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ZELDES HAEGGQUIST & ECK, LLP

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ZELDES HAEGGQUIST & ECK, LLP
ALREEN HAEGGQUIST (221858)
alreenh@zhlaw.com
AARON M. OLSEN (259923)
aarono@zhlaw.com
225 Broadway, Suite 2050
San Diego, CA 92101
Telephone: 619-342-8000
Facsimile: 619-342-7878

THE deRUBERTIS LAW FIRM, APC
DAVID M. deRUBERTIS (208709)
david@deRubertisLaw.com
4219 Coldwater Canyon Avenue
Studio City, California 91604
Telephone: 818-761-2322
Facsimile: 818-761-2323

Attorneys for Plaintiff

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO
HALL OF JUSTICE

MARIA T. GONZALEZ, an Individual,

Plaintiff,

v.

SOUTHERN CALIFORNIA
PERMANENTE MEDICAL GROUP, INC.
d/b/a SOCAL PERMANENTE MEDICAL
GROUP, a California Corporation,

Defendant.

Case No.: 37-2015-00019384-CU-WT-CTL
FIRST AMENDED COMPLAINT FOR
DAMAGES AND INJUNCTIVE RELIEF

IMAGED FILE

Judge: Honorable Katherine Bacal
Dept.: C-69

Complaint Filed: June 10, 2015
Trial Date: November 4, 2016

DEMAND FOR JURY TRIAL

FILED
Clerk of the Superior Court

OCT 31 2016

By: J. Browder, Deputy

1 Plaintiff Maria T. Gonzalez ("Plaintiff"), by her attorneys, brings this action on behalf
2 of herself against Southern California Permanente Medical Group, Inc. d/b/a SoCal
3 Permanente Medical Group ("Defendant"). Plaintiff makes the following allegations upon
4 information and belief (except those allegations as to Plaintiff or her attorneys, which are
5 based on personal knowledge), based upon an investigation that is reasonable under the
6 circumstances, which allegations are likely to have evidentiary support after a reasonable
7 opportunity for further investigation and/or discovery.

8 NATURE OF ACTION

9 1. After devoting twelve years to Kaiser and its patients, Kaiser retaliated against
10 and wrongfully terminated Plaintiff's employment because of her association with the wrong
11 patient – her disabled son, Pedro Moreno ("Moreno"). Moreno, a Kaiser patient covered under
12 Plaintiff's health insurance, suffered serious medical conditions after the unnecessary removal
13 of his kidneys. Soon after Plaintiff and Moreno began expressing dissatisfaction with the level
14 of care Moreno was receiving from Kaiser, and immediately after Plaintiff took time off work
15 to care for her disabled son, Kaiser retaliated against Plaintiff by placing her on investigatory
16 suspension and unlawfully terminating her employment.

17 2. In order to redress the harms suffered, Plaintiff brings claims for: (1)
18 discrimination and wrongful termination in violation of Government Code §12940(a); (2)
19 failure to prevent discrimination from occurring in violation of Government Code §12940(k);
20 (3) retaliation in violation of Health & Safety Code §1278.5; (4) wrongful termination in
21 violation of public policy; (5) intentional infliction of emotional distress; (6) negligent
22 infliction of emotional distress; and (7) violation of the Unfair Competition Law ("UCL"),
23 Bus. & Prof. Code §17200, *et seq.*

24 JURISDICTION AND VENUE

25 3. This Court has jurisdiction over all causes of action asserted herein pursuant to
26 Article VI, §10 of the California Constitution, because this case is a cause not given by statute
27 to other trial courts. Federal jurisdiction does not exist in this case because there is no federal
28 question implicated and because there is no diversity of citizenship.

1 to, the facility's administrative personnel, employees, boards, and committees of the board,
2 and medical staff."

3 8. All of the Kaiser entities together, including, without limitation, Defendant and
4 Kaiser Foundation Hospitals (collectively "Kaiser"), constitute a single employer under the
5 integrated-enterprise test given their interrelations of operations, common management,
6 centralized control of labor relations, and common ownership and control.

7 9. In doing the acts herein alleged, Kaiser's employees, subcontractors, and agents
8 acted within the course and scope of their employment and agency with Defendant. Defendant
9 engaged in the acts alleged herein and/or condoned, permitted, authorized, and/or ratified the
10 conduct of their employees, subcontractors, and agents, and are vicariously liable for the
11 wrongful conduct of its and Kaiser's employees, subcontractors, and agents alleged herein.

