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E-FILED
3/24/2022 9:18 AM
Clerk of Court
Superior Court of CA,
County of Santa Clara
22CV396331
Reviewed By: P. Hernandez

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SUPERIOR COURT OF CALIFORNIA
COUNTY OF SANTA CLARA
CIVIL – UNLIMITED JURISDICTION

JON BALLI, an individual,

Plaintiff,

v.

PLANNED PARENTHOOD MAR MONTE,
INC., a corporation; PLANNED
PARENTHOOD FEDERATION OF
AMERICA INC., a corporation; and DOES 1-
25, INCLUSIVE,

Defendants.

Case No. 22CV396331

COMPLAINT FOR DAMAGES

1. Retaliation (CA Labor Code 1102.5)
2. Retaliation (CA Labor Code 98.6)

JURY TRIAL DEMANDED

1 Plaintiff JON BALLI (“Plaintiff”), by and through his attorneys, hereby files this
2 Complaint against Defendants Planned Parenthood Mar Monte, Inc., Planned Parenthood
3 Federation of America Inc., and DOES 1-25, inclusive.

4 Plaintiff is informed and believes, and on the basis of that information and belief, alleges
5 as follows:

6 **JURISDICTION AND VENUE**

7 1. Jurisdiction is conferred on this Court over each Defendant named herein as each
8 Defendant is incorporated in, conducting business in, and/or residing in California. Jurisdiction is
9 conferred on this Court as to all Claims for Relief as they arise under state statutory or common
10 law.

11 2. A corporation or association may be sued in the county where the contract is made or is to
12 be performed, or where the obligation or liability arises, or the breach occurs; or in the county
13 where the principal place of business of such corporation is situated, subject to the power of the
14 court to change the place of trial as in other cases. Cal. C. Civ. Proc. § 395.5.

15 3. Venue is proper in this Court pursuant to Cal. Gov. C. § 12965(b) because Defendants’
16 unlawful practices and the events and omissions giving rise to all of Plaintiff’s claims occurred in
17 this County. Also, this is the County in which Plaintiff would have worked but for Defendants’
18 unlawful acts.

19 **PARTIES AND NATURE OF ACTION**

20 4. At all pertinent times mentioned in this Complaint unless otherwise noted, Plaintiff is and
21 was a resident of the State of California.

22 5. Plaintiff is a 47-year-old Hispanic male.

23 6. Plaintiff was at all relevant times an employee of Defendants within the meaning of
24 California Labor Code §2775. At all times during his employment, Plaintiff was fully qualified
25 for his position and performing his job satisfactorily.

26 7. Defendant Planned Parenthood Mar Monte, Inc. (“PPMM”) is, and at all times mentioned
27 in this Complaint has been, a corporation doing business in the State of California, engaged in an
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1 industry affecting commerce, with its principal place of business in the City of San Jose, the
2 County of Santa Clara, in the State of California.

3 8. Defendant Planned Parenthood Federation of America Inc. (“PPFA”) is, and at all times
4 mentioned in this complaint has been, a corporation doing business in the State of California,
5 engaged in an industry affecting commerce.

6 9. Plaintiff is informed and believes, and thereupon alleges, that at all relevant times,
7 Defendants, and each of them, were business entities or individuals who owned, controlled, or
8 managed the business which has damaged Plaintiff, and are each therefore jointly, severally, and
9 individually liable to Plaintiff.

10 10. Plaintiff is informed and believes, and thereupon alleges, that at all relevant times,
11 Defendants, and each of them, were in some fashion, by contract or otherwise, the successor,
12 assignor, indemnitor, guarantor, or third-party beneficiary of one or more of the remaining
13 Defendants, and at all relevant times to Plaintiff’s claims alleged herein, were acting within that
14 capacity. Plaintiff further alleges that Defendants, and each of them, assumed the liabilities of the
15 other Defendants, by virtue of the fact that each to some degree, wrongfully received and/or
16 wrongfully benefited from the flow of assets from the other Defendants, to the detriment of
17 Plaintiff. Plaintiff further alleges that by wrongfully receiving and/or benefiting from
18 Defendants’ assets, and in the consummation of such transactions, a *de facto* merger of the
19 Defendants, and each of them, resulted, such that Defendants, and each of them, may be treated as
20 one for purposes of this Complaint.

