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VENTURA SUPERIOR COURT

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Attorney for Plaintiff VANESSA REED

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF VENTURA

VANESSA REED, an individual

Plaintiff,

vs.

BUENA VISTA PALLIATIVE HOME  
HEALTH & HOSPICE, a cooperation,  
ANDREA DOCTOR, an individual and  
DOES I through 10, inclusive,

Defendants.

) Case No.

PLAINTIFF'S COMPLAINT FOR:

1. SEX DISCRIMINATION IN VIOLATION GOV'T CODE §§ 12921, 12926
2. PREGNANCY DISCRIMINATION IN VIOLATION OF GOV'T CODE §12940(A) DISPARATE TREATMENT AND DISPARATE IMPACT)
3. PREGNANCY DISCRIMINATION IN VIOLATION OF GOV'T CODE §12945(a) ("PREGNANCY DISABILITY LEAVE LAW")
4. RACE DISCRIMINATION IN VIOLATION OF FEHA, CAL. GOVT. CODE SECTIONS 12940 ET SEQ.
5. HARASSMENT IN VIOLATION OF FEHA, CAL. GOVT. CODE SECTIONS 12940 ET SEQ.
6. WRONGFUL TERMINATION IN VIOLATION OF PUBLIC POLICY
7. INTENTIONAL INFLECTION OF EMOTIONAL DISTRESS

JURY TRIAL DEMANDED BY PLAINTIFF

1 Plaintiff Vanessa Reed ("Plaintiff") alleges as follows on knowledge as to herself and her own  
2 acts/interactions, and on information and belief as to all other matters:

3 **JURISDICTION AND VENUE**

4 1. This Court has personal jurisdiction over Defendant because it conducts business in the  
5 State of California,

6 2. Under California Code of Civil Procedure section 395(a), venue is proper in this County  
7 because Defendants reside in Ventura County.

8 **EXHAUSTION OF ADMINISTRATIVE PROCEEDINGS**

9 3. Plaintiff exhausted her administrative remedies by timely filing a complaint for the issues  
10 required to be raised herein against all defendants with the California Department of Fair Employment &  
11 Housing ("DFEH") and thereafter received a "Right to Sue" letter from the DFEH, which allowed Plaintiff  
12 one year from October 04, 2018 to file this action. A true and correct copy of the DFEH Right to sue is  
13 attached as Exhibit "1".

14 **PARTIES**

15 4. Plaintiff, at all times relevant hereto, was and is a resident of the State of California.

16 5. Plaintiff is informed and believes that Buena Vista is a corporation organized and  
17 existing under the laws of California, it has multiple locations, with its principal place of business  
18 located at 2545 W Hillcrest Dr #130, Thousand Oaks, CA 91320. Buena Vista is a Home Health and  
19 Hospice Agency. According to its website, [www.buenavistahhh.com](http://www.buenavistahhh.com) Buena Vista is dedicated to  
20 administering the highest quality care, while encompassing the physical, emotional and spiritual needs  
21 of our patients, their families and our community through kindness and compassion. In July of 2015,  
22 "Ensign Group/Services" acquired Buena Vista Home Health and Hospice. Upon that acquisition titles  
23 and duties changed for all of the Home Health and Hospice staff due to the change in workflow and the  
24 way "Ensign" operated.

25 6. At all relevant times, Buena Vista employed more than 50 people.

26 7. Plaintiff is informed and believes that Andrea Doctor "Doctor" is an individual employed  
27 by Buena Vista at all relevant times a resident of Ventura County California. Defendant Doctor is sued  
28 in her individual capacity.

1           8.     The true names and capacities of the defendants named herein as Does 1 through 10,  
2 inclusive, whether individual, corporate, associate or otherwise, are unknown to Plaintiff who therefore  
3 sues such defendants by fictitious names pursuant to California Code of Civil Procedure section 474.  
4 Plaintiff is informed and believes that all of the Doe defendants are California residents. Plaintiff will  
5 amend this Complaint to show such true names and capacities when they have been determined.

6           9.     Plaintiff is informed and believes that at all times relevant herein, each defendant  
7 designated, including Does 1 through 10, was the agent, managing agent, principal, owner, partner, joint  
8 venture, representative, manager, servant, employee and/or co-conspirator of each of the other  
9 defendants, and was at all times mentioned herein acting within the course and scope of said agency and  
10 employment, and that all acts or omissions alleged herein were duly committed with the ratification,  
11 knowledge, permission, encouragement, authorization and consent of each defendant designated herein.

12           10.    Plaintiff was hired by Defendant Buena Vista in October 2013. Buena Vista is a Home  
13 Health and Hospice Agency with offices in Ventura and Westlake Village, California. Plaintiff's  
14 position at Buena Vista was "Office Support".

15           11.    Plaintiff's initial supervisor was Kelly Van Orman "Van Orman" whose title was Office  
16 Manager. Van Orman reported to Andrea Doctor "Doctor" whose title was "Administrator" and the  
17 Owner of the business Bonnie Olson "Olson".

18           12.    Plaintiff's initial job duties were to assist in Medical Records as support transcribing  
19 patient Plans of Care along with Oasis data sets, Quality Assurance work on patient charts, and other  
20 various tasks as assigned.

21           13.    Over the course of the Plaintiff's first two years at Buena Vista there were several  
22 changes in Management and staff as well as Ownership of the business. In July of 2015, "Ensign  
23 Group/Services" acquired Buena Vista Home Health and Hospice. Upon that acquisition titles and duties  
24 changed for all of the Home Health and Hospice staff due to the change in workflow and the way  
25 "Ensign" operated.

