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ELECTRONICALLY
FILED
Superior Court of California,
County of San Francisco

06/09/2022
Clerk of the Court
BY: JEFFREY FLORES
Deputy Clerk

CGC-22-600093

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 FOR THE COUNTY OF SAN FRANCISCO (UNLIMITED JURISDICTION)

11)
12) **COMPLAINT FOR DAMAGES**
13 ASMAHAN ATTAYEB, an Individual,)
14 Plaintiff,) (1) **Failure to Pay Overtime**
15 v.) (2) **Compensation;**
16) (3) **Penalties Under California Labor**
17 MATTHEW C. MULLENWEG, an) (4) **Code §558**
18 Individual; KATHLEEN MULLENWEG, an) (5) **Hostile Work Environment (Gov.**
19 Individual: AUDREY HC, LLC, a California) (6) **Code §12940, §12926);**
20 Limited Liability Corporation; and DOES 1) (7) **Failure to Prevent Discrimination**
21 through 10 inclusive,) (8) **(Gov. Code §12940 (k));**
22) (9) **Retaliation (Gov't. Code §12940 et**
23) (10) **seq.);**
24) (11) **Wrongful Termination in**
25) (12) **Violation of Public Policy;**
26) (13) **Defamation**
27)
28)

JURY TRIAL DEMANDED

29 Plaintiff, ASMAHAN ATTAYEB (hereinafter "Plaintiff ATTAYEB" or "Plaintiff"), alleges
30 as follows:

1
2 **NATURE OF THE ACTION**

3 1. Plaintiff files this action seeking compensation for her unpaid wages, overtime
4 wages, interest on unpaid wages, and other statutory penalties for Defendants' violations of the
5 California Labor Code. Plaintiff also seeks to recover damages pursuant to the California Fair
6 Employment and Housing Act for having to work in an abusive, hostile, intimidating and
7 discriminatory work environment where she was subjected to pervasive and severe discriminatory
8 harassment on a daily basis which greatly impacted her ability to carry out the duties of her job.
9 Plaintiff also seeks to recover damages for defamation, based on the false, defamatory statements
10 published by Defendants to prospective employers, among others.

11 **THE PARTIES**

12 2. Plaintiff ASMAHAN ATTAYEB is a thirty-five-year-old female single mother
13 currently residing in the County of San Joaquin, City of Tracy, California.

14 3. Defendant MATTHEW MULLENWEG is an individual residing in the City and
15 County of San Francisco, State of California and doing business in San Francisco City and County.
16 Defendant MULLENWEG is an online social media "entrepreneur" and web developer known for
17 developing the open-source web blogging software WordPress used by over 40% of the web.
18 Defendant MULLENWEG is also the founder, President, and CEO of Automattic, a distributed
19 company with nearly 2000 employees, which owns WordPress, Tumblr, and several other
20 companies.

21 4. Defendant AUDREY HC, LLC is a California Limited Liability Company doing
22 business in the City and County of San Francisco, California which employs in excess of 30
23 individuals. Defendant Mullenweg personally acts as the agent for Defendant AUDREY HC, LLC
24 and is the owner and President of the company, which primarily employs individuals to work at his
25 private residence and to handle matters pertaining to himself and members of his family.

26 5. Defendant KATHLEEN MULLENWEG is the mother of Defendant MATTHEW
27 MULLENWEG who is employed by Defendant MULLENWEG and worked as a supervisor to
28 Plaintiff and other employees tasked with overseeing her medical and non-medical needs.

1 AUDREY HC LLC and DOES 1-10, that any individual and separateness between them is non-
2 existent.

3 13. Plaintiff alleges that, at all times mentioned herein, Defendants MATTHEW
4 MULLENWEG and KATHLEEN MULLENWEG and DOES 1-10 dominated, controlled, and
5 influenced Defendant AUDREY HC LLC, and the officers thereof as well as the business, property,
6 and affairs of Defendant AUDREY HC LLC.

