

Assigned for all purposes to: Glendale Courthouse, Judicial Officer: Curtis Kin

Rob A. Rodriguez, Esq. S.B.N. 224511
Richard A. Apodaca, Esq. S.B.N. 292294
Ruchika Gupta, Esq. S.B.N. 317507
RODRIGUEZ APODACA LAW FIRM LLP
Empire Towers I
3633 Inland Empire Blvd., Suite 575
Ontario, CA 91764
Telephone: (909) 944-3777
Facsimile: (909) 944-5777

Attorneys for Plaintiff, Oxana Shagin

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES, GLENDALE COURTHOUSE**

OXANA SHAGIN, an individual,

) **Case No.:**

) **COMPLAINT FOR DAMAGES**

Plaintiff,

v.

KAISER FOUNDATION HOSPITALS, a
corporation; MATHIVANAN
ARUNACHALAM, an individual; and DOES
1 through 20, inclusive,

Defendants.

1. DISCRIMINATION BASED ON AGE
2. DISCRIMINATION BASED ON DISABILITY
3. FAILURE TO ACCOMMODATE DISABILITY
4. FAILURE TO INTERACT IN GOOD FAITH TO DETERMINE A REASONABLE ACCOMMODATION
5. DISCRIMINATION BASED ON SEX
6. DISCRIMINATION BASED ON RACE AND/OR NATIONAL ORIGIN
7. HOSTILE WORK ENVIRONMENT BASED ON RACE, SEX, AND AGE
8. RETALIATION
9. FAILURE TO PREVENT DISCRIMINATION, HARASSMENT, AND RETALIATION
10. WRONGFUL TERMINATION IN VIOLATION OF PUBLIC POLICY
11. NEGLIGENCE – NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS
12. INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

DEMAND FOR JURY TRIAL

TO THE DEFENDANTS, THEIR ATTORNEYS, AND THIS COURT:

Plaintiff, OXANA SHAGIN, complains and alleges against Defendants, KAISER FOUNDATION HOSPITALS, MATHIVANAN ARUNACHALAM, and DOES 1 through 20,

1 inclusive, and each of them as herein stated.

2
3 **I.**
JURISDICTION

- 4 1. Jurisdiction is proper in the Los Angeles Superior Court of the State of California under
5 California Code of Civil Procedure Section 410.10. Additionally, Plaintiff is bringing this
6 action under the California Fair Employment and Housing Act for violations of
7 Government Code § 12940.
8
9 2. Venue is proper in the Glendale Courthouse, under California Code of Civil Procedure
10 section 395(a), because the acts and omission out of which this action arises occurred
11 within this County and venue and judicial district at or near Pasadena, California.
12

13 **II.**
THE PARTIES

- 14 3. This complaint is based on the allegations by the Plaintiff, OXANA SHAGIN
15 (hereinafter referred to as "PLAINTIFF" or "MS. SHAGIN"), against Defendants
16 KAISER FOUNDATION HOSPITALS (hereinafter referred to as "KAISER"),
17 MATHIVANAN ARUNACHALAM (hereinafter referred to as "ARUNACHALAM")
18 and DOES 1 through 20 (hereinafter referred to as "DOES"), inclusive. KAISER and
19 DOES 1 through 20, and each of them, violated the Fair Employment and Housing Act
20 (hereinafter "FEHA"), and Article I, § 8 of the California Constitution, by unlawfully
21 discriminating against MS. SHAGIN on the basis of her age, disability, gender, race
22 and/or national origin; failing to accommodate her disability; failing to interact in a good
23 faith manner with MS. SHAGIN to determine if a reasonable accommodation existed for
24 her disability; harassing her; retaliating against her (FEHA); failing to prevent
25 discrimination, harassment, and retaliation harassing her; and wrongfully terminated her
26
27
28



1 in violation of public policy. MS. SHAGIN also alleges KAISER, ARUNACHALAM,
2 and DOES 1 through 20, and each of them are also liable for negligence – negligent
3 infliction of emotional distress and intentional infliction of emotional distress.

4
5 4. MS. SHAGIN is now, and at all times relevant herein, was a resident of Los Angeles
6 County in the State of California.

7 5. Defendant KAISER is an employer within the meaning of § 12926, subdivision (d), of
8 Cal. Gov. Code, and § 12940, subdivisions (a), (j), (h), and (k), of the Fair Employment
9 and Housing Act (FEHA), and § 12945. KAISER is a California corporation.

10 PLAINTIFF is informed and believes, and thereon alleges, that KAISER is located at
11 One Kaiser Plaza, Oakland, CA 94612. At all times mentioned herein, and now is,
12 engaged in doing business in the KAISER of Pasadena at 74 North Pasadena Ave.
13 Pasadena, CA 91103.
14

15 6. The true names and capacities, whether individual, corporate, associate, or otherwise, of
16 DOES 1 through 20, are unknown to MS. SHAGIN at this time. MS. SHAGIN therefore
17 sues said Defendant DOES 1 through 20, by such fictitious names and will seek leave of
18 court to amend this complaint to show their true names and capacities when the same are
19 ascertained. Defendant DOES 1 through 20 are sued individually as well as in their
20 capacity as principals and/or agents, servants, and employees of said principals.
21

22 7. Defendants, KAISER, ARUNACHALAM, and/or DOES 1 through 20, will collectively
23 be referred to as “DEFENDANTS” as set forth hereafter in this complaint.