21 11. Plaintiff is informed and believes, and thereupon alleges, that at all relevant times
22 mentioned herein, Defendants, and each of them, were the partners, agents, servants, employees,
23 joint venturers, or co-conspirators of each other defendant, and that each defendant was acting
24 within the course, scope, and authority of such partnership, agency, employment, joint venture, or
25 conspiracy, and that each defendant, directly or indirectly, authorized, ratified, and approved the
26 acts of the remaining Defendants, and each of them.

27 12. Defendants were employers of Plaintiff for purposes of California law.
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1 13. At all times herein relevant there was an employer/employee relationship between
2 Plaintiff and Defendants.

3 14. Plaintiff was subject to the control and direction of Defendants in connection with the
4 performance of his work. Plaintiff was subject to the type and degree of control and direction that
5 Defendants typically exercise over their employees. Plaintiff was unable to set his own work
6 schedule or hours of work and unable to set his own terms of work. Defendants directed Plaintiff
7 regarding his job duties and the manner in which his work was performed. Defendants
8 supervised Plaintiff and the performance of his work on a constant basis throughout each
9 workday. Plaintiff performed work on behalf of Defendants using materials and supplies
10 provided by Defendants. Plaintiff was reimbursed by Defendants for business expenses incurred
11 during the performance of his work on behalf of Defendants. Defendants wholly controlled the
12 terms and conditions of Plaintiff's employment.

13 15. Plaintiff performed work that was within the usual course of Defendants' business.
14 Plaintiff performed information technology and data security work that was the same as and/or
15 similar to work performed by other of Defendants' employees. Defendants employed numerous
16 other individuals as employees who performed the same and/or similar information technology-
17 related work as Plaintiff. Plaintiff performed work on behalf of Defendants in a role comparable
18 to that of Defendants' other employees.

19 16. Plaintiff was not engaged in an independently established trade, occupation, or business of
20 the same nature as the information technology and data security work that he performed on behalf
21 of Defendants. Plaintiff relied solely on Defendants for his financial livelihood and performed
22 work only for Defendants during the time period in question. Plaintiff had no independent
23 business operations during the time period in question.

24 17. Defendants DOES 1 through 25 inclusive are sued under fictitious names pursuant to
25 Code of Civil Procedure §474. Plaintiff is informed and believes, and on that basis alleges, that
26 each defendant sued under such fictitious names is in some manner responsible for the wrongs
27 and damages as alleged below, and in so acting was functioning as the agent, servant, partner, and
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1 employee of the codefendants, and in doing the actions mentioned below was acting within the
2 course and scope of his or her authority as such agent, servant, partner, and employee with the
3 permission and consent of the codefendants. For purposes of this Complaint, “Defendants” should
4 be read to include the DOE Defendants.

5 ADMINISTRATIVE REMEDIES

6 18. Plaintiff has satisfied all private, administrative and judicial prerequisites to the institution
7 of this action.

8 19. This action is not preempted by the California Workers’ Compensation Act because
9 claims brought under the California Labor Code are not risks or conditions of employment
10 subject to workers’ compensation law.

11 20. This action is not preempted by any collective bargaining agreement, the National Labor
12 Relations Act, or other federal law because these claims arise out of violations of the public
13 policies of the State of California as set forth in the California Constitution, California Labor
14 Code, and other state laws.

15 21. This action is not subject to any pre-litigation requirements related to professional
16 negligence of a health care provider, nor is this action subject to any limitations on damages
17 pursuant to Civil Code § 3333.2 because Plaintiff’s claims are not “for injury against a health care
18 provider based on professional negligence” because his claims arise from unlawful practices
19 under the California Labor Code.

