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LISA SANDERS-NAKAHARA

ELECTRONICALLY
FILED
Superior Court of California,
County of San Francisco

07/08/2024
Clerk of the Court
BY: MARK UDAN
Deputy Clerk

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN FRANCISCO

CGC-24-616233

LISA SANDERS-NAKAHARA, individually
Plaintiff,

v.

CALYPTIA, INC., a Delaware Corporation; and
DOES 1 through 50, inclusive.

Defendants.

Case No.

COMPLAINT FOR DAMAGES

1. Retaliation, Cal. Gov't Code §12940(h)
2. Retaliation, Labor Code §1102.5
3. Retaliation, Cal. Lab. C. § 98.6
4. Gender Discrimination, Cal. Gov't Code §12940
5. Disability Discrimination, Cal. Gov. Code § 12940
6. Age Discrimination, Cal. Gov. Code § 12940
7. Failure to Prevent Discrimination, Harassment, and Retaliation, Cal. Gov. Code § 12940
8. Hostile Work Environment Harassment, Cal. Gov. Code § 12940(j)
9. Intentional Infliction of Emotional Distress
10. Wrongful Termination in Violation of Public Policy
11. Use and Disclosure Of Medical Information by Employers, California Civil Code §56.20
12. Public Disclosure of Private Facts

DEMAND FOR JURY TRIAL

1. Plaintiff LISA SANDERS-NAKAHARA ("Sanders-Nakahara" or "Plaintiff"), individually, brings this action against Defendant CALYPTIA, INC. ("Calyptia"), a Delaware Corporation,

1 and DOES 1 through 50.

2 ***PARTIES***

3 2. Plaintiff is, and at all times relevant to this action was, a resident of the City of Martinez,
4 California. The events giving rise to this action arose in San Francisco County, California.

5 3. Plaintiff is informed and believes, and based thereon alleges, that Defendant Calyptia was
6 at all relevant times a Delaware Corporation and is authorized to do business in California.

7 4. Plaintiff does not know the true names of Defendants Does 1 through 50, inclusive, and
8 therefore sues them by those fictitious names. The names, capacities, and relationships of Defendants Does
9 1 through 50, inclusive, will be alleged by amendment to this Complaint when the same are known to
10 Plaintiff.

11 5. The true names and capacities, whether individual, corporate, associate or otherwise, of
12 defendants Does 1 through 50 ("Does"), inclusive and each of them, are not known to Plaintiff at this time.
13 Such Does are legally responsible for the events and happenings described herein and for the damages
14 proximately caused thereby. Plaintiff will seek the leave of the Court to amend this complaint to set forth
15 the true names and capacities of any such Does when they have been ascertained.

16 6. On information and belief, at all times mentioned herein, defendants, inclusive and each of
17 them, including without limitation any Does, were acting in concert and participation with each other; were
18 joint participants and collaborators in the acts complained of; and were the agents and/or employees of one
19 another in doing the acts complained of herein, each acting within the course and scope of said agency
20 and/or employment.

21 7. Calyptia and Does 1 through 50, inclusive, are collectively referred to hereafter as
22 "Defendants".

23 ***JURISDICTION AND VENUE***

24 8. This Court has jurisdiction over Defendant Calyptia, because at all times relevant, it is and
25 was authorized to transact, and is transacting business in San Francisco County, California.

26 9. Venue is proper in this Court pursuant to Code of Civil Procedure § 395, because the acts,
27 events and omissions complained of herein occurred in San Francisco County, California.

28 ***EXHAUSTION OF ADMINISTRATIVE REMEDIES***

10. On or about June 27, 2024, Plaintiff obtained a Right to Sue Letter from the California Civil Rights Department attached hereto as Exhibit A.

GENERAL ALLEGATIONS

11. Lisa Sanders-Nakahara is a 55-year-old female who began working for Calyptia, Inc. (“Calyptia”) on April 1, 2022, as the Global Head of Operations, People and Talent until her wrongful termination on June 16, 2023.

12. Throughout employment with Defendant Calyptia, Ms. Sanders-Nakahara was a model employee, often praised for her work. Ms. Sanders-Nakahara received no written warnings or disciplinary actions.

13. On or around September 10, 2022, until April of 2023, Ms. Sanders-Nakahara took on an additional role of Head of Marketing, after Defendants let the previous Head of Marketing go, in addition to her current role as Global Head of Operations, People and Talent. Ms. Sanders-Nakahara did not receive additional pay for taking on this additional role.

14. On January 17, 2023, Jorge Niedbalski (“Niedbalski”), Senior Software Engineering Manager, took time off from work for approved medical leave. After three months off with full monthly salary and pay, he returned on April 3, 2023, to a limited capacity, working part time with full time salary for some months before resuming full time status and hours. Calyptia did not discriminate against or harass Mr. Niedbalski and he was not questioned why he needed the time off. In addition, while out on leave, Mr. Niedbalski asked Ms. Sanders-Nakahara if he should attain a letter from his doctor to which Ms. Sanders-Nakahara told him to follow up with Eduardo Silva (“Silva”), the CEO and Co-Founder of Calyptia. In response, Mr. Silva said a doctor’s note was not necessary, and he and the VP Product and Co-Founder, Anurag Gupta (“Gupta”), told Mr. Niedbalski, “Take as much time as you need; your health is the most important thing.”