26           14.    In December of 2015, Plaintiff and co-worker Angelica Vargas "Vargas" a Hispanic  
27 female were asked by Andrea Doctor a Caucasian female and the current Executive Director Richard  
28 Jenik a Caucasian male to take their experience and expertise to a sister branch in Los Angeles. Plaintiff  
transferred to Angeles Home Health to assist with medical records, claims and billing.

1           15.    In January 2016, it was then announced that another employee Melissa Salgado  
2 "Salgado" a Hispanic female was going to be the Operations Manager over Home Health and Hospice  
3 for Buena Vista and Angeles Home Health and Hospice. It was known that this employee did not have  
4 any home health experience. Plaintiff asked Doctor for an opportunity to help Salgado by sharing the  
5 position since Plaintiff had ample management experience and was already performing Salgado's new  
6 job duties.

7           16.    Plaintiff asked Doctor if Salgado and Plaintiff could share the title for the Buena Vista  
8 and Angeles Home Health Branches. Plaintiff recommended to Doctor that Plaintiff could be Operations  
9 Manager over Home Health and Salgado could operate over Hospice since her experience was in  
10 Hospice. Doctor told the Plaintiff that it was a great idea, but Plaintiff was needed where she was.  
11 Plaintiff was the only African American employee at Buena Vista throughout her employment and  
12 believes that her race prevented her from being promoted to Operations Manager. Plaintiff decided to  
13 continue working and hope that her belief of racial discrimination was wrong.

14           17.    In the Spring of 2016, Doctor became the official Executive Director of Buena Vista after  
15 Ensigns Executive Director Richard Jenik was terminated. Plaintiff's duties again changed to  
16 "Intake/Medical Records Supervisor" in fall of 2016.

17           18.    Also, in the fall of 2016, Plaintiff learned that she was pregnant. Plaintiff decided to keep  
18 the pregnancy secret until she shared the news with family. Plaintiff was also apprehensive how Doctor  
19 would react after the news of Plaintiff's pregnancy was discovered.

20           19.    Plaintiff did not receive the appropriate notice about her rights concerning pregnancy  
21 leave under the PDLL "as soon as practicable" after she told Buena Vista about her pregnancy and  
22 inquired about pregnancy leave in violation of 2 California Code of Regulations 11049(d)(2). Buena  
23 Vista also failed to inform Plaintiff of available comparable positions by means "reasonably calculated"  
24 to give her notice of such job openings in violation of 2 California Code of Regulations 11042(c)(2)(b).

25           20.    When Plaintiff informed Doctor of her pregnancy, Doctor began to harass Plaintiff  
26 almost daily about her medical condition asking, how long she was going to work, how long she was  
27 going to be out on leave, and made comments to such as, "how they were going to function" while  
28 Plaintiff was gone.

          21.    Doctor questioned Plaintiff repeatedly about her pregnancy. Coworkers, Karen Redin  
          "Redin", Stephanie Tu "Tu", Karla Garcia "Garcia" and Angelica Vargas "Vargas" witnessed Doctor's

1 harassment of Plaintiff regarding her pregnancy. In addition, when Plaintiff was alone in her office,  
2 Doctor would repeatedly inquire about Plaintiff's pregnancy and how long she was going to be on  
3 maternity leave, and how long she was going to work until she went out on maternity leave.

4 22. When Plaintiff attended medical appointments, Doctor would asked about Plaintiff's  
5 private medical information, asking, was she ok, was he (the physician) going to put her on leave or bed  
6 rest. Plaintiff felt she was not able to perform her duties without Doctor's persistent questioning about  
7 her medical condition.

8 23. Between March and April of 2017, the Home Health office in Ventura was preparing to  
9 move to a new location in combination with the Hospice. Doctor directed Plaintiff while 7 months  
10 pregnant to pack and carry heavy boxes of office items as well as medical records. When coworkers  
11 Karen Redin and Karla Garcia "Garcia" offered to pack and carry the boxes, Doctor insisted Plaintiff  
12 pack and move the boxes.

13 24. Plaintiff went out on maternity leave in May of 2017. Plaintiff was out on leave through  
14 late August 2017. When Plaintiff returned to work the home health and hospice office had moved to  
15 their new combined office location. This new location was now a 20 to 30 minute commute away for  
16 Plaintiff. Doctor approached Plaintiff and offered her a raise to stay in Intake and Medical Records.  
17 Doctor stated, "we need you here in this position, so I want to give you enough money to afford a new  
18 car payment." The Plaintiff accepted the offer and began saving money to make a down payment on a  
19 new car, with the expectation that she would continue to be employed at Buena Vista.

20 25. In late October early November 2017, the office manager Andy Ellsworth "Ellsworth" a  
21 Caucasian male, decided to resign from his position, creating an opening for Plaintiff. Plaintiff was  
22 qualified for the office manager position and had the seniority over anyone else that was employed. The  
23 job was offered to another Caucasian employee who had zero management experience and had been  
24 employed for substantially less time than Plaintiff. Plaintiff believes her race was a substantial  
25 motivating factor in not being promoted within the Company.

26 26. Around the same time Plaintiff was denied promotion to the office manager position in  
27 November 2017, Plaintiff learned she was again pregnant. Immediately, Plaintiff felt anxiety over  
28 informing her supervisors due to what she had experienced her first pregnancy.

29 27. In late December 2017, after Plaintiff had informed her family, she informed her  
30 supervisors Doctor and Helen Audish "Audish" of her pregnancy.

