life if care was delayed.
6 Approximately an hour later, Dr. Izadi again inquired as to why the patient was still at Kaiser
7 Modesto. The ER physician stated the neurologist said the patient had a stroke. Dr. Izadi
8 disagreed and stated that might be the case of a 70-year old, but not a 17-year old. Dr. Izadi
9 proceeded to call the house supervisor at Kaiser Modesto to explain her patient safety concerns
10 stating if the patient wasn't transferred immediately, he would die in the ER. Two hours later,
11 the patient was still in the ER. Dr. Izadi again called the house supervisor for the subsequent shift
12 to explain the situation again. The patient was kept in the ER all night despite Dr. Izadi's attempts
13 to transfer him. The following morning, Dr. Izadi again explained the situation to Dr. Arias and
14 she arranged with Dr. Zimmerman to get the patient transferred out. The patient had emergency
15 surgery and survived. Later, Dr. Arias told Dr. Izadi that Dr. Izadi caused trouble for the head of
16 neurology by asking to transfer the patient.

17 18. In approximately December 2013, Dr. Izadi admitted a baby back to the hospital
18 one day after discharge by Dr. Arias, who did not check the baby's direct Coombs test. As a
19 general rule at Kaiser, the doctors are to conduct a Coombs test in every newborn where the
20 mother's blood type is O to detect ABO incompatibility and potential severe jaundice in the
21 babies. A positive Coombs test leads to longer observation and the potential for early intervention
22 to prevent damage to the brain rather than an invasive exchange transfusion later. The baby had
23 high bilirubin levels that necessitated the re-admittance for extensive phototherapy. The next
24 morning when Dr. Izadi saw Dr. Arias she told her about the case. Dr. Arias immediately asked
25 who discharged the patient and I replied "you discharged the patient without checking the result
26 of direct Coombs." It was evident she did not like my truthful answer.

27 19. On one occasion during Dr. Izadi's tenure with Kaiser, Dr. Arias was the assigned
28 physician on call in the nursery at Kaiser Modesto. Dr. Izadi went into work to start her shift,

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1 when she received a call from the nursery that no physician had showed-up to discharge the babies
2 and there were a lot of babies to be discharged. Dr. Izadi proceeded to look at the schedule and
3 saw it was Dr. Arias who had not showed up. She proceeded to call Dr. Arias' cellphone and
4 landline and left messages. She did not receive a call back, so she proceeded to call Dr. Cabanag.
5 Again, Dr. Izadi did not receive a call back. Dr. Izadi was left with no choice, but to call the
6 administrative person on call, named Dr. Rahbain. He proceeded to call for help. Dr. Arias,
7 thereafter, treated Dr. Izadi with malice as she was upset Dr. Izadi called administration.

8 20. In approximately December 2013, a shareholder meeting of the doctors that
9 comprise The Permanente Medical Group, was held. The Group decided to "delay vote" Dr. Izadi
10 which prevented her from becoming a permanent employee of The Group. Dr. Izadi, on
11 information and belief, alleges this action was done in retaliation, and with a discriminatory
12 motive for her protected complaints.

13 21. On approximately January 22, 2014, a meeting was held among Dr. Arias, Kelly
14 D'Souza, Manager of Physician Human Resources, and Dr. Izadi. Dr. Izadi was personally given
15 a letter from Dr. Arias wherein she provided alleged reasons for a "delay vote" of Dr. Izadi's
16 position. Dr. Arias alleged she had received feedback from her colleagues; in addition to her own
17 observation, that Dr. Izadi needed improvement in, "quality, service of members and relationships
18 with colleagues and other employees, workload and practice habits and group contribution and
19 participation." Additionally, the letter stated, "This letter is to formally communicate to you my
20 decision to delay you from standing for the March 1, 2014, Senior Physician election....Specific
21 examples of area of concern include: Your attitude and skills when communicating with
22 colleagues, staff, and patients/families can at times be perceived as short and not helpful, You are
23 perceived as unwilling to assist others when they seek your help....Failure to meet the
24 expectations may result in further disciplinary action up to and including termination of your
25 employment with TPMG...." Dr. Izadi was then placed on an action plan. Dr. Izadi, on
26 information and belief, alleges this action was done in retaliation, and with a discriminatory
27 motive for her protected complaints.

28 22. On approximately February 12, 2014, Dr. Izadi was assigned by Dr. Cabanag, and

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1 confirmed by Dr. Arias, to work a Kaiser Santa Clara. At approximately 11:30 a.m. Dr. Izadi
2 received a phone call from Dr. Cabanag stating Dr. Arias was very angry with her because she
3 was at Kaiser Santa Clara and not at the department meeting at Kaiser Modesto. Dr. Izadi was
4 then told to report to the 12:30 p.m. department meeting at Kaiser Modesto, which was a two hour
5 drive away. Dr. Cabanag then directed Dr. Izadi to call into the meeting while she was driving to
6 Kaiser Modesto. Upon arrival to the meeting Dr. Arias made an example out of Dr. Izadi and
7 emphasized that only doctors approved for vacation could miss the meeting. During the same
8 meeting, Dr. Tamanaha called in and stated she was in Disneyland and Dr. Arias accepted her
9 absence. Dr. Izadi's peers were shocked at Dr. Arias' negative behavior towards Dr. Izadi as
10 opposed to the behavior she exhibited towards Dr. Tamanaha. Dr. Tamanaha's schedule did not
11 show her to be on vacation February 12, 2014. Dr. Izadi, on information and belief, alleges this
12 action was done in retaliation, and with a discriminatory motive for her protected complaints.

13 23. On approximately March 25, 2014, Dr. Izadi was scheduled to have a facet block
14 in an effort to mitigate unbearable neck pain. Dr. Izadi submitted a doctor's note ordering three
15 days off following the procedure, which was scheduled for March 28, 2014, to Dr. Cabanag and
16 Dr. Arias. Dr. Cabanag and Dr. Arias did not accept the note and asked Dr. Izadi to make a call
17 switch in order to be off work following her procedure. Dr. Cabanag then proceeded to ask Dr.
18 Izadi if he could change the date of her medical procedure, so she would not have to take off days
19 that she was scheduled to work. Dr. Arias then changed the date of Dr. Izadi's medical procedure
20 to March 25, 2014, preventing Dr. Izadi from taking any sick days off. A facet block is a
21 procedure that normally takes place in an operating room due to the need for sedation. Due to
22 Dr. Arias changing the date of Dr. Izadi's medical procedure, it was performed in the
23 interventional radiology room, rather than in an operating room. As a result, no sedation was
24 given to Dr. Izadi and the facet block was painfully performed. Dr. Izadi, on information and
25 belief, alleges this action was done in retaliation, and with a discriminatory motive for her
26 protected complaints.

27 24. On approximately May 26, 2014, Dr. Izadi sent a complaint to Kaiser Modesto's
28 Human Resources Department and The Joint Commission specifying various patient safety issues

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1 she had witnessed and experienced at both Kaiser Modesto and Kaiser Santa Clara.

2 **FIRST CAUSE OF ACTION**

3 **(Violation of Health & Safety Code § 1278.5)**

4 25. The allegations set forth in this complaint are hereby re-alleged and incorporated
5 by reference.

6 26. This cause of action is asserted against all Defendants and DOES 1-50.

7 27. The California Legislature has determined that, in order to protect patients, "it is
8 the public policy of the State of California to encourage patients, nurses, members of the medical
9 staff, and other health care workers to notify government entities of suspected unsafe patient care
10 and conditions." Defendants are, each a "hospital facility" pursuant to Health and Safety Code §
11 1250(a).

12 28. Therefore, pursuant to California Health & Safety Code § 1278.5(b), "[n]o health
13 facility shall discriminate or retaliate, in any manner, against any patient, employee, member of
14 the medical staff, or any other health care worker of the health facility because that person . . .
15 [p]resented a grievance, complaint, or report to the facility, to an entity or agency responsible for
16 accrediting or evaluating the facility, or the medical staff of the facility, or to any other
17 governmental entity." Pursuant to § 1278.5(i), "'health facility' means any facility defined under
18 this chapter, including, but not limited to, the facility's administrative personnel, employees,
19 boards, and committees of the board, and medical staff."

20 29. The gravamen of PLAINTIFF's claim is the disciplinary action taken against
21 PLAINTIFF in retaliation for her making numerous complaints regarding patient safety. The
22 reported inappropriate workplace behavior includes, but is not limited to discrimination,
23 retaliation, and patient safety.

24 30. Defendant discriminated and retaliated against PLAINTIFF because she reported
25 concerns about hospital conditions. Furthermore, according to The Joint Commission,
26 "Intimidating and disruptive behaviors can foster medical errors All intimidating and
27 disruptive behaviors are unprofessional and should not be tolerated."
28

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33. California Health & Safety Code § 1278.5 has no administrative or judicial exhaustion requirement.

35. The above described actions were perpetrated and/or ratified by a managing agent or officer of Defendants. 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 Defendants' future conduct.

(Disability Discrimination, Gov. Code § 12940, subd. (a).)

37. This cause of action is asserted against all Defendants and DOES 1-50.

38. At all times relevant to this matter, PLAINTIFF suffered from a "physical

1 disability” as defined by Government Code section 12926, subdivision (m) and of the California
2 Code of Regulations, title 2, section 7293.6, subdivision (e). In spite of her disability,
3 PLAINTIFF was able to perform the essential functions of her position as defined by Government
4 Code section 12926, subdivision (f), and California Code of Regulations, title 2, section 7293.8,
5 subdivision (g) and was otherwise able to perform her job had Defendant provided the reasonable
6 accommodation required by Government Code section 12926, subdivision (p), and California
7 Code of Regulations, title 2, section 7293.9, subdivision (a).

8 39. The Defendants’ conduct violated Government Code 12940, subdivision (a)
9 consistent with California Code of Regulations, title 2, section 7293.6. Specifically, Defendants’
10 denied PLAINTIFF reasonable accommodations, changed PLAINTIFF’S work-hours, changed
11 her operation date, and criticized PLAINTIFF for her need of disability related absences.
12 Defendants’ actions were motivated, at least in part, by PLAINTIFF’S disability.

13 40. As a proximate result of the aforementioned violations, PLAINTIFF has been
14 damaged in an amount according to proof, but in an amount in excess of the jurisdiction of this
15 Court. PLAINTIFF also seeks “affirmative relief” or “prospective relief” as defined by
16 Government Code section 12926, subdivision (a).

17 41. The above described actions were perpetrated and/or ratified by a managing agent
18 or officer of Defendants. These acts were done with malice, fraud, oppression, and in reckless
19 disregard of PLAINTIFF’S rights. Further, said actions were despicable in character and warrant
20 the imposition of punitive damages in a sum sufficient to punish and deter Defendants’ future
21 conduct.

22 THIRD CAUSE OF ACTION

23 (Retaliation; Gov. Codes § 12940, subds. (h))

24 42. The allegations of this complaint are hereby re-alleged and incorporated by
25 reference.

26 43. This cause of action is asserted against all Defendants and DOES 1-50.

27 44. Although PLAINTIFF provided notice pertaining to her physical disability,
28 Defendants repeatedly failed to accommodate PLAINTIFF’S disability as set forth in more

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1 specific detail above.

2 45. After PLAINTIFF asked for a request for accommodation regarding her medical
3 procedure, Defendants failed to provide PLAINTIFF with sedation and days off which resulted
4 in no accommodation, and ultimately reduced her work hours. Defendants' adverse employment
5 actions were motivated, at least in part, by PLAINTIFF's protected activities, including
6 PLAINTIFF's complaints regarding her lack of days off in relation to her disability.

7 46. As a proximate result of the aforementioned violations, PLAINTIFF has been
8 damaged in an amount according to proof, but in an amount in excess of the jurisdiction of this
9 Court. PLAINTIFF also seeks "affirmative relief" or "prospective relief" as defined by
10 Government Code section 12926, subdivision (a).

11 47. The above described actions were perpetrated and/or ratified by a managing agent
12 or officer of Defendants. These acts were done with malice, fraud, oppression, and in reckless
13 disregard of PLAINTIFF's rights. Further, said actions were despicable in character and warrant
14 the imposition of punitive damages in a sum sufficient to punish and deter CORPORATE
15 Defendants' future conduct.

16 **FOURTH CAUSE OF ACTION**

17 **(Failure to Accommodate Disability, Gov. Code § 12940, subd. (m))**

18 48. The allegations set forth in this complaint are hereby re-alleged and incorporated
19 by reference.

20 49. This cause of action is asserted against all Defendants and DOES 1-50.

21 50. At all times relevant to this matter, PLAINTIFF suffered from a "physical
22 disability" as defined by Government Code section 12926, subdivision (m) and California Code
23 of Regulations, title 2, section 7293.6, subdivision (c). In spite of her disability, PLAINTIFF was
24 able to perform the essential functions of her position as defined by Government Code section
25 12926, subdivision (f), and California Code of Regulations, title 2, section 7293.8, subdivision
26 (g) and was otherwise able to perform her job had Defendant provided the reasonable
27 accommodation required by Government Code section 12926, subdivision (p), and California
28 Code of Regulations, title 2, section 7293.9, subdivision (a).

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1 51. PLAINTIFF requested a days off per her doctor's orders. Defendants refused to
2 allow PLAINTIFF to take days off and subsequently changed her work hours.

3 52. Although, PLAINTIFF provided notice pertaining to her disability, Defendant
4 refused to discuss the nature and extent of her disability, the advice and recommendation of her
5 physicians, the extent of the necessary accommodation, and the need for future accommodation
6 as well as other important areas of inquiry recognized in the United States Equal Employment
7 Opportunity Commission's "Enforcement Guidance: Reasonable Accommodation and Undue
8 Hardship Under the Americans With Disabilities Act" noted by the California Legislature in
9 Government Code section 12926.1.

10 53. Moreover, Defendants' agents specifically refused to favorably consider any
11 information from PLAINTIFF's healthcare provider or to engage with PLAINTIFF in a
12 discussion regarding the potential accommodation of her disability. Since Defendant failed to
13 engage in the important interactive process between employee and the employer in determining
14 reasonable accommodation, Defendants' conduct violated Government Code section 12940,
15 subdivision (n).

16 54. As a proximate result of the aforementioned violations, PLAINTIFF has been
17 damaged in an amount according to proof, but in an amount in excess of the jurisdiction of this
18 Court. PLAINTIFF also seeks "affirmative relief" or "prospective relief" as defined by
19 Government Code section 12926, subdivision (a).

20 55. The above described actions were perpetrated and/or ratified by a managing agent
21 or officer of Defendants. These acts were done with malice, fraud, oppression, and in reckless
22 disregard of PLAINTIFF'S rights. Further, said actions were despicable in character and warrant
23 the imposition of punitive damages in a sum sufficient to punish and deter Defendants' future
24 conduct.

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FIFTH CAUSE OF ACTION

(Failure to Engage in Timely and Good Faith

Interactive Process; Gov. Code § 12940, subd. (n))

56. The allegations set forth in this complaint are hereby re-alleged and incorporated by reference.

57. This cause of action is asserted against all Defendants and DOES 1-50.

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

59. Although PLAINTIFF provided notice pertaining to her physical disability, Defendant repeatedly failed to accommodate PLAINTIFF's disability as set forth in more specific detail above. Defendants refused to discuss any alternatives concerning PLAINTIFF's request for accommodation, the extent of the necessary 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 section 12926.1, subdivision (e). Defendants' obligation to engage in the interactive process of accommodation was not excused or waived by PLAINTIFF. Since Defendants failed to engage in the important interactive process between employee and the employer in determining reasonable accommodation, Defendants' conduct violated Government Code section 12940, subdivision (n).

60. As a 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

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1 Court. PLAINTIFF also seeks "affirmative relief" or "prospective relief" as defined by
2 Government Code section 12926, subdivision (a).

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

8 **SIXTH CAUSE OF ACTION**

9 **(Failure to Prevent Discrimination and Retaliation; Gov. Code § 12940, subd. (k).)**

10 62. The allegations set forth in this complaint are hereby re-alleged and incorporated
11 by reference.

12 63. This cause of action is asserted against all Defendants and DOES 1-50.

13 64. At all times relevant to this matter, PLAINTIFF was subjected to adverse
14 employment action because of her disability and protected activities as set forth in this complaint.

15 65. Defendants knew or should have known about the discrimination and retaliation
16 of PLAINTIFF. Defendants failed to implement adequate training, policies, instructions,
17 investigation, discipline, or monitoring sufficient to prevent the aforementioned discrimination
18 and retaliation. Defendants' breach of this important duty resulted in the harm to PLAINTIFF.
19 Accordingly, Defendant has violated Government Code section 12940, subdivision (k) and
20 California Code of Regulations, title 2, section 7287.6(b)(3).

21 66. As a proximate result of the aforementioned violations, PLAINTIFF has been
22 damaged in an amount according to proof, but in an amount in excess of the jurisdiction of this
23 Court. PLAINTIFF also seeks "affirmative relief" or "prospective relief" as defined by
24 Government Code section 12926, subdivision (a).

25 67. The above described actions were perpetrated and/or ratified by a managing agent
26 or officer of Defendants. These acts were done with malice, fraud, oppression, and in reckless
27 disregard of PLAINTIFF'S rights. Further, said actions were despicable in character and warrant
28 the imposition of punitive damages in a sum sufficient to punish and deter Defendants' future

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1 conduct.

2 **SEVENTH CAUSE OF ACTION**

3 **(Violation of Lab. Code §§ 98.6, 1102.5, 6403 & 6404)**

4 68. The allegations set forth in this complaint are hereby re-alleged and incorporated
5 by reference.

6 69. This cause of action is asserted against all Defendants and DOES 1-50.

7 70. California Labor Code § 98.6 states that an employer may not "discharge an
8 employee or in any manner discriminate against any employee . . . because the employee . . . has
9 filed a bona fide complaint or claim or instituted or caused to be instituted any proceeding under
10 or relating to his or her rights, which are under the jurisdiction of the Labor Commissioner."
11 California Labor Code section 1102.5, subdivision (c), states that an, "Employer may not retaliate
12 against an employee for refusing to participate in an activity that would result in a violation of
13 state or federal statute, or a violation or noncompliance with a state or federal rule or regulation."
14 Labor Code section 6403 states, "No employer shall fail or neglect to do . . . every other thing
15 reasonably necessary to protect the life, safety, and health of employees." Labor Code section
16 6404 states, "No employer shall occupy or maintain any place of employment that is not safe and
17 healthful."

18 71. Defendants violated Labor Code sections 98.6, 1102.5, 6403, and 6404, when it
19 unlawfully changed PLAINTIFF's work hours, issued a delay vote, and otherwise discriminated
20 against PLAINTIFF in retaliation by creating a hostile work environment, which led to a change
21 in the employment relationship because PLAINTIFF made bona fide oral protected complaints
22 to her supervisors regarding safety hazards.

23 72. PLAINTIFF seeks to enforce her rights under Labor Code sections 98.6, 1102.5,
24 6403, and 6404, pursuant to the authority of the Private Attorney Generals Act of 2004 codified
25 at Labor Code section 2698 et seq., on behalf of herself and any other current and former
26 employees of Defendants. In that regard, PLAINTIFF has complied with the provisions of Labor
27 Code section 2699.3 as they pertain to actions seeking to enforce statutory provisions referenced
28 in Labor Code section 2699.5.

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73. PLAINTIFF has exhausted all administrative procedures required under Labor Code sections 2698, 2699, and 2699.3, and as a result, is justified as a matter of right in bringing this cause of action. Therefore, PLAINTIFF seeks penalties under Labor Code sections 2698 and 2699 due to Defendants' violations of the Labor Code.

74. 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.

EIGHTH CAUSE OF ACTION

(Violation of Lab. Code §§ 2698 AND 2699)

75. The allegations set forth in this complaint are hereby re-alleged and incorporated by reference.

76. This cause of action is asserted against all Defendants and DOES 1-50.

77. Defendants engaged in unlawful, unfair, and fraudulent business practices as evidenced by violations of Labor Code §§ 98.6, 1102.5, 6403, 6404, and 6310.

78. As such, PLAINTIFF seeks to enforce her rights and the rights of current and former employees (i.e. aggrieved employees) pursuant to the Private Attorneys General Act of 2004 codified at Labor Code § 2698 et seq. Aggrieved employees include all other persons who were employed SCPMG and who endured similar violations as outlined above. In that regard, Plaintiff has complied with the provisions of § 2699.3 as they pertain to actions seeking to enforce statutory provisions referenced in § 2699.5.

79. PLAINTIFF has exhausted all administrative procedures required under California Labor Code §§ 2698, 2699, and 2699.3, and as a result, is justified as a matter of right in bringing this cause of action. Therefore, PLAINTIFF seeks penalties under California Labor Code §§ 2698 and 2699 due to Defendants' violations of the California Labor Code.

80. In anticipation of the LWDA's response that it "does not intend to investigate" the alleged violations, PLAINTIFF includes this cause of action in her initial Complaint. However, as Labor Code § 2699.3(a)(2)(C) provides PLAINTIFF a right to amend a complaint any time within 60 days of the time periods specified in this provision, should the LWDA notify Plaintiff

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1 that it "does intend to investigate," PLAINTIFF will amend her Complaint accordingly.

2 81. As an actual and proximate result of the aforementioned violations, PLAINTIFF
3 has been harmed in an amount according to proof, but in an amount in excess of the jurisdiction
4 of this Court.

5 **NINTH CAUSE OF ACTION**
6 **(Violation of Lab. Code § 6310)**

7 82. The allegations set forth in this complaint are hereby re-alleged and incorporated
8 by reference.

9 83. This cause of action is asserted against all Defendants and DOES 1-50.

10 84. Labor Code section 6310 states, "Any employee who is discharged, threatened
11 with discharge, demoted, suspended, or in any other manner discriminated against in the terms
12 and conditions of employment by his or her employer because the employee has made a bona fide
13 oral or written complaint to the division, other governmental agencies having statutory
14 responsibility for or assisting the division with reference to employee safety or health, his or her
15 employer, or his or her representative, of unsafe working conditions, or work practices, in his or
16 her employment or place of employment . . . shall be entitled to reinstatement and reimbursement
17 for lost wages and work benefits caused by the acts of the employer."

18 85. During PLAINTIFF'S employment with Defendants, PLAINTIFF complained
19 orally to management about discrimination and retaliation, and filed a complaint with the
20 Department of Fair Employment and Housing.

21 86. PLAINTIFF seeks to enforce her rights under Labor Code sections 98.6, 1102.5,
22 6403, 6404, and 6310, pursuant to the authority of the Private Attorney Generals Act of 2004
23 codified at Labor Code section 2698 et seq., on behalf of herself and any other current and former
24 employees of Corporate Defendants. In that regard, PLAINTIFF has complied with the
25 provisions of Labor Code section 2699.3 as they pertain to actions seeking to enforce statutory
26 provisions referenced in Labor Code section 2699.5.

27 87. PLAINTIFF has exhausted all administrative procedures required under Labor
28 Code sections 2698, 2699, and 2699.3, and as a result, is justified as a matter of right in bringing

1 this cause of action. Therefore, PLAINTIFF seeks penalties under Labor Code sections 2698 and
2 2699 due to Defendants' violations of the Labor Code.

3 88. As an actual and proximate result of the aforementioned violations, PLAINTIFF
4 has been harmed in an amount according to proof, but in an amount in excess of the jurisdiction
5 of this Court.

6 **TENTH CAUSE OF ACTION**

7 **(Adverse Employment Action in Violation of Public Policy)**

8 89. The allegations set forth in this complaint are hereby re-alleged and incorporated
9 by reference.

10 90. This cause of action is asserted against all Defendants and DOES 1-50.

11 91. The adverse employment actions perpetrated by Defendants include demotion,
12 reduced work hours retaliation and discrimination because of PLAINTIFF's disability and
13 whistle-blowing. These actions were in violation of the laws stated in this complaint.

14 92. As a proximate result of the aforementioned violations, PLAINTIFF has been
15 damaged in an amount according to proof, but in an amount if excess of the jurisdiction of this
16 court.

17 93. The above described actions were perpetrated and/or ratified by a managing agent
18 or officer of Defendants. These acts were done with malice, fraud, oppression, and in reckless
19 disregard of PLAINTIFF's rights. Further, said actions were despicable in character and warrant
20 the imposition of punitive damages in a sum sufficient to punish and deter Defendants' future
21 conduct.

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PRAYER FOR RELIEF

WHEREFORE, PLAINTIFF demands judgment against all Defendants and any other Defendants who may be later added to this action as follows:

1. For compensatory damages, including, but not limited to lost wages and non-economic damages in the amount according to proof;
2. For attorneys' fees and costs pursuant to all applicable statutes or legal principles;
3. For cost of suit incurred;
4. For punitive damages or other penalties recoverable by law;
5. For prejudgment interest on all amounts claimed pursuant to Civil Code section 3287 and/or 3288; and
6. For such other and further relief as the court may deem proper.

Date: January 22, 2015

By:


LAWRANCE A. BOHM, ESQ.
VICTORIA L. BAIZA, ESQ.


Attorneys for Plaintiff,
DR. HOMEIRA IZADI

DEMAND FOR JURY TRIAL

PLAINTIFF hereby demands trial by jury for this matter.

Date: January 22, 2015

By:


LAWRANCE A. BOHM, ESQ.
VICTORIA L. BAIZA, ESQ.

Attorneys for Plaintiff,
DR. HOMEIRA IZADI

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