15. Ms. Sanders-Nakahara was not met with the same level of support and understanding as her male colleagues. As a result, Defendants discriminated against Plaintiff because of her gender.

16. On February 27, 2023, Ms. Sanders-Nakahara informed Mr. Silva and Mr. Gupta that she was set to undergo a surgical procedure regarding her medical condition on Friday, March 17, 2023. She stated that she only required one day off and would be returning to her job, without needing any

1 additional time off, the following Monday.

2 17. Ms. Sanders-Nakahara made clear that Mr. Silva and Mr. Gupta should not inform anyone
3 at Calyptia about her medical condition. She stated, “I do not want to share this with anyone else.” To
4 which, Mr. Silva and Mr. Gupta agreed.

5 18. However, in violation of Plaintiff’s wishes, in violation of her right to privacy, and in
6 violation of HIPPA regulations, Mr. Silva and Mr. Gupta immediately broke their agreement.

7 19. On March 20, 2023, during a weekly leadership call, Mr. Silva informed Ms. Sanders-
8 Nakahara that he disclosed information concerning her medical condition with Calyptia’s Board of
9 Directors without her consent. Bernie Mahon (“Mahon”) was also on the call. Mr. Silva informed Mr.
10 Mahon of Ms. Sanders-Nakahara’s medical condition during the call without Ms. Sanders-Nakahara’s
11 consent.

12 20. Ms. Sanders-Nakahara then informed Mr. Silva, Mr. Gupta, and Mr. Mahon that she
13 rescheduled her appointment for her medical procedure to Friday, March 24, 2023.

14 21. Further, and to compound his discriminatory actions and in further violation Plaintiff’s
15 right of privacy, Mr. Silva stated, “Lisa, we have shared your medical situation with the Board of
16 Directors, and they suggested that we contact outside counsel to provide you with the accommodations
17 you are asking for.” Ms. Sanders-Nakahara responded, “I did not request accommodations.” To which
18 Mr. Silva replied, “I will send you the letter.”

19 22. On the same day of March 20, 2023, Ms. Sanders-Nakahara received a letter via email
20 regarding “Request for Accommodation” although she had not requested, nor did she require any
21 “accommodation.”

22 23. Mr. Silva deliberately violated Plaintiff’s right of privacy.

23 24. Mr. Silva’s violation of Plaintiff’s right of privacy caused Plaintiff severe emotional
24 distress.

25 25. Mr. Silva knew or should have known that violating Plaintiff’s right of privacy would
26 cause Plaintiff emotional distress.

27 26. However, in this email Mr. Silva demanded Ms. Sanders-Nakahara’s doctor complete a
28 documentation regarding “reasonable accommodation.”

1 27. Defendants discriminated against Ms. Sanders-Nakahara based on her gender as a woman,
2 her medical condition, and that she would require some form of accommodation to perform her job.
3 Since Defendants did not require Ms. Sanders-Nakahara's male colleagues to seek accommodations.

4 28. On the same day of March 20, 2023, Mr. Silva began removing Ms. Sanders-Nakahara's
5 important job functions. At that time Ms. Sanders-Nakahara held four critical leadership roles in the
6 company. As the Head of People and Talent, it was her duty to be directly involved with all hiring of
7 candidates including the sourcing, interview, managing the process, onboarding, and offers to candidates
8 to join the company. As the Head of Marketing, Mr. Silva and Mr. Gupta excluded Ms. Sanders-
9 Nakahara from the marketing messaging project, which many employees questioned as they continued to
10 have Ms. Sanders-Nakahara perform day-to-day marketing activities. As a form of discrimination and
11 retaliation, Mr. Silva removed Ms. Sanders-Nakahara from many of her key roles. Mr. Silva began to
12 provide unclear instructions, withhold information, and exclude her from communications in efforts to
13 prevent Ms. Sanders-Nakahara from performing her job duties.

14 29. Following the incident on March 20, 2023, Mr. Silva's communication to Ms. Sanders-
15 Nakahara took a sharp turn to a demeaning, condensing, harassing, and threatening manner. However, he
16 did not speak to her male colleagues in this same manner. Further validating that Ms. Sanders-
17 Nakahara's medical condition and gender was being used to discriminate and retaliate against her. This
18 caused Ms. Sanders-Nakahara to experience severe emotional distress.

19 30. On March 24, 2023, Ms. Sanders-Nakahara responded to Calyptia's request of reasonable
20 accommodations via email. She confirmed that she did not require any form of accommodation. She
21 confirmed that neither her medical condition nor her treatment impacted her ability to perform all her
22 essential job functions and that she would not have her doctor submit any documentation because she had
23 not requested a reasonable accommodation.