1           28.     In a private meeting with Doctor and Audish, Plaintiff informed them of her pregnancy.  
2     Doctor began shouting and screaming out "NO", "NO WAY", "You're LYING", "I don't believe you",  
3     "You Just got Back," "What are we going to do?". The Plaintiff then felt her privacy was again violated  
4     since the entire office suite heard Doctor's comments. When Plaintiff exited the meeting the employees  
5     that remained in the office that day, Tu, La'Rae Thomas "Thomas", Raquel Pacheco "Pacheco", Nansea  
6     Sebring "Sebring", and a few field staff nurses were all staring at the Plaintiff in disbelief. Tu  
7     approached Plaintiff to inform her of how loud Doctor was and how everyone there heard Doctor  
8     shouting, and now knew that Plaintiff was pregnant.

9           29.     In early 2018, Doctor, as she had done during Plaintiff's first pregnancy, began asking  
10    the Plaintiff about leave, scheduling doctor appointments and inquiring of the details of Plaintiff medical  
11    appointments.

12           30.     Doctor told Plaintiff in front of staff, "I can't believe you're pregnant again," "I'm in  
13    denial," "I can't believe you." Aside from violating Plaintiff's privacy, Doctor and Audish both had the  
14    audacity on multiple occasions to tell Plaintiff, she "was not allowed to have any more babies," and "No  
15    more babies for you, Right." These comments by her supervisors made Plaintiff extremely  
16    uncomfortable. Coworker Angela Vargas "Vargas" overheard Doctor's and Audish's comments to  
17    Plaintiff and told Plaintiff, that it did not feel right nor was it right in any way for them to keep saying  
18    those kinds of things to Plaintiff while she was pregnant.

19           31.     Plaintiff's physician gave her a medical note to go out on maternity leave early May  
20    2018. On the Plaintiff's last day before her leave was to begin maternity leave, Doctor approached the  
21    Plaintiff requesting her to continue to work from home because they were not prepared to have someone  
22    perform Plaintiff's work while on leave.

23           32.     Plaintiff was told by Doctor and her Human Resources Representative Rebecca  
24    Thompson "Thompson" that on her last day of actual work that she would be demoted. When Plaintiff  
25    asked for clarification, Doctor and Thompson explained that her role would remain the same, but she  
26    would no longer hold the title of "Supervisor" and her pay would go from Salary to Hourly in the  
27    process. Plaintiff believes her demotion was in direct retaliation for her medical condition or her race.

28           33.     Plaintiff, as the only African American employed, was treated differently than other  
   pregnant employees. Another pregnant employee, Cynthia Lion "Lion" a Caucasian female was given a  
   promotion prior to going out on her leave and given ample accommodations and coverage while she was

1 out. Doctor and Operations Manager Arpi Adamayan, "Adamayan" made sure Lion's job duties were  
2 divided amongst other staff members so that Lion's job duties were handled while she was on leave.

3 34. Plaintiff did not want to jeopardize her employment, so she agreed to work from home as  
4 long as she could or until her physician told her to stop. Plaintiff worked from home until May 15, 2018,  
5 five days prior to her cesarean section.

6 35. Plaintiff informed Buena Vista and the Ensign Leave of Absence team of her leave, now  
7 set to begin May 16, 2018. Plaintiff's leave was known to be May 16, 2018 to September 5, 2018. This  
8 leave was approved by the Defendants.

9 36. In early August 2018, Plaintiff purchased a new car in anticipation of her return to work.  
10 Plaintiff wanted to ensure that when she returned to work that she would be prepared, and have no issues  
11 commuting to and from work pursuant to the prior agreement with Doctor.

12 37. In late August 2018, Plaintiff received a birthday card from Buena Vista. Plaintiff called  
13 to say thank you for the card. Plaintiff spoke to Doctor on the phone and thanked her for the card, telling  
14 Doctor, she looked forward to seeing everyone in a week or so upon her return to work. Doctor replied,  
15 "Well I don't know, you know, sometimes people don't return to work." Plaintiff was very confused by  
16 Doctor's comment, but Plaintiff assured Doctor that she had purchased a new car and fully planned on  
17 returning to work on September 6, 2018.

18 38. On August 29, 2018, one week prior to the Plaintiff's return to work from maternity leave  
19 Doctor called Plaintiff unexpectedly. Doctor informed Plaintiff that Buena Vista's Human Resources  
20 Representative "Thompson" was also in the room and that the Plaintiff was on speaker phone. Doctor  
21 informed Plaintiff that she was terminated, and that Plaintiff should not return to work on September 6,  
22 2018 as planned because there was no job for the Plaintiff to return to and that they had no other job or  
23 duties for the Plaintiff to perform if she returned.

24 39. Thompson explained to Plaintiff that once her leave ended and after September 6, 2018,  
25 Plaintiff would receive documents in the mail about her termination and Cobra benefits. Plaintiff  
26 explained to Doctor that this was not what their agreement was for moving forward, and that she had  
27 just had a baby and purchased new car per their agreement. Doctor provided no explanation for  
28 Plaintiff's sudden termination. Plaintiff immediately believed she was being discriminated against based  
on her pregnancy, use of maternal bonding time and her race.

1           40. Plaintiff began receiving calls and text messages from coworkers who explained that they  
2 were told Plaintiff had just decided to "not come back to work". This was not true in any way.

3           41. Plaintiff began to suffer stress and anxiety over the loss of her employment. Plaintiff is  
4 the sole provider for her household.

