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9 GIGI M. GARCIA

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE

MAR 16 2015

A. Titone

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF RIVERSIDE

GIGI M. GARCIA, an individual

Plaintiff,

v.

KAISER FOUNDATION HEALTH PLAN
INC., a corporation; KAISER
FOUNDATION HOSPITALS, a
corporation; SOUTHERN CALIFORNIA
PERMANENTE MEDICAL GROUP, a
partnership; and DOES 1 through 10
inclusive,

Defendants.

CASE NO. **PSC 1501254**

PLAINTIFF'S COMPLAINT FOR:

1. VIOLATION OF HEALTH & SAFETY
CODE § 1278.5
2. RETALIATION IN VIOLATION OF
LABOR CODE § 6310
3. WRONGFUL TERMINATION IN
VIOLATION OF PUBLIC POLICY
4. VIOLATION OF CALIFORNIA
BUSINESS AND PROFESSIONS CODE §
17200

JURY TRIAL DEMANDED BY PLAINTIFF

PLAINTIFF'S COMPLAINT FOR DAMAGES

ORIGINAL

FILED BY FAX

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MAR 17 2015

1 Plaintiff, Gigi Garcia, ("Plaintiff") alleges as follows on knowledge as to herself and her
2 own acts/interactions, and on information and belief as to all other matters:

3 **INTRODUCTION & NATURE OF ACTION**

4 1. Plaintiff is an experienced registered nurse who was a loyal and dedicated
5 employee of Kaiser for close to 15 years.

6 2. From the time Plaintiff was hired by Kaiser until her wrongful termination, she
7 was an outstanding nurse and adequately performed her job duties.

8 3. Despite her excellent performance as a nurse, Kaiser retaliated against Plaintiff,
9 ultimately resulting in her wrongful termination, because of Plaintiff's complaints that she made
10 regarding a nurse that was under her supervision.

11 4. Plaintiff had concerns regarding this employee's safety and well-being towards
12 herself and safety/care to patients.

13 5. Plaintiff's chief complaint was that not only was this employee disruptive, she
14 was an alcoholic who admitted to Plaintiff that she was self- medicating while working.

15 6. Plaintiff made both verbal and written complaints regarding this nurse to
16 management.

17 7. Despite Plaintiff's complaints to management that were not only lodged by her
18 but other employees who confided in both management and Plaintiff, Kaiser failed to
19 substantively respond to any of her letters/emails and did not take any corrective measures
20 whatsoever.

21 8. After Plaintiff observed this employee leaving work to drive home obviously
22 impaired, Plaintiff was concerned about her safety and ability to drive. Plaintiff sought to access
23 the nurse's records to verify what medications she had taken at work and to find out if those
24 medications had been taken illegally.

25 9. Plaintiff's concern resulted in Plaintiff's wrongful termination from Kaiser.

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1 **JURISDICTION AND VENUE**

2 10. This Court has personal jurisdiction over each of the defendants because they are
3 residents of and/or doing business in the State of California.

4 11. Under California Code of Civil Procedure section 395(a), venue is proper in this
5 county because the defendants, or some of them, reside or do business in Riverside County;
6 and/or the injury occurred in Riverside County.

7 **EXHAUSTION OF ADMINISTRATIVE PROCEEDINGS**

8 12. Plaintiff exhausted her administrative remedies by timely filing a complaint for
9 the issues required to be raised herein against defendants with the California Department of Fair
10 Employment and Housing ("DFEH") and thereafter received a "Right to Sue" letter from the
11 DFEH which allowed Plaintiff one year from April 9, 2014 to file this action.

12 **PARTIES**

13 13. Plaintiff, at all times relevant hereto, has been a resident of the State of California.

14 14. Plaintiff is informed and believes that Defendants Kaiser Foundation Health Plan,
15 Inc. ("KFHP") and Kaiser Foundation Hospitals ("KFH") are corporations organized and
16 existing under the laws of California, with their principal place of business located at 1 Kaiser
17 Plaza, Oakland, California.

18 15. Plaintiff is informed and believes that Defendant Southern California Permanente
19 Medical Group ("SCPMG") is organized in form only as a partnership under the laws of
20 California, with its principal place of business located at 393 East Walnut Street, Pasadena,
21 California.

22 16. Plaintiff is informed and believes KFHP, KFH and SCPMG do business jointly,
23 and with other entities owned and controlled by KFHP under the name "Kaiser Permanente."

24 17. Plaintiff is informed and believes that Kaiser Permanente is an "integrated" health
25 care delivery system comprised of the insurance company, KFHP, its doctors, organized as
26 SCPMG, and its hospitals, which are wholly owned and/or controlled by KFHP through its
27 captive entity, KFH, which has no separate existence or identity apart from KFHP.