24 31. Ms. Sanders-Nakahara began lodging complaints and questioning why she was not being
25 included on many occasions, why she was not interviewing candidates, and why she was removed as the
26 Head of Marketing. As a clear act of retaliation and obvious plot to terminate Ms. Sanders-Nakahara, Mr.
27 Silva responded, "So yeah, I am taking over Marketing."

28 32. Ms. Sanders-Nakahara also questioned Mr. Silva when he hired his niece, a female

1 between the age of 20-30 years old, for a role that appeared to be a decision to remove Ms. Sanders-
2 Nakahara from her responsibilities under the role of the Head of Operations, People and Talent for the
3 company.

4 33. In retaliation, on May 12, 2023, Mr. Silva continued to remove more tasks and
5 responsibilities from Ms. Sanders-Nakahara's role.

6 34. On June 16, 2023, around 4:30 p.m., Mr. Silva wrongfully terminated Ms. Sanders-
7 Nakahara's employment on a Zoom call stating, "it is for the best".

8 35. On information and belief, Defendants moved Mr. Silva's niece into Ms. Sanders-
9 Nakahara role giving her all the duties and responsibilities once owned by Ms. Sanders-Nakahara.
10 Defendants wrongfully terminated Plaintiff using the description of "it is for the best" as a pretext to rid
11 itself of their older worker in violation of both Federal and California law.

12 36. Defendants have discriminated and retaliated against Ms. Sanders-Nakahara based on
13 gender, age, and disability discrimination and in violation of Cal. Gov. Code § 12940. Defendants failed
14 to investigate and prevent the forgoing discrimination and retaliation, despite Plaintiff's responses of not
15 needing accommodation, in violation of Cal. Gov. Code § 12940.

16 37. Defendants shared Ms. Sanders-Nakahara confidential medical information with the
17 Board in violation of state and federal laws. Ms. Sanders-Nakahara shared details of her condition with
18 Mr. Silva and Mr. Gupta in confidence, which should not have been shared with the Board.

19 38. As a direct result of the harassment and discrimination in the workplace, Ms. Sanders-
20 Nakahara has experienced intentional infliction of emotional distress, stress, accuse anxiety, clinical
21 depression, sleeplessness, stress, weight change, physical changes, emotional changes that resulted in
22 Ms. Sanders-Nakahara seeing a counselor and being placed on mediations right away. Ms. Sanders-
23 Nakahara has feelings of being unqualified and self-doubt. Ms. Sanders-Nakahara was also put into an
24 intense six-week immersive therapy as these symptoms have grown to be debilitation, making it
25 impossible for her to return to work.

26 39. As a direct result of violating state and federal laws and sharing Ms. Sanders-Nakahara's
27
28

1 confidential medical information with the Board caused Ms. Sanders-Nakahara embarrassment and
2 character defamation with her personal friends and colleagues, as she has known the Board members for
3 approximately 11 years. In addition, Ms. Sanders-Nakahara has been told on multiple occasions by past
4 employees that they were sorry to hear about her medical condition, meaning that the Board members
5 also spread her confidential medical information outside of the Board. These comments have been
6 devastating to Ms. Sanders-Nakahara as an executive leader, and the subject now of slanderous
7 comments that has had significant impact on her emotional stability.

9 40. Additionally, as a result of the discrimination and retaliation Plaintiff was wrongfully
10 terminated.

11 41. On information and belief, Defendants retaliated against Ms. Sanders-Nakahara by
12 removing her important job functions and key roles. Defendants allowed her direct manager Mr. Silva to
13 provide her unclear instructions, withhold information, and exclude her from communications in an
14 efforts to prevent her from performing her job duties.

15 42. On information and belief, Ms. Sanders-Nakahara's termination was in retaliation for
16 requesting time off due a medical procedure, not completing a reasonable accommodations document,
17 being a female, and complaining about her confidential medical information being shared in violation of
18 state and federal laws.

20 ***FIRST CAUSE OF ACTION***

21 *Retaliation*

22 *Cal. Gov. Code §12940(h)*

23 *(Against All Defendants)*

24 43. Plaintiff re-pleads, re-alleges, and incorporates by reference each and every allegation set
25 forth in this Complaint.

26 44. At all relevant times, the California Fair Employment & Housing Act, sections 12940, et
27 seq., was in full force and effect, and binding on Defendant.

1 45. FEHA makes it an unlawful employment practice for an employer to retaliate against an
2 employee who has opposed a forbidden practice or filed a complaint against an employer or supervisor.
3 CGC §12940(h).

4 46. Government Code section 12940(h) provides in relevant part:

5 It is an unlawful employment practice . . . (h) For any employer, labor
6 organization, employment agency, or person to discharge, expel, or
7 otherwise discriminate against any person because the person has opposed
8 any practices forbidden under this part or because the person has filed a
9 complaint, testified, or assisted in any proceeding under this part.