12 EXHAUSTION OF REMEDIES

13 10. On May 19, 2015, Plaintiff filed a charge of discrimination with the Department
14 of Fair Employment and Housing ("DFEH"). That same day, the DFEH closed Plaintiff's case
15 and issued a Right-To-Sue Notice. Therefore, Plaintiff has exhausted her administrative
16 remedies. True and correct copies of the charge and notice are collectively attached hereto as
17 Exhibit 1.

18 FACTS COMMON TO ALL CAUSES OF ACTION

19 11. On or about January 28, 2002, Plaintiff was hired by Kaiser as a Medical Office
20 Assistant in its Pain Management Clinic, and remained hard at work for over twelve years,
21 until her wrongful termination on or around October 28, 2014. The basis for Plaintiff's
22 termination was her association with her disabled son and because Plaintiff took time off work
23 to care for her disabled son.

24 12. At the time of Plaintiff's termination, Traci Trask ("Trask") was Plaintiff's
25 supervisor as defined by Government Code §12926(t) because she had the authority in the
26 interest of Kaiser "to hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward,
27 or discipline [Plaintiff and] other employees, or the responsibility to direct them, or to adjust
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1 their grievances, or effectively to recommend that action” At all relevant times, Trask was
2 Assistant Department Administrator of Physical Medicine and Pain Management at Kaiser.

3 13. When Plaintiff started her employment, Kaiser provided Plaintiff and her son,
4 an eligible dependent, Kaiser Foundation Health Plan Coverage, including inpatient and
5 outpatient care, prescription medication, vision care, and dental care. Kaiser also provided
6 Plaintiff with sick leave pursuant to Kaiser’s sick leave policy by providing Plaintiff ten hours
7 of paid sick leave each month or 15 days each year as a benefit of the employment.

8 14. From the inception of her employment with Kaiser, Plaintiff consistently and
9 competently performed and adhered to the essential professional and ethical duties of her job.
10 Plaintiff’s job duties included: (a) checking-in patients; (b) checking patients’ vital signs and
11 weight; (c) preparing and administering medications as directed by physician order; (d)
12 establishing and maintaining systems for patient test results; (e) providing information and
13 assistance to patients; (f) documenting, gathering, and verifying patient information prior to
14 appointment times; (g) processing and responding to patients’ messages; and (h) assisting
15 physicians at their direction.

16 15. Plaintiff received favorable performance evaluations throughout the course of
17 her employment. Known as a “very valuable employee who offers much to the department”
18 from the very beginning, Plaintiff’s accomplishments were lauded throughout her twelve years
19 of working at Kaiser. Plaintiff “contributed significantly to the success of the [intrathecal drug
20 program]” by following patient’s drug usage, MD orders and progress notes.” Plaintiff’s
21 supervisor noted she “always thinks of the patient first,” is “always willing to help the
22 administrative staff” and Plaintiff “strives to keep the MD’s on time and ... satisfy members.”
23 In addition, Plaintiff “work[ed] well with the [Department Administrator] and MD chief.”

24 16. Kaiser was Moreno’s healthcare provider for ten years without issue. However,
25 in January 2012, Plaintiff’s and her son’s lives changed after her son’s kidney stone went
26 undetected. What began as a kidney stone misdiagnosis led to Moreno being forced to have
27 surgery in August 2013 to have his entire kidney removed. Unfortunately, Moreno’s surgery
28 then caused him many complications, including multiple infections, acute renal failure, and

1 ultimately septic shock. During this time, Moreno had frequent appointments at Kaiser and he
2 was admitted to the hospital approximately thirty times over the course of three years. Moreno
3 experienced significant pain and was treated at Kaiser's Pain Management Clinic where
4 Plaintiff worked. Dr. Patrick Watson was Moreno's treating physician. Moreno's medical
5 treatment became a significant expense and inconvenience for Kaiser.

6 17. Beginning on or about March 2014, Plaintiff and her son grew increasingly
7 concerned with Moreno's medical treatment at Kaiser, and made their concerns known to Dr.
8 Watson and other Kaiser staff members. Moreno continued to be treated by Dr. Watson,
9 though Moreno and Plaintiff made it known that they felt Moreno was not receiving proper
10 treatment as he continued to experience excruciating pain.