5           42. On September 6, 2018, the Plaintiff received a phone call from Buena Vista corporate  
6 leave of absence office to confirm with the Plaintiff that she was going to return to work that same day.  
7 Plaintiff was confused and informed the caller that the week prior she had received notice from Doctor  
8 and Thompson that she had been terminated.

9           43. The caller immediately became annoyed and asked Plaintiff "why did they call you?",  
10 "what did they say to you", and "did they give you a reason that you should not return to work?".  
11 Plaintiff explained to the caller exactly what had been explained to her and the caller shouted to the  
12 Plaintiff that she was going to call the Buena Vista branch to find out what was going on and call her  
13 back.

14           44. Plaintiff never received a call back. Plaintiff called the next day and was told that that the  
15 terms were exactly what Plaintiff had been informed of by Doctor and Thompson and if Plaintiff had  
16 any questions that she needed to follow up directly with her Branch.

17           45. On September 9, 2018, Plaintiff learned that Doctor was re-hiring sales representative  
18 Lupe Barrozo "Barrozo" and planned to hire Thompson's daughter to do Medical Equipment and  
19 reception work. None of these positions were offered to Plaintiff, despite Plaintiff having the expertise  
20 and experience to perform the jobs.

21           46. On September 10, 2018, Plaintiff received a letter from Buena Vista stating that Buena  
22 Vista was eliminating the position of Medical Records Coordinator. Plaintiff's job title when terminated  
23 was Intake/Medical Records Coordinator. Plaintiff's position was not eliminated and was being  
24 performed by two other employees. Mavis Del Castillo "Del Castillo" was doing Intake and Angelica  
25 Vargas "Vargas" is planned to do Medical Records. Plaintiff also received phone calls and texts from  
26 her fellow employees to inform Plaintiff her job was still active.

27           47. On September 10, 2018, Plaintiff received a message from a former co-worker Vargas  
28 that Buena Vista had failed their Home Health Audit. While Plaintiff had been employed Buena Vista  
had not failed an audit. That same day another former co-worker informed Plaintiff via text message that  
another employee Lion who had the same pregnancy situation as Plaintiff was now pregnant again and



1 afraid to take her second maternity leave because she was nervous Doctor would fire her just as she had  
2 Plaintiff.

3 48. On September 13, 2018, another former co-worker informed Plaintiff that Doctor and  
4 other members of the management team had blamed the failed audit on Plaintiff. Plaintiff was shocked  
5 that Doctor and her team would blame the failed audit on Plaintiff as she had not been at work since  
6 May 2018. During Plaintiff's tenure with Buena Vista she always had the best interest of the business in  
7 mind and ensured that the business passed any audits, re-accreditations, and surveys that were upon  
8 them. Plaintiff had never done anything to receive any disciplinary action that would warrant a  
9 termination from her position.

10 **FIRST CAUSE OF ACTION**  
11 **SEX DISCRIMINATION IN VIOLATION OF GOV'T CODE §§ 12921, 12926**  
12 **(AGAINST BUENA VISTA)**

13 49. Plaintiff incorporates by this reference all the preceding and subsequent paragraphs.

14 50. At all times relevant, Plaintiff was qualified for her position at Buena Vista and  
15 performed her duties not only satisfactorily, but exceeded expectations.

16 51. Plaintiff is a black female.

17 52. Plaintiff informed Buena Vista of her pregnancy within 8 weeks of finding out. Despite  
18 the facts that Plaintiff exceeded performance expectations, received high marks on her performance  
19 evaluations, Buena Vista oddly decided to terminate Plaintiff after Plaintiff was scheduled to return from  
20 maternity leave. Plaintiff is informed and believes, and based thereon alleges, that Buena Vista decided  
21 to terminate Plaintiff because she was a female who had become pregnant on multiple occasions. Buena  
22 Vista's decision to terminate Plaintiff constitutes disparate treatment based solely on the fact that  
23 Plaintiff is/was pregnant and is a female.

24 53. Buena Vista's discriminatory actions against Plaintiff, as alleged above, constitutes  
25 unlawful discrimination in employment in account of Plaintiffs sex and pregnancy in violation of  
26 Government Code Sections 12921 and 12926.

27 54. As a proximate result of the aforesaid acts of Buena Vista, Plaintiff has lost, and will  
28 continue to lose, substantial earnings and fringe benefits and has suffered and/or will suffer other actual,  
consequential and incidental financial losses, in an amount to be proven at trial.



1 61. Buena Vista's discriminatory actions against Plaintiff, as alleged above, constitutes  
2 unlawful discrimination in employment in account of Plaintiffs pregnancy in violation of Government  
3 Code Section 12940(a).

4 62. Buena Vista did not provide Plaintiff with the appropriate notice after she inquired about  
5 pregnancy disability leave or reasonable accommodation in violation of 2 CCR § 11049(d). The  
6 document that Buena Vista provided Plaintiff with (See Exhibit 4) fails to mention that both the  
7 California Family Right Act and Pregnancy Disability Law "guarantee reinstatement to the same or a  
8 comparable position at the end of the leave" or that even if an employee was not eligible for leave  
9 pursuant to the Family Medical Leave Act or California Family Rights Act, she would still be "entitled  
10 to take pregnancy disability leave (PDL) of up to four months." The document provided to Plaintiff fails  
11 to mention that the Pregnancy Disability Leave Law still protects employees, such as Plaintiff, who had  
12 not worked with Buena Vista "for at least 1 year & worked 1250 hours." Buena Vista also failed to  
13 inform Plaintiff of available comparable positions by means "reasonably calculated" to give her notice  
14 of such job openings in violation of 2 CCR § 11042(c)(2)(b).

