

Physicians' Advocates  
2033 N. Main St., Ste. 340  
Walnut Creek, CA 94596

1 DANIEL HOROWITZ (SBN: 92400)  
2 LAW OFFICE OF DANIEL HOROWITZ  
3 3650 Mt. Diablo Blvd., Ste. 225  
4 Lafayette, CA 94549  
5 Telephone: (925) 283-1863  
6 horowitz@physiciandefense.lawyer

7 CHARLES BOND (SBN: 60611)  
8 PHYSICIANS' ADVOCATES  
9 2033 N. Main St., Ste. 340  
10 Walnut Creek, Ca 94596  
11 Telephone: (510) 841-7500  
12 [cb@physiciansadvocates.com](mailto:cb@physiciansadvocates.com)

13 KARINA JOHNSON (SBN: 243099)  
14 c/o PHYSICIANS ADVOCATES  
15 2033 N. Main St., Ste. 340  
16 Walnut Creek, Ca 94596  
17 Telephone: (510) 841-7500  
18 [kjohnsonlaw@outlook.com](mailto:kjohnsonlaw@outlook.com)

19 Attorneys for Plaintiff  
20 Gail Mallard-Warren, M.D.

21 **IN THE UNITED STATES DISTRICT COURT EASTERN DISTRICT OF**  
22 **CALIFORNIA - FRESNO DIVISION**

23 GAIL MALLARD-WARREN, M.D.  
24  
25 Plaintiff,

26 vs.

27 SAINT AGNES MEDICAL CENTER, THE  
28 MEDICAL STAFF OF SAINT AGNES  
MEDICAL CENTER and TRINITY  
HEALTH INC., NANCY  
HOLLINGSWORTH, and DOES 1-100.  
Defendants

Case No.:

**COMPLAINT FOR DAMAGES AND  
INJUNCTIVE RELIEF**

**JURY TRIAL DEMANDED  
(Rule 201 - Fed. R. Civ. P. 38)**

**COMPLAINT**

COMES NOW Plaintiff, GAIL MALLARD-WARREN, M.D. and by and through her  
attorneys as to Defendants SAINT AGNES MEDICAL CENTER, THE MEDICAL

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**COMPLAINT FOR DAMAGES AND INJUNCTIVE RELIEF**

1 STAFF OF SAINT AGNES MEDICAL CENTER, TRINITY HEALTH, NANCY  
2 HOLLINGSWORTH, AND DOES 1-100, and hereby files this Complaint, alleging as  
3 follows:  
4

5 1. Dr. Gail Mallard-Warren was one of the first Black doctors in Fresno and the first  
6 female surgeon at Defendant St. Agnes Medical Center (“St. Agnes”). In spite of her  
7 outstanding training, when she arrived at St. Agnes in 1983, her Department Chief wasted  
8 no time in telling her that he would “make her life hell.” Saint Agnes has done just that.  
9 Over the years, Dr. Mallard-Warren has constantly suffered disparate treatment, harassment,  
10 and a hostile work environment. She has withstood overtly sexist and racist comments (as  
11 well as unwanted advances by male physicians), along with ageist and racist treatment from  
12 the nurses, doctors, and hospital administration. Conversations about her – even in her  
13 presence – have been riddled with microaggressions and stereotypes. Nurses call her “Gail”  
14 or “hey you,” while they address other doctors - especially white males – as “Doctor  
15 [Surname].” For Dr. Mallard-Warren’s first-person account of her experiences at St. Agnes  
16 Medical Center, please see Exhibit A which is attached and incorporated by this reference.  
17

18  
19 2. At St. Agnes, the pattern of disrespect and discrimination is pervasive and extends  
20 throughout the hospital — all the way up to the CEO. Dr. Mallard-Warren has been  
21 presumed to be a housekeeper or an orderly. When she stands up for herself or her patients,  
22 she is accused of having an “attitude.” This ongoing hostile work environment is clearly the  
23 product of a corporate culture of racism and sexism - a culture Dr. Mallard-Warren wishes  
24 to address head-on. When Dr. Mallard-Warren has had to advocate for herself and her  
25  
26  
27  
28

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**COMPLAINT FOR DAMAGES AND INJUNCTIVE RELIEF**

1 patients, Defendants have stereotyped her as an “angry Black woman” and have punished  
 2 her unjustly in an effort to silence her and discredit her.<sup>1</sup>

### 3 PARTIES

4  
 5 3. **Plaintiff, Dr. Gail Mallard-Warren** (“Dr. Mallard-Warren”) is a Black Physician  
 6 specializing in Obstetrics, Gynecology, and Infertility in Fresno, California. She received  
 7 her B.S. from the University of California, Riverside in 1975 and her M.D. Degree from the  
 8 University of California, Davis in 1979. She completed her internship and residency in  
 9 Obstetrics and Gynecology at the University of California, San Francisco affiliated program  
 10 at Valley Medical Center of Fresno in 1983. She is a Diplomate of the American Board of  
 11 Obstetrics and Gynecology and holds memberships in the National Medical Association,  
 12 American Medical Association, and several other professional medical associations.