11 18. On July 7, 2014, Moreno was scheduled to see Dr. Watson at the Pain
12 Management Clinic. Plaintiff took her rest break and asked Nadine Manzano, a Licensed
13 Vocational Nurse, to cover her duties. During Plaintiff's break, Plaintiff attended Moreno's
14 appointment with him off-duty and as his mother. During the appointment, Plaintiff and
15 Moreno expressed concern about the treatment Moreno was receiving. Dr. Watson stated to
16 Plaintiff that he could no longer treat Moreno anymore because there was a "conflict of
17 interest." When Plaintiff asked Dr. Watson what he meant, he said to Plaintiff "sooner or later
18 we knew this was coming."

19 19. On or about August 26, 2014, moving forward from Kaiser's refusal to treat
20 Moreno, Moreno raised concerns about being repeatedly denied medical services to Kaiser's
21 administrative staff and was directed to speak to Trask (Plaintiff's boss). Trask, Moreno, and a
22 lead physician from the Pain Management Clinic, Dr. Michael Jaffe, met in person to discuss
23 Moreno's concerns about his medical treatment and that he thought it was inappropriate for Dr.
24 Watson to no longer see him. Dr. Jaffe told Moreno "you wouldn't want anything to happen to
25 your mother, would you?" Though Dr. Jaffe said he would refer Moreno to another pain
26 management specialist within two days neither Dr. Jaffe nor Kaiser provided Moreno a
27 referral.

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1 20. Instead, the following day (August 27, 2014), Moreno went into septic shock.
2 When Plaintiff arrived home after working her shift at the Pain Management Clinic, she found
3 Moreno shivering, in pain, and suffering from an extremely high temperature. Fraught with
4 anxiety about the possibility that he had gone into septic shock, Plaintiff called an ambulance
5 for Moreno and stayed with him in the hospital overnight. The hospital confirmed that Moreno
6 had indeed gone into septic shock.

7 21. The next day, August 28, 2014, Plaintiff, following Kaiser's sick call procedure,
8 called Kaiser's department clerk Lori Quintero to inform her that she would not be in to work
9 that day pursuant to the California Employment Sick Leave Act (Labor Code §233) ("kin care"
10 leave). Within a few hours, Trask called Plaintiff and accused Plaintiff of attempting to take an
11 extended holiday. Trask demanded Plaintiff provide proof of her son's condition and that he
12 was in the hospital. Plaintiff provided Trask with the requisite documentation stating that
13 Plaintiff would be out on caregiver leave through September 4, 2014.

14 22. After Plaintiff and Moreno lodged complaints with Dr. Watson and Dr. Jaffe
15 about Moreno's treatment and care, and immediately after Plaintiff took kin care leave,
16 Kaiser's retaliation against Plaintiff commenced.

17 23. Almost immediately after hanging up the phone with Trask on August 28, 2014,
18 a nurse at the Kaiser hospital where Moreno was currently being treated noticed that the "break
19 the glass" function suddenly appeared on Moreno's electronic medical record. "Break the
20 glass" is a privacy setting on a patient's record requiring extra authentication before access to
21 records would be granted, which according to Kaiser's policy can be placed on the patient's
22 account only by the patient. Based on information and belief, against Kaiser policy, Trask had
23 "break the glass" placed on Moreno's account without Moreno's approval.

24 24. Without notice or proper justification, upon arriving at work on September 5,
25 2014 from kin care leave, Plaintiff was placed on investigatory suspension effective
26 immediately. Plaintiff was given a specious and vague explanation that she was being
27 investigated for improper accessions of a patient's medical record. Plaintiff remained on
28 suspension until she received a termination notice dated October 28, 2014. According to the

1 notice, Kaiser was terminating Plaintiff's employment for alleged "inappropriate accessions of
2 a patient's medical record, performing a pill count with narcotic medication outside the scope
3 of your practice and without physician direction, and violating Kaiser's Principles of
4 Responsibility." Kaiser's alleged reasons for terminating Plaintiff are pretext for its true,
5 unlawful reason, namely, Plaintiff's association with her disabled son and for taking kin-care
6 leave to care for her son.