15 63. As a proximate result of the aforesaid acts of Buena Vista, Plaintiff has lost, and will  
16 continue to lose, substantial earnings and fringe benefits and has suffered and/or will suffer other actual,  
17 consequential and incidental financial losses, in an amount to be proven at trial.

18 64. As a proximate result of the aforesaid acts of Buena Vista Plaintiff has become mentally  
19 upset, physically distressed, embarrassed, humiliated and aggravated. As a result of the acts of  
20 retaliation, Plaintiff suffered harm to her reputation and claims general damages for such mental and  
21 physical distress and aggravation in a sum in excess of the jurisdictional minimum of this Court.

22 65. The actions alleged herein were taken by managing agents and/or officers of Buena Vista  
23 and/or ratified by managing agents and/or officers of Buena Vista, including Andrea Doctor. In so  
24 doing, said managing agents and/or officers of Buena Vista acted with oppression, fraud and malice, as  
25 those terms are used in California Civil Code section 3294. As such, Plaintiff is entitled to an award of  
26 punitive damages.

1           66. Government Code § 12965(b) permits the Court to award reasonable attorneys' fees to a  
2 Plaintiff that successfully pursues a FEHA claim. Plaintiff has and will continue to incur attorneys' fees  
3 in the pursuit of this action. As such, Plaintiff is entitled to an award of reasonable attorneys' fees.

4                                   **THIRD CAUSE OF ACTION**  
5                                   **Sex Discrimination in Violation of Gov't Code § 12945)**  
6                                   **(AGAINST BUENA VISTA)**

7           67. Plaintiff incorporates by this reference all the preceding and subsequent paragraphs.

8           68. At all times relevant, Buena Vista was an employer that was subject to the Fair  
9 Employment and Housing Act, including California's Pregnancy Disability Leave Law, California  
10 Government Code § 12945(a). Buena Vista employed Plaintiff from approximately October 2013 to  
11 September 2018. Plaintiff was qualified for her position at Buena Vista and performed her duties not  
12 only satisfactorily but exceeded expectations.

13           69. Buena Vista could have easily provided Plaintiff with reasonable accommodations, such  
14 as providing her with pregnancy leave and reinstating her to her previous position (or a comparable  
15 position).

16           70. Plaintiff informed Buena Vista of her pregnancy within 8 weeks of finding out. Despite  
17 the facts that Plaintiff exceeded performance expectations, received high marks on her performance  
18 evaluations, oddly decided to include Plaintiff in a layoff after Plaintiff was scheduled to return from  
19 maternity leave. Plaintiff is informed and believes, and based thereon alleges, that Buena Vista decided  
20 to terminate Plaintiff once she became pregnant for a second time. Plaintiff is informed and believes,  
21 and based thereon alleges, that Buena Vista decided to terminate Plaintiff after it discovered Plaintiff  
22 was pregnant and as a result thereof.

23           71. Buena Vista's discriminatory and retaliatory actions against Plaintiff, as alleged above,  
24 constitutes unlawful discrimination and retaliation in employment in account of Plaintiff's pregnancy in  
25 violation of the Fair Employment and Housing Act and California's Pregnancy Disability Leave Law.  
26 Buena Vista could have reinstated Plaintiff into the same position or provided Plaintiff with a  
27 comparable position. Instead, it chose to terminate Plaintiff on account of the fact that she was pregnant  
28 and scheduled to take leave as a result thereof. Buena Vista failed to inform Plaintiff of available

1 comparable positions by means "reasonably calculated" to give her notice of such job openings in  
2 violation of 2 CCR § 11042(c)(2)(b).

3 72. As a proximate result of the aforesaid acts of Buena Vista, Plaintiff has lost, and will  
4 continue to lose, substantial earnings, monies spent on obtaining health insurance and other benefits she  
5 would have been entitled to, and fringe benefits and has suffered and/or will suffer other actual,  
6 consequential and incidental financial losses, in an amount to be proven at trial.

7 73. As a proximate result of the aforesaid acts of Buena Vista, Plaintiff has become mentally  
8 upset, physically distressed, embarrassed, humiliated and aggravated. As a result of the acts of  
9 retaliation, Plaintiff suffered harm to her reputation and claims general damages for such mental and  
10 physical distress and aggravation in a sum in excess of the jurisdictional minimum of this Court.

11 74. The actions alleged herein were taken by managing agents and/or officers of Buena Vista  
12 and/or ratified by managing agents and/or officers of Buena Vista, including Andrea Doctor. In so  
13 doing, said managing agents and/or officers of Buena Vista acted with oppression, fraud and malice, as  
14 those terms are used in California Civil Code section 3294. As such, Plaintiff is entitled to an award of  
15 punitive damages.

16 75. Government Code § 12965(b) permits the Court to award reasonable attorneys' fees to a  
17 Plaintiff that successfully pursues a FEHA claim. Plaintiff has and will continue to incur attorneys' fees  
18 in the pursuit of this action. As such, Plaintiff is entitled to an award of reasonable attorneys' fees.

19 **FOURTH CAUSE OF ACTION**  
20 **Violation of FEHA, Cal. Govt. Code Sections 12940 et seq.**  
21 **(Discrimination on the Basis of Race)**  
22 **Against Defendant Buena Vista Inclusive of**  
23 **DOES 1 to 10.**

24 75. The allegations set forth in paragraphs previously stated are re-alleged and incorporated  
25 herein by reference.