7 14. Plaintiff alleges that, at all times mentioned herein, that Defendant MULLENWEG,
8 KATHLEEN MULLENWEG, and DOES 1-10 created a situation where Defendant AUDREY HC
9 LLC has insufficient resources to satisfy its creditors.

10 15. Plaintiff alleges that Defendant MATTHEW MULLENWEG and KATHLEEN
11 MULLENWEG and DOES 1-10 inadequately capitalized Defendant AUDREY HC LLC such that
12 Defendant AUDREY HC LLC did not have sufficient assets to conduct its business. Furthermore,
13 Defendants MULLENWEG and DOES 1-10 concealed the extent of this lack of capitalization to
14 Plaintiff.

15 16. By virtue of the foregoing, inequity will result if the acts in question are treated as
16 those of one of those Defendants over the other. Adherence to the fiction of the separate corporate
17 existence of Defendant AUDREY HC LLC would, under the circumstances, sanction a fraud and
18 promote injustice in that Plaintiff would be unable to realize upon any judgment in her favor.
19 Defendants MULLENWEG, KATHLEEN MULLENWEG, AUDREY HC LLC. and DOES 1-10
20 should thus be held collectively liable for the acts complained of herein.

21 **FACTUAL ALLEGATIONS**

22 17. Defendant MATTHEW MULLENWEG was, at all times relevant, the owner and/or
23 manager of several companies, including Defendant AUDREY HC, LLC. located at 660 4th Street,
24 San Francisco, California, and, as such, owned, controlled, and operated a business or establishment
25 that employed Plaintiff, other employees, and members of the general public, including consultant
26 agencies, to perform a variety of tasks in or related to any of his multiple residences for himself
27 and/or for members of his family. Defendant MATTHEW MULLENWEG's company, Defendant
28 AUDREY HC LLC is subject to Industrial Welfare Commission ("IWC") Order No. 15, 8 Cal Code

1 of Regulations Section 11050, *et seq.*

2 18. Plaintiff ATTAYEB is a nurse who was initially placed at Defendant AUDREY by a
3 private nursing agency which employed Plaintiff in San Francisco to work in Defendant
4 MULLENWEG's residence at Brannon Street in San Francisco, on December 1, 2020. After nearly
5 one year, Plaintiff ATTAYEB was hired directly by Defendants in October, 2021 to be the lead
6 nurse to perform skilled nursing services for Defendant MULLENWEG's mother, Defendant
7 KATHLEEN MULLENWEG, on a full-time basis. Defendant KATHLEEN MULLENWEG has
8 difficulty with mobility because she is morbidly obese. Plaintiff ATTAYEB provided excellent
9 nursing skills to Defendant KATHLEEN MULLENWEG at all times, tirelessly assisting
10 KATHLEEN MULLENWEG in unlimited ways, medical and otherwise. As the lead nurse, she was
11 tasked with handling all physician communications, scheduling, appointments with consultants,
12 evaluations, and training of nurses. Plaintiff was responsible for the overall care and oversight of all
13 Kathleen Mullenweg's needs, medical and non-medical, in addition to monitoring medications
14 prescribed to Defendant KATHLEEN MULLENWEG. Plaintiff, a single mother, agreed to
15 commute to San Francisco on a full-time basis and serve as Defendant MATTHEW
16 MULLENWEG's mother's nurse in exchange for an increased level of compensation from what she
17 was earning at the nursing agency. Plaintiff was initially promised an increase in salary, benefits,
18 and an opportunity to receive compensation for overtime hours worked. Plaintiff accepted the job
19 offer and worked for Defendants for nearly six months until the conditions became so intolerable
20 that she had no option but to leave her employment.

21 19. Defendants and each of them, were Plaintiff's employers for purposes of the California
22 Fair Employment and Housing Act ("FEHA") who employed Plaintiff from on or about October 1,
23 2020 through March, 2022. During this time period, Plaintiff served as the primary nurse to
24 Defendant MULLENWEG's mother, Defendant KATHLEEN MULLENWEG, on a four (4) day a
25 week, 12-hour day schedule.

