

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

<b>JENNIFER GRAHAM,</b>	:	
12975 Kilger Court	:	
Pickerington, OH 43147	:	<b>Case No.</b>
	:	
Plaintiff,	:	
	:	<b>Judge</b>
v.	:	
	:	<b>Magistrate Judge</b>
<b>PLANNED PARENTHOOD OF</b>	:	
<b>GREATER OHIO,</b>	:	
C/O Statutory Agent Iris E. Harvey	:	
206 East State Street	:	<b>COMPLAINT WITH JURY DEMAND</b>
Columbus, OH 43215	:	
	:	
Defendant.	:	

Now comes Plaintiff, Jennifer Graham (“Graham”), by and through counsel, and states as follows:

**NATURE OF THE ACTION**

1. Plaintiff Jennifer Graham, white, is a highly qualified and experienced Certified Nurse Practitioner (“CNP”) specializing in gynecological and prenatal care. She brings this action alleging reverse race discrimination and retaliation against Defendant Planned Parenthood of Greater Ohio (“PPGOH”).

2. Graham was hired by PPGOH in May 2018. Graham’s performance was excellent and, as a consequence, PPGOH expanded her role to include providing clinical instruction to other CNPs and nurses. In addition, due to her exemplary performance, PPGOH considered her to be the only qualified candidate to replace its departing Director of Nursing, Heather Stevenson (“Stevenson”).

3. In June 2022, PPGOH hired a young, inexperienced African American woman, Brianna Frazier (“Frazier”), as a health care assistant in its North Columbus location. Frazier’s duties included but were not limited to conducting patient intake interviews and accurately documenting patients’ histories & medications for other healthcare providers. Almost immediately, Graham and other members of PPGOH’s staff noted serious omissions, deficiencies, and inaccuracies in Frazier’s documentation. Simply put, Frazier’s errors and omissions placed PPGOH’s patients at risk, potentially violated the Health Insurance Portability and Accountability Act of 1966 (“HIPAA”), jeopardized the licenses of the CNPs working with her and exposed PPGOH to liability.

4. Initially, Graham and other diverse PPGOH staff members brought these errors to Frazier’s attention. Frazier was not receptive to direction and/or instruction from Graham or others. Instead, she responded with open hostility and made no changes in her behavior. As a result, Graham and her supervisor, Amy Gall (“Gall”), on behalf of the entire staff, informally elevated the concerns to PPGOH’s Practice Manager. When no action was taken, Graham and the rest of the staff began raising these concerns through formal documentation and reporting measures.

5. Upon submission of Graham’s formal documentation of Frazier’s performance deficiencies, PPGOH’s Practice Manager finally removed Frazier from the workflow and assigned her additional training. In response, Frazier aggressively confronted Graham and then retaliated by immediately lodging several false accusations against her with PPGOH. Graham responded by filing a formal complaint against Frazier with PPGOH’s Human Resources Vice President, Veonta Weathers (“Weathers”), an African American female. This report documented Frazier’s performance deficiencies and alleged retaliation by Frazier.

6. PPGOH directed Frazier's and Graham's complaints to its Diversity Equity and Inclusion Officer, Eris Eady ("Eady"), an African American female, for investigation. In Eady's initial conversation with Graham, just two (2) days after she filed her complaint, Eady was aggressive and unprofessional. She dismissed Graham's claims of Frazier's performance deficiencies out of hand. Upon information and belief, Eady neglected to even interview any other staff or review the supporting medical records. Eady was openly confrontational with Graham and asserted she made false claims against Frazier. Graham believed Eady's treatment of her was discriminatory based upon her race, white.

7. After this interview, Graham viewed Eady's social media page and observed that many of Eady's posts were racist and evidenced a discriminatory animus toward white people. Graham complained and reported Eady's discriminatory conduct to Weathers, PPGOH's Vice President of Human Resources. As a result, Weathers represented that she then assumed the investigation of Graham's complaint regarding Frazier. However, Weathers later disclosed that she did not conduct an independent investigation; rather, she simply relied on Eady's incomplete "investigation" and dismissed Graham's complaint. Moreover, Weathers never investigated Graham's complaint against Eady.

8. PPGOH's staff, including Graham, continued to report Frazier's deficient performance. In or around September 2022, several staff members then held a meeting with Frazier to discuss her performance issues. Again, Frazier became hostile and unreceptive to feedback. These corrective actions resulted in no perceptible change in Frazier's performance or disposition in the workplace.

9. Consequently, Graham requested and met with Weathers on or about November 3, 2022, to discuss Frazier's continued performance issues and Graham's promotion to Director of

Nursing. Rather than address these issues, Weathers ambushed Graham with new “anonymous,” false accusations of unprofessional conduct. Weathers informed Graham she would not be promoted to Director of Nursing, despite being the only qualified candidate. Despite being PPGOH’s Vice President of Human Resources, Weathers claimed to have no knowledge of Frazier’s continued performance deficiencies or the many complaints the staff had made against her. Weathers asked Graham to document the deficiencies, apparently unaware that she had been submitting that very documentation for months.