26 76. At all times herein mentioned, FEHA, Government Code sections 12900 et seq. was in  
27 full force and effect and was binding on Defendants. Specifically, Government Code section 12940(a)  
28 requires Defendants to refrain from discriminating against any employee because of, among other  
things, that employee's age.

1           77. Plaintiff is a female black employed by Defendants.

2           78. In January 2016, it was then announced that another employee Melissa Salgado  
3 "Salgado" a Hispanic female was going to be the Operations Manager over Home Health and Hospice  
4 for Buena Vista and Angeles Home Health and Hospice. It was known that this employee did not have  
5 any home health experience. The Plaintiff at that time asked Doctor for an opportunity to help Salgado  
6 by sharing the position since the Plaintiff had ample management experience and was already  
7 performing Salgado's new job duties.

8           79. Plaintiff asked Doctor if Salgado and Plaintiff could share the title for the Buena Vista  
9 and Angeles Home Health Branches. Plaintiff recommended to Doctor that Plaintiff could be Operations  
10 Manager over Home Health and Salgado could operate over Hospice since her experience was in  
11 Hospice. Doctor told the Plaintiff that it was a great idea, but Plaintiff was needed where she was.  
12 Plaintiff was the only African American employee at Buena Vista throughout her employment and  
13 believes that her race prevented her from being named Operations Manager. Plaintiff decided to  
14 continue working and hope that her belief of racial discrimination was wrong.

15           80. In the Spring of 2016, Doctor became the official Executive Director of Buena Vista after  
16 Ensigns selected Executive Director Richard Jenik was terminated. Plaintiff's duties again changed to  
17 "Intake/Medical Records Supervisor" in fall of 2016. Plaintiff was demoted the day prior to leaving for  
18 maternity leave.

19           81. Plaintiff, as the only African American employed, was treated differently than other  
20 pregnant employees. Another pregnant employee, Cynthia Lion "Lion" a Caucasian female was given a  
21 promotion prior to going out on her leave as well as ample accommodations and coverage while she was  
22 out. Doctor and Operations Manager Arpi Adamayan, "Adamayan" made sure Lion's job duties were  
23 divided amongst other staff members so that Lion's job duties were handled while she was on leave.

24           82. Plaintiff's race was a substantial motivating factor in Defendants' decision to terminate  
25 her employment, pass her over for promotion, and deny her employment benefits. Defendant's conduct,  
26 as alleged, violated the FEHA, Cal. Govt. Code Sections 12900 et seq.

27  
28

1           83.     As a proximate result of Defendants' willful, knowing, and intentional discrimination  
2 against Plaintiff, Plaintiff has sustained and continues to sustain substantial losses of earnings and other  
3 employment benefits.

4           84.     As a proximate result of Defendant's willful, knowing, and intentional discrimination  
5 against Plaintiff, Plaintiff has suffered and continues to suffer humiliation, emotional distress, and  
6 physical and mental pain and anguish, all to her damage in a sum according to proof.

7           85.     The actions alleged herein were taken by managing agents and/or officers of Buena Vista  
8 and/or ratified by managing agents and/or officers of Buena Vista, including Andrea Doctor. In so  
9 doing, said managing agents and/or officers of Buena Vista acted with oppression, fraud and malice, as  
10 those terms are used in California Civil Code section 3294. As such, Plaintiff is entitled to an award of  
11 punitive damages.

12           86.     Government Code § 12965(b) permits the Court to award reasonable attorneys' fees to a  
13 Plaintiff that successfully pursues a FEHA claim. Plaintiff has and will continue to incur attorneys' fees  
14 in the pursuit of this action. As such, Plaintiff is entitled to an award of reasonable attorneys' fees.

15           87.     Plaintiff has incurred and continues to incur legal expenses and attorneys' fees. Plaintiff  
16 is at present unaware of the precise amounts of these expenses and fees and will seek leave of court to  
17 amend this Complaint when the amounts are fully known.

18                                 **FIFTH CAUSE OF ACTION**

19                                 **Violation of FEHA, Cal. Govt. Code Sections 12940 et seq.**

20                                 **(Harassment on the Basis of Medical Condition )**

21                                 **Against All Defendants Inclusive of DOES 1 to 10.**

22           88.     The allegations set forth in paragraphs previously stated are re-alleged and incorporated  
23 herein by reference.

24           89.     At all times herein mentioned, FEHA, Government Code section 12940(j)(1) and  
25 12940(j)(3), was in full force and effect and was binding on defendants. This statute requires defendants  
26 to refrain from harassing any employee because of their medical condition. Within the time provided by  
27 law, Plaintiff filed a complaint with the DFEH, in full compliance with administrative requirements, and  
28 received a right-to-sue letter.

1           90. Defendants engaged in actions to harass Plaintiff because of her medical condition.  
2 Defendants have directed numerous comments to Plaintiff, and shunned her in daily activities, including  
3 a refusal to promote Plaintiff, involve them in various projects. These actions gave Plaintiff the message  
4 that her medical condition, specifically being pregnant was unwelcome in the workplace and a  
5 substantial factor in her failure to receive promotions, decrease her salary, demote her and ultimately  
6 terminate her employment.

7           91. When Plaintiff informed Doctor of her pregnancy, Doctor began to harass Plaintiff  
8 almost daily about her medical condition asking, how long she was going to work, how long she was  
9 going to be out on leave, and made comments to such as, "how they were going to function" while  
10 Plaintiff was gone.