13  
 14 4. Dr. Mallard-Warren is suing on her own behalf and in her representative capacity on  
 15 behalf of her patients - especially her Black patients. In line with Dr. Mallard-Warren’s deep  
 16 spiritual beliefs, she is bringing this suit to help the Hospital and the community address and  
 17 resolve its problems with racial and gender discrimination. Her patients are being  
 18 stereotyped. She wants to help because she has witnessed Black patients at Saint Agnes  
 19 getting a level of care that is far, far below the care given to other patients – care that inflicts  
 20 unnecessary suffering and harm to patients. Dr. Mallard-Warren has witnessed the Labor  
 21  
 22

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23 <sup>1</sup> Research has shown that Black women in the United States are often victims of bias, and resultant  
 24 aggressions, due to the pervasive trope of the “angry Black woman.” A paper published in the *Iowa Law*  
 25 *Review* in 2017 entitled “Aggressive Encounters & White Fragility: Deconstructing the Trope of the Angry  
 26 Black Woman” (*Iowa Law Review*, vol. 102, no. 5, July 2017) describes a pattern in which Black women in  
 27 America face frequent denigration, and those who dare to challenge those actions or the underlying bias itself  
 28 wind up being blamed. The article further comments on the “risk that if a Black woman were to challenge  
 embedded assumptions, the focus would shift from the aggressor’s act to the appropriateness of the Black  
 woman’s response... a Black woman who pushes back against her marginalization gets transformed by society  
 into the “Angry Black Woman... **The problem becomes the Black woman as opposed to the conditions to  
 which she is responding**” (Jones 28; emphasis added). This precise behavior has been going on at St. Agnes  
 for a long time.

1 and Delivery nurses treat Black patients<sup>2</sup> differently than other patients. They ignored Black  
 2 patients' needs, choosing to treat white patients before Black patients, even though the Black  
 3 patients were in more urgent need of care. She has seen Black patients shoved into the  
 4 hallway in wheelchairs and forgotten for hours while white patients were given beds. She  
 5 has seen Black patients neglected, having to lie in their own filth; and she has seen care  
 6 withheld to Black patients and heard the nurses say things like, "Black people don't feel  
 7 pain as much, so don't give them as much painkilling medicine" or "Don't give Black  
 8 patients pain medicines, they are all just addicts." In Fresno County, a Black mother and  
 9 infant are three times as likely to die as white patients. The injustice of unequal care must be  
 10 addressed.  
 11

### 12 THE DEFENDANTS AND UNNAMED PARTIES

13  
 14 5. **Saint Agnes Medical Center** ("St. Agnes") is a California non-profit corporation,  
 15 and is an affiliated corporation with Trinity Health, Inc. It operates Saint Agnes Medical  
 16 Center in Fresno, California. Dr. Mallard-Warren has applied for, received, and held  
 17 privileges to practice at St. Agnes since 1983. Saint Agnes has a pattern and practice of  
 18 discrimination, especially against older Black women. It is part of their larger campaign to  
 19 keep Black doctors and patients out of St. Agnes Medical Center. St. Agnes has over 400  
 20 physicians on the medical staff. Fewer than 20 are Black. Within the course of a year, St.  
 21 Agnes disciplined two older Black female physicians in an effort to drive them and their  
 22 patients away from the hospital.  
 23  
 24

25 6. **The Medical Staff of Saint Agnes Medical Center** ("The Medical Staff") is a self-  
 26 governing organization of health providers at St. Agnes. The Medical Staff is governed by  
 27

28 <sup>2</sup> Including Dr. Mallard-Warren's patients on whose behalf she brings this lawsuit.

1 its Medical Executive Committee (“MEC”) which is chaired by its Chief of Staff. The  
2 Medical Staff is regulated by its by-laws. In all matters, including peer review, the Medical  
3 Staff is accountable to the Board of Trustees of St. Agnes, and thus was, at all times relevant  
4 herein, acting as the agent of St. Agnes.  
5

6 7. **Trinity Health, Inc.** (“Trinity”) is a major health corporation incorporated in  
7 Indiana. Trinity owns approximately 92 hospitals and hundreds of primary, specialty and  
8 continuing care centers in 22 states. It owns, operates, and controls Defendant, Saint Agnes  
9 Medical Center in Fresno, California. It employs or contracts directly or indirectly other  
10 persons who are identified herein. It is an affiliated corporation with St. Agnes Medical  
11 Center (Cal. Corp. Code §150). All actions and conduct done by St. Agnes, its agents,  
12 servants, employees, management, board, and executive team, were endorsed, ratified, and  
13 adopted by Trinity.  
14

15 8. **Nancy Hollingsworth** (“Hollingsworth”) is a registered nurse who functions as  
16 the CEO and President of St. Agnes. She is an employee of Trinity and other corporations  
17 affiliated with Trinity and St. Agnes. Nancy Hollingsworth is prohibited by law from  
18 making medical decisions because she is not a licensed physician (Business & Professions  
19 Code § 2052). All wrongful conduct by Nancy Hollingsworth was done in the course and  
20 scope of her position as CEO and President of St. Agnes and as an agent of Trinity.  
21

22 9. **The Patient** is the mother who is at the center of this case. She presented at the St.  
23 Agnes Labor and Delivery Department as an extremely high-risk OB patient with a very  
24 complicated case. The Patient was carrying twins, but she was only 22 or 23 weeks along in  
25 her pregnancy.  
26

27 10. **Camilla Marquez, M.D.** was the Chair of the OB/GYN Department at St. Agnes  
28

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