1 18. Plaintiff is informed and believes and thereon alleges that Defendant KFHP is an
2 insurance company which purports to provide comprehensive total medical care to its members.
3 KFHP describes itself as the largest Health Maintenance Organization in the country. KFHP
4 exercises total control over Defendants KFH, SCPMG and a number of other corporate and
5 partnership entities such that their very existence as purported separate entities is in fact a sham
6 designed to perpetuate the myth that KFHP and KFH are legitimate "non-profit" corporations.
7 Plaintiff is informed and believes that KFHP and KFH are in fact "for profit" enterprises
8 regularly reporting their profitability publicly. For example, on August 5, 2011, Kaiser reported:

9 Kaiser Foundation Hospitals, Kaiser Foundation Health Plan, Inc., and their
10 respective subsidiaries (KFH/HP) reported today a combined operating revenue of
11 \$11.9 billion for the quarter ending June 30, 2011, compared to \$11.0 billion in
12 the same period in 2010. Operating income was \$390 million in the second
13 quarter of 2011, compared to \$313 million in the same quarter last year. Net non-
14 operating income was \$273 million in the second quarter of 2011, compared to
15 \$91 million in the same quarter last year. As a result, net income for the second
16 quarter was \$663 million versus net income of \$404 million in the same period
17 last year. These are the combined operating results for Kaiser Foundation
18 Hospitals, Kaiser Foundation Health Plan, Inc., and their respective subsidiaries.¹

19 19. KFHP's total dominance over KFH and SCPMG is evidenced by the fact that
20 KFH and SCPMG's entire annual budget is set by, controlled by, and approved by KFHP; all
21 funds for KFH and SCPMG's operations come from KFHP; KFHP determines what "profit" if
22 any SCPMG is allowed to make; money that SCPMG uses to pay bonuses to its doctors comes
23 from KFHP; SCPMG does not bill any patients for most of its services; barring emergencies or
24 extremely rare instances, SCPMG doctors are only allowed to work for KFHP members
25 exclusively; and SCPMG's only source of money is from KFHP. KFHP provides virtually all
26 legal, human resources, insurance, communications, advertising, billing, and other necessary
27 services for KFH and SCPMG. Members buying health care coverage only pay money to
28 KFHP, not to SCPMG; they buy insurance from KFHP and they receive services through
SCPMG. Advertising for the health care offered by KFHP as health insurance and provided

¹ <http://xnet.kp.org/newscenter/pressreleases/nat/2011/080511q2financials.html>

1 through SCPMG doctors is done predominantly by KFHP, advertising as "Kaiser Permanente"
2 as seen in the multi-million dollar "Thrive" advertising campaign. SCPMG does not own
3 hospitals, medical buildings, or the clinics where they work; they are owned by KFHP. KFHP
4 provides all telephone, fax, and e-mail services for SCPMG. KFHP also provides health
5 insurance and medical malpractice insurance to SCPMG's doctors. KFHP lawyers routinely
6 render legal advice and counsel to KFHP, SCPMG, and have unfettered access to KFHP and
7 SCPMG's records; KFHP's Human Resources department routinely investigates any
8 EEOC/DFEH or other complaints of discrimination, as well as issues regarding reasonable
9 accommodations, regarding KFHP and SCPMG's practices and employees, reporting to KFHP's
10 legal department on all such investigations; KFHP lawyers and human resources staff do not
11 obtain privacy waivers when seeking records of KFHP and/or SCPMG employees or investigating
12 their claims; KFHP provides and pays for all facilities in which KFHP and SCPMG conduct
13 business.

14 20. Defendants KFHP, KFHP and SCPMG, if not separately noted are hereinafter
15 collectively referred to as "Kaiser." These Defendants are collectively liable under either a joint
16 employer theory or a single enterprise theory.

17 21. The true names and capacities of the defendants named herein as Does 1 through
18 10, inclusive, whether individual, corporate, associate or otherwise, are unknown to Plaintiff who
19 therefore sues such defendants by fictitious names pursuant to California Code of Civil
20 Procedure section 474. Plaintiff is informed and believes that all of the Doe defendants are
21 California residents. Plaintiff will amend this Complaint to show such true names and capacities
22 when they have been determined.

23 22. Plaintiff is informed and believes that at all times relevant herein, each defendant
24 designated, including Does 1 through 10, was the agent, managing agent, principal, owner,
25 partner, joint venture, representative, manager, servant, employee and/or co-conspirator of each
26 of the other defendants, and was at all times mentioned herein acting within the course and scope
27 of said agency and employment, and that all acts or omissions alleged herein were duly
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1 committed with the ratification, knowledge, permission, encouragement, authorization and
2 consent of each defendant designated herein.

3 **PLAINTIFF'S FACTUAL ALLEGATIONS**

4 **A. Prior To Her Complaints Made to Management, Plaintiff Received Extensive Praise**
5 **As A Nurse And Employee Of Kaiser.**

6 23. In 1999, Plaintiff was hired at Kaiser Fontana as a Surgical Technician in the
7 Operating Room. She received her Associates Science in Nursing in 2008 and earned her nursing
8 license in 2009.

9 24. In order for her to be hired as a registered nurse (RN) in the Operating Room,
10 Plaintiff needed a year of experience so she worked as a surgical technician in Fontana and as an
11 RN at Advanced Ambulatory Surgery Center in Redlands.