10 47. Defendant was Plaintiff's employer, and Plaintiff was Defendant's employee.

11 48. Plaintiff complained about gender and disability discrimination and harassment. Plaintiff
12 also made complaints regarding being asked to have her doctor fill out an accommodations document, when
13 Plaintiff did not ask for any accommodations.

14 49. Defendant retaliated by removing her important job functions and key roles. Defendants
15 allowed her direct manager Mr. Silva to provide her unclear instructions, withhold information, and
16 exclude her from communications in an efforts to prevent her from performing her job duties.

17 50. Instead of investigating and taking immediate and appropriate corrective action, Defendant
18 retaliated against Plaintiff by ignoring her complains and illegally firing Plaintiff.

19 51. Plaintiff was harmed.

20 52. Defendant's conduct was a substantial factor in causing Plaintiff's harm.

21 53. The conduct of Defendant was a substantial factor in causing Plaintiff emotional distress,
22 including but not limited to, anxiety, depression, insomnia, withdrawing from friends and family, and
23 feelings of hopelessness.

24 54. As a result of Defendant's actions, Plaintiff sustained damages in an amount to be proven
25 at trial. In addition, Plaintiff is entitled to attorney's fees and costs.

26 ***SECOND CAUSE OF ACTION***

27 *Retaliation*

28 *Labor Code §1102.5*

(Against All Defendants)

55. Plaintiff re-pleads, re-alleges, and incorporates by reference each allegation set forth in this Complaint.

56. At all relevant times, California Labor Code was in full force and effect, and binding on Defendants.

57. Labor Code § 1102.5 makes it an unlawful for an employer to retaliate against an employee who has for disclosing information the employee reasonable believes discloses a violation of state or federal statute, or a violation of or noncompliance with a local, state, or federal rule or regulation.

58. Plaintiff made complaints to Defendants regarding discrimination, hostile work environment, and intimidation she was experiencing from her superiors, Mr. Silva and Mr. Gupta.

59. Additionally, Ms. Sanders-Nakahara made complaints about Defendants sharing her confidential medical information in violation of state and federal laws.

60. Defendants retaliated against Plaintiff by wrongfully terminating her.

61. Plaintiff was harmed.

62. Defendants' conduct was a substantial factor in causing Plaintiff's harm.

63. As a direct and proximate result of the above violations, Plaintiff has suffered damages in the form of past and future wage losses, lost benefits, other pecuniary losses, and emotional distress in an amount to be proven at trial.

64. The conduct of Defendants and each of them as described above was malicious, fraudulent, or oppressive and done with a willful and conscious disregard for Plaintiff's rights. Defendants and each of them, and their agents/employees or supervisors, authorized, condoned, and ratified the unlawful conduct of each other. Consequently, Plaintiff is entitled to punitive damages against each of said Defendants.

THIRD CAUSE OF ACTION

Retaliation

Cal. Gov. Code § 98.6

(Against All Defendants)

65. Plaintiff re-pleads, re-alleges, and incorporates by reference each and every allegation set

1 forth in this Complaint.

2 66. Cal. Lab. Code § 98.6 provides:

3 (a) A person shall not discharge an employee or in any manner discriminate,
4 retaliate, or take any adverse action against any employee . . . because the
5 employee . . . engaged in any conduct delineated in this chapter, including .
6 . . Chapter 5 (commencing with Section 1101) of Part 3 of Division 2, or
because the employee . . . or because of the exercise by the employee or
applicant for employment on behalf of himself, herself, or others of any
rights afforded him or her.

7
8 (b)(1) Any employee who is discharged, threatened with discharge,
9 demoted, suspended, retaliated against, subjected to an adverse action, or in
10 any other manner discriminated against in the terms and conditions of his or
her employment because the employee engaged in any conduct delineated in
this chapter, including . . . Chapter 5 (commencing with Section 1101) of
Part 3 of Division 2 . . . shall be entitled to reinstatement and reimbursement
for lost wages and work benefits caused by those acts of the employer.

12 67. Defendants were Plaintiff's employer, and Plaintiff was Defendants' employee.

13 68. Plaintiff complained about gender and disability discrimination and harassment. Plaintiff
14 also made complaints regarding being asked to have her doctor fill out an accommodations document, when
15 Plaintiff did not ask for any accommodations.

16 69. Defendant retaliated by removing her important job functions and key roles. Defendants
17 allowed her direct manager Mr. Silva to provide her unclear instructions, withhold information, and
18 exclude her from communications in an efforts to prevent her from performing her job duties.

19 70. Instead of investigating and taking immediate and appropriate corrective action, Defendant
20 retaliated against Plaintiff by ignoring her complains and illegally firing Plaintiff.

21 71. Plaintiff was harmed.

22 72. Defendants' conduct was a substantial factor in causing Plaintiff's harm.