24 8. MS. SHAGIN alleges she was subjected to unlawful employment practices by
25 DEFENDANTS, and each of them. MS. SHAGIN files this complaint for damages
26
27
28



1 against DEFENDANTS in their individual capacities, as well as their capacities as a
2 corporation.

- 3 9. MS. SHAGIN is informed and believes and alleges thereon that each of the fictitiously
4 named DEFENDANTS was, is, or will be responsible in some manner for the acts and
5 events alleged herein. MS. SHAGIN'S injuries, both existing and prospective as alleged,
6 were, are, and will be proximately caused by the acts of the DEFENDANTS.
7
- 8 10. PLAINTIFF is informed and believes and alleges thereon that DEFENDANTS, and each
9 of them, including DOES 1 through 20, inclusive, and each of them, in doing the acts
10 herein alleged, were acting as the agents, representatives, servants, employees, joint
11 venturers, departments, divisions, corporations, or subsidiaries of each of the other
12 DEFENDANT and were acting within the course and scope of such employment and
13 agency and/or joint venture with full knowledge and consent of each of the
14 DEFENDANTS, and that each and every Defendant, as aforesaid, when acting as a
15 principal, was negligent in the selection and/or hiring of each and every other Defendant
16 as an agent, representative, servant, employee, and/or joint venturer.
17
- 18 11. DEFENDANTS, and each of them, did the acts and omissions hereinafter alleged in bad
19 faith and with full knowledge that their conduct violated well-established and settled
20 cases and statutory law. DEFENDANTS' acts and practices described above and below
21 were intentional and were performed with malice or reckless indifference to MS.
22 SHAGIN'S safety and protected civil rights within the meaning of the FEHA, Cal. Gov.
23 Code § 12900 et seq., and Cal. Civ. Code § 3294, and authorized and ratified the
24 wrongful conduct entitling MS. SHAGIN to an award of punitive damages against
25
26
27
28

1 DEFENDANTS in an amount appropriate to punish and make an example of
2 DEFENDANTS.

3 12. MS. SHAGIN filed a complaint on April 25, 2018, with the Department of Fair
4 Employment and Housing (DFEH) against all the DEFENDANTS.

5 13. MS. SHAGIN received a Right-To-Sue Notice against all parties from DFEH, thereby
6 exhausting her administrative remedies and permitting him to file a civil suit against
7 DEFENDANTS. (See **Exhibit A** – Amended Right-To-Sue Notice).
8

9
10 **III.**
GENERAL ALLEGATIONS

11 14. MS. SHAGIN began her employment with KAISER, on or about December 1, 2015, as a
12 Application Delivery Manager. She was eventually promoted to the position of HP
13 CHATS Application Manager. She worked about forty (40) hours per week, and
14 sometimes worked overtime. She earned approximately \$130,000.00 yearly, plus
15 bonuses. At all times, MS. SHAGIN was a satisfactory worker.
16

17 15. In or about August 2014, ARUNACHALAM became PLAINTIFF'S manager.

18 16. At all relevant times, MS. SHAGIN was supervised by ARUNACHALAM, who
19 interpreted and dictated corporate policy to KAISER'S employees and agents, with either
20 express or implied authority of KAISER, and/or DOES 1 through 20.
21

22 17. MS. SHAGIN alleges that DEFENDANTS, and each of them, failed to provide their
23 employees, including MS. SHAGIN, with a sufficient discrimination and harassment
24 policy, failed to adequately disseminate said policies, and failed to provide sufficient
25 training prohibiting discrimination and harassment in the workplace.
26

27 18. Beginning in approximately 2014 and continuing until approximately April 2017,
28 KAISER, by and through ARUNACHALAM, engaged in discriminatory and harassing



behavior towards MS. SHAGIN at the workplace. MS. SHAGIN interpreted this behavior as hostile and related to her gender, age, race and/or national origin. Said behavior was severe and pervasive, and included, but was not limited to, the following:

- a. Complaining of female workers in the office, specifically calling his female boss a “demanding bitch,”
- b. Bullying MS. SHAGIN in the workplace;
- c. Calling MS. SHAGIN and the team she supervised weak;
- d. Frequently excluding MS. SHAGIN from important work -related meetings.
- e. Unfairly increasing MS. SHAGIN’S workload, which in the past, was previously had to be done by three (3) people;
- f. Frequently undermining MS. SHAGIN in the workplace;
- g. Unfairly giving MS. SHAGIN negative performance reviews when she met and/or exceeded goals;
- h. Telling MS. SHAGIN that the organization was aging;
- i. Telling MS. SHAGIN that she should retire;
- j. Telling MS. SHAGIN to only hire people under the age of thirty (30);
- k. Taking away MS. SHAGIN’S PTO hours;
- l. Telling PLAINTIFF that he could “harass [her] into doing work,”
- m. Blaming MS. SHAGIN for problems at the workplace that were out of her control; and
- n. Frequently intimidating MS. SHAGIN by threatening her of termination.

19. In about 2015, MS. SHAGIN complained of ARUNACHALAM’S behavior to James Dunn, KAISER’S Vice President. To PLAINTIFF’S knowledge, no effective corrective



1 action was taken in response to her complaints.

2 20. Also, in 2015, PLAINTIFF complained to KAISER'S human resource department.

3 Instead of supporting MS. SHAGIN, Human Resources representative, Dawn Pivnick,
4 told MS. SHAGIN that opening an investigation could backfire and negatively impact
5 MS. SHAGIN'S career at KAISER.
6

7 21. After MS. SHAGIN made her complaints, ARUNACHALAM continued his
8 inappropriate and harassing workplace behavior. Accordingly, MS. SHAGIN continued
9 to experience stress.
10

11 22. On or about April 27, 2017, MS. SHAGIN sought medical treatment and was placed off
12 work by her medical providers. KAISER received noticed of MS. SHAGIN'S need to be
13 off work.