20 FACTS GIVING RISE TO LIABILITY

21 Defendants hire Plaintiff, a seasoned information technology expert.

22 22. Defendants hired Plaintiff as VoIP Architect on October 7, 2019. Plaintiff was hired with
23 more than 20 years of relevant work experience. Plaintiff’s work responsibilities included, but
24 were not limited to, general information technology responsibilities, ensuring data security,
25 design and implementation of Defendants’ next generation Unified Communications as a Service,
26 vendor selection and management, data analysis, and redesign of Defendants’ call center.

27 23. Plaintiff at all times worked onsite at Defendants’ San Jose, California location.
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1 24. Defendants provided Plaintiff with all of the materials that were necessary for the
2 performance of his job responsibilities.

3 25. Plaintiff's work performance and job duties were directly controlled, managed, and
4 overseen by Defendants' Interim Vice President of Information Technology, Jessica LaValle.

5 26. Ms. LaValle set Plaintiff's work schedule and directed him regarding the specific hours
6 that Plaintiff was to be in the office.

7 27. Ms. LaValle monitored Plaintiff's work on a regular basis throughout each workday.

8 28. Ms. LaValle required that Plaintiff attend weekly in-person meetings with her, during
9 which time Plaintiff provided status updates on various work responsibilities that he was
10 performing on behalf of Defendants.

11 29. Ms. LaValle gave Plaintiff regular job feedback. She routinely praised Plaintiff's
12 thorough knowledge of information security-related best practices. Plaintiff also received praise
13 from third party vendors relating to his work performance and industry knowledge.

14 30. Ms. LaValle publicly appointed Plaintiff as Defendants' "face of IT." Plaintiff
15 accordingly acted as a liaison to different departments within the Company relating to each
16 department's information technology requirements.

17 31. During the relevant period in question, Plaintiff worked only for Defendants and had no
18 other form of gainful employment.

19 Plaintiff reports Defendants' information security breach.

20 32. On or about November 15, 2019, Plaintiff learned that Defendants had experienced a
21 serious data breach which had exposed confidential and private Personal Health Information
22 ("PHI") protected by the Health Insurance Portability and Accountability Act of 1996 (HIPAA).
23 Plaintiff immediately reported the breach to Ms. LaValle. Plaintiff reported that the PHI of
24 hundreds of individuals had been unlawfully disclosed. Plaintiff told Ms. LaValle that the breach
25 needed to be addressed as soon as possible. Plaintiff told Ms. LaValle that Defendants were
26 required to inform the Company's Ethics and Compliance Department and the State of California
27 about the PHI data breach.
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1 33. Ms. LaValle stated that she could not take any steps to address or remedy the PHI data
2 breach because doing so would risk PPM's accreditation status with parent entity Planned
3 Parenthood Federation of America. Plaintiff nonetheless continued to insist that the PHI data
4 breach be reported to the proper authorities and remedied according to applicable regulations.

5 34. Ms. LaValle became agitated and ordered Plaintiff not to discuss the PHI data breach with
6 any other individual. She threatened Plaintiff and told him that if he disobeyed her instructions
7 his employment with Defendants would be terminated.

8 35. Plaintiff believed that Defendants' PHI data breach needed to be further reported and
9 remedied. Initially, however, he complied with Ms. LaValle's orders because he relied upon the
10 income from his employment with Defendants to support himself and his family.

11 36. On or about January 28, 2020, Plaintiff reported the November 2019 PHI data breach to
12 the Company's Interim General Counsel and Chief Compliance Officer Kathy Fritz. Plaintiff
13 informed Ms. Fritz that on or about November 15, 2019, Defendants had unlawfully disclosed
14 HIPAA-protected PHI in violation of data security and privacy laws.

15 37. Plaintiff also stated that he had previously disclosed the PHI data breach to Ms. LaValle
16 and had told Ms. LaValle that Defendants were required to report the breach to the State of
17 California, but that she had refused to do so.