11           92. Doctor questioned Plaintiff repeatedly about her pregnancy. Coworkers, Karen Redin  
12 "Redin", Stephanie Tu "Tu", Karla Garcia "Garcia" and Angelica Vargas "Vargas" witnessed Doctor's  
13 harassment of Plaintiff regarding her pregnancy. In addition, when Plaintiff was alone in her office,  
14 Doctor would repeatedly inquire about Plaintiff's pregnancy and how long she was going to be on  
15 maternity leave, and how long she was going to work until she went out on maternity leave.

16           93. When Plaintiff attended medical appointments, Doctor would ask the Plaintiff what her  
17 physician said, was she ok, was he going to put her on leave or bed rest. Plaintiff felt she was not able to  
18 perform her duties without Doctor's persistent questioning.

19           94. In late October early November 2017, the office manager Andy Ellsworth "Ellsworth" a  
20 Caucasian male decided to resign from his position, creating an opening for Plaintiff. Plaintiff was  
21 qualified for the office manager position and had the seniority over anyone else that was employed. The  
22 job was offered to another Caucasian employee who had zero management experience and had been  
23 employed for substantially less time than Plaintiff. Plaintiff believes her race was a substantial  
24 motivating factor in not being promoted within the Company.

25           95. Around the same time Plaintiff was denied promotion to the office manager position in  
26 November 2017, Plaintiff learned she was again pregnant. Immediately, Plaintiff felt anxiety over  
27 informing her supervisors due to what she had experienced her last pregnancy.  
28



1           96.    In late December 2017, after the Plaintiff had informed her family, she informed her  
2 supervisors Doctor and Helen Audish "Audish" of her pregnancy.

3           97.    In a private meeting with Doctor and Audish, Plaintiff informed them of her pregnancy.  
4 Doctor began shouting and screaming out "NO", "NO WAY", "You're LYING", "I don't believe you",  
5 "You Just got Back", "What are we going to do?". The Plaintiff then felt her privacy was again violated  
6 since the entire office suite heard Doctor's comments. When Plaintiff exited the meeting the employees  
7 that remained in the office that day, Tu, La'Rae Thomas "Thomas", Raquel Pacheco "Pacheco", Nansae  
8 Sebring "Sebring", and a few field staff nurses were all staring at the Plaintiff in disbelief. Tu  
9 approached Plaintiff to inform her of how loud Doctor was and how everyone there heard Doctor  
10 shouting, and they now knew that Plaintiff was pregnant.

11           98.    In early 2018, Doctor, as she had done during Plaintiff's first pregnancy, began asking  
12 the Plaintiff about leave, scheduling doctor appointments and inquiring of the details of Plaintiff medical  
13 appointments.

14           99.    Doctor told Plaintiff in front of staff, "I can't believe you're pregnant again!!", "I'm in  
15 denial", "I can't believe you". Aside from violating Plaintiff's privacy, Doctor and Audish both had the  
16 audacity on multiple occasions to tell Plaintiff, she "was not allowed to have any more babies", and "No  
17 more babies for you. Right?". These comments by her supervisors made Plaintiff extremely  
18 uncomfortable. Coworker Angela Vargas "Vargas" overheard Doctor's and Audish's comments to  
19 Plaintiff and told Plaintiff, that it did not feel right nor was it right in any way for them to keep saying  
20 those kinds of things to the Plaintiff while she was pregnant.

21           100.   Plaintiff's physician gave her a note to go out on maternity leave early May 2018. On the  
22 Plaintiff's last day before her leave was to begin, Doctor approached the Plaintiff to ask her to please  
23 continue to work from home because they were not prepared to have someone perform Plaintiff's work  
24 while she was gone.

25           101.   Plaintiff was told by Doctor and her Human Resources Representative Rebecca  
26 Thompson "Thompson" that on her last day of actual work that she would be demoted. When the  
27 Plaintiff asked for clarification Doctor and Thompson explained that her roles and title would remain the  
28

1 same, but she would no longer hold the title of "Supervisor" and her pay would go from Salary to  
2 Hourly in the process.

3 102. Between March and April of 2017, the Home Health office in Ventura was preparing to  
4 move to a new location in combination with the Hospice. Doctor directed Plaintiff while 7 months  
5 pregnant at the time to pack and carry heavy boxes of office items as well as medical records. When  
6 coworkers Karen Redin and Karla Garcia "Garcia" offered to pack and carry the boxes, Doctor insisted  
7 Plaintiff pack and move the boxes.

8 103. As a proximate result of Defendants' willful, knowing, and intentional harassment,  
9 Plaintiff has sustained damages in a sum according to proof.

10 104. As a proximate result of defendants' willful, knowing, and intentional harassment,  
11 Plaintiff has suffered and continues to suffer humiliation, emotional distress, and mental and physical  
12 pain and anguish, all to her damage in a sum according to proof.

13 105. Plaintiff has incurred and continues to incur legal expenses and attorneys' fees. Plaintiffs  
14 are at present unaware of the precise amounts of these expenses and fees and will seek leave of court to  
15 amend this Complaint when the amounts are fully known.

16 **SIXTH CAUSE OF ACTION**  
17 **Wrongful Termination in Violation of Public Policy**  
18 **(Against All Defendants)**

19 106. Plaintiff incorporates by this reference all preceding and subsequent paragraphs.

20 107. At all times during her employment, Plaintiff performed her employment duties with the  
21 utmost diligence and competence.