14 23. On or about April 29, 2017, KAISER terminated MS. SHAGIN'S employment, while she
15 was on leave, in violation of FEHA and public policy.
16

17 24. At the time of her termination, MS. SHAGIN was fifty-seven (57) years old.

18 25. At the time of her termination, DEFENDANTS knew MS. SHAGIN was fifty-seven (57)
19 years old.

20 26. MS. SHAGIN asserts DEFENDANTS discriminated against her because of her age,
21 disability, gender, race and/or national origin.

22 27. As a proximate result of DEFENDANTS' conduct, MS. SHAGIN suffered various
23 injuries, including, but not limited to: shock, humiliation, loss of self-esteem, fear,
24 anguish, nervousness, anxiety, grief, worry, loss of sleep, and shame. Additionally,
25 DEFENDANTS' conduct caused MS. SHAGIN to suffer from physical injuries and
26
27
28



physical illnesses that include, but are not limited to: headaches, neck pain, shoulder pain, and back pain.

28. As an actual and proximate result of the experiences of stress and abuse in the workplace, MS. SHAGIN has experienced emotional trauma that has caused significant alterations in MS. SHAGIN'S lifestyle such that the quality of her life has become deteriorated.

29. As another actual and proximate result of the experiences of stress and abuse in the workplace, MS. SHAGIN suffered loss of compensation, employment benefits, monetary damages, and other consequential damages legally caused by DEFENDANTS' conduct.

30. As another actual and proximate result of the experiences of stress and abuse in the workplace, MS. SHAGIN was required to retain the legal services of an attorney and has, thus, incurred damages in the form of legal expenses.

31. As another actual and proximate result of the experiences of stress and abuse in the workplace, MS. SHAGIN has incurred, and will continue to incur, general and special damages, in the amount according to proof at trial, which exceeds the jurisdictional limit.

IV.

FIRST CAUSE OF ACTION **DISCRIMINATION BASED ON AGE**

(AGAINST DEFENDANTS KAISER AND DOES 1 THROUGH 20)

32. MS. SHAGIN hereby incorporates by reference Paragraphs 1 through 31, inclusive, as though set for herein full, unless said paragraph contradicts the cause of action hereto.

33. MS. SHAGIN alleges that Defendants KAISER, and/or DOES 1 through 20, and each of them, violated the FEHA, Gov. Code § 12940, subdivision (a), by continuously discriminating against MS. SHAGIN on the basis of her age.

34. MS. SHAGIN belongs to a protected group pursuant to the FEHA on the basis of her age.



- 1 35. MS. SHAGIN was an employee of DEFENDANTS, and each of them, and performed her
2 work in a satisfactory manner.
- 3 36. MS. SHAGIN suffered adverse employment actions based on her age when
4 DEFENDANTS discriminated against her, failed to prevent discrimination against her, and
5 terminated her.
- 6 37. Others not in MS. SHAGIN'S protected class were not subjected to adverse employment
7 actions and were not harassed on the basis of their age.
- 8 38. DEFENDANTS' discriminatory conduct toward MS. SHAGIN caused her emotional
9 injury, including, but not limited to: shock, humiliation, loss of self-esteem, fear, anguish,
10 nervousness, anxiety, grief, worry, loss of sleep, and shame. Additionally,
11 DEFENDANTS' conduct caused MS. SHAGIN to suffer from physical injuries and
12 physical illnesses that include, but are not limited to: headaches, neck pain, shoulder pain,
13 and back pain.
- 14 39. MS. SHAGIN'S age was a motivating reason for DEFENDANTS' conduct and adverse
15 employment actions.
- 16 40. As a proximate result of DEFENDANTS' willful, knowing, and intentional conduct
17 against MS. SHAGIN, she sustained lost earnings and other employment benefits.
- 18 41. As a proximate result of DEFENDANTS' willful, knowing and intentional acts of
19 harassment against MS. SHAGIN, she has suffered and continues to suffer general
20 damages consisting of compensation for having to endure an oppressive work environment,
21 in a sum according to proof that exceeds the limited jurisdiction of this court.
- 22
23
24
25
26
27
28



1 42. DEFENDANTS' conduct was intentional, malicious, fraudulent, reckless, and oppressive,
2 which entitles MS. SHAGIN to punitive and exemplary damages against DEFENDANTS
3 pursuant to *Civil Code* § 3294.

4
5 43. DEFENDANTS' discriminatory conduct was a substantial factor in causing MS. SHAGIN
6 to suffer the damages as alleged above.

7
8 **V.**
9 **SECOND CAUSE OF ACTION**
10 **DISCRIMINATION BASED ON DISABILITY**
11 **(AGAINST DEFENDANTS KAISER AND DOES 1 THROUGH 20)**

12 44. MS. SHAGIN hereby incorporates by reference Paragraphs 1 through 43, inclusive, as
13 though set forth herein full, unless said paragraph contradicts the cause of action hereto.

14 45. MS. SHAGIN alleges that Defendants KAISER and/or DOES 1 through 20, and each of
15 them, violated the FEHA, Gov. Code § 12940, subdivision (a), by discriminating against
16 MS. SHAGIN in the terms, conditions, and privileges of her employment on the basis of
17 her disability.