18 38. Plaintiff further reported to Ms. Fritz that Defendants were poised to expose additional
19 HIPAA-protected PHI due to the compromised nature of Defendants' network infrastructure.

20 39. Ms. Fritz told Plaintiff that the Company had made multiple mistakes relating to the PHI
21 data breach. Ms. Fritz thanked Plaintiff for reporting the data breach and assured him that there
22 would be no retaliation for his actions.

23 40. The very next day, January 29, 2020, Defendants revoked Plaintiff's information
24 technology (IT) account rights so that he could not perform his job duties. Defendants' Human
25 Resources department informed Plaintiff that he was being suspended from work effective
26 immediately. Plaintiff surrendered his work laptop, keys, and security badge.

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1 41. On February 12, 2020, approximately two weeks later, Defendants wrongfully terminated
2 Plaintiff's employment.

3 **FIRST CAUSE OF ACTION**

4 Retaliation (CA Labor Code § 1102.5 *et seq.*)
5 (Against all Defendants)

6 42. Plaintiff incorporates by reference and realleges as if fully stated herein the material
7 allegations set out above in the preceding paragraphs.

8 43. At all times herein mentioned, California Labor Code §§ 1102.5 *et seq.* were in full force
9 and effect and were binding on Defendants. Under Labor Code § 1102.5, an employer, or any
10 person acting on behalf of the employer, "shall not retaliate against an employee for disclosing
11 information, or because the employer believes that the employee disclosed or may disclose
12 information...to a person with authority over the employee or another employee who has the
13 authority to investigate, discover, or correct the violation or noncompliance...if the employee has
14 reasonable cause to believe that the information discloses a violation of state or federal statute, or
15 a violation of or noncompliance with a local, state, or federal rule or regulation..." California
16 Labor Code section 1102.5(b).

17 44. Defendants were employers of Plaintiff for purposes of California law.

18 45. At all times herein relevant there was an employer/employee relationship between
19 Plaintiff and Defendants.

20 46. During the course of Plaintiff's employment, he disclosed to Ms. LaValle and Ms. Fritz
21 that Defendants had violated data privacy and security laws relating to confidential personal
22 health information, including but not limited to the Health Insurance Portability and
23 Accountability Act of 1996.

24 47. Plaintiff disclosed to Ms. Fritz that Ms. LaValle had thereafter refused to take the
25 necessary steps relating to the PHI data breach which had resulted in further legal violations.

26 48. Plaintiff had a reasonable, good faith belief that the information he reported to Ms.
27 LaValle and Ms. Fritz disclosed a violation of federal, state, and local laws and/or regulations.
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49. Plaintiff had reasonable cause to believe that the information he reported to Ms. LaValle and Ms. Fritz disclosed a violation of federal, state, and local laws and/or regulations.

50. Ms. LaValle had authority over Plaintiff and the authority to investigate, discover, and correct Defendants' violations and noncompliance.

51. Ms. Fritz had authority over Plaintiff and the authority to investigate, discover, and correct Defendants' violations and noncompliance.

52. Defendants subjected Plaintiff to the following adverse employment actions in retaliation for engaging in protected activities: denied any employment benefit or privilege; denied hire or promotion; denied work opportunities or assignments; laid off; reprimanded; suspended; terminated.

53. Defendants' conduct as alleged above constituted unlawful retaliation in employment on account of Plaintiff's protected activity in violation of California Labor Code section 1102.5 *et seq.*

54. As a direct, foreseeable, and proximate result of Defendants' conduct, Plaintiff has suffered lost income, employment, and career opportunities, and has suffered and continues to suffer other economic losses, the precise amount of which will be proven at trial.

55. As a direct, foreseeable, and proximate result of Defendants' conduct, Plaintiff has suffered and will continue to suffer economic damages, including lost wages and benefits, and other compensatory damages in an amount to be ascertained at the time of trial.

