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6 PATRICIA MAYBERRY

7  
8 UNITED STATES DISTRICT COURT  
9 CENTRAL DISTRICT OF CALIFORNIA

10  
11 PATRICIA MAYBERRY, an  
12 individual,

13 Plaintiff,

14 vs.

15 PROVIDENCE HOLY CROSS  
16 MEDICAL CENTER, a California  
17 corporation; PROVIDENCE HEALTH  
& SERVICES, a Washington  
18 corporation; PROVIDENCE HEALTH  
SYSTEM - SOUTHERN  
19 CALIFORNIA, a California  
20 corporation; and DOES 1 through 50,  
21 inclusive,

22 Defendants.

CASE NO.

COMPLAINT FOR:

1. EMPLOYMENT DISCRIMINATION ON THE BASIS OF AGE IN VIOLATION OF U.S. AGE DISCRIMINATION IN EMPLOYMENT ACT;
2. EMPLOYMENT DISCRIMINATION ON THE BASIS OF GENDER/SEX IN VIOLATION OF US TITLE VII;
3. EMPLOYMENT RETALIATION IN VIOLATION OF US TITLE VII;
4. BREACH OF IMPLIED EMPLOYMENT CONTRACT;
5. BREACH OF IMPLIED COVENANT OF GOOD FAITH AND FAIR DEALING;
6. INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS;
7. NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS; AND
8. BREACH OF FIDUCIARY DUTY FOR DEFINED CONTRIBUTION BENEFIT PLAN AND CONTRACT.

23  
24  
25 DEMAND FOR JURY TRIAL  
26  
27  
28

DAAR & NEWMAN, PLC

1 COMES NOW Plaintiff Patricia Mayberry (“Mayberry”) and alleges as follows:  
2

3 **THE PARTIES**  
4

5 1. Plaintiff Mayberry is, and at all material times was, an individual resident of  
6 California.

7 2. Defendant Providence Holy Cross Medical Center (“Providence Holy  
8 Cross”) is, and at all material times was, a corporate entity organized under the laws of  
9 and authorized to do business in California with its primary headquarters located at 15031  
10 Rinaldi Street, Mission Hills, CA 91345.

11 3. Defendant Providence Health & Services (“Providence Health”) is, and at  
12 all material times was, a corporate entity organized under the laws of Washington and  
13 registered to do business in California with its primary headquarters located at 1801 Lind  
14 Avenue SW, Renton, Washington 98057-3368.

15 4. Defendant Providence Health System - Southern California (“Providence  
16 SoCal”) is, and at all material times was, a corporate entity organized under the laws of  
17 and authorized to do business in California with its primary headquarters located at 4180  
18 West 190th Street, Torrance, California 90504-5513.

19 5. The true names and capacities, whether individual, corporate, associate or  
20 otherwise, of the defendants DOES 1 through 50, inclusive, and each of them, are  
21 unknown to Mayberry, who therefore sues said defendants by said fictitious names.  
22 When the identities and capacities of DOES 1 through 50, inclusive, become known to  
23 Mayberry, she will amend her Complaint. The term “Defendants,” as used herein, shall  
24 include each of said fictitiously-named defendants and Providence Holy Cross,  
25 Providence Health and Providence SoCal.

26 6. Mayberry is informed and believes, and thereon alleges, that certain other  
27 defendants were the agents, employees and representatives of certain of the remaining  
28 defendants, and were at all times acting within the purpose and scope of said agency and

1 employment, and each said defendant has ratified and approved the acts of its agents,  
2 employees and representatives, and that each actively participated in, aided and abetted, or  
3 assisted one another in the commission of the wrongdoing alleged in this Complaint.

4 7. Each of the Defendants employs more than twenty (20) employees, and at  
5 all relevant times did so.

6  
7 **JURISDICTION AND VENUE**

8  
9 8. This Court has venue and jurisdiction over this dispute because it arises in  
10 or about Los Angeles, California under federal law, namely U.S. Title VII of the Civil  
11 Rights Act of 1964, the U.S. Age Discrimination in Employment Act and the U.S. Older  
12 Workers Benefit Protection Act (29 U.S. Code § 621, et seq.). This Court has subject  
13 matter jurisdiction over these federal question claims pursuant to 28 U.S.C. §§ 1331 and  
14 1338(a) and (b). This Complaint also alleges violations of California law. This Court has  
15 jurisdiction over these state law claims pursuant to its supplemental jurisdiction, 28 U.S.C.  
16 § 1367(a)

17  
18 **FACTUAL ALLEGATIONS COMMON TO**  
19 **ALL CLAIMS FOR RELIEF**

20  
21 9. Defendants hold themselves out publicly as a moral and fair institution and  
22 claim to stand for a mission statement, which is posted on the public internet.