18 46. MS. SHAGIN was performing her work in a satisfactory manner.

19 47. MS. SHAGIN suffered adverse employment actions when Defendants KAISER and/or
20 DOES 1 through 20 failed to accommodate her disability, failed to interact in good faith
21 to determine a reasonable accommodation for her disability, retaliated against her, failed
22 to prevent discrimination because of her disability, and when she was ultimately
23 terminated.

24 48. Others not in MS. SHAGIN'S protected class was not subjected to adverse employment
25 actions as MS. SHAGIN.

26 49. Defendants KAISER and/or DOES 1 through 20's discriminatory conduct toward MS.
27 SHAGIN caused her to suffer emotional distress and injury, including, but not limited to:
28



1 shock, humiliation, loss of self-esteem, fear, anguish, nervousness, anxiety, grief, worry,
2 loss of sleep, and shame. Additionally, DEFENDANTS' conduct caused MS. SHAGIN
3 to suffer from physical injuries and physical illnesses that include, but are not limited to:
4 headaches, neck pain, shoulder pain, and back pain.
5

6 50. MS. SHAGIN'S disability was a motivating reason for Defendants KAISER and/or
7 DOES 1 through 20's conduct and adverse employment actions.

8 51. As a proximate result of Defendants KAISER and/or DOES 1 through 20's willful,
9 knowing, and intentional conduct against MS. SHAGIN, he sustained lost earnings and
10 other employment benefits.
11

12 52. As a proximate result of Defendants KAISER and/or DOES 1 through 20's willful,
13 knowing, and intentional acts of discrimination against MS. SHAGIN, he has suffered
14 and continues to suffer general damages consisting of compensation for having to endure
15 an oppressive work environment, in a sum according to proof that exceeds the limited
16 jurisdiction of this court.
17

18 53. Defendants KAISER and/or DOES 1 through 20's conduct was intentional, malicious,
19 fraudulent, reckless, and oppressive, which entitles MS. SHAGIN to punitive and
20 exemplary damages against Defendants KAISER and/or DOES 1 through 20 pursuant to
21 *Civil Code* § 3294.
22

23 54. Defendants KAISER and/or DOES 1 through 20's conduct was the actual and proximate
24 cause of the PLAINTIFF'S damages.

25 ///

26 ///

27 ///

28

VI.
THIRD CAUSE OF ACTION
FAILURE TO ACCOMMODATE PLAINTIFF'S DISABILITY
(AGAINST DEFENDANTS KAISER AND DOES 1 THROUGH 20)

55. MS. SHAGIN hereby incorporates by reference Paragraphs 1 through 54, inclusive, as though set forth herein full, unless said paragraph contradicts the cause of action hereto.

56. This cause of action is brought pursuant to the FEHA, Cal. Gov. Code § 12940(m), against DEFENDANTS for failing to make a reasonable accommodation for PLAINTIFF'S known physical disability.

57. MS. SHAGIN required an accommodation for her disability. PLAINTIFF was required to take time off to attend medical appointments for her disability, and required work restrictions.

58. Defendants KAISER and/or DOES 1 through 20 were aware or had knowledge PLAINTIFF needed time off work for treatment of her disability, and required work restrictions.

59. MS. SHAGIN was able to perform the essential functions of her job, or a vacant position, with reasonable accommodation of her physical disability.

60. Defendants KAISER and/or DOES 1 through 20 failed to provide a reasonable accommodation for the PLAINTIFF'S disability, retaliated against her, and/or wrongfully terminated her employment.

61. Defendants KAISER and/or DOES 1 through 20's discriminatory conduct toward the PLAINTIFF caused her emotional distress and injury, including, but not limited to: shock, humiliation, loss of self-esteem, fear, anguish, nervousness, anxiety, grief, worry, loss of sleep, and shame. Additionally, DEFENDANTS' conduct caused MS. SHAGIN to suffer from physical injuries and physical illnesses that include, but are not limited to:

1 headaches, neck pain, shoulder pain, and back pain.

2 62. As a result of Defendants KAISER and/or DOES 1 through 20's discriminatory conduct,
3 PLAINTIFF was required to retain the legal services of an attorney and has, thus,
4 incurred damages in the form of legal expenses.
5

6 63. MS. SHAGIN suffered monetary damages, lost wages, and privileges of employment
7 legally caused by these Defendants' discriminatory conduct.

8 64. Defendants KAISER and/or DOES 1 through 20's discriminatory conduct was the actual
9 and proximate cause of the PLAINTIFF'S damages.
10

11 **VII.**
12 **FOURTH CAUSE OF ACTION**
13 **FAILURE TO INTERACT IN GOOD FAITH TO DETERMINE A REASONABLE**
14 **ACCOMMODATION**
15 **(AGAINST DEFENDANTS KAISER AND DOES 1 THROUGH 20)**

16 65. MS. SHAGIN hereby incorporates by reference Paragraphs 1 through 64, inclusive, as
17 though set forth herein full, unless said paragraph contradicts the cause of action hereto.

18 66. This cause of action is brought pursuant to the FEHA, Cal. Gov. Code §12940(n), against
19 Defendants KAISER and/or DOES 1 through 20 for failing to engage in a timely, good
20 faith, interactive process with the PLAINTIFF to determine an effective reasonable
21 accommodation for MS. SHAGIN'S disability.

22 67. Defendants KAISER and/or DOES 1 through 20 knew that MS. SHAGIN had a disability
23 and that she required work restrictions/accommodations.