56. As a direct, foreseeable, and proximate result of Defendants' conduct, Plaintiff has suffered and will continue to suffer humiliation, mental anguish, and physical and emotional distress. As a result of such conduct, Plaintiff has suffered damages in an amount to be ascertained at the time of trial.

57. As a direct and proximate result of the above-described acts of Defendants, Plaintiff has necessarily incurred attorney fees and costs. Plaintiff is entitled to the reasonable value of such fees and costs under the law. Plaintiff is presently unaware of the precise amount of these

1 expenses and fees and prays leave of court to amend this complaint when the amounts are more
2 fully known.

3 58. The conduct of Defendants in retaliating against Plaintiff and/or wrongfully terminating
4 him, subjected Plaintiff to cruel and unjust hardship in conscious disregard of Plaintiff's rights, as
5 it was anticipated by Defendants that Plaintiff would suffer damages in the foreseeable future.
6 Plaintiff is informed and believes, and based thereon alleges, that Defendants' conduct against
7 Plaintiff was done with an intent to cause injury to Plaintiff. Moreover, the malicious, willful,
8 intentional, fraudulent and/or oppressive conduct was engaged in, authorized or ratified by
9 officers, directors or managing agents of Defendants and/or was the result of the application of
10 unlawful, malicious or oppressive policies. As a consequence of the aforesaid oppressive,
11 malicious, and despicable conduct, Plaintiff is entitled to an award of punitive damages against
12 Defendants in a sum to be shown according to proof at trial.

13 **SECOND CAUSE OF ACTION**

14 Retaliation (CA Labor Code § 98.6)
15 (Against All Defendants)

16 59. Plaintiff incorporates by reference and realleges as if fully stated herein the material
17 allegations set out above in the preceding paragraphs.

18 60. At all times herein mentioned, California Labor Code § 98.6 *et seq.* was in full force and
19 effect and was binding on Defendants.

20 61. "No person shall discharge an employee or in any manner discriminate against any
21 employee or applicant for employment because the employee or applicant engaged in any conduct
22 delineated in this chapter, including the conduct described in Chapter 5 (commencing with
23 Section 1101) of Part 3 of Division 2, or because the employee or applicant has filed a bona fide
24 complaint or claim or instituted or caused to be instituted any proceeding under or relating to his
25 or her rights, which are under the jurisdiction of the Labor Commissioner, or has testified or is
26 about to testify in any such proceeding or because of the exercise by the employee or applicant of
27 any rights afforded him or her." California Labor Code section 98.6(a).

28 62. Plaintiff was an employee of Defendants for purposes of California law.

1 63. At all times herein relevant there was an employer/employee relationship between
2 Plaintiff and Defendants.

3 64. At all times herein relevant Plaintiff was an applicant for employment within the meaning
4 of California Labor Code section 432.3(k).

5 65. During the course of Plaintiff's employment, he disclosed to Ms. LaValle and Ms. Fritz
6 that Defendants had violated data privacy and security laws relating to confidential personal
7 health information, including but not limited to the Health Insurance Portability and
8 Accountability Act of 1996.

9 66. Plaintiff disclosed to Ms. Fritz that Ms. LaValle had thereafter refused to take the
10 necessary steps relating to the PHI data breach which had resulted in further legal violations.

11 67. Plaintiff had a reasonable, good faith belief that the information he reported to Ms.
12 LaValle and Ms. Fritz disclosed a violation of federal, state, and local laws and/or regulations.

13 68. Plaintiff had reasonable cause to believe that the information he reported to Ms. LaValle
14 and Ms. Fritz disclosed a violation of federal, state, and local laws and/or regulations.

15 69. Ms. LaValle had authority over Plaintiff and the authority to investigate, discover, and
16 correct Defendants' violations and noncompliance.

17 70. Ms. Fritz had authority over Plaintiff and the authority to investigate, discover, and correct
18 Defendants' violations and noncompliance.