23 10. Their mission statement provides in relevant part as follows: “INTEGRITY  
24 . . . **We hold ourselves accountable to do the right things for the right reasons.** We  
25 speak the truth with courage and respect. We pursue authenticity with humility and  
26 simplicity.” (Emphasis added.)

27 11. As this lawsuit demonstrates, Defendants’ mission statement is a farce. In  
28 reality, Defendants do not act with integrity, and they do not do “the right things for the

1 right reasons.” To the contrary, Defendants engage in discrimination and retaliation, even  
2 against their senior most tenured and aged employees. Their conduct is the antithesis to  
3 the values contained in the mission statement that they self-proclaim.

4 12. Providence Health is a more than \$12 billion annual gross revenue health  
5 care and hospital business. Providence SoCal has gross annual revenues in excess of \$1.5  
6 billion.

7 13. Providence SoCal is comprised of 13 acute care hospitals in Los Angeles,  
8 Orange and San Bernardino counties, and the High Desert, with a total inpatient market  
9 share of twenty-five percent (25%) in their service areas in 2018, as reported by the Office  
10 of Statewide Health Planning and Development. In Los Angeles County, the System  
11 includes six acute care facilities. Providence SoCal’s largest hospital, Providence St.  
12 Joseph Medical Center, is in Burbank. The System also includes hospitals in Mission  
13 Hills, San Pedro, Tarzana, Torrance and Santa Monica. Providence Medical Foundation  
14 (“PMF”) operates over fifty (50) practice locations in the market, offering more than 20  
15 types of specialty care. PMF includes the Facey, PMI and Providence St. John’s medical  
16 foundations, and in addition, the System includes seven acute care facilities within Orange  
17 and San Bernardino counties: Apple Valley, Fullerton, Mission Viejo, Laguna Beach,  
18 Newport Beach, Irvine and Orange, California. Mission Hospital is located on two  
19 campuses in Mission Viejo and Laguna Beach, and maintains the region’s level II trauma  
20 center, as well as a women’s center. Hoag Hospital, which also is composed of two  
21 campuses, in Newport Beach and Irvine, also includes Hoag Orthopedic Institute. St.  
22 Joseph Heritage Healthcare, a medical foundation, operates clinics in the region with its  
23 contracted physician partners.

24 14. Defendants Providence Health and Providence SoCal first hired Mayberry  
25 on or about July 1978 as a Registered Nurse at their Providence Saint Joseph Medical  
26 Center, which was at the time their only Southern California location.

27 15. In or about April 2008, Defendants transferred Mayberry to their Holy Cross  
28 Hospital, which was acquired in or about 1996. By this time, Defendants Providence

1 Health and Providence SoCal had also acquired Little Company of Mary & San Pedro,  
2 Tarzana and St. John's. Later, in 2016 or 2017, they acquired St. Joseph Health.

3 16. In or about December 2017, Defendants promoted Mayberry to be Chief  
4 Operating Officer/Interim Chief Nursing Officer (COO/CNO) of their Providence Holy  
5 Cross facility. In or about August 2018, Defendants made Mayberry exclusively its  
6 secular COO of Holy Cross.

7 17. At all relevant times, Mayberry performed her job in a fully satisfactory  
8 capacity, and she never received any performance reviews critical of her job performance.

9 18. In early 2020, Defendants decided to conduct a group layoff throughout the  
10 Southern California region. Providence SoCal's Executive Vice President and Chief  
11 Executive Erik Wexler and its Chief Human Resource Officer Pamela Stahl were part of  
12 the decision-making group who chose which employees throughout the region would be  
13 selected for layoff. Mr. Wexler and Ms. Stahl issued written communications confirming  
14 that the group layoff was being conducted on a regional basis throughout the Southern  
15 California region.

16 19. After more than forty-two (42) years of employment, Mayberry had an implied  
17 contract for continued employment with Defendants. Terms of this contract were confirmed by  
18 Bernard Klein, MD, Chief Executive, Providence Holy Cross MedicalCenter. Repeatedly  
19 throughout her employment, Klein told her that she was excellent and that he could not function  
20 without her. A number of times, he told her to not leave the company and to stay indefinitely.

21 20. As part of its 2020 group layoff, Defendants chose Mayberry as one of their  
22 Chief Operating Officers in the Southern California region to be laid off. Defendants  
23 chose not to select other Chief Operating Officers in the Southern California region to be  
24 laid off, where such other COO's were younger than Mayberry and/or of a different  
25 gender/sex.

26 21. Additionally, Defendants offered some Chief Operating Officers in the  
27 Southern California region, who were initially selected for layoff, to instead assume other  
28 jobs within the region/system and thereby avoid being laid off. Many of these other

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