23 73. Pursuant to Cal. Lab. Code § 98.6(b)(3), Defendants are liable to Plaintiff for a civil
24 penalty of ten thousand dollars (\$10,000) for each violation.

25 74. The conduct of Defendants and each of them as described above was malicious,
26 fraudulent, or oppressive and done with a willful and conscious disregard for Plaintiff's rights.
27 Defendants and each of them, and their agents/employees or supervisors, authorized, condoned, and
28

ratified the unlawful conduct of each other. Consequently, Plaintiff is entitled to punitive damages against each of said Defendants.

FOURTH CAUSE OF ACTION

Gender Discrimination

Cal. Gov. Code § 12940

(Against All Defendants)

75. Plaintiff re-pleads, re-alleges, and incorporates by reference each and every allegation set forth in this Complaint.

76. Government Code section 12940(a) provides in relevant part:

It is an unlawful employment practice . . . (a) [f]or an employer, because of the . . . sex, gender . . . of any person . . . to discharge the person from employment . . . or to discrimination against the person in compensation or in terms, conditions, or privileges of employment.

77. Plaintiff is female.

78. Plaintiff was subjected to unwelcome gender discrimination.

79. Defendant was Plaintiff's employer, and Plaintiff was Defendants' employee.

80. Plaintiff was constantly harassed by her male superiors. This harassment included her job functions and key roles being removed, providing Plaintiff with unclear instructions, withholding information from Plaintiff and excluding her from communications in an effort to prevent her from performing her job duties, sharing her confidential medical conditions, and forcing Plaintiff to provide accommodations for her health condition after she described not need an accommodation.

81. Throughout her employment, Plaintiff made multiple complaints to Defendant about the harassment and discrimination she received from her male superiors. Despite Plaintiff's complaints of the harassment, Defendants did not remedy the situation.

82. Plaintiff suffered harm when she was discriminated against by Defendants.

83. Defendants' conduct was a substantial factor in causing Plaintiff's harm.

84. Under Government Code section 12940, Plaintiff is entitled to recover economic and noneconomic damages caused by Defendants' discriminatory practices based on Plaintiff's gender and violation of the Fair Employment and Housing Act. Plaintiff is also entitled to reasonable attorney's fees

1 and costs pursuant to Government Code section 12965.

2 85. As a result of Defendants' discriminatory treatment Plaintiff suffered emotional distress
3 and felt humiliated, embarrassed, anxious, and depressed.

4 86. The conduct of Defendants and each of them as described above was malicious,
5 fraudulent, or oppressive and done with a willful and conscious disregard for Plaintiff's rights.
6 Defendants and each of them, and their agents/employees or supervisors, authorized, condoned, and
7 ratified the unlawful conduct of each other.

8 ***FIFTH CAUSE OF ACTION***

9 *Disability Discrimination*

10 *Cal. Gov. Code § 12940*

11 *(Against All Defendants)*

12 87. Plaintiff re-pleads, re-alleges, and incorporates by reference each and every allegation set
13 forth in this Complaint.

14 88. Government Code section 12940(a) provides in relevant part:

15 It is an unlawful employment practice. . . (a) [f]or an employer, because of
16 the. . . physical disability, neurodevelopmental disability to discharge the
17 person from employment. . . or to discriminate against the person in
compensation or in terms, conditions, or privileges of employment.

18 89. Defendant wrongfully discriminated against Plaintiff based on Plaintiff's health condition.

19 90. Defendant was Plaintiff's employer, and Plaintiff was Defendants' employee.

20 91. Defendant became aware that Plaintiff had a health condition that required surgery and one
21 day off of work.

22 92. Plaintiff was able to perform the essential job duties of Plaintiff's position without a
23 reasonable accommodation for Plaintiff's surgery. Defendant refused by requiring Plaintiff to provide a
24 reasonable accommodation.

25 93. Plaintiff was denied her job functions and key roles. Defendants provided Plaintiff with
26 unclear instructions, withheld information from Plaintiff and excluded her from communications in an
27 effort to prevent her from performing her job duties, shared her confidential medical conditions, and forced
28 Plaintiff to provide accommodations for her health condition after she described not need an accommodation,

1 and ultimately illegally fired in violation of the Fair Employment and Housing Act..

2 94. Plaintiff suffered harm.

3 95. Defendant's conduct was a substantial factor in causing Plaintiff's harm.

4 96. The conduct of Defendant was a substantial factor in causing Plaintiff emotional distress,
5 including but not limited to, anxiety, depression, insomnia, withdrawing from friends and family, and
6 feelings of hopelessness.

7 97. Under Government Code section 12940, Plaintiff is entitled to recover economic and
8 noneconomic damages caused by Defendants' discriminatory practices based on Plaintiff's disability and
9 violation of the Fair Employment and Housing Act. Plaintiff is also entitled to reasonable attorney's fees
10 and costs pursuant to Government Code section 12965.