26 20. Plaintiff ATTAYEB was grossly underpaid by Defendant MULLENWEG and was
27 paid well below the market rate for her profession in San Francisco. When Plaintiff ATTAYEB was
28 placed to work for Defendants through the nursing agency, Defendant MATTHEW MULLENWEG

1 had agreed to pay the agency \$75 per hour for her services. However, upon hiring Plaintiff directly,
2 he provided her with \$45.00 per hour – only \$5.00 per hour more than what she was paid by the
3 nursing agency. In a shamefully cheap and disgraceful conversation with Plaintiff, MULLENWEG
4 advised her that he agreed to increase her wages by \$5.00 per hour and to provide her with a
5 matching contribution to a 401K. Plaintiff advised Defendant MULLENWEG that she was a single
6 mother with two young children and could not afford to take money out of her paycheck to fund a
7 401K. When Plaintiff sought an increase in her wages and advised him that her male counterpart
8 earned more than double of what she earned (\$105.00 per hour), MATTHEW MULLENWEG failed
9 to offer an explanation and refused to increase her wages. Defendant MATTHEW MULLENWEG
10 shamelessly suggested that he would eliminate Plaintiff’s sick leave or in some manner diminish her
11 compensation or find a cheaper health care plan if she requested an increase in her hourly rate. He
12 did indicate that he would agree to provide her with medical benefits and told Plaintiff that what she
13 was receiving as compensation was “more than enough” because she had not received medical
14 benefits while working for the nursing agency. Defendant MULLENWEG never agreed to raise her
15 salary to match the male nurse’s salary which was more than double of what she was being paid.

16 21. Plaintiff performed the duties of her job in an exemplary manner, working on a
17 schedule of four (4) days per week, twelve (12) hour shifts. On numerous occasions, Plaintiff
18 worked overtime hours but did not receive proper overtime wages for the hours she worked for
19 Defendants.

20 22. Plaintiff’s duties as lead nurse to MULLENWEG’S mother included, but were not
21 limited to providing Defendant KATHLEEN MULLENWEG with meals, overseeing her daily
22 routine - both personal and medical, scheduling, transporting her to appointments, running errands
23 for her, conferring with consultants and visiting physicians regarding KATHLEEN
24 MULLENWEG’s health and weight, overseeing proper dispensing of medications, participating in
25 consultations and evaluations regarding the treatment and nutritional needs of KATHLEEN
26 MULLENWEG, stocking the apartment with food, toiletries, and household goods as needed and as
27 requested by KATHLEEN MULLENWEG, training the nurses, providing occasional assistance to
28 other staff when needed, among other things.

1 23. Plaintiff's duties specifically required her to work alongside physicians and other staff
2 who would confer among themselves regarding the deliberate refusal of KATHLEEN
3 MULLENWEG to follow the advice of the medical team. Plaintiff's attempts to curtail
4 KATHLEEN MULLENWEG's unhealthy habits angered her, who set out to disparage and defame
5 Plaintiff at every opportunity. When physicians and other medical and non-medical consultants
6 came on the premises to assess KATHLEEN MULLENWEG, she would disparage Plaintiff and tell
7 them that Plaintiff did not properly oversee the dispensing of her medication and did not properly
8 provide the care she needed. KATHLEEN MULLENWEG also advised the consultants and other
9 nurses from the Nursing Registry that Plaintiff was dishonest, incompetent, did not know what she
10 was doing, that she stayed on her phone all day, and did not follow the doctor's directives – all of
11 which were false statements and calculated to injure Plaintiff's professional reputation.

12 24. The false statements made to the many health professionals by defendant KATHLEEN
13 MULLENWEG were lies and were calculated to damage the reputation of Plaintiff because these
14 statements were conveyed to doctors and nurses employed by prospective employers of Plaintiff.
15 These defamatory statements were conveyed to Defendants MULLENWEG and AUDREY by
16 Plaintiff, who did nothing to try and stop the comments from being published by Defendant
17 KATHLEEN MULLENWEG even though Defendant MATTHEW MULLENWEG admitted after
18 Plaintiff's discharge that he knew the comments made by his mother were not true.