7 25. The supposed "patient medical record" that Plaintiff had allegedly
8 "inappropriately accessed" was that of Plaintiff's son, Moreno. Plaintiff never inappropriately
9 accessed Moreno's medical file. Each time Plaintiff accessed Moreno's records via Kaiser's
10 online database, it was accessed for a legitimate work-related task, and Kaiser did not make a
11 legitimate attempt to verify whether Plaintiff's accessions of Moreno's records were
12 appropriate. Plaintiff, the only medical assistant on duty most shifts at the Pain Management
13 Clinic, would check Moreno in for each of his appointments, and access his health records to
14 perform her job duties accordingly. Most of this was done using Kaiser's electronic health
15 record system, HealthConnect. Kaiser was aware of this at all relevant times and it was never
16 an issue. Moreover, Kaiser knew Moreno granted Plaintiff authority to access all of Moreno's
17 medical information. Plaintiff, who not only had durable power of attorney over Moreno's
18 records, shared a home office with Moreno where they jointly maintained Moreno's records
19 which she had full authority to review. Given the nature of his medical conditions, Plaintiff
20 and her son often discussed Moreno's latest developments in his medical care, and the two
21 read Moreno's medical records together at home, as Dr. Watson was well aware of. In short,
22 Plaintiff did not inappropriately access her son's medical record, nor would she have any need
23 to – facts which Kaiser was well aware of prior to Plaintiff's termination. Kaiser simply tried
24 to find something, anything, to terminate Plaintiff's employment – yet, its purported reason is
25 provably false and Kaiser knew it was false at the time of Plaintiff's termination.

26 26. Like the pretextual reason of alleged inappropriate accessions of Moreno's
27 medical record, the alleged pill count without physician direction and failure to document the
28 same in Moreno's medical record is patently and provably false. The pill count was done at

1 the direction of Dr. Watson and Dr. Watson himself documented the pill count in Moreno's
2 medical record. Specifically, on June 30, 2014, Moreno came to the Pain Management Clinic
3 to see Dr. Watson. On the morning of Moreno's appointment, Dr. Watson asked Plaintiff to
4 remind Moreno to bring his medication to his appointment and to get a pill count upon
5 Moreno's arrival, which she did. Plaintiff did not find this unusual as Dr. Watson and another
6 doctor had previously asked Plaintiff to conduct the same type of task. Based on information
7 and belief, Trask saw Plaintiff counting the pills Moreno brought to his appointment. Plaintiff
8 counted 57 Dilaudid pills in the container, which Dr. Watson made a note of on Moreno's
9 health record. Plaintiff, never having been told not to perform pill counts, simply followed
10 physician direction and acted within the scope of her job duties. Kaiser had access to
11 Moreno's medical record which plainly shows Dr. Watson recorded the pill count, yet, Kaiser
12 boldly and falsely stated in Plaintiff's termination letter that the pill count was not
13 documented.

14 27. Rather, Kaiser retaliated against and ultimately wrongfully terminated
15 Plaintiff's employment because of her association with her disabled son and for taking kin care
16 leave to care for her son.

17 28. As a result of Kaiser's conduct, Plaintiff has suffered, and continues to suffer,
18 humiliation, embarrassment, emotional distress, and mental anguish. Plaintiff is a victim of
19 Kaiser's unlawful practices and therefore brings this action to recover damages, restitution,
20 attorneys' fees and costs, and injunctive and declaratory relief.

21 FIRST CAUSE OF ACTION

22 Discrimination and Wrongful Termination 23 In Violation of Government Code §12940(a)

24 29. Plaintiff re-alleges and incorporates herein by reference each and every
25 allegation in the preceding and subsequent paragraphs.

26 30. Government Code §12940 states in pertinent part: "It is an unlawful
27 employment practice ... (a) [f]or an employer, because of the ... physical disability ... of any
28 person ... to discharge the person from employment" Government Code §12940(a). It is

1 also unlawful to terminate an employee due to “a perception ... that the person is associated
2 with a person who has, or is perceived to have” a physical disability. Government Code
3 §12926(o); *see also Rope v. Auto-Chlor System of Washington, Inc.*, 220 Cal. App. 4th 635,
4 655-656 (2013).

5 31. At all times mentioned herein, Plaintiff was in a class of persons protected by
6 Government Code §12940 because of her association to her disabled son, and Kaiser was
7 aware of her son’s disability, and that Plaintiff was associated to her son.

8 32. As alleged herein and in violation of Government Code §12940, *et seq.*, Kaiser
9 discriminated against and wrongfully terminated Plaintiff on the basis of her association to her
10 disabled son.