11 ***SIXTH CAUSE OF ACTION***

12 *Age Discrimination*

13 *Cal. Gov. Code § 12940*

14 *(Against All Defendants)*

15 98. Plaintiff re-pleads, re-alleges, and incorporates by reference each and every allegation set
16 forth in this Complaint.

17 99. Government Code section 12940(a) provides in relevant part:

18 It is an unlawful employment practice. . . (a) [f]or an employer, because
19 of the race, religious creed, color, national origin, ancestry, physical
20 disability, mental disability, medical condition, genetic information,
21 marital status, sex, gender, gender identity, gender expression, age, sexual
22 orientation, or military and veteran status of any person, to refuse to hire
23 or employ the person or to refuse to select the person for a training
program leading to employment, or to bar or to discharge the person from
employment or from a training program leading to employment, or to
discriminate against the person in compensation or in terms, conditions, or
privileges of employment.

24 100. At all times herein mentioned, Government Code § 12940, et seq. was in full force and
25 effect and binding upon Defendants, and each of them. These laws make it an unlawful employment
26 practice to discriminate against any employee on the basis of her age.

27 101. Defendants were Plaintiff's employer.
28

102. Plaintiff was a female over the age of 50.

103. Plaintiff was able to perform the essential job duties of Plaintiff's position.

104. Throughout the period of Plaintiff's employment, Plaintiff was discriminated against by reason of her age, and was subjected to harassment, discrimination and retaliation by Defendants.

105. Defendants wrongfully discriminated against Plaintiff based on her age.

106. Defendant gave an employee of the younger Plaintiff's role and responsibilities as they were being taken away from her.

107. After Plaintiff's wrongful termination, Defendants promoted this younger employee into Plaintiff's position who were less experienced than she.

108. Plaintiff believes and alleges that Plaintiff's age was a substantial and determining factor in Defendant's decision to terminate Plaintiff's employment.

109. Defendants' termination of Plaintiff as alleged in this complaint constitutes an unlawful employment practice in violation of Cal. Gov. Code § 12940(a).

110. As direct, foreseeable, and proximate results of Defendants' discriminatory acts, Plaintiff has suffered and continues to suffer substantial losses in earnings and job benefits, and has suffered and continues to suffer humiliation, embarrassment and mental and emotional distress, and discomfort, all to Plaintiff's damage in an amount to be proven at trial.

111. Under Government Code section 12940, Plaintiff is entitled to recover Plaintiff's economic and noneconomic damages caused by Defendants' unlawful practices. Plaintiff is also entitled to reasonable attorney's fees and costs pursuant to Government Code section 12965.

112. The conduct of Defendants and each of them as described above was malicious, fraudulent, or oppressive and done with a willful and conscious disregard for Plaintiff's rights. Defendants and each of them, and their agent/employees or supervisors, authorized, condoned, and ratified the unlawful conduct of each other. Consequently, Plaintiff is entitled to punitive damages against each of said Defendants.

SEVENTH CAUSE OF ACTION

Failure to Prevent Discrimination and Harassment

Cal. Gov. Code § 12940

(Against All Defendants)

1 113. Plaintiff re-pleads, re-alleges, and incorporates by reference each and every allegation set
2 forth in this Complaint.

3 114. Government Code section 12940(m)(2) provides in relevant part:

4 It is an unlawful employment practice . . . (k) For an employer . . . to fail to
5 take all reasonable steps necessary to prevent discrimination and harassment
6 from occurring.

7 115. Defendant wrongfully failed to take all reasonable steps necessary to prevent harassment,
8 discrimination, and retaliation.

9 116. Defendant failed to take immediate and appropriate corrective action despite actual
10 knowledge of Plaintiff's allegations of discrimination, harassment, and retaliation by Defendant.

11 117. Plaintiff was harmed.

12 118. Defendant's conduct was a substantial factor in causing Plaintiff's harm.

13 119. The conduct of Defendant was a substantial factor in causing Plaintiff emotional distress,
14 including but not limited to, anxiety, depression, insomnia, withdrawing from friends and family, and
15 feelings of hopelessness.

16 120. Under Government Code section 12940, Plaintiff is entitled to recover Plaintiff's economic
17 and noneconomic damages caused by Defendants' unlawful practices. Plaintiff is also entitled to
18 reasonable attorney's fees and costs pursuant to Government Code section 12965.

19 ***EIGHTH CAUSE OF ACTION***

20 *Hostile Work Environment Harassment*

21 *Cal. Gov. Code § 12940(j)*

22 *(Against All Defendants)*

23 121. Plaintiff re-pleads, re-alleges, and incorporates by reference each and every allegation set
24 forth in this Complaint.

25 122. At all time mentioned in this complaint, California Government Code § 12940(j)(1) was in
26 full force and effect and was binding on Defendants. The law requires Defendants to refrain from harassing
27 any employee on the basis of national origin, and to refrain from exposing Plaintiff or any employee to a
28 hostile working environment based on discrimination.

