

# EXHIBIT C

Civil Action No. 3:21-cv-205

21-CV-0972

Cause No. \_\_\_\_\_

CHARLOTTE MERRILL,

Plaintiff,

v.

MITSUBISHI TANABE PHARMA  
AMERICA, INC.,

Defendant.

§ IN THE DISTRICT COURT

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Galveston County - 212th District Court

\_\_\_\_\_ JUDICIAL DISTRICT

§ GALVESTON COUNTY, TEXAS

**PLAINTIFF'S ORIGINAL PETITION**

Plaintiff Dr. Charlotte Merrill ("Plaintiff" or "Merrill") files this Original Petition against Defendant Mitsubishi Tanabe Pharma America, Inc. Plaintiff requests damages, interest, attorneys' fees, and costs for Defendant's unlawful acts.

**I. DISCOVERY CONTROL PLAN**

1. Plaintiff intends that discovery be conducted under Level 2 of Texas Rule of Civil Procedure 190.3.

2. Pursuant to Texas Rule of Civil Procedure 47, Plaintiff seeks monetary relief over \$250,000 but not more than \$1,000,000.

**II. PARTIES AND SERVICE**

3. Plaintiff Charlotte Merrill is a resident of Galveston County, Texas.

4. Mitsubishi Tanabe Pharma America, Inc. ("MTPA" or "Defendant") is a for-profit corporation headquartered in Jersey City, New Jersey, and doing business nationwide. MTPA may be served via its registered agent, C T Corporation System, 1999 Bryan Street, Suite 900, Dallas, Texas 75201, or wherever it may be found.

Status Conference Set for 9/30/2021

### **III. VENUE & JURISDICTION**

5. Venue in Galveston County is proper under Tex. Civ. Prac. & Rem. Code § 15.002(a)(1) because all or a substantial part of events or omissions giving rise to the claim occurred in Galveston County.

6. On March 16, 2020, Plaintiff timely dual-filed a “Charge of Discrimination” with the Texas Workforce Commission (“TWC”) and the U.S. Equal Employment Opportunity Commission, alleging discrimination on the basis of disability and retaliation for requesting an accommodation. More than 180 days have passed since the filing of Plaintiff’s Charge of Discrimination. Thus, all administrative prerequisites have been met or have expired.

7. This controversy is within the jurisdictional limits of this Court.

### **IV. FACTUAL SUMMARY**

8. Plaintiff began working for Defendant in May 2011. She frequently traveled for her job and often worked from her home in Galveston County, Texas.

9. MTPA has no office location in Texas, but it has employed and continues to employ several individuals throughout Texas in addition to Plaintiff, and it markets and sells its products to health care providers within Texas. Some of these health care providers include Texas Neurology, P.A. (in Dallas, Texas), Houston Methodist Neurological Institute, and UT Health Science Center San Antonio.

10. Throughout her tenure, Plaintiff received consistently positive feedback both from her supervisors and in performance reviews.

11. In October and November of 2018, Plaintiff experienced two traumas to her nose and face. In late November 2018, Plaintiff began to experience autonomic symptoms, including visual variant vertigo and facial pain. On December 6, 2018, Plaintiff was subsequently

diagnosed with a concussion, which was later determined to be intracranial hypotension. On December 28, 2018, Plaintiff was diagnosed with multiple facial fractures, including a possible skull base fracture. Plaintiff's disabilities resulting from the injuries caused Plaintiff to suffer orthostatic headache, nausea, dizziness, and facial pain. These medical conditions caused difficulty reading, sitting or standing for prolonged periods, balancing and walking.

12. On January 3, 2019, Plaintiff began short-term disability leave ("STD"), which became retroactively effective as of December 19, 2018, to coincide with Defendant's last full day of work prior to the Christmas holiday.

13. As 2019 continued, Plaintiff's symptoms worsened and then began to improve in May. Throughout her leave, she kept Colleen Lawler and Janesse Chaparro in the Defendant's Human Resources department apprised of her condition and continuing recovery.

14. Plaintiff made concerted efforts to complete physical therapy and acupuncture in order to return more quickly to work.

15. On March 27, 2019, Plaintiff received an email from Lawler requesting a definitive return date. Plaintiff stated that after her upcoming doctor appointments, she would be able to provide more information.

16. On May 23, 2019, Plaintiff provided a doctor's letter of release to work up to 12 hours per week. On May 31, Adam Willard, in the Defendant's Human Resources department, stated that Defendant would be able to accommodate Plaintiff for one month.

17. On or about June 3, 2019, Dr. Steve Apple with the Defendant confirmed that he had plenty of project work to keep Plaintiff busy "well into the future." Apple subsequently reiterated to Plaintiff on different occasions that there was plenty of project work to keep her

busy well into the future. Apple confirmed to Plaintiff that she could transition back to managing the field team as her recovery allowed.

18. On or about June 10, 2019, Plaintiff received a performance review with a rating of three (3, or fully satisfactory).

19. In June 2019, Plaintiff provided updated paperwork from her physician to extend her disability period and in July subsequently began the process of apply for long-term disability leave (“LTD”) with the Defendant’s long-term disability carrier.

20. Plaintiff continued to have regular calls with her supervisor and other directors in the Defendant’s medical affairs department, including Drs. Wendy Agnese and Cheryl Fitzer-Attas. Both Agnese and Fitzer-Attas complimented Plaintiff for her exceptional contributions considering the amount of work hours Plaintiff’s reasonable accommodation allowed.

21. On August 30, 2019, Plaintiff advised Willard, Lawler, and Chaparro that her physician and therapists had recommended a gradual increase in work hours and asked for additional information regarding ongoing part-time work status.

22. In September 2019, Willard suggested that Plaintiff submit a Reasonable Accommodation Request that included Plaintiff’s weekly work hours increasing as her physical condition permitted. Plaintiff submitted such a request, and concurrently provided a letter from her doctor stating that Plaintiff was authorized to increase her workload to 18 hours per week.

23. On October 14, 2019, Chaparro requested a meeting with Plaintiff and Vice President of Medical, Gustavo Suarez. Plaintiff asked Apple if she should be concerned, and Apple replied that Plaintiff was doing a great job.

24. On October 15, 2019, Chaparro and Suarez terminated Plaintiff’s employment, stating that Defendant could no longer continue Plaintiff’s accommodations.



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