19 25. In addition to being defamed and unjustly maligned by Defendants, Plaintiff was
20 further abused by Defendants and subjected to a hostile, offensive, intimidating, sexually charged
21 and discriminatory work environment with nowhere to go for guidance.

22 26. Plaintiff had only Defendant MULLENWEG to report to: no job description was ever
23 provided to Plaintiff; no policies regarding employee rights were ever provided to Plaintiff; no
24 policies regarding harassment and discrimination were ever provided to Plaintiff; no protocols for
25 the way in which an employee complains of, or reports discrimination were ever provided to
26 Plaintiff; and no human resources department existed at Defendant AUDREY HC, LLC. Defendant
27 MATTHEW MULLENWEG held himself out to be the boss, owner, HR Director, policy maker,
28 and individual in control of every aspect of Plaintiff's employment, and he specifically advised

1 Plaintiff of such when she inquired about the policies and HR protocols to help her resist the
2 harassment.

3 27. At all times herein relevant, Plaintiff considered herself Defendants' employee and, as
4 such, she performed duties for Defendants under their direct supervision and control. Defendant
5 MULLENWEG's mother, Defendant KATHLEEN MULLENWEG, acted as Plaintiff ATTAYEB's
6 supervisor at all times herein. Defendant MATTHEW MULLENWEG routinely fired any
7 responsible supervisor who might have offered protection for Plaintiff and other employees, and
8 MULLENWEG's mother became increasingly more abusive with no one willing to keep her
9 behavior in check.

10 28. Plaintiff is Muslim and wears a head scarf. On countless occasions, Defendant
11 KATHLEEN MULLENWEG would comment on Plaintiff's head scarf, and would ask Plaintiff
12 why she feels the need to wear it and make derogatory comments regarding Plaintiff's religion and
13 head scarf. Defendant KATHLEEN MULLENWEG would also make negative comments about
14 Plaintiff's head scarf and religion to other employees who would share these comments with
15 Plaintiff. The comments were offensive and made Plaintiff feel uncomfortable, humiliated, and
16 embarrassed to have to explain her faith and reasons for wearing the head scarf to both KATHLEEN
17 MULLENWEG and her co-workers

18 29. Defendant KATHLEEN MULLENWEG, on a daily basis, would also engage in racist
19 rants about African American people, Asian people, Mexican people, Filipino people, and gay and
20 transgender people. She told Plaintiff that she did not want the African American nurses to use her
21 bathrooms or to sit on her toilets because "black people are not clean." She called Asian women
22 "whores," "sluts," "gold-diggers," and "skanks" because her son dated Asian women. She told
23 Plaintiff that "Mexicans are stupid and illiterate," "Mexican schools are inferior," and "Mexicans
24 are dumb." She told Plaintiff dozens of times that "Filipinos are dishonest," "Filipino's steal and are
25 untrustworthy" and she routinely falsely accused a Filipino nurse of stealing her jewelry.
26 KATHLEEN MULLENWEG would also malign gay and transgender people, referring to them as
27 "diseased," "dirty," and "unsanitary." Defendants knew about all of KATHLEEN MULLENWEG's
28 pervasive and unrelenting racist rants which greatly impacted the ability of Plaintiff and other

1 workers to perform the duties of their jobs, but Defendants did nothing to prevent the harassing and
2 pervasive racism that created a hostile working environment for Plaintiff.

3 30. Numerous complaints were made directly to Defendant MATTHEW MULLENWEG
4 regarding the severity of his mother's racism, and the discomfort it was causing Plaintiff, however
5 he did nothing to prevent it from occurring. In fact, to the contrary, Defendant MATTHEW
6 MULLENWEG would share the complaints made by Plaintiff with his mother who would then
7 retaliate against Plaintiff and threaten her with termination if she ever complained about her racism
8 and religious rants to her son again.