123. Defendants wrongfully harassed Plaintiff based on her gender and disability and/or health condition and knowingly permitted plaintiff to be harassed by Mr. Silva and Mr. Gupta.

124. During the course of Plaintiff's employment, Defendants created and allowed to exist a hostile work environment, and discriminated against and harassed Plaintiff in a continuous and persistent manner on the basis of gender and disability, and because Plaintiff reported discriminatory and other wrongful conduct, as alleged above.

125. Defendants failed to take immediate and appropriate corrective action with respect to the harassment of Plaintiff and failed to take all reasonable steps to prevent harassment of Plaintiff from occurring.

126. Defendants' conduct was a substantial factor in causing Plaintiff's harm.

127. The conduct of Defendant was a substantial factor in causing Plaintiff emotional distress, including but not limited to, anxiety, depression, insomnia, withdrawing from friends and family, and feelings of hopelessness.

128. Under Government Code section 12940, Plaintiff is entitled to recover Plaintiff's economic and noneconomic damages caused by Defendants' unlawful practices. Plaintiff is also entitled to reasonable attorney's fees and costs pursuant to Government Code section 12965.

129. The conduct of Karcher as described above was malicious, fraudulent, or oppressive and done with a willful and conscious disregard for Plaintiff's rights. Plaintiff is entitled to punitive damages against Karcher.

NINTH CAUSE OF ACTION

Intentional Infliction of Emotional Distress

(Against All Defendants)

130. Plaintiff re-pleads, re-alleges, and incorporates by reference each and every allegation set forth in this Complaint.

131. Defendant's treatment of Plaintiff as discussed supra, exceeds the bounds of decency, is intolerable within our civilized community, and is therefore outrageous.

132. Defendant's actions, as discussed supra, were intended to cause Plaintiff to suffer the resulting emotional distress.

133. Defendants succeeded in their attempt to cause Plaintiff to suffer extreme emotional distress as indicated by the lingering anxiety and shame, and that are the direct and proximate results of Defendant's conduct.

134. Plaintiff was harmed.

135. Defendant's conduct was a substantial factor in causing Plaintiff's harm.

136. The conduct of Defendant as described above was malicious, fraudulent, or oppressive and done with a willful and conscious disregard for Plaintiff's rights. Consequently, Plaintiff is entitled to punitive damages against Defendant.

TENTH CAUSE OF ACTION

Wrongful Termination in Violation of Public Policy

(Against All Defendants)

137. Plaintiff re-pleads, re-alleges, and incorporates by reference each and every allegation set forth in this Complaint.

138. Art. I, § 8, of the California Constitution provides that a person may not be disqualified from pursuing a profession or employment because of gender and health condition and/or disability.

139. At all times herein mentioned in this complaint, California Government Code Section 12940 (a), was in full force and effect and were binding on the Defendants and the Defendants were subject to their terms, and therefore Defendant was required to refrain from violations of public policy, including discrimination based on national origin in violation of FEHA and in retaliation for complaining of said discrimination.

140. Defendants were Plaintiff's employer, and Plaintiff was Defendants' employee.

141. Defendant terminated Plaintiff in violation of Plaintiff's rights and public policy.

142. Plaintiff is informed and believes and thereon alleges that her protected status (gender and disability) and/or her protestation against being discriminated against based on said protected status as alleged above, were, in part, factors in Defendants' decision to terminate Plaintiff's employment.

143. Plaintiff was harmed.

144. Defendants' conduct was a substantial factor in causing Plaintiff's harm.

145. As a proximate result of Defendants' conduct, Plaintiff has suffered special damages in the form of lost earnings, benefits and/or out of pocket expenses in an amount according to proof at the time of trial. As a further direct and proximate result of Defendants' conduct, Plaintiff will suffer additional special damages in the form of lost future earnings, benefits and/or other prospective damages in an amount according to proof at the time of trial.

146. As a further direct and proximate result of Defendants' conduct, Plaintiff has suffered loss of financial stability, peace of mind and future security, and has suffered embarrassment, humiliation, mental and emotional pain and distress and discomfort, all to his detriment and damage in amounts not fully ascertained but within the jurisdiction of this court and subject to proof at the time of trial.

147. In violation of public policy, Defendants terminated Plaintiff because she is a female, who made multiple complaints regarding discrimination and harassment she received from Mr. Silva and Mr. Gupta, as well as complaints about violations of state and federal law for sharing her confidential medical information, despite the fact that Defendants knew that Plaintiff was experienced and able to perform the essential functions of her position and had done so since 2022, as a Global Head of Operations and People.

148. The conduct of Defendants as described above was malicious, fraudulent, or oppressive and done with a willful and conscious disregard for Plaintiff's rights. Defendant and each of them, and their agents/employees or supervisors, authorized, condoned and ratified the unlawful conduct of each other. Consequently, Plaintiff is entitled to punitive damages against each of said Defendants.