12 25. In 2010, Plaintiff was hired as an Operating Room RN at Fontana. During this
13 time Plaintiff applied for a part time position at the Kaiser Permanente Palm Desert Clinic. In
14 2011, she began working at Kaiser Permanente - Southern California Permanente Medical Group
15 located at 75-036 Gerald Ford Drive, Palm Desert, CA 92211.

16 26. In 2012, Plaintiff was approached by Department Administrator Vicki Switzer
17 who encouraged her to apply for the Specialty RN Position. Plaintiff applied for and was placed
18 in the position.

19 27. From 2011 through 2013, Plaintiff received all positive performance reviews
20 either meeting or exceeding expectations. At all times relevant, Plaintiff was an exemplary
21 employee and was performing adequately.

22 28. Plaintiff received her Bachelors of Science degree in June 2013.

23 **B. Plaintiff Begins Having Problems With LVN – Elizabeth (Beth) Willis - Mitchem.**

24 29. In 2012, an LVN, Elizabeth (Beth) Willis - Mitchem who worked under
25 Plaintiff's supervision, began making several complaints to Plaintiff regarding dermatologist, Dr.
26 Gary F. Dick.

1 30. Each time, Beth complained, Plaintiff offered to intervene on Beth's behalf but
2 Beth declined Plaintiff's help.

3 31. Plaintiff later learned that an investigation of Dr. Gary F. Dick was conducted by
4 Department Administrator, Susan Brock and Assistant Department Administrator Patti Hefflin,
5 human resources and Dr. Dick's boss. However he doctor in question was exonerated of any
6 wrong doing in 2013.

7 32. After the investigation, Dr. Gary F. Dick refused to work with Beth and would
8 threaten to cancel his entire schedule if he saw Beth downstairs and thought she was scheduled to
9 work with him.

10 33. Beth was displeased with the outcome of the investigation and began engaging in
11 passive aggressive, unprofessional behavior such as intentionally siting at her work station
12 downstairs where Dr. Dick could see her even if she was scheduled to work upstairs.

13 34. Dr. Gary F. Dick once reported to Plaintiff and Susan Brock, the Department
14 Administrator, that Beth called his personal cell phone, called him a "Bitch" and then hung up.

15 35. When Plaintiff confronted Beth about the inappropriate text to Dr. Gary F. Dick,
16 Beth began complaining to another LVN that Plaintiff was talking "smack" about her and
17 accused Plaintiff of treating her differently from everyone else. She complained that Plaintiff
18 purposely brought in candy for everyone else but her, including Dr. Dick. In truth, Plaintiff
19 brought in candy and placed it in the nurse's station for everyone to enjoy not specific
20 employees. She tried to explain that the candy in Dr. Gary F. Dick's office was his own, not
21 candy that Plaintiff specifically brought in for him but Beth did not believe her and would roll
22 her eyes whenever Dr. Dick's name came up and started to roll her eyes whenever Plaintiff
23 spoke to her in general.

24 C. Plaintiff Begins to Observe Even More Disruptive Behavior From Beth Including
25 Unsafe/Unethical Work Practices

26 36. Beth started exhibiting weird behavior such as throwing things and talking and
27 laughing extremely loud, so loud that it would disrupt Plaintiff and others in her office. Beth's
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1 moods were erratic, and at times, hyper and almost manic.

2 37. Other staff members complained to Plaintiff that their own patients from a
3 different department would be forced to wait because Beth would take up 4 of their rooms with
4 her dermatologist patients in addition to Beth's assigned rooms designated for dermatologist
5 patients.

6 38. On June 11, 2013, Beth violated patient privacy knowing she was breaking
7 compliance by doing an intake on pain management with a patient in the nurse's station even
8 though an exam room was open and available.

9 39. On two separate occasions, Plaintiff observes Beth not properly sterilizing
10 instruments, exposing patients to the possibility of infection.

11 **D. Beth Continues to Demonstrate Behavior Unsafe to Patients But No Action is Taken**

12 40. In August 2013, Plaintiff emailed Assistant Department Administrator (ADA)
13 Patti Hefflin after discovering that Beth wrote on open bottles of medication the date and her
14 initials instead of discarding them.

15 41. On June 12, 2013, Plaintiff came to the conclusion that Nurse Beth was impaired
16 because when Beth was assigned to do an EKG on a pain management patient, she was unable to
17 operate the machine, had improperly connected the pads, then claimed that the machine was not
18 working properly.

19 42. On June 13, 2013, Plaintiff sent an email to Susan Brock and Patti Hefflin
20 regarding Beth's rude behavior towards her. Beth would disrespect Plaintiff in front of both
21 patients and staff by rolling her eyes, talking back to her and sighing when asked to do
22 something. Plaintiff also told them that other staff members, Jayne Strelecki LVN, Crystal
23 Abril-MA and Jaime Beason-MA had all approached her confirming Plaintiff's complaints
24 saying how inappropriate Beth is when speaking to Plaintiff or when Plaintiff asks her to do
25 something.