9 31. After Plaintiff complained about the harassment and discriminatory conduct of
10 KATHLEEN MULLENWEG, Defendants would retaliate against her for voicing her opposition to
11 the illegal employment practices. Defendants' retaliatory actions and reprisal against Plaintiff
12 included, but were not limited to, imposing difficult tasks as part of Plaintiff's duties, making false,
13 defamatory statements regarding Plaintiff's work to physicians and nurses and other of Plaintiff's
14 colleagues to damage Plaintiff's reputation and to humiliate and embarrass Plaintiff, and also to
15 threaten Plaintiff with termination.

16 32. The racism and hostile working environment was observed by vendors, physicians,
17 consultants, and others who had occasion to work at the residence. Defendant MATTHEW
18 MULLENWEG was personally advised about the discriminatory behavior and other wrongful
19 employment practices which existed on his premises which created an extremely hostile and toxic
20 work environment, however he did nothing to correct or curtail the behavior of his mother.

21 33. In addition to the racist rants and harassment about wearing a head scarf that Plaintiff
22 was subjected to, Defendant KATHLEEN MULLENWEG also created a hostile, and sexually
23 charged environment by repeatedly discussing Defendant MATTHEW MULLENWEG's sex life in
24 graphic detail. KATHLEEN MULLENWEG would discuss Defendant MATTHEW
25 MULLENWEG's attraction to Asian women, and how Asian women were all "whores" and "sluts"
26 and "prostitutes." She also discussed that Defendant MATTHEW MULLENWEG would engage in
27 threesomes with his girlfriends, that Defendant MULLENWEG was easily seduced by the Asian
28 women, that the Asian women would poke holes in condoms in an attempt to set him up for

1 marriage. Defendant KATHLEEN MULLENWEG would discuss how her son would sleep with
2 multiple women at the same time, and other graphic details about Defendant Matthew
3 MULLENWEG's sex life. Defendant KATHLEEN MULLENWEG engaged in a pattern of
4 continuous, pervasive, and severe daily harassment intentionally occurring in the immediate
5 presence of Plaintiff, in a direct and intentional attempt to offend, embarrass, and provoke Plaintiff,
6 who repeatedly requested that this behavior stop.

7 34. When Plaintiff asked KATHEEN MULLENWEG to stop speaking about her son's sex
8 life and the other, non-stop sexual banter, and told her that the subject matter made her feel
9 uncomfortable, KATHLEEN MULLENWEG became angry and would accelerate the offensive and
10 hostile harassing behavior and talk more about her son's sexual experiences.

11 35. Plaintiff complained on numerous occasions to Defendants about the harassment and
12 the way it made her feel, however Defendants took no corrective action or any steps to stop or
13 prevent the harassment. As with the racism, Defendant MATTHEW MULLENWEG also did
14 nothing to prevent his mother from creating a hostile, sexually charged, discriminatory and
15 offensive environment regarding his mother's ongoing insistence about discussing his sex life in
16 graphic detail.

17 36. When Plaintiff advised Defendant MATTHEW MULLENWEG that she could no
18 longer continue working under the oppressive and discriminatory conditions at AUDREY, and that
19 the treatment she was getting was so disrespectful and demeaning that it was making her physically
20 ill, Defendant MATTHEW MULLENWEG told Plaintiff that the day she complained was going to
21 be her last day, and that she should leave her keys at the desk.

22 37. Plaintiff ATTAYEB timely filed her Complaint of Discrimination with the California
23 Department of Fair Employment and Housing ("DFEH") against each Defendant within the
24 statutory time period. On that same date, the DFEH issued Plaintiff her Right-to-Sue letter. This
25 action is filed within one year of the date of the Right-to-Sue letter which was forwarded to the
26 Defendants.

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FIRST CAUSE OF ACTION

**(Failure to Pay Overtime Compensation in Violation of
California Labor Code § 510 and Wage Order No.15)**

(Against Defendants MATTHEW MULLENWEG and AUDREY HC LLC)

38. Plaintiff re-alleges and incorporates by reference the allegations in paragraphs 1 through 37 inclusive, as though set forth herein.

