

To Whom It May Concern:

Please be advised that Roberta Cervantes (“Cervantes”) has retained this office to represent her in her prospective lawsuit against Southern California Permanente Medical Group (“SCPMG” or “Kaiser”) for all claims arising from her employment with Kaiser. As discussed more fully below, Cervantes’s prospective lawsuit alleges a host of claims, including but not limited to Violation of the Unruh Act (Civil Code 12 51 *et seq.*); Violation of the Fair Employment and Housing Act (Government Code §§ 12900 *et seq.*) (Discrimination); Violation of the Fair Employment and Housing Act (Government Code §§ 12900 *et seq.*) (Retaliation); Wrongful Termination In Violation of Public Policy; Intentional Infliction of Emotional Distress; and Failure to Prevent Discrimination from Occurring.

To further detail Cervantes’s prospective lawsuit, this letter shall provide a brief description of the relevant facts and a summary of the potential claims that Cervantes may bring against Kaiser.

STATEMENT OF FACTS

Plaintiff is a registered nurse who was working as a lactation consultant for defendant Kaiser for over fifteen (15) years at the time she was abruptly fired by defendant in February of 2018. During her tenure, plaintiff was always regarded as a good employee.

Plaintiff s license was due for renewal on November 30, 2017. Consequently, on November 11, 2017, plaintiff completed her on- line renewal of her license. From November 11, 2017, up until February 6, 2018 (when she was notified by a Kaiser assistant manager for the first time that her license had expired on 11/ 30/ 27), plaintiff in good faith always believed that her license was properly renewed. However, plaintiff did not know that there was a new requirement for additional fingerprinting (because she had previously been fingerprinted) and, in fact, never received any communication from any source about a problem with her license.

Defendant Kaiser is required by law and by its own policies and procedures to verify directly with the Nursing Board its employees' license status, to notify its employees if their license is about to expire or has expired and to never schedule an employee to work a shift without a valid license. Defendant's manager Gail Gillen stated that Kaiser violated its own policy by allowing plaintiff to work—the very reason defendant gave for firing plaintiff.

Plaintiff's manager/defendant Kaiser failed to obtain primary source verification, failed to notify plaintiff and, in fact, scheduled plaintiff to work over 20 shifts for over two months in direct violation of the law and its own policies, in spite of the fact that plaintiff's manager received at least four written communications about plaintiff's license status prior to plaintiff's license expiring.

Kaiser terminated Ms. Cervantes, in violation of its own policies, which is necessarily inconsistent with usual practices." Specifically, the Kaiser" License, Certificate, and Registration Verification" policy states, at section 5. 3. 3 that should an employee allow her license to expire, the employee is placed on unpaid leave and if documentation of the license is not provided within the specified time frame, the employee is terminated. Footnote one, defines the " specified time frame. It states, " if appropriate current documentation of the license... is not obtained and presented within 14 calendar days, the employee is terminated".

Footnote one, defines the " specified time frame. It states " if appropriate current documentation of the license... is not obtained and presented within 14 calendar days, the employee is terminated". Plaintiff, Roberta Cervantes obtained and presented current license documentation within 1 calendar day. Therefore, the reason that plaintiff was fired is not only " inconsistent with usual practices" it was in violation of Kaiser' s express policies related to license verification. Such justification cannot constitute good cause and thus defendant breached its employment contract with plaintiff.

Plaintiff s employment contract is governed by a collective bargaining agreement which provides for termination only upon a showing of" just cause" by the employer. Any collective bargaining agreement between an employer and a labor organization shall be enforceable at law or in equity, and a breach of such collective bargaining agreement by any party thereto shall be subject to the same remedies, including injunctive relief, as are available on other contracts in the courts of this State. (Cal. Lab § 1126)

Plaintiff and Defendant entered into a collective bargaining agreement related to plaintiff's employment with defendant Kaiser, wherein it was expressly stated that plaintiff could only be terminated for " good cause." Plaintiff, Roberta Cervantes was subsequently fired. Defendant did not have just cause to terminate plaintiff's employment and, in fact, defendant violated its own policies and procedures in terminating plaintiff.