11 33. As a proximate result of Kaiser’s wrongful conduct, Plaintiff has suffered, and
12 continues to suffer, substantial losses in earnings and job benefits in an amount to be
13 determined according to proof at the time of trial.

14 34. As a further proximate result of Kaiser’s wrongful conduct, Plaintiff has
15 suffered, and continues to suffer, humiliation, embarrassment, emotional distress, and mental
16 anguish, all in an amount to be determined according to proof at the time of trial.

17 35. In doing the acts herein alleged, Kaiser acted with oppression, fraud, malice,
18 and in conscious disregard of the rights of Plaintiff, and Plaintiff is therefore entitled to
19 punitive damages against Kaiser in an amount appropriate to punish and make an example of
20 Kaiser.

21 36. Plaintiff is also entitled to attorneys’ fees pursuant to Government Code
22 §12965(b) as a result of Kaiser’s wrongful conduct.

23 **SECOND CAUSE OF ACTION**

24 **Failure to Prevent Discrimination from Occurring**
25 **In Violation of Government Code §12940(k)**

26 37. Plaintiff re-alleges and incorporates herein by reference each and every
27 allegation in the proceeding and subsequent paragraphs.

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1 initiated, participated, or cooperated in an investigation or administrative proceeding related to,
2 the quality of care, services, or conditions at the facility that is carried out by an entity or
3 agency responsible for accrediting or evaluation the facility or its medical staff, or
4 governmental entity.”

5 46. Similarly, section 1278.5(b)(2) further provided that: “No entity that owns or
6 operates a health facility, or which owns or operates any other health facility, shall
7 discriminate or retaliate against any person because that person has taken any actions pursuant
8 to this subdivision.”

9 47. Section 178.5(d)(1) further states: “There shall be a rebuttable presumption that
10 discriminatory action was taken by the health facility, or by the entity that owns or operates
11 that health facility ... in retaliation against an employee, member of the medical staff, or any
12 other health care worker of the facility, if the responsible staff at the facility or the entity that
13 owns or operates the facility had knowledge of the actions, participation, or cooperation of the
14 person responsible for any acts described in paragraph (1) of subdivision (b), and the
15 discriminatory action occurs within 120 days of the filing of the grievance or complaint by the
16 employee, member of the medical staff or any other health care worker of the facility.”

17 48. Kaiser is a “health facility” covered by and subject to Health and Safety Code
18 §1278.5. Kaiser is a facility, place, and/or building that is organized, maintained, and operated
19 for the diagnosis, care, prevention, and treatment of human illness, physical or mental,
20 including convalescence and rehabilitation and including care during and after pregnancy, or
21 for any one or more of these purposes, for one or more persons, to which the persons are
22 admitted for a 24-hour stay or longer. Moreover, under Health and Safety Code §1278.5(i), a
23 “health facility” is defined as including not only “any facility defined under this chapter,” but
24 also “the facility’s administrative personnel, employees, boards, and committees of the board,
25 and medical staff.” The individual decision-makers on Plaintiff’s termination were medical
26 staff, administrative personnel, and employees who were employed by Kaiser and served
27 Kaiser’s patients, including Plaintiff’s son.

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1 49. Plaintiff is informed and believes and thereon alleges that Kaiser owns and/or
2 operates a "health facility" covered by and subject to Health and Safety Code §1278.5.

3 50. At all relevant times, Plaintiff was a member of the class of persons entitled to
4 protection under the California Whistleblower Protection Law embodied in Health and Safety
5 Code section 1278.5. Specifically, at all times relevant, Plaintiff was an employee, member of
6 the medical staff, and/or health care worker of Kaiser.

7 51. Kaiser violated the California Whistleblower Protection Law by discriminating
8 and retaliating against Plaintiff for having presented grievances, complaints, and/or reports to
9 Kaiser regarding patient care concerns or the quality of patient care, including, but not limited
10 to, grievances that Kaiser's mishandling of the care and treatment of Moreno, a patient in
11 Kaiser's hospital, emergency room, pain clinic, and other facilities, as unsafe and illegitimate.
12 Plaintiff presented the following grievances: Kaiser misdiagnosed Moreno, causing
13 unnecessary procedures and treatment; Kaiser was inhibiting and precluding Moreno from
14 having access to proper and safe treatment for his pain; and Kaiser discharged Moreno from
15 the pain clinic for improper reasons unrelated to his care.