10. After their meeting and at the express direction of Stevenson, then the current Director of Nursing, Graham began to document and submit reports evidencing Frazier’s continued performance deficiencies through PPGOH’s AIMS database. On November 14, 2022, after Weathers neglected to address these concerns, Graham relayed these complaints to Weathers’ supervisor, Erica Wilson (“Wilson”).

11. Four (4) days later, PPGOH terminated Graham’s employment claiming her reports regarding Frazier’s performance, which raised legitimate concerns about patient safety, were retaliatory in nature and violated its “zero-tolerance” policy prohibiting retaliation. This justification is obvious pretext intended to conceal PPGOH’s own discriminatory and retaliatory motives.

12. Furthermore, PPGOH terminated Graham’s employment less than seven (7) days before her scheduled leave of absence under the Family and Medical Leave Act (“FMLA”). This leave was to undergo surgery to treat an ankle injury Graham suffered in the workplace in June 2022. Importantly, this injury substantially limited Graham’s ability to walk and required surgery to properly heal.

13. Due to PPGOH's unlawful, discriminatory, and retaliatory actions towards her, Graham brings the following claims against PPGOH: (1) reverse race discrimination in violation of Ohio and federal law; (2) disability discrimination in violation of Ohio and federal law; (3) retaliation in violation of Ohio and federal law; and (4) interference in violation of the FMLA.

14. Graham has sustained significant damages and seeks to recover for the harm PPGOH has caused, to punish PPGOH for its illegal conduct, and to ensure that PPGOH does not subject other individuals to its unlawful discrimination and retaliation.

### **THE PARTIES**

15. Plaintiff Jennifer Graham is an individual residing in Fairfield County, Ohio. At all relevant times herein, Graham was an employee of PPGOH within the meaning of 42 U.S.C. § 2000e(f), 42 U.S.C. § 12111(4), & Ohio Rev. Code § 4112.01(A)(3); a person within the meaning of 42 U.S.C. § 1981(a) & Ohio Rev. Code § 4112.01(A)(1); and an individual within the meaning of 29 U.S.C. § 2615. At all relevant times herein, Graham worked for PPGOH at its location in Franklin County, Ohio.

16. PPGOH, is an Ohio not-for-profit corporation, incorporated in the State of Ohio with a principal place of business in Franklin County, Ohio. At all relevant times herein, PPGOH was an employer within the meaning of 42 U.S.C. § 2000e(b), 42 U.S.C. § 12111(5)(A), 29 U.S.C. § 2615(a), & Ohio Rev. Code § 4112.01(A)(2); an agent engaging in "nongovernmental discrimination" within the meaning of 42 U.S.C. § 1981(c); a person within the meaning of Ohio Rev. Code § 4112.01(A)(1) & 29 U.S.C. § 2611(8); and a covered entity within the meaning of 42 U.S.C. § 12111(2). At all relevant times herein, PPGOH employed more than 50 employees.

**JURISDICTION AND VENUE**

17. This Court has subject-matter jurisdiction over this action pursuant to 28 U.S.C. § 1331 because Graham asserts claims arising under the Constitution, laws, and/or treaties of the United States.

18. This Court has supplemental jurisdiction over Graham's claims arising under state law pursuant to 28 U.S.C. § 1367 because they are so related to the claims over which this Court has original jurisdiction that they form a part of the same case or controversy under Article III of the United States Constitution.

19. This Court has personal jurisdiction over PPGOH pursuant to Fed. R. Civ. P. 4(k)(1)(A) and the Fourteenth Amendment to the U.S. Constitution, Section 1 because PPGOH incorporated in the State of Ohio and maintains its principal place of business in Franklin County, Ohio.

20. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b) because The Southern District of Ohio is a judicial district in which PPGOH resides & conducts business and it is a judicial district in which a substantial part of the events or omissions giving rise to Graham's claims occurred.

21. Pursuant to S.D. Ohio Civ. R. 82.1(b)-(d), the Eastern Division at Columbus is the appropriate location of Court because Franklin County, Ohio is a county in which PPGOH resides and conducts business and it is the judicial district in which a substantial part of the events or omissions giving rise to Graham's claims occurred.

22. Pursuant to 42 U.S.C. § 2000e-5(f)(1) and 42 U.S.C. § 12117(a), Graham has met all jurisdictional prerequisites necessary to bring her claims under 42 U.S.C. §§ 2000e, et seq. and

42 U.S.C. §§ 12111, et seq. A true and accurate copy of Graham’s “Notice-of-Right-to-Sue” letter is attached hereto as Exhibit A.

23. Pursuant to Ohio Rev. Code § 4112.052(B)(2)(b), Graham has complied with all jurisdictional prerequisites necessary to bring her claims under Ohio Rev. Code § 4112.02: she filed a charge of discrimination with the Equal Employment Opportunity Commission (“EEOC”) and the Ohio Civil Rights Commission (“OCRC”); and she has received notice from the EEOC that she may bring a civil action against her former employer. A true and accurate copy of EEOC Notification & Acknowledgement of Dual-Filed Charge is attached hereto as Exhibit B.