ELEVENTH CAUSE OF ACTION

Use and Disclosure Of Medical Information by Employers

California Civil Code §56.20

(Against All Defendants)

149. Plaintiff re-pleads, re-alleges, and incorporates by reference each and every allegation set forth in this Complaint.

150. At all relevant times, the California Confidentiality of Medical Information Act, sections 56.20, et seq., was in full force and effect, and binding on Defendant.

151. The California Confidentiality of Medical Information Act makes it an unlawful employment practice for an employer to use, disclose, or knowingly permit its employees or agents to use

1 or disclose medical information which the employer possesses pertaining to its employees without the
2 patient having first signed an authorization under Section 56.11 or Section 56.21 permitting such use or
3 disclosure, except as follows:

4 (1) The information may be disclosed if the disclosure is compelled by
5 judicial or administrative process or by any other specific provision of
6 law.

7 (2) That part of the information which is relevant in a lawsuit, arbitration,
8 grievance, or other claim or challenge to which the employer and
9 employee are parties and in which the patient has placed in issue his or her
10 medical history, mental or physical condition, or treatment may be used or
11 disclosed in connection with that proceeding.

12 (3) The information may be used only for the purpose of administering
13 and maintaining employee benefit plans, including health care plans and
14 plans providing short-term and long-term disability income, workers'
15 compensation and for determining eligibility for paid and unpaid leave
16 from work for medical reasons.

17 (4) The information may be disclosed to a provider of health care or other
18 health care professional or facility to aid the diagnosis or treatment of the
19 patient, where the patient or other person specified in subdivision (c) of
20 Section 56. 21 is unable to authorize the disclosure. California Civil Code
21 § 56.20(c)(1)-(4).

22 152. Further, the California Confidentiality of Medical Information Act requires an employer to
23 get a written authorization from Plaintiff before disclosing Plaintiff's medical information. California Civil
24 Code § 56.21.

25 153. Defendant was Plaintiff's employer, and Plaintiff was Defendant's employee.

26 154. The information was not disclosed as a part of a judicial proceeding.

27 155. The information was not disclosed because it was at issue during a legal proceeding.

28 156. The information was not disclosed to maintain Plaintiff's health care plan.

157. The information was not disclosed to to a health care professional on behalf of Plaintiff.

158. Plaintiff never gave written authorization to disclose her medical information.

159. Plaintiff was harmed.

160. Defendant's conduct was a substantial factor in causing Plaintiff's harm.

161. As a result of Defendant's actions, Plaintiff sustained damages in an amount to be proven
at trial. In addition, Plaintiff is entitled to attorney's fees and costs.

TWELFTH CAUSE OF ACTION

1 *Public Disclosure of Private Facts*

2 *(Against All Defendants)*

3 162. Plaintiff re-pleads, re-alleges, and incorporates by reference each and every allegation set
4 forth in this Complaint.

5 163. A Defendant is liable for public disclosure of private facts when defendant publicized
6 private information concerning plaintiff; plaintiff considered the publicity highly offensive; defendant
7 knew, or acted with reckless disregard of the fact of the offensiveness; the private information was not of
8 legitimate public concern. (CACI 1801).

9 164. Defendant publicized Plaintiff's cancer status and health treatment to the Board of
10 Directors.

11 165. Plaintiff found the publication to be highly offensive because it was private health
12 information that she specifically did not want to share with anyone else at her job.

13 166. Defendant knew that Plaintiff would find the sharing offensive because Plaintiff directed
14 Defendants to not share the information with anyone else.

15 167. Plaintiff's health status is not of legitimate public concern as she was able to continue her
16 work and it did not inhibit her ability to function in her role.

17 168. Plaintiff was harmed.

18 169. Defendant's conduct was a substantial factor in causing Plaintiff's harm.

19 170. As a result of Defendant's actions, Plaintiff sustained damages in an amount to be proven
20 at trial. In addition, Plaintiff is entitled to attorney's fees and costs.

21 **PRAYER FOR RELIEF**

22 **WHEREFORE**, Plaintiff prays for judgment against the Defendants, and each of them, as
23 follows:

- 24 1. Compensatory damages including emotional distress damages and lost wages, benefits
25 and interest in a sum according to proof;
26 2. Interest on judgment, including prejudgment interest, at the legal rate;
27 3. Attorney's fees and costs;
28 4. Punitive damages; and

1 5. For any further legal and equitable relief, the Court deems proper.

2
3 Dated: June 28, 2024.

RATNER MOLINEAUX, LLP

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6 _____
7 David S. Ratner
8 Shelley A. Molineaux
9 Attorneys for Plaintiff Lisa Sanders-Nakahara

10 **DEMAND FOR JURY TRIAL**

11 Plaintiff hereby demands trial of his claims by jury to the extent authorized by law.

12 Respectfully submitted,

13 Dated: June 28, 2024.

RATNER MOLINEAUX, LLP

14 

15 _____
16 David S. Ratner
17 Shelley A. Molineaux
18 Attorneys for Plaintiff Lisa Sanders-Nakahara