16 52. Kaiser's retaliatory conducted included, but is not limited to: unwarranted
17 adverse action, including suspension and the termination of Plaintiff's employment, due to
18 Plaintiff's protected grievances, complaints, and/or reports to Kaiser of issues relating to
19 patient care, services, and conditions at Kaiser's health facilities.

20 53. As a direct and foreseeable result of the aforesaid acts of Kaiser, Plaintiff has
21 lost and will continue to lose income and benefits in an amount to be proven at the time of
22 trial.

23 54. As a result of the aforesaid acts of Kaiser, Plaintiff claims general damages for
24 mental and emotional distress and aggravation in an amount to be proven at the time of trial.

25 55. The above described acts of Kaiser, by and through their managing agents,
26 officers or directors, were engaged in with a deliberate, cold, callous, fraudulent, and
27 intentional manner in order to injure and damage Plaintiff and/or with a conscious disregard of
28 Plaintiff and her rights. Such acts were despicable, and constitute malice, fraud, and/or

1 oppression within the meaning of Civil Code section 3294. Plaintiff requests an assessment of
2 punitive damages against Kaiser, in an amount to be proven at time of trial.

3 56. As a result of Kaiser's unlawful conduct, Plaintiff has and will continue to incur
4 legal costs and fees. Plaintiff will also seek and are entitled to recover attorney's fees in
5 connection with this cause of action under Health and Safety Code §1278.5.

6 **FOURTH CAUSE OF ACTION**

7 **Wrongful Termination**
8 **In Violation Of Public Policy**

9 57. Plaintiff hereby realleges and incorporates by reference the allegations
10 contained in the paragraphs above, as if fully set forth herein.

11 58. At all times during her employment with Kaiser, Plaintiff performed her duties
12 in an exemplary fashion.

13 59. Plaintiff is informed and believes, and thereon alleges, that Kaiser's termination
14 of Plaintiff employment, as alleged herein, was based on Plaintiff's association with her
15 disabled son and in retaliation for her protected activity, and that any other reasons proffered
16 by Kaiser were, and are, pre-textual.

17 60. By reason of the aforementioned conduct and circumstances, Kaiser violated
18 the fundamental public policies of the State California, as set forth in Government Code
19 §12940 and Health & Safety Code §1278.5, which mandate that employees be free from
20 discrimination and retaliation on the basis their association with a person with a disability and
21 for reporting unsafe conditions.

22 61. As a proximate result of Kaiser's wrongful conduct, Plaintiff has suffered, and
23 continues to suffer, substantial losses in earnings and job benefits in an amount to be
24 determined according to proof at the time trial.

25 62. As a further proximate result of Kaiser's wrongful conduct, Plaintiff has
26 suffered, and continues to suffer, humiliation, embarrassment, emotional distress, and mental
27 anguish, all in an amount to be determined according to proof at the time trial.

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SIXTH CAUSE OF ACTION

Negligent Infliction of Emotional Distress

70. Plaintiff hereby realleges and incorporates by reference the allegations contained in the paragraphs above, as if fully set forth herein.

71. As Kaiser’s employee, Plaintiff was owed a duty of due care by Kaiser to ensure that Plaintiff was not exposed to foreseeable harm. As set forth above, despite the fact that Plaintiff consistently and competently performed and adhered to the essential professional and ethical duties of her job, Kaiser discriminated against Plaintiff by wrongfully terminating her employment based on Plaintiff’s association with her disabled son and for taking kin care leave.

72. As a proximate result of Kaiser’s wrongful conduct, Plaintiff has suffered, and continues to suffer, substantial losses in earnings, earning capacity, and other benefits of employment, all in an amount to be determined according to proof at the time of trial.

73. As a further proximate result of Kaiser’s wrongful conduct, Plaintiff has suffered and continues to suffer humiliation, embarrassment, emotional distress, and mental anguish, all in an amount to be determined according to proof at the time of trial.

74. In performing the acts alleged herein, Kaiser acted with oppression, fraud, malice and with conscious disregard for the rights of Plaintiff, and Plaintiff is therefore entitled to punitive damages against Kaiser in an amount appropriate to punish and make an example of Kaiser.

SEVENTH CAUSE OF ACTION

**Violations of The Unfair Competition Law,
Business & Professions Code §§17200, et seq.**

75. Plaintiff hereby realleges and incorporates by reference the allegations contained in the paragraphs above, as if fully set forth herein.