39. Eight hours of labor constitutes a day's work, and any work in excess of 8 hours in one (1) workday and any work in excess of 40 hours in anyone (1) workweek shall be compensated at the rate of no less than one-and one-half times the regular rate of pay for an employee. Any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee. (Labor Code § 510 and IWC Wage Order No. 15, Section 3 (C) (1) (2).

40. Plaintiff alleges that she routinely worked 12 hours per workday, and/or more than 40 hours per workweek, but did not receive all overtime wages owed.

41. An employer is required to provide an employee all his or her unpaid wages immediately upon the employee's termination. (Labor Code § 201.)

42. Defendants did not provide Plaintiff with all of her final pay, including compensation for hours of overtime worked immediately due upon her constructive termination.

43. If an employer willfully fails to pay an employee her wages according to Labor Code § 201, these wages shall continue as a penalty for up to a maximum of 30 days. (Labor Code § 203.)

44. Plaintiff is informed and believes and thereon alleges that Defendants willfully failed to pay her final unpaid wages and therefore she is entitled to a 30-day waiting time penalty.

45. Plaintiff is entitled to recover interest, reasonable attorneys' fees, and costs. (Labor Code § 1194.)

SECOND CAUSE OF ACTION

(Penalties Under California Labor Code § 558)

(Against Defendants MATTHEW MULLENWEG and AUDREY HC LLC)

46. Plaintiff re-alleges and incorporates by reference the allegations in paragraphs 1 through 45 inclusive, as though set forth herein.

1 47. Labor Code § 558 provides that “Any employer or other person acting on behalf of an
2 employer who violates or causes to be violated” the overtime and rest period provisions of
3 California law, are liable for these violations.

4 48. Defendants, as alleged above, have violated Labor Code §§ 510, 512, 1194 and
5 specific provisions of the applicable Wage Orders promulgated by the Industrial Welfare
6 Commission, which govern overtime compensation, among other things.

7 49. As a result of these violations and pursuant to § 558, Plaintiff seeks civil penalties in
8 an amount to be determined at trial.

9 **THIRD CAUSE OF ACTION**

10 **Hostile Work Environment**

11 **(California Government Code §§ 12940, *et seq.*)**

12 (Against Defendant AUDREY HC LLC and Defendant KATHLEEN MULLENWEG)

13 50. Plaintiff re-alleges and incorporates by reference the allegations in paragraphs 1
14 through 49 inclusive, as though set forth herein.

15 51. At all times relevant to this Complaint, the California Fair Employment and Housing
16 Act (“FEHA”) (Cal. Gov. Code §12900 *et seq.*) and its implementing regulations were in full force
17 and effect and binding on Defendants.

18 52. Pursuant to Government Code §§12940 and 12926 it is unlawful for an employer to
19 create a hostile and abusive working environment which includes harassing behavior so severe and
20 pervasive that it interferes with Plaintiff’s ability to perform the duties of her job. Defendants herein
21 created an abusive and offensive work atmosphere for Plaintiff. Defendants and each of them
22 engaged in inappropriate sexually, racially, and religious harassing behavior which occurred
23 repeatedly, on a daily basis, creating an abusive and hostile working environment, causing Plaintiff
24 to feel extreme discomfort and intimidation, which interfered with her job functions.

25 53. Defendants were all aware of Plaintiff’s discomfort working under these abusive and
26 hostile conditions; however, Defendants did not cease the harassment. In fact, when Plaintiff
27 complained about the harassing behavior, the behavior became more accelerated, and she was made
28 to feel intimidated and she was threatened with termination.

1 61. As a direct and proximate result of Defendants’ wrongful conduct, Plaintiff has
2 suffered damages, including, but not limited to, a loss of income and benefits, and has further
3 suffered emotional distress and other general damages.