### **GENERAL ALLEGATIONS**

24. Graham re-alleges and incorporates by reference the allegations set forth in preceding paragraphs of the Complaint as if fully rewritten herein.

#### **A. PPGOH Hires Graham as a Certified Nurse Practitioner.**

25. Graham is a highly educated and experienced medical professional. In 2007, Graham graduated from Saint Joseph’s College with a Bachelor of Science Degree in Biology and Chemistry. In 2009, she received a Bachelor Science Degree in Nursing from Purdue University. In 2013, Graham went on to earn her Master of Science in Nursing from Wright State University. She then began work as a Pediatric Nurse Practitioner. Finally, in 2017, Graham earned a Post-Master Certificate as a Women’s Health Nurse Practitioner.

26. Graham is a licensed CNP. She received certification from the Ohio Board of Nursing, the National Certification Corporation, and the Pediatric Nursing Certification Board. Her specialized area of healthcare is gynecology, obstetrics, and pediatrics.

27. Graham's experience as a CNP includes work in PPGOH's surgery centers and family planning clinics. She has trained nurses, healthcare assistants, licensed nurse practitioners, and students training to become nurse practitioners.

28. Based in large part on Graham's education and experience, PPGOH hired Graham on May 28, 2018, to work part-time as a CNP in its Athens Health Center.

29. When her skillset and expertise became readily apparent to her supervisors, PPGOH quickly moved Graham to full-time employment by having her work two additional shifts at its surgery center.

30. In 2019, PPGOH transferred Graham to its location in Northern Columbus, Ohio.

31. Throughout her employment at PPGOH, Graham's performance as a CNP met or exceeded her supervisors' expectations.

32. At PPGOH, Graham was a vocal proponent of diversity in the workplace. Graham worked with employees and patients from a variety of racial, ethnic, religious, economic, and social backgrounds. Prior to Frazier, no employee or patient had ever asserted a complaint that Graham mistreated diverse people, especially as to race.

33. In or around August of 2022, Iris Harvey ("Harvey"), President of PPGOH detailed a new strategic plan to develop a Black Staff Equity Program. Graham, while expressing praise and support for this program, noted that diverse employees who were neither African American nor white would not benefit from this program. Harvey ignored Graham's concerns.

34. Graham's excellent job performance resulted in Stevenson, PPGOH's Director of Nursing, recommending in June 2022 that Graham replace her upon her resignation. Upon information and belief, PPGOH considered Graham a top candidate and, more importantly, the only qualified candidate for PPGOH's Director of Nursing Position.

**B. Graham Suffers a Serious Injury to Her Ankle.**

35. On or about June 9, 2022, Graham fell and injured her ankle on a break while at work.

36. The following day, Graham's physicians diagnosed her with multiple fractures and torn ligaments in her foot. She was placed on medical leave until June 22, 2022.

37. Upon her return to work, Graham was medically restricted to a part-time schedule and limited movement for an indefinite period of time.

38. PPGOH required Graham to exceed the medical limitations prescribed by her physicians by requiring her to stand and walk frequently and work a full-time schedule. Graham then took it upon herself to acquire a knee roller to assist her in performing her job duties.

39. In or around October 2022, Graham was advised that she would need to undergo surgery on her ankle and that she would be unable to walk for approximately two months after. The surgery was scheduled to take place on November 22, 2022.

40. As a result, on or about October 27, 2022, Graham submitted her request for FMLA leave from November 22, 2022, through January 3, 2023, to PPGOH.

41. After receiving notice of Graham's FMLA leave request, her supervisor, Lead Clinician Alicia Shanks ("Shanks") questioned the amount of FMLA leave Graham had requested. Shanks also expressed her frustration to Graham that her absence would be problematic because she would not be present and available to train a new addition to the staff. She stated, "that really changes things."

42. On October 31, 2022, PPGOH approved Graham's FMLA leave to begin November 22, 2022.

C. **PPGOH Hires Frazier Who Endangers Patients with Her Carelessness and Substandard Work.**

43. On or about June 13, 2022, PPGOH hired Frazier as a health care assistant. Frazier is African American. Her job duties required her to assist Graham and the rest of PPGOH's staff at the North Columbus location.

44. As a health care assistant, PPGOH tasked Frazier with conducting patient intake interviews, documenting their medical histories, listing their medications, describing health issues for which they sought treatment, and otherwise summarizing the interviews she conducted.

45. It quickly became apparent that Frazier could not perform her job duties to the minimum standards necessary. Frazier often made critical omissions, inaccurately described patients' medical history, improperly handled private patient information, and produced deficient summarizations of her interactions with patients.

46. In addition to these performance deficiencies, Frazier also attempted on multiple occasions to sell cannabis edibles to her co-workers. On at least one other occasion, Frazier offered illicit painkillers to Graham after she complained about having back pain.

47. Frazier's deficient performance and illegal conduct posed a serious risk of safety to the health of PPGOH's patients, jeopardized the licenses of healthcare professionals working with her, and subjected PPOGH to potential liability.

48. The clinical staff, including but not limited to Sarah Bailey ("Bailey"), Kristin Wall ("Wall