22 108. The decision to terminate Plaintiff was based, at least in substantial part, on: (a)  
23 Plaintiff's pregnancy; and (b) Plaintiff's request for a reasonable accommodation to take leave while she  
24 was pregnant and to take care of her new baby immediately after giving birth.

25 109. The actions of Buena Vista as alleged herein constitute multiple violations (or were  
26 reasonably believed by Plaintiff in good faith to constitute multiple violations) of California and federal  
27 statutes, including:  
28

1           • California Government Code Sections 12921, 12926, 12940(a), 12945(a) (prohibits  
2 discrimination based on pregnancy and related medical conditions, including seeking reasonable  
3 accommodations);

4           • California Government Code Section 12940(m) (prohibits and employer from failing to  
5 make a reasonable accommodation for the known physical disability of an applicant or employee);

6           • 42 USC Section 2000(e), Pregnancy Discrimination Act (prohibits discrimination based  
7 on pregnancy);

8           • California Constitution, Article 1, Section 8 (prohibits discrimination against employees  
9 on the basis of sex, including the basis of pregnancy, without limitation, demoting an employee,  
10 reducing an employee's hours without consent of the employee, reducing the salary of the employee  
11 without the consent of the employee, or discharging any employee from employment);

12           • Civil Code Section 51, Unruh Civil Rights Act ("All persons within the jurisdiction of  
13 this state are free and equal, and no matter what their sex, race, color, religion, ancestry, national origin,  
14 disability, or medical condition are entitled to the full and equal accommodation, advantages, facilities,  
15 privileges, or services in all business establishments of every kind whatsoever."); and Badih v. Myers,  
16 (1995) 36 Cal. App. 4<sup>th</sup> 1289, 1295 and its progeny.

17           110. As a direct and proximate result of the aforesaid acts of Buena Vista, Plaintiff has lost,  
18 and will continue to lose, substantial earnings and fringe benefits and has suffered and/or will suffer  
19 other actual, consequential and incidental financial losses, in an amount to be proven at trial in excess of  
20 the jurisdictional minimum of this court.

21           111. As a direct and proximate result of the aforesaid acts of Buena Vista, Plaintiff was and is  
22 mentally upset, severely distressed (physically and mentally), embarrassed, humiliated, and aggravated.  
23 As a result of the actions of retaliation, Plaintiff suffered harm to her reputation and claims general  
24 damages for such mental and physical distress and aggravation in a sum in excess of the jurisdictional  
25 minimum of this court.

26           112. The actions alleged herein were taken by managing agents and/or officers of Buena Vista,  
27 including Andrea Doctor, and/or ratified by managing agents and/or officers of Buena Vista. In doing  
28 so, said managing agents and/or officers of Buena Vista acted with oppression, fraud, and malice, as

1 those terms are used in California Civil Code Section 3294. As such, Plaintiff is entitled to an award of  
2 punitive damages.

3 113. Plaintiff is entitled to attorneys' fees and costs under California Code of Civil Procedure  
4 Section 1021.5 because: (a) this action confers a significant benefit to the general public or a large class  
5 of persons impacted by practices alleged herein; (b) the necessity and financial burden of private  
6 enforcement makes the award appropriate; and (c) such fees should not in the interest of justice be paid  
7 out of the recovery to Plaintiff.

8 **SEVENTH CAUSE OF ACTION**  
9 **INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**  
10 **(Against All Defendants)**

11 114. Plaintiff incorporates by this reference all proceedings and subsequent paragraphs.

12 115. Buena Vista's termination of Plaintiff because of her pregnancy were extreme and  
13 outrageous acts and taken with the intention of causing Plaintiff extreme emotional distress, humiliation,  
14 embarrassment and mental anguish. Such conduct exceeded the inherent risks of employment and was  
15 not the sort of conduct normally expected to occur in the workplace.

16 116. As a result of those extreme and outrageous acts, Plaintiff has suffered extreme emotional  
17 distress and incurred damages as a result of said emotional distress in an amount to be proved at the time  
18 of trial.

19 117. The actions alleged herein were taken by managing agents and/or officers of Buena Vista  
20 and/or ratified by managing agents and or/or officers of Buena Vista, including Andrea Doctor. In doing  
21 so, said managing agents and/or officers of Buena Vista acted with oppression, fraud and malice, as  
22 those terms are used in California Civil Code section 3294. As such, Plaintiff is entitled to an award of  
23 punitive damages.

24 **JURY TRIAL DEMANDED**

25 Plaintiff demands a jury as to all causes of action.

26 **PRAYER FOR RELIEF**

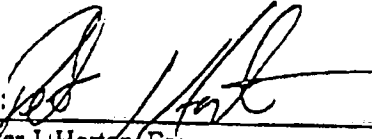
27 WHEREFORE, Plaintiff prays judgement against Defendant as follows:

28 a) For general economic and non-economic damages according to proof;

- 1 b) For special damages according to proof;  
2 c) For punitive damages where allowed by law;  
3 d) For prejudgment interest pursuant to California Civil Code section 3287 and/or California  
4 Civil Code section 3288 and/or any other provision of law providing for prejudgment  
5 interest.  
6  
7 e) For attorneys' fees where allowed by law;  
8 f) For injunctive relief;  
9 g) For costs of suit incurred herein; and  
10 h) For such other and further relief as this Court deems just and proper.  
11

12 Dated: November 28, 2018

Respectfully Submitted,

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15 By:   
16 Peter J. Horton, Esq.

17 **NEWMAN & HORTON, LLP**  
18 Attorney for Plaintiff Vanessa Reed  
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