4 62. In doing the things alleged herein, the Defendants’ conduct was despicable, and
5 Defendants acted toward ATTAYEB with malice, oppression, fraud, and with willful and conscious
6 disregard of Plaintiff’s rights, entitling ATTAYEB to an award of punitive damages. The
7 Defendants’ conduct described herein was engaged in by Defendants and managing agents for the
8 Defendants and/or ratified by managing agents.

9 **FIFTH CAUSE OF ACTION**

10 **Retaliation**

11 **(Gov’t Code §12940)**

12 **(Against Defendant AUDREY HC LLC)**

13
14 63. Plaintiff re-alleges and incorporates by reference the allegations in paragraphs 1
15 through 62 inclusive, as if set forth herein.

16 64. At all times relevant to this Complaint, the FEHA and its implementing regulations
17 were in full force and effect and binding on the Defendants.

18 65. Pursuant to California Government Code §12940 *et seq.*, Defendants are prohibited
19 from retaliating against Plaintiff for having opposed, resisted and complained of the wrongful acts
20 alleged hereinabove.

21 66. After Plaintiff ATTAYEB complained to both Defendant MATHEW MULLENWEG
22 about his mother’s harassment and to Defendant KATHLEEN MULLENWEG directly about the
23 discriminatory conduct more specifically set forth hereinabove, Defendants retaliated against
24 Plaintiff for her rightful opposition to the illegal employment practices prohibited by the California
25 FEHA. Defendants’ retaliatory actions and reprisal against Plaintiff included, but were not limited
26 to, imposing difficult tasks to make Plaintiff’s duties more difficult, making false statements about
27 Plaintiff to Plaintiff’s peers including physicians and nurses who worked with Plaintiff,
28 embarrassing Plaintiff by making gestures to belittle her to humiliate her in front of her professional

1 peers, and threaten her with termination. Defendant KATHLEEN MULLENWEG would also
2 accelerate the racist, religious, and sexually harassing comments after finding out that such behavior
3 offended Plaintiff.

4 67. As a direct and proximate result of Defendants' wrongful conduct, Plaintiff has
5 suffered damages, including but not limited to, a loss of income and benefit, and has further suffered
6 emotional distress and other general damages.

7 68. In doing the things alleged herein, the Defendants' conduct was despicable, and the
8 Defendants acted toward Plaintiff ATTAYEB with malice, oppression, fraud, and with willful and
9 conscious disregard of ATTAYEB's rights, entitling ATTAYEB to an award of punitive damages.
10 The Defendants' conduct described herein was engaged in by Defendants and managing agents for
11 the Defendants and/or ratified by managing agents.

12 **SIXTH CAUSE OF ACTION**

13 **Wrongful Termination in Violation of Public Policy**

14 (Against Defendant AUDREY HC LLC)

15 69. Plaintiff re-alleges and incorporates by reference the allegations in paragraphs 1-68
16 inclusive, as if set forth herein.

17 70. It is the public policy of the State of California to prohibit employers from discharging
18 employees in a discriminatory manner. This public policy is embodied in, *inter alia*, the California
19 Government Code and the California Code of regulations.

20 71. The consequence of Defendants' discriminatory decision to ignore Plaintiff's
21 grievances, caused Plaintiff's predictable constructive termination and such inaction on the part of
22 Defendants was motivated at least in part by the Defendants' failure or refusal to protect Plaintiff
23 and prevent the harassment and discrimination from occurring, and/or ATTAYEB's engaging in
24 protected activity.

25 72. As a direct and proximate result of the Defendants' wrongful conduct, ATTAYEB has
26 suffered damages including, but not limited to a loss of income and benefits and has further suffered
27 emotional distress and other general damages.

28 73. In doing the things alleged herein, the Defendants' conduct was despicable, and the

1 Defendants acted toward ATTAYEB with malice, oppression, fraud, and with willful and conscious
2 disregard of ATTAYEB's rights, entitling ATTAYEB to an award of punitive damages. The
3 Defendants' conduct described herein was engaged in by Defendants and managing agents for the
4 Defendants and/or ratified by managing agents.