19 71. Defendants subjected Plaintiff to the following adverse employment actions in retaliation
20 for engaging in protected activities: denied any employment benefit or privilege; denied hire or
21 promotion; denied work opportunities or assignments; laid off; reprimanded; suspended;
22 terminated.

23 72. Defendants' conduct as alleged above constituted conduct protected under Chapter 5
24 (commencing with Section 1101) of Part 3 of Division 2 of the California Labor Code.

25 73. Defendants' conduct as alleged above constituted unlawful retaliation in employment on
26 account of Plaintiff's protected activity in violation of California Labor Code section 98.6 *et seq.*
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1 74. As a direct, foreseeable, and proximate result of Defendants' conduct, Plaintiff has
2 suffered lost income, employment, and career opportunities, and has suffered and continues to
3 suffer other economic losses, the precise amount of which will be proven at trial.

4 75. As a direct, foreseeable, and proximate result of Defendants' conduct, Plaintiff has
5 suffered and will continue to suffer economic damages, including lost wages and benefits, and
6 other compensatory damages in an amount to be ascertained at the time of trial.

7 76. As a direct, foreseeable, and proximate result of Defendants' conduct, Plaintiff has
8 suffered and will continue to suffer humiliation, mental anguish, and physical and emotional
9 distress. As a result of such conduct, Plaintiff has suffered damages in an amount to be
10 ascertained at the time of trial.

11 77. As a direct and proximate result of the above-described acts of Defendants, Plaintiff has
12 necessarily incurred attorney fees and costs. Plaintiff is entitled to the reasonable value of such
13 fees and costs under the law. Plaintiff is presently unaware of the precise amount of these
14 expenses and fees and prays leave of court to amend this complaint when the amounts are more
15 fully known.

16 78. The conduct of Defendants in retaliating against Plaintiff and/or wrongfully terminating
17 him, subjected Plaintiff to cruel and unjust hardship in conscious disregard of Plaintiff's rights, as
18 it was anticipated by Defendants that Plaintiff would suffer damages in the foreseeable future.
19 Plaintiff is informed and believes, and based thereon alleges, that Defendants' conduct against
20 Plaintiff was done with an intent to cause injury to Plaintiff. Moreover, the malicious, willful,
21 intentional, fraudulent and/or oppressive conduct was engaged in, authorized or ratified by
22 officers, directors or managing agents of Defendants and/or was the result of the application of
23 unlawful, malicious or oppressive policies. As a consequence of the aforesaid oppressive,
24 malicious, and despicable conduct, Plaintiff is entitled to an award of punitive damages against
25 Defendants in a sum to be shown according to proof at trial.

26 79. Wherefore, Plaintiff prays judgment against Defendants, and each of them, as fully set
27 forth below.
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REQUEST FOR JURY TRIAL

Plaintiff requests a trial by jury.

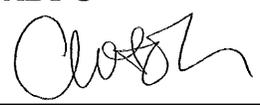
PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for relief and judgment against Defendants and DOES 1-25, jointly and severally, as follows:

- a. For lost wages, including back pay, front pay, lost benefits, and other compensatory damages, together with prejudgment interest, according to proof;
- b. For general damages according to proof;
- c. For exemplary and punitive damages against each Defendant in an amount deemed proper by this Court;
- d. For emotional distress damages against each Defendant;
- e. For reasonable attorney’s fees and costs of suit under California Labor Code § 1102.5(j), Code Civ. Proc. § 1021.5, and any other provision of law providing for such fees and costs;
- f. For prejudgment interest pursuant to California Civil Code Section 3287 and/or any other provision of law providing for prejudgment interest, and interest on all damages awarded to make whole and to deter Defendants from engaging in such activity in the future; and
- g. For such other and further relief this Court deems just and appropriate.

Dated: March 24, 2022

LOH LEGAL PC

By: 

Andrea Loh
Attorneys for Plaintiff
JON BALLI