24 68. MS. SHAGIN was performing her work in satisfactory manner and was able to perform
25 the essential duties of her position with a reasonable accommodation for her disability.

26 69. MS. SHAGIN requested accommodations for her physical disability.
27
28



1 70. Defendants KAISER and/or DOES 1 through 20 failed to engage MS. SHAGIN in a
2 timely, good-faith, interactive process to determine effective and reasonable
3 accommodations. Defendants KAISER and/or DOES 1 through 20 refused to
4 accommodate MS. SHAGIN'S disability.
5

6 71. Defendants KAISER and/or DOES 1 through 20 terminated MS. SHAGIN'S
7 employment after she requested an accommodation for her disability.
8

9 72. Defendants KAISER and/or DOES 1 through 20's conduct toward MS. SHAGIN caused
10 her distress, including, but not limited to: shock, humiliation, loss of self-esteem, fear,
11 anguish, nervousness, anxiety, grief, worry, loss of sleep, and shame. Additionally,
12 DEFENDANTS' conduct caused MS. SHAGIN to suffer from physical injuries and
13 physical illnesses that include, but are not limited to: headaches, neck pain, shoulder pain,
14 and back pain.
15

16 73. As a result of Defendants KAISER and/or DOES 1 through 20's failure to accommodate,
17 MS. SHAGIN was required to retain the legal services of an attorney and has, thus,
18 incurred damages in the form of legal expenses.
19

20 74. MS. SHAGIN suffered monetary damages, lost wages, and privileges of employment
21 legally caused by these Defendants' discriminatory conduct.
22

23 75. Defendants KAISER and/or DOES 1 through 20's conduct was the actual and proximate
24 cause of MS. SHAGIN damages.
25

26 **VIII.**
27 **FIFTH CAUSE OF ACTION**
28 **DISCRIMINATION BASED ON GENDER**
(AGAINST DEFENDANTS KAISER AND DOES 1 THROUGH 20)

76. MS. SHAGIN hereby incorporates by reference Paragraphs 1 through 75, inclusive, as
though set forth herein full, unless said paragraph contradicts the cause of action hereto.



77. MS. SHAGIN alleges that Defendants KAISER, and/or DOES 1 through 20, and each of them, violated the FEHA, Gov. Code § 12940, subdivision (a), by continuously discriminating and harassing MS. SHAGIN on the basis of her gender.
78. MS. SHAGIN belongs to a protected group pursuant to the FEHA on the basis of her gender.
79. MS. SHAGIN was an employee of DEFENDANTS, and each of them, and performed her work in a satisfactory manner.
80. MS. SHAGIN suffered adverse employment actions based on her gender when ARUNACHALAM harassed her, when DEFENDANTS failed to properly investigate MS. SHAGIN' complaints of harassment, retaliated against her, and when DEFENDANTS failed to take timely corrective action to prevent ARUNACHALAM from harassing and discriminating against her.
81. Others not in MS. SHAGIN'S protected class were not subjected to adverse employment actions and were not harassed on the basis of their gender.
82. Defendants KAISER and/or DOES 1 through 20's conduct toward MS. SHAGIN caused her distress, including, but not limited to: shock, humiliation, loss of self-esteem, fear, anguish, nervousness, anxiety, grief, worry, loss of sleep, and shame. Additionally, DEFENDANTS' conduct caused MS. SHAGIN to suffer from physical injuries and physical illnesses that include, but are not limited to: headaches, neck pain, shoulder pain, and back pain.
83. MS. SHAGIN' gender was a motivating reason for DEFENDANT'S conduct and adverse employment actions.



1 84. As a proximate result of DEFENDANTS' willful, knowing, and intentional conduct
2 against MS. SHAGIN, she sustained lost earnings and other employment benefits.

3 85. As a proximate result of DEFENDANTS' willful, knowing and intentional acts of
4 harassment against MS. SHAGIN, she has suffered and continues to suffer general
5 damages consisting of compensation for having to endure an oppressive work environment,
6 in a sum according to proof that exceeds the limited jurisdiction of this court.

7 86. DEFENDANTS' conduct was intentional, malicious, fraudulent, reckless, and oppressive,
8 which entitles MS. SHAGIN to punitive and exemplary damages against DEFENDANTS
9 pursuant to *Civil Code* § 3294.

10 87. DEFENDANTS' discriminatory conduct was a substantial factor in causing MS. SHAGIN
11 to suffer the damages as alleged above.

12 **IX.**

13 **SIXTH CAUSE OF ACTION**

14 **DISCRIMINATION BASED ON RACE AND/OR NATIONAL ORIGIN**
15 **(AGAINST DEFENDANT KAISER AND DOES 1 THROUGH 20)**

16 88. MS. SHAGIN hereby incorporates by reference Paragraphs 1 through 87, inclusive, as
17 though set forth herein full, unless said paragraph contradicts the cause of action hereto.

18 89. MS. SHAGIN alleges that Defendants KAISER and/or DOES 1 through 20, and each of
19 them, violated the FEHA, Gov. Code § 12940, subdivision (a), by discriminating against
20 MS. SHAGIN in the terms, conditions, and privileges of his employment on the basis of
21 her race and/or national origin.

22 90. MS. SHAGIN belongs to a protected group pursuant to the FEHA on the basis of her race
23 and/or national origin.

24 91. MS. SHAGIN was an employee of Defendants KAISER and/or DOES 1 through 20, and
25 each of them, and performed his work in a satisfactory manner.