5 **SEVENTH CAUSE OF ACTION**

6 **Defamation**

7 (Against Defendant AUDREY HC LLC and Defendant KATHLEEN MULLENWEG)

8 74. Plaintiff re-alleges and incorporates by reference the allegations I paragraphs 1-73
9 inclusive, as if set forth herein.

10 75. Plaintiff is informed, and on that basis believes, that both before and after her
11 constructive discharge, Defendants, and in particular, Defendant KATHLEEN MULLENWEG
12 caused to be published false and unprivileged communications tending directly to injure Plaintiff in
13 her professional reputation. Specifically, KATHLEEN MULLENWEG told physicians and nurses
14 that Plaintiff was dishonest, incompetent, and could not be trusted to administer medications, among
15 other things.

16 76. These statements were published with express and implied malice on the part of all
17 Defendants, and each of them, and with the design and intent to humiliate, embarrass, injure, and
18 cause damage to Plaintiff in her good name, reputation, and employment.

19 77. Defendants made these statements without any basis for so doing, to individuals who
20 had no duty to hear such statements. Moreover, KATHLEEN MULLENWEG made these
21 statements maliciously, knowing that they were untrue, and knowing that making such accusations
22 against Plaintiff would ruin her reputation and damage her efforts to obtain employment.

23 78. As a proximate result of the defamatory statements made by Defendants and each of
24 them, Plaintiff has suffered injury to her personal, business, and professional reputation, and has
25 further caused her to suffer embarrassment, humiliation, and anguish, as well as economic loss in in
26 the form of lost wages and future earnings, all to Plaintiff's damage in an amount according to proof
27 at trial.

28 79. Defendants committed the acts herein despicably, maliciously, fraudulently, and

1 oppressively, with the wrongful intention of injuring Plaintiff, from an improper and evil motive
2 amounting to malice and in conscious disregard of Plaintiff's rights. Plaintiff is thus entitled to
3 recover an award of punitive damages from Defendants, and each of them, in an amount according
4 to proof at trial.

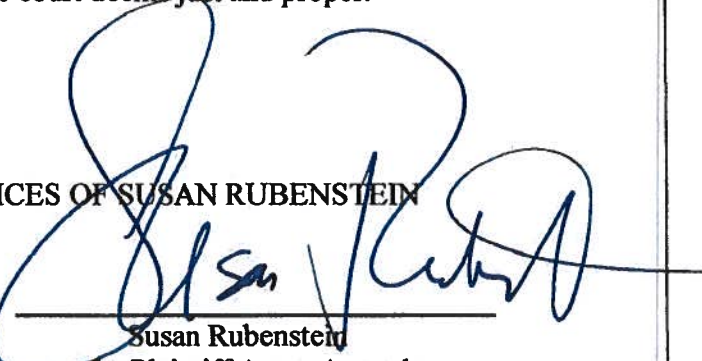
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6 **PRAYER FOR JUDGMENT**
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8 WHEREFORE, Plaintiff prays for judgment against Defendants as follows:

- 9 1. For special, general, and compensatory according to proof at trial;
10 2. For punitive damages according to proof at trial;
11 3. For all unpaid wages, including statutory penalties according to proof at trial;
12 4. For waiting time continuation of wages for up to thirty (30) days as provided for in
13 Labor Code § 203, according to proof at trial;
14 5. For reasonable attorneys' fees, expert witness fees, and other litigation expenses pursuant
15 to the California Government Code and the California Labor Code;
16 6. For pre-judgment interest and cost of suit incurred herein;
17 7. For such other and further relief as the court deems just and proper.

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19
20 Dated: 6/9/22

LAW OFFICES OF SUSAN RUBENSTEIN

21
22 By: 
23 Susan Rubenstein
Attorneys for Plaintiff Asma Attayeb

LAW OFFICES
SUSAN RUBENSTEIN

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JURY TRIAL DEMANDED

Plaintiff hereby demands a jury trial.

LAW OFFICES OF SUSAN RUBENSTEIN

By: 
Susan Rubenstein
Attorneys for Plaintiff Asma Attayeb

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