76. Kaiser are “person[s]” as defined under Bus. & Prof. Code §17021.

77. Each of the directors, officers, and/or agents of Kaiser is equally responsible for the acts of the others as set forth in Bus. & Prof. Code §17095.

1 78. Kaiser engaged in unlawful activity prohibited by Bus. & Prof. Code §§17200,
2 *et seq.* The actions of Kaiser as alleged within this complaint constitute unlawful and unfair
3 business practices with the meaning of Bus. & Prof. Code §§17200, *et seq.*

4 79. As described above, Kaiser have conducted the following unlawful activities:

5 (a) violation of Government Code §12940(a), by discriminating against and
6 wrongfully terminating Plaintiff on the basis of her association with her disabled son;

7 (b) violation of Government Code §12940(k), by failing to prevent the
8 aforementioned discrimination from occurring;

9 (c) violation of Labor Code §233, by discriminating against, suspending
10 and discharging Plaintiff as a direct result of taking kin care leave;

11 (d) violation of Health & Safety Code §1278.5, by discriminating and
12 retaliating against Plaintiff as a direct result of her grievances, complaints, and/or reports to
13 Kaiser regarding patient care concerns or the quality of patient care; and

14 (e) violation of public policy for discriminating against and wrongfully
15 terminating Plaintiff on the basis of her association with her disabled son.

16 80. Kaiser's activities also constitute unfair practices in violation of Bus. & Prof.
17 Code §§17200, *et seq.*, because Kaiser's practices violate the above noted laws, and/or violate
18 an established public policy, and/or the practice is immoral, unethical, oppressive,
19 unscrupulous, and substantially injurious to Plaintiff.

20 81. The identified violations of the Government Code constitute business practices
21 because they were done repeatedly over a period of time, and in a systematic manner to the
22 detriment of Plaintiff.

23 82. As a result of Defendant' violations of the Government Code and other
24 identified laws, Plaintiff has suffered injury-in-fact and has lost money or property as a result
25 of Kaiser's practices. This injury-in-fact and loss of money or property consists of the lost
26 wages and other restitutionary remedies provided by the Government Code as detailed in this
27 complaint and other resulting harms. Plaintiff is entitled to restitution, an injunction,
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1 declaratory, and other equitable relief against such unlawful practices to prevent future damage
2 for which there is no adequate remedy at law.

3 83. As a direct and proximate result of the unfair business practices of Kaiser,
4 Plaintiff is entitled to equitable and injunctive relief, including full restitution of all wages
5 which have been unlawfully lost as a result of the business acts and practices described herein,
6 and enjoining Kaiser to cease and desist from engaging in the practices described herein for the
7 maximum time permitted pursuant to Bus. & Prof. Code §17208, including any tolling.

8 84. Plaintiff is also entitled to attorneys' fees and costs, pursuant to the private
9 attorney general theory doctrine (Code of Civil Procedure §1021.5), and any other applicable
10 provision for attorneys' fees and costs, based upon the violation of the underlying public
11 policies.

12 **PRAYER**

13 WHEREFORE, Plaintiff seeks judgment as follows:

- 14 A. For general damages, according to proof;
- 15 B. For loss of earnings, according to proof;
- 16 C. For punitive and exemplary damages, according to proof;
- 17 D. For costs of suit;
- 18 E. For attorneys' fees;
- 19 F. For pre-judgment interest; and
- 20 G. For such other and further relief as the Court deems just and proper.

21 **DEMAND FOR JURY TRIAL**

22 Plaintiff demands a trial by jury on all claims.

23 Dated: October 27, 2016

ZELDES HAEGGQUIST & ECK, LLP
ALREEN HAEGGQUIST (221858)
AARON M. OLSEN (259923)

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27 By: _____
AARON M. OLSEN

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225 Broadway, Suite 2050
San Diego, CA 92101
Telephone: 619-342-8000
Facsimile: 619-342-7878
alreenh@zhlaw.com
aaron@zhlaw.com

THE deRUBERTIS LAW FIRM, APC
DAVID M. deRUBERTIS (208709)
4219 Coldwater Canyon Avenue
Studio City, California 91604
Telephone: 818-761-2322
Facsimile: 818-761-2323
david@deRubertisLaw.com

Attorneys for Plaintiff