92. MS. SHAGIN suffered adverse employment actions based on her race and/or national origin when ARUNACHALAM, other KAISER employees, and/or DOES 1 through 20 harassed her and failed to take timely corrective action.
93. Others not in MS. SHAGIN'S protected class were not subjected to adverse employment actions and were not harassed on the basis of their race.
94. DEFENDANTS' discriminatory conduct toward MS. SHAGIN caused her emotional injury, including, but not limited to: shock, humiliation, loss of self-esteem, fear, anguish, nervousness, anxiety, grief, worry, loss of sleep, and shame.
95. MS. SHAGIN'S race was motivating reasons for DEFENDANTS' conduct and adverse employment actions.
96. As a proximate result of DEFENDANTS' willful, knowing, and intentional conduct against MS. SHAGIN, he sustained lost earnings and other employment benefits.
97. As a proximate result of DEFENDANTS' willful, knowing, and intentional acts of harassment against MS. SHAGIN, she has suffered and continues to suffer general damages consisting of compensation for having to endure an oppressive work environment, in a sum according to proof that exceeds the limited jurisdiction of this court.
98. DEFENDANTS' conduct was intentional, malicious, fraudulent, reckless, and oppressive, which entitles MS. SHAGIN to punitive and exemplary damages against DEFENDANTS pursuant to *Civil Code* § 3294.
99. DEFENDANTS' discriminatory conduct was a substantial factor in causing MS. SHAGIN to suffer the damages as alleged above.

///



X.
SEVENTH CAUSE OF ACTION
**HOSTILE WORK ENVIRONMENT BASED ON GENDER, DISABILITY, AGE,
RACE, AND/OR NATIONAL ORIGIN
(AGAINST ALL DEFENDANTS)**

100. MS. SHAGIN hereby incorporates by reference Paragraphs 1 through 99, inclusive, as though set forth herein full, unless said paragraph contradicts the cause of action hereto.

101. MS. SHAGIN alleges that DEFENDANTS, and each of them, violated the FEHA, Gov. Code § 12940, subdivision (j), by harassing MS. SHAGIN on the basis of her gender, age, disability, race and/or national origin.

102. DEFENDANTS' harassment was hostile, abusive, and created a hostile work environment for MS. SHAGIN.

103. The harassment was continuous, severe, and pervasive.

104. Such harassment was unwelcomed, humiliating, offensive, and adversely affected the terms and conditions of MS. SHAGIN'S employment.

105. MS. SHAGIN was subjectively offended by DEFENDANTS' conduct, and any reasonable person in MS. SHAGIN'S position would have perceived DEFENDANTS' conduct as being offensive, hostile, abusive, and unrelated to work.

106. DEFENDANTS, and each of their supervisors and/or agents, knew or should have known of the harassing conduct and failed to take immediate and appropriate corrective actions, thus making DEFENDANTS' liable under Respondeat Superior theory of liability.

107. DEFENDANTS' discriminatory conduct toward MS. SHAGIN caused her emotional injury, including, but not limited to: shock, humiliation, loss of self-esteem, fear, anguish, nervousness, anxiety, grief, worry, loss of sleep, and shame.

108. DEFENDANTS' conduct was a substantial factor in causing MS. SHAGIN to suffer damages.



1 109. As an actual and proximate result of DEFENDANTS' conduct, MS. SHAGIN suffered
2 damages as alleged above.

3
4 **XI.**
5 **EIGHTH CAUSE OF ACTION**
6 **RETALIATION**
7 **(AGAINST DEFENDANTS KAISER AND DOES 1 THROUGH 20)**

8 110. MS. SHAGIN hereby incorporates by reference Paragraphs 1 through 109, inclusive, as
9 though set forth herein full, unless said paragraph contradicts the cause of action hereto.

10 111. This cause of action is brought pursuant to the FEHA, Gov. Code § 12940(h), which
11 provides that it is unlawful to retaliate against a person "because the person has opposed
12 any practices forbidden under [Government Code sections 12900 through 12966] or
13 because the person has filed a complaint, testified, or assisted in any proceeding under the
14 FEHA."

15 112. During the time MS. SHAGIN was employed, she was offended and complained to
16 DEFENDANT'S supervisors regarding the severe and pervasive harassing and
17 discriminatory conduct in the workplace on the basis of her gender, age, disability, race
18 and/or national origin.

19
20 113. As a result of MS. SHAGIN' complaints, DEFENDANTS failed to appropriately
21 investigate her complaints and take appropriate corrective action, and allowed for
22 ARUNACHALAM to continue to harass her. DEFENDANTS' allowed for
23 ARUNACHALAM to use his position of power to intimidate MS. SHAGIN. Ultimately,
24 DEFENDANTS' continued conduct resulted with MS. SHAGIN constantly working
25 under a hostile work environment.
26
27
28



1 114. MS. SHAGIN' complaints of, and opposition to, sexually hostile, harassing and
2 discriminating conduct while employed at KAISER were the proximate cause of
3 DEFENDANTS' retaliation.
4

5 115. DEFENDANTS' harassing and discriminatory conduct toward MS. SHAGIN caused her
6 emotional injury, including but not limited to: shock, humiliation, loss of self-esteem,
7 fear, anguish, nervousness, anxiety, grief, worry, loss of sleep, and shame.
8 DEFENDANTS' conduct was a substantial factor in causing MS. SHAGIN to suffer
9 damages.
10

11 116. As a result of DEFENDANTS' conduct, MS. SHAGIN suffered damages as alleged
12 above.
13

14 **XII.**
NINTH CAUSE OF ACTION
FAILURE TO PREVENT DISCRIMINATION, HARASSMENT, AND
RETALIATION
(AGAINST DEFENDANTS KAISER AND DOES 1 THROUGH 20)
15
16

17 117. MS. SHAGIN hereby incorporates by reference Paragraphs 1 through 116, inclusive, as
18 though set forth herein full, unless said paragraph contradicts the cause of action hereto.
19

20 118. At all times, DEFENDANTS knew or reasonably should have known of
21 ARUNACHALAM's propensity for engaging in unlawful, discriminatory conduct in the
22 workplace; and that ARUNACHALAM should not have been employed with
23 DEFENDANTS, and DEFENDANTS should have restrained ARUNACHALAM from
24 engaging in unlawful, discriminatory, and sexually hostile conduct and should have
25 provided training and instruction to him on the laws pertaining to harassment,
26 discrimination, and retaliation. DEFENDANTS failed to take all reasonable steps
27
28



necessary to prevent or stop gender, age, disability, race and/or national origin discrimination and retaliation from occurring.

119. At all times, Government Code § 12940(k) was in full force and effect and was binding on Defendants KAISER, and/or DOES 1 through 20. This subsection requires DEFENDANTS to take all reasonable steps necessary to prevent discrimination, harassment, and retaliation from occurring. As alleged above, Defendants KAISER, and/or DOES 1 through 20, violated this subsection by failing to take all reasonable steps necessary to prevent discrimination, harassment, and retaliation from occurring.

120. PLAINTIFF is informed and believes and thereupon alleges the Defendants KAISER, and/or DOES 1 through 20, failed to provide adequate training to their owners, supervisors, and/or managers.

121. As a direct and proximate result of Defendants KAISER, and/or DOES 1 through 20's conduct, PLAINTIFF suffered monetary, compensatory, and punitive damages as alleged above.

XIII.

TENTH CAUSE OF ACTION

WRONGFUL TERMINATION IN VIOLATION OF PUBLIC POLICY (AGAINST DEFENDANTS KAISER AND DOES 1 THROUGH 20)

122. MS. SHAGIN hereby incorporates by references Paragraphs 1 through 121, inclusive, as though set forth herein full, unless said paragraph contradicts the cause of action hereto.

123. MS. SHAGIN was discharged from employment for reasons that violate a public policy, Cal. Gov. Code § 12940(a)(h)(j)(k)(m)(n), and Article I, § 8 of the California Constitution.

124. MS. SHAGIN was employed by DEFENDANTS.

125. MS. SHAGIN was discharged by DEFENDANTS.

1 126. The reason KAISER discharged MS. SHAGIN was because she complained of
2 harassment and discrimination in the workplace, because she sustained an injury and
3 required accommodations to her disability; because KAISER, and/or DOES 1 through 20,
4 refused to take timely corrective action to prevent the discrimination and harassment
5 from occurring; and because MS. SHAGIN suffered emotional and physical injuries, and
6 could no longer work for KAISER, and/or DOES 1 through 20, without proper
7 accommodations to her disabilities.
8

9 127. The discharge caused MS. SHAGIN harm insomuch as emotional injury, which includes,
10 but is not limited, to the following: shock, humiliation, loss of self-esteem, fear, anguish,
11 nervousness, anxiety, grief, worry, loss of sleep, and shame. Additionally,
12 DEFENDANTS' conduct caused MS. SHAGIN to suffer from physical injuries and
13 physical illnesses that include, but are not limited to: headaches, neck pain, shoulder pain,
14 and back pain.
15

16 128. DEFENDANTS' conduct was a substantial factor in causing MS. SHAGIN to suffer
17 damages.
18

19 129. As a result of DEFENDANTS termination of MS. SHAGIN' employment, she was
20 required to retain the legal services of an attorney and has, thus, incurred damages in the
21 form of legal expenses.
22

23 130. MS. SHAGIN suffered loss of compensation, employment benefits, monetary damages
24 and other consequential damages legally caused by DEFENDANTS' discriminatory
25 conduct.
26

27 131. As a proximate result of DEFENDANTS' conduct, MS. SHAGIN suffered damages as
28 alleged above.



1 132. s, that Defendants KAISER, and/or DOES 1 through 20, failed to provide adequate
2 training to their owners, supervisors, and/or managers.

3 133. Defendants KAISER, and/or DOES 1 through 20's, discriminatory conduct toward MS.
4 SHAGIN caused her to suffer emotional distress and injury, including, but not limited to:
5 shock, humiliation, loss of self-esteem, fear, anguish, nervousness, anxiety, grief, worry,
6 loss of sleep, and shame. Additionally, DEFENDANTS' conduct caused MS. SHAGIN
7 to suffer from physical injuries and physical illnesses that include, but are not limited to:
8 headaches, neck pain, and shoulder pain.

9 134. As a result of Defendants KAISER, and/or DOES 1 through 20's, conduct toward MS.
10 SHAGIN, MS. SHAGIN was required to retain the legal services of an attorney and has,
11 thus, incurred damages in the form of legal expenses.

12 135. MS. SHAGIN suffered monetary damages, lost wages, and privileges of employment
13 legally caused by DEFENDANTS' discriminatory conduct.

14 136. As an actual and proximate result of Defendants KAISER, and/or DOES 1 through 20's,
15 failure to prevent discrimination and harassment, MS. SHAGIN has incurred damages.

16 **XIV.**

17 **ELEVENTH CAUSE OF ACTION**

18 **NEGLIGENCE – NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS**
19 **(AGAINST ALL DEFENDANTS)**

20 137. MS. SHAGIN hereby incorporates by reference Paragraphs 1 through 138, inclusive, as
21 though set forth herein full, unless said paragraph contradicts the cause of action hereto.

22 138. Between approximately August 2017 to February 2018, DEFENDANTS, and each of
23 them, were employers of MS. SHAGIN, and were bound by the preexisting duty to
24 prohibit and prevent discrimination and harassment, to provide and disseminate policies
25 and procedures to prevent discrimination, and to promptly investigate and take
26



appropriate correction action in the workplace (Cal. Gov. Code § 12900 et seq.)

Between approximately August 2017 to February 2018, DEFENDANTS breached the duties described above when they allowed for their employees and supervisors to discriminate, harass, and retaliate against MS. SHAGIN. Specifically, DEFENDANTS' discrimination and harassment of MS. SHAGIN, as well as their failure to mitigate harm to him despite her continued complaints was directed to cause MS. SHAGIN to experience emotional distress. As a result, MS. SHAGIN can recover as a direct victim.

139. Specifically, Defendants KAISER and/or DOES 1 through 20 knew, ratified, or should have known of YANG AND CAMPOS' negligent conduct against MS. SHAGIN, thereby making KAISER and/or DOES 1 through 20 directly liable under Respondeat Superior.

140. At said time, Defendants KAISER and/or DOES 1 through 20, by and through ratification or knowledge from each remaining Defendant, had an existing duty to take appropriate corrective action against discrimination and retaliation targeted at MS. SHAGIN. DEFENDANTS breached their duties as expressed above.

141. As an actual and proximate result of said breach, MS. SHAGIN suffered and continues to suffer serious emotional distress, which includes: shock, humiliation, loss of self-esteem, fear, anguish, nervousness, anxiety, grief, worry, loss of sleep, and shame.

XV.

TWELVTH CAUSE OF ACTION **INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS** **(AGAINST ALL DEFENDANTS)**

142. MS. SHAGIN hereby incorporates by reference Paragraphs 1 through 143, inclusive, as though set forth herein full, unless said paragraph contradicts the cause of action hereto.

143. MS. SHAGIN was wrongfully discharged from employment for reasons that violate



public policy, Cal. Gov. Code § 12940(a)(h)(j)(k)(m)(n), and Article I, § 8 of the California Constitution.

144. MS. SHAGIN was employed by DEFENDANTS.

145. MS. SHAGIN was discharged by DEFENDANTS.

146. The reasons KAISER discharged MS. SHAGIN was because of her age, gender, and disability.

147. The discharge caused MS. SHAGIN harm insomuch as emotional injury, which includes, but is not limited to, the following: shock, humiliation, loss of self-esteem, fear, anguish, nervousness, anxiety, grief, worry, loss of sleep, and shame. Additionally, DEFENDANTS' conduct caused MS. SHAGIN to suffer from physical injuries and physical illnesses that include, but are not limited to: headaches, neck pain, shoulder pain, and back pain.

148. DEFENDANTS' conduct was a substantial factor in causing MS. SHAGIN to suffer damages.

149. As a result of DEFENDANTS' termination of MS. SHAGIN'S employment, she was required to retain the legal services of an attorney and has, thus, incurred damages in the form of legal expenses.

150. MS. SHAGIN suffered loss of compensation, employment benefits, monetary damages, and other consequential damages legally caused by DEFENDANTS' discriminatory conduct.

151. As a proximate result of DEFENDANTS' conduct, MS. SHAGIN suffered damages as alleged above.

///

XVI.
PRAYER FOR RELIEF

WHEREFORE Plaintiff, OXANA SHAGIN, prays for judgment against DEFENDANTS as follows:

As to the First through Tenth Causes of Action:

1. For a money judgment representing compensatory damages including lost wages, earnings, retirement benefits and other employee benefits, and all other sums of money, together with interest on these amounts, according to proof;
 2. For a money judgment for mental pain and anguish and emotional distress, according to proof;
 3. For costs of suit and attorney fees;
 4. For prejudgment and post judgment interest;
 5. For attorney fees pursuant to C.C.P. § 1021.5 and Cal. Gov. Code § 12965(b).
 6. For punitive damages as allowed by law;
 7. For any other relief that is just and proper.
1. California Civil Code § 3294;
 2. For such other and further relief as the court may deem just and proper.

As to the Eleventh Cause of Action:

1. For general damages according to proof;
2. For special damages according to proof;
3. For such loss of earnings and earning capacity according to proof;
4. For the reasonable value of such medical expenses, x-rays, laboratory procedures, hospitalization, nursing care, and attention and drugs, according to proof;
5. For interest on Plaintiff's damages as allowed by law;





6. For costs of suit incurred herein;

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

As to the Twelfth Cause of Action:

1. For general damages, according to proof;

2. For special damages, according to proof;

3. For such loss of earnings and earning capacity according to proof;

4. For the reasonable value of such medical expenses, x-rays, laboratory procedures, hospitalization, nursing care, and attention and drugs, according to proof;

5. For interest on Plaintiff's damages as allowed by law;

6. For costs of suit incurred herein;

7. For Punitive or Exemplary Damages, according to proof and allowed by law under California Civil Code § 3294;

8. For such other and further relief as the court may deem just and proper.

PLAINTIFF DEMANDS A JURY TRIAL OF ALL ISSUES BY JURY

RODRIGUEZ APODACA LAW FIRM LLP

Date: 2-18-15

Rob A. Rodriguez
Attorney for Plaintiff, Oxana Shagin