Paragraph 808 of the subject employment contract, under the heading entitled DISCIPLINE, states: " The Employer shall discipline, suspend or discharge any SCNSC for just cause only." It is undisputed that plaintiff was an SCNSC (Specialty Care Nurse of Southern California) at all relevant times. Similarly, Section 813 of the contract states: " It is the intent of the Employer to utilize progressive corrective action/ discipline in normal circumstances..." It is further undisputed that defendant did not use progressive corrective action in this case.

Plaintiff, Roberta Cervantes obtained and presented current license documentation within 1 calendar day. Therefore, the reason that plaintiff was fired is not only" inconsistent with usual practices", it was in violation of Kaiser's express policies related to license verification. Nowhere in the Kaiser policies and procedures does it state that plaintiff will be terminated for continuing to work as an RN after her license had expired.

The policy is crystal clear that plaintiff could be terminated if, and only if, she failed to renew her license within 14 days after she was notified by defendant and put on unpaid leave by defendant. This process was specifically confirmed by plaintiff's manager at the time, Talitha Marquez, RN, BSN, MBA who notified plaintiff and placed her on unpaid leave via a February 7, 2017 erroneously dated February 7, 2018) letter to plaintiff: " Effective February 6, 2017 you are being placed on administrative suspension with no pay. Failure to present the appropriate documentation within fourteen (14) calendar days will result in your termination. On February 7, 2017, the very day she was first notified by her manager that she needed to properly renew her license within 14 days, plaintiff did, in fact, properly renew her license and further notified both her manager and assistant manager that her license was properly renewed.

In spite of the fact that plaintiff completely complied with both Kaiser' s LCRC policy and her manager' s letter confirming the LCRC policy, plaintiff was nevertheless fired. Defendant further violated its own policies when, in February of 2018, it placed plaintiff on unpaid leave for two days, then changed the " discipline" to paid leave for the sole purpose of making plaintiff available for a" witch hunt/ fact finding investigation." The February 7, 2018, letter clearly gave plaintiff 14 days from the date of the letter to get her license renewed.

LEGAL CLAIMS

Roberta Cervantes's prospective lawsuit will set forth no less than six (6) causes of action against Southern California Permanente Medical Group, including: 1) Violation of the Unruh Act (Civil Code 12 51 *et seq.*); 2) Violation of the Fair Employment and Housing Act (Government Code §§ 12900 *et seq.*) (Discrimination); 3) Violation of the Fair Employment and Housing Act (Government Code §§ 12900 *et seq.*) (Retaliation); 4) Wrongful Termination In Violation of Public Policy; 5) Intentional Infliction of Emotional Distress; and 6) Failure to Prevent Discrimination from Occurring.

SUMMARY OF DAMAGES

In a successful action, under both FEHA and Labor Code § 1102.5, a plaintiff is entitled to all compensatory and punitive damages available in civil tort cases. See, for example, *Commodore Home Systems v. Superior Court*, (1982) 32 Cal.3d 211; Government Code §12965(b)). If this case proceeds to litigation, Kaiser will be liable for economic and non-economic damages, including but not limited to lost income and emotional distress damages, as well attorneys' fees and costs. In California, a multiplier may enhance an attorneys fee award. *Serrano v. Priest*, (1977) 20 Ca.3d 25.

Roberta Cervantes is confident that if this case proceeds to litigation, she will prevail and will be entitled to significant monetary damages. A verdict in Cervantes's favor could easily expose Kaiser to liability in the 7 figures. Despite the serious nature of the allegations, Cervantes is presently willing to discuss reaching a pre-litigation resolution of her claims and attend mediation if a resolution seems possible. If Kaiser wishes to discuss an early resolution to this matter, please advise within thirty (30) days of receipt of this correspondence. If our office does not receive a response, we will proceed with Cervantes's lawsuit in state court.

Nothing contained herein is intended to be, or shall be deemed to be, a full or final statement of Cervantes's claims, or a waiver of any of their rights or interest, all of which are expressly reserved.