26 43. Plaintiff's pacemaker began going off daily. She felt she could no longer
27 continue to work in such a stressful negative environment so Plaintiff told her administrators that
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1 she could not take it any longer and that Beth needed to leave the department (Please refer to
2 Exhibit 4). Plaintiff suggested that Beth be moved upstairs so that she could be monitored, while
3 Plaintiff remained downstairs since as Specialty RN, all her departments were downstairs.
4 Instead Plaintiff was told by Susan that the union would not allow her to move Beth because she
5 is a dermatology nurse. She also instructed Plaintiff to no longer say anything to Beth but to
6 instead let her or Patti know of any issues.

7 44. August 26, 2013 Plaintiff met with Karen Sue Oberlin, from the Employee
8 Assistance Program (EAP), prior to attending a meeting with both EAP and Beth Willis-
9 Mitchem. Plaintiff discussed Beth's performance issues such as how Beth does not like to be
10 told what to do and how instead she does whatever she wants even when told not to do
11 something. Plaintiff further explained that Beth is an admitted alcoholic who has declared it out
12 loud to staff including Plaintiff and to patients at the nurse's station. Beth had previously stated
13 to Plaintiff that she had been taking medication while at work because she had stopped drinking
14 alcohol. Plaintiff went out of her way to tell members of EAP that she was not trying to get Beth
15 fired. She just wanted her to get help so that she did not endanger herself or patients.

16 45. EAP's response was that what Plaintiff is telling them is a management issue.
17 Plaintiff told EAP that she has already spoken to both Susan Brock and Patti Hefflin in
18 management but no action has been taken.

19 46. Plaintiff's role as Specialty RN gave her the responsibility to always ensure
20 quality and safe patient care. She was trained to be mindful of observing possibly impaired
21 nurses, doctors and other coworkers who may be a danger to patients or themselves

22 47. During the second or third week of March 2014, after observing Beth's impaired
23 state while working, Plaintiff asked Beth if she was on medication again and Beth admitted that
24 she was. Plaintiff immediately called administrator Susan Brock and reported Beth.

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1 **E. The Following Day After Plaintiff Observes Beth Leaving Work in an Impaired**
2 **State, Concerned for Beth's Well-Being, Plaintiff Checks Employee Records to Verify That**
3 **Beth Was in Fact Prescribed Medication by Doctor in the Department As She Was Told By**
4 **Beth.**

5 48. March 26, 2014 Plaintiff observed Beth at the end of her shift, leaning against the
6 wall while her eyes were glossy and half open. When Plaintiff asks Beth what is going on Beth's
7 response is "I'm having trouble with my shoulder. I took a Norco, muscle relaxant and Dr.
8 Morales just gave me a Toradol injection." Plaintiff tells Beth that that she should not drive
9 because if Beth was pulled over in her current state she could go to jail and possibly lose her
10 nursing license. Despite Plaintiff's pleas, Beth unsteadily walked out of the building to drive
11 home.

12 49. March 27, 2014, Plaintiff printed Beth's message encounter and brought it to
13 Department Administer Susan Brock and read it to her. Brock told Plaintiff to shred it.

14 **F. Three Days After Showing Department Administrator Proof that Nurse Beth Was**
15 **Impaired, Plaintiff Was Suspended and Terminated Shortly After.**

16 50. On or about April 1, 2014, Plaintiff was informed that she is being placed on paid
17 investigatory suspension in order for Employer to have time to review circumstances and facts
18 surrounding investigation regarding Plaintiff's alleged PHI violation.

19 51. April 8, 2014 Plaintiff's employment with Southern California Permanente
20 Medical Care Program is terminated.

21 **FIRST CAUSE OF ACTION**

22 **VIOLATION OF HEALTH & SAFETY CODE § 1278.5**

23 **(AGAINST KAISER)**

24 52. Plaintiff incorporates by reference all of the preceding and subsequent paragraphs.

25 53. Prior to Plaintiff's termination, she reported to Kaiser and its managing agents
26 and medical staff, and each of them, suspected unsafe patient care, patient services, and
27 conditions of a health care facility that were being engaged in by LVN, Elizabeth (Beth) Willis'

1 unsafe practice of working while under the influence, not discarding open medications and
2 failing to properly and leaving used instruments out in the plain sight. Plaintiff often made
3 complaints both verbal and written to management, Department Administrator, Susan Brock and
4 Assistant Department Administrator, Patti Hefflin. Accordingly, Plaintiff engaged in activities
5 which are legally protected under Health & Safety Code § 1278.5.

6 54. Kaiser (including KFH, KFHP, TPMG and each of them) are inpatient care
7 facilities covered by Health & Safety Code §1278.5.

8 55. At the time that Plaintiff made the complaints, instead of Kaiser addressing
9 methods of addressing the behavior of Beth Willis reported by Plaintiff, Kaiser, by and through
10 their managing officers, focused on retaliating against Plaintiff

11 56. Kaiser's conduct as alleged herein, violated the provisions of Health & Safety
12 Code § 1278.5. As the California Legislature has declared in Health & Safety Code § 1278.5, "it
13 is the public policy of the State of California to encourage patients, nurses, members of the
14 medical staff, and other health care workers to notify government entities of suspected unsafe
15 patient care and conditions." As such, "(b)(1) No health facility shall discriminate or retaliate, in
16 any manner, against any . . . employee . . . because that person has . . . (A) [p]resented a
17 grievance, complaint or report to the facility... or the medical staff of the facility"

18 57. Plaintiff was retaliated against and wrongfully terminated because of her protests
19 and complaints regarding Beth Willis' working while under the influence, blatant disregard for
20 Kaiser Compliance and substandard patient care as alleged herein. Plaintiff's wrongful
21 termination occurred within 120 days of her protests and complaints. Accordingly, under Health
22 & Safety Code § 1278.5(d)(1), Plaintiff is entitled to a rebuttable presumption that her
23 termination is attributable to Plaintiff's complaints and protests regarding suspected unsafe
24 patient care.

25 58. As a direct and proximate result of Kaiser's acts as alleged above, Plaintiff has
26 suffered, and will continue to suffer, economic and compensatory damages, including lost wages,
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1 lost benefits, and loss of promotional opportunity, in an amount to be ascertained at the time of
2 trial.

3 59. As a further direct and proximate result of Kaiser's acts as alleged above, Plaintiff
4 has suffered, and will continue to suffer, humiliation, mental, emotional distress, and anxiety,
5 and has been generally damaged in an amount to be ascertained at the time of trial.

6 60. The actions alleged herein were taken by managing agents and/or officers of
7 Kaiser and/or ratified by managing agents and/or officers of Kaiser. In so doing, said managing
8 agents and/or officers of Kaiser acted with oppression, fraud and malice, as those terms are used
9 in California Civil Code section 3294. As such, Plaintiff is entitled to an award of punitive
10 damages.

11 61. Plaintiff is entitled to legal costs, including attorney's fees, pursuant to Health &
12 Safety Code §1278.5(g).

13 **SECOND CAUSE OF ACTION**

14 **RETALIATION IN VIOLATION OF LABOR CODE § 6310**

15 **(AGAINST KAISER)**

16 62. Plaintiff incorporates by this reference all the preceding and subsequent
17 paragraphs.

18 63. California Labor Code Section 6310 prevents an employer from retaliating
19 against, discriminating against, or terminating an employee because that employee has made oral
20 or written complaints to his employer concerning "unsafe working conditions, or work practices,
21 in his or her employment or place of employment."

22 64. Plaintiff was at all relevant times an employee of Kaiser.

23 65. As alleged above, Plaintiff made several complaints to Kaiser regarding unsafe
24 working conditions and work practices for the staff at the Kaiser location where Plaintiff worked.
25 More specifically, Plaintiff complained that Kaiser was letting an impaired employee continue to
26 work with patients.

1 66. Kaiser retaliated against, and wrongfully terminated Plaintiff because of her
2 numerous complaints that she made to Kaiser and Susan Brock regarding unsafe working
3 conditions for patients.

4 67. As a direct and proximate result of Kaiser's acts as alleged above, Plaintiff has
5 suffered economic and compensatory damages, including lost wages, lost benefits, and loss of
6 promotional opportunity, in an amount to be ascertained at the time of trial.

7 68. The actions alleged herein were taken by managing agents and/or officers of
8 Kaiser and/or ratified by managing agents and/or officers of Kaiser. In so doing, said managing
9 agents and/or officers of Kaiser acted with oppression, fraud and malice, as those terms are used
10 in California Civil Code section 3294. As such, Plaintiff is entitled to an award of punitive
11 damages.

12 **THIRD CAUSE OF ACTION**

13 **WRONGFUL TERMINATION IN VIOLATION OF PUBLIC POLICY**

14 **(AGAINST KAISER)**

15 69. Plaintiff incorporates by this reference all preceding and subsequent paragraphs.

16 70. At all times during her employment with Kaiser, Plaintiff performed her
17 employment duties with the utmost diligence and competence.

18 71. Plaintiff's wrongful termination was based, at least in substantial part, on: (a)
19 Plaintiff's complaints regarding unsafe patient care practices; (b) Plaintiff's complaints regarding
20 employee safety in the workplace; and (c) Kaiser's retaliation against Plaintiff for making
21 complaints regarding unsafe patient care practices and employee safety.

22 72. The actions of Kaiser as alleged herein constitute multiple violations (or were
23 reasonably believed by Plaintiff in good faith to constitute multiple violations) of California and
24 federal statutes, including:

- 25 • **Health & Safety Code § 1278.5(b)(1)** ("No health facility shall discriminate
26 or retaliate, in any manner, against any . . . employee, member of the medical staff, or any other
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1 health care worker . . . because that person has . . . (A) [p]resented a grievance, complaint or
2 report to the facility... or the medical staff of the facility.”);

3 • **California Labor Code § 6310** (“No person shall discharge or in any manner
4 discriminate against any employee because the employee has done any of the following: (1)
5 Made any oral or written complaint to...his or her employer, or his or her representative...Any
6 employee who is discharged, threatened with discharge, demoted, suspended, or in any other
7 manner discriminated against in the terms and conditions of employment by his or her employer
8 because the employee has made a bona fide oral or written complaint to...his or her employer, or
9 his or her representative, of unsafe working conditions, or work practices, in his or her
10 employment or place of employment...shall be entitled to...reimbursement for lost wages and
11 work benefits caused by the acts of the employer.”)

12 73. As a direct and proximate result of the aforesaid acts of Kaiser, Plaintiff has lost,
13 and will continue to lose, substantial earnings and fringe benefits and has suffered and/or will
14 suffer other actual, consequential and incidental financial losses, in an amount to be proven at
15 trial in excess of the jurisdictional minimum of this court.

16 74. As a direct and proximate result of the aforesaid acts of Kaiser, Plaintiff has
17 become physically distressed, embarrassed, humiliated and aggravated. As a result of the acts of
18 retaliation and wrongful termination, Plaintiff suffered harm to her reputation and claims general
19 damages for such physical distress and aggravation in a sum in excess of the jurisdictional
20 minimum of this court.

21 75. The actions alleged herein were taken by managing agents and/or officers of
22 Kaiser and/or ratified by managing agents and/or officers of Kaiser. In so doing, said managing
23 agents and/or officers of Kaiser acted with oppression, fraud and malice, as those terms are used
24 in California Civil Code section 3294. As such, Plaintiff is entitled to an award of punitive
25 damages.

26 76. Plaintiff is entitled to attorneys’ fees and costs under California Code of Civil
27 Procedure section 1021.5 because: (a) this action confers a significant benefit to the general
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1 public or a large class of persons impacted by the practices alleged herein; (b) the necessity and
2 financial burden of private enforcement makes the award appropriate; and (c) such fees should
3 not in the interest of justice be paid out of the recovery to Plaintiff.

4 **FOURTH CAUSE OF ACTION**

5 **VIOLATIONS OF CALIFORNIA BUSINESS & PROFESSIONS CODE SECTION 17200**
6 **(AGAINST KAISER)**

7 77. Plaintiff incorporates by this reference all preceding and subsequent paragraphs.

8 78. Business and Professions Code section 17200, et seq. ("UCL"), defines unfair
9 competition to include any "unfair," "unlawful" or "fraudulent" business practice.

10 79. At all times relevant herein the UCL was in full force and effect and binding on
11 Kaiser.

12 80. The actions alleged herein by Kaiser are "unlawful" under the UCL based on the
13 violations of each of the statutes and regulations alleged herein and "unfair" under the UCL
14 based on the impact to Plaintiff who suffered the adverse actions alleged herein due to her
15 complaints regarding patient safety/care, employee safety, and retaliation because of her
16 complaints.

17 81. As a direct, foreseeable and proximate result of Kaiser's unlawful, fraudulent and
18 unfair business practices, Plaintiff has suffered and continues to suffer actual, consequential and
19 incidental financial losses, including without limitation, substantial loss of salary and benefits.

20 82. Injunctive relief pursuant to Business and Professions Code section 17203 is
21 necessary to prevent Kaiser from continuing to engage in the unlawful and unfair business
22 practices alleged herein. Kaiser will continue the unlawful, fraudulent and unfair business
23 practices alleged herein, unless it is restrained and enjoined. Plaintiff has no plain, speedy, or
24 adequate remedy at law, for reasons which include but are not limited to the following: (a) it is
25 difficult to measure the amount of monetary damages that would compensate Plaintiff for
26 Kaiser's wrongful acts under the UCL; and (b) pecuniary compensation alone would not afford
27 adequate and complete relief.

1 83. Plaintiff is entitled to attorneys' fees and costs under California Code of Civil
2 Procedure section 1021.5 because: (a) this action confers a significant benefit to the general
3 public or a large class of persons impacted by the practices alleged herein; (b) the necessity and
4 financial burden of private enforcement makes the award appropriate; and (c) such fees should
5 not in the interest of justice be paid out of the recovery to Plaintiff.

6 **JURY TRIAL DEMANDED**

7 84. Plaintiff demands a jury as to all causes of action.

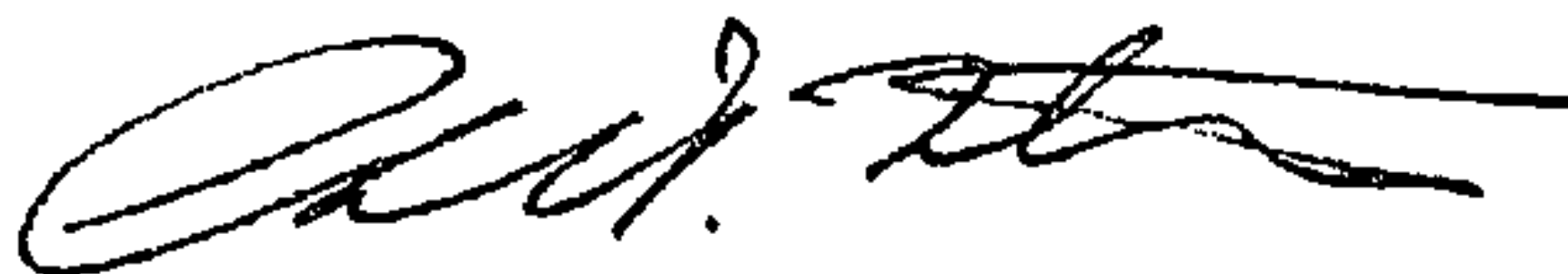
8 **PRAYER FOR RELIEF**

9 85. WHEREFORE, Plaintiff prays judgment against Defendants as follows:

- 10 a. For general economic and non-economic damages according to proof;
11 b. For special damages according to proof;
12 c. For punitive damages where allowed by law;
13 d. For prejudgment interest pursuant to California Civil Code section 3287
14 and/or California Civil Code section 3288 and/or any other provision of law
15 providing for prejudgment interest;
16 e. For attorneys' fees where allowed by law;
17 f. For injunctive relief;
18 g. For costs of suit incurred herein; and
19 h. For such other and further relief as this Court deems just and proper.

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2 Date: March 16, 2015

THE MATHEWS LAW GROUP

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5 By _____
6 Charles T. Mathews
7 Attorneys for Plaintiff,
8 GIGI M. GARCIA
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Courthouse News Service

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Charles T. Mathews (SBN 055889) - The Mathews Law Group 37 E. Huntington Drive, Suite A Arcadia, California 91006 TELEPHONE NO.: (626) 683-88291 FAX NO.: (626) 683-8295 ATTORNEY FOR (Name): Plaintiff, GIGI M. GARCIA		FOR COURT USE ONLY		
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Riverside STREET ADDRESS: 3255 E. Tahquitz Canyon Way MAILING ADDRESS: CITY AND ZIP CODE: Palm Springs, 92262 BRANCH NAME: Palm Springs Courthouse				
CASE NAME: GARCIA v. KAISER FOUNDATION HOSPITALS, et al.				
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 30%; padding: 5px;"> CIVIL CASE COVER SHEET <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000) </td> <td style="width: 30%; padding: 5px;"> <input type="checkbox"/> Limited (Amount demanded is \$25,000 or less) </td> <td style="width: 40%; padding: 5px;"> Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402) </td> </tr> </table>			CIVIL CASE COVER SHEET <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000)	<input type="checkbox"/> Limited (Amount demanded is \$25,000 or less)
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CASE NUMBER: <div style="font-size: 1.5em; font-weight: bold; text-align: center;">PSC 1501254</div>				
JUDGE: DEPT:				


Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:
- | | | |
|---|--|---|
| Auto Tort
<input type="checkbox"/> Auto (22)
<input type="checkbox"/> Uninsured motorist (46)
Other PI/DP/WD (Personal Injury/Property Damage/Wrongful Death) Tort
<input type="checkbox"/> Asbestos (04)
<input type="checkbox"/> Product liability (24)
<input type="checkbox"/> Medical malpractice (45)
<input type="checkbox"/> Other PI/DP/WD (23)
Non-PI/DP/WD (Other) Tort
<input type="checkbox"/> Business tort/unfair business practice (07)
<input type="checkbox"/> Civil rights (08)
<input type="checkbox"/> Defamation (13)
<input type="checkbox"/> Fraud (16)
<input type="checkbox"/> Intellectual property (19)
<input type="checkbox"/> Professional negligence (25)
<input type="checkbox"/> Other non-PI/DP/WD tort (35)
Employment
<input type="checkbox"/> Wrongful termination (36)
<input checked="" type="checkbox"/> Other employment (15) | Contract
<input type="checkbox"/> Breach of contract/warranty (06)
<input type="checkbox"/> Rule 3.740 collections (09)
<input type="checkbox"/> Other collections (09)
<input type="checkbox"/> Insurance coverage (18)
<input type="checkbox"/> Other contract (37)
Real Property
<input type="checkbox"/> Eminent domain/inverse condemnation (14)
<input type="checkbox"/> Wrongful eviction (33)
<input type="checkbox"/> Other real property (26)
Unlawful Detainer
<input type="checkbox"/> Commercial (31)
<input type="checkbox"/> Residential (32)
<input type="checkbox"/> Drugs (38)
Judicial Review
<input type="checkbox"/> Asset forfeiture (05)
<input type="checkbox"/> Petition re: arbitration award (11)
<input type="checkbox"/> Writ of mandate (02)
<input type="checkbox"/> Other judicial review (39) | Provisionally Complex Civil Litigation
(Cal. Rules of Court, rules 3.400-3.403)
<input type="checkbox"/> Antitrust/Trade regulation (03)
<input type="checkbox"/> Construction defect (10)
<input type="checkbox"/> Mass tort (40)
<input type="checkbox"/> Securities litigation (28)
<input type="checkbox"/> Environmental/Toxic tort (30)
<input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41)
Enforcement of Judgment
<input type="checkbox"/> Enforcement of judgment (20)
Miscellaneous Civil Complaint
<input type="checkbox"/> RICO (27)
<input type="checkbox"/> Other complaint (not specified above) (42)
Miscellaneous Civil Petition
<input type="checkbox"/> Partnership and corporate governance (21)
<input type="checkbox"/> Other petition (not specified above) (43) |
|---|--|---|
2. This case ☐ is ☒ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- | | |
|--|--|
| a. <input type="checkbox"/> Large number of separately represented parties
b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve
c. <input type="checkbox"/> Substantial amount of documentary evidence | d. <input type="checkbox"/> Large number of witnesses
e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
f. <input type="checkbox"/> Substantial postjudgment judicial supervision |
|--|--|
3. Remedies sought (check all that apply): a. ☒ monetary b. ☐ nonmonetary; declaratory or injunctive relief c. ☒ punitive
4. Number of causes of action (specify): 4
5. This case ☐ is ☒ is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: March 16, 2015

Charles T. Mathews

(TYPE OR PRINT NAME)


 (SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

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INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

To Plaintiffs and Others Filing First Papers. If you are filing a first paper (for example, a complaint) in a civil case, you **must** complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check one box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the **primary** cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties in Complex Cases. In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES

Auto Tort

Auto (22)—Personal Injury/Property Damage/Wrongful Death
Uninsured Motorist (46) (*if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto*)

Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

Asbestos (04)
Asbestos Property Damage
Asbestos Personal Injury/Wrongful Death
Product Liability (*not asbestos or toxic/environmental*) (24)
Medical Malpractice (45)
Medical Malpractice—Physicians & Surgeons
Other Professional Health Care Malpractice
Other PI/PD/WD (23)
Premises Liability (e.g., slip and fall)
Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)
Intentional Infliction of Emotional Distress
Negligent Infliction of Emotional Distress
Other PI/PD/WD

Non-PI/PD/WD (Other) Tort

Business Tort/Unfair Business Practice (07)
Civil Rights (e.g., discrimination, false arrest) (*not civil harassment*) (08)
Defamation (e.g., slander, libel) (13)
Fraud (16)
Intellectual Property (19)
Professional Negligence (25)
Legal Malpractice
Other Professional Malpractice (*not medical or legal*)
Other Non-PI/PD/WD Tort (35)

Employment

Wrongful Termination (36)
Other Employment (15)

Contract

Breach of Contract/Warranty (06)
Breach of Rental/Lease
Contract (*not unlawful detainer or wrongful eviction*)
Contract/Warranty Breach—Seller Plaintiff (*not fraud or negligence*)
Negligent Breach of Contract/Warranty
Other Breach of Contract/Warranty
Collections (e.g., money owed, open book accounts) (09)
Collection Case—Seller Plaintiff
Other Promissory Note/Collections Case
Insurance Coverage (*not provisionally complex*) (18)
Auto Subrogation
Other Coverage
Other Contract (37)
Contractual Fraud
Other Contract Dispute

Real Property

Eminent Domain/Inverse Condemnation (14)
Wrongful Eviction (33)
Other Real Property (e.g., quiet title) (26)
Writ of Possession of Real Property
Mortgage Foreclosure
Quiet Title
Other Real Property (*not eminent domain, landlord/tenant, or foreclosure*)

Unlawful Detainer

Commercial (31)
Residential (32)
Drugs (38) (*if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential*)

Judicial Review

Asset Forfeiture (05)
Petition Re: Arbitration Award (11)
Writ of Mandate (02)
Writ—Administrative Mandamus
Writ—Mandamus on Limited Court Case Matter
Writ—Other Limited Court Case Review
Other Judicial Review (39)
Review of Health Officer Order
Notice of Appeal—Labor
Commissioner Appeals

Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)

Antitrust/Trade Regulation (03)
Construction Defect (10)
Claims Involving Mass Tort (40)
Securities Litigation (28)
Environmental/Toxic Tort (30)
Insurance Coverage Claims (*arising from provisionally complex case type listed above*) (41)

Enforcement of Judgment

Enforcement of Judgment (20)
Abstract of Judgment (Out of County)
Confession of Judgment (*non-domestic relations*)
Sister State Judgment
Administrative Agency Award (*not unpaid taxes*)
Petition/Certification of Entry of Judgment on Unpaid Taxes
Other Enforcement of Judgment Case

Miscellaneous Civil Complaint

RICO (27)
Other Complaint (*not specified above*) (42)
Declaratory Relief Only
Injunctive Relief Only (*non-harassment*)
Mechanics Lien
Other Commercial Complaint Case (*non-tort/non-complex*)
Other Civil Complaint (*non-tort/non-complex*)

Miscellaneous Civil Petition

Partnership and Corporate Governance (21)
Other Petition (*not specified above*) (43)
Civil Harassment
Workplace Violence
Elder/Dependent Adult Abuse
Election Contest
Petition for Name Change
Petition for Relief From Late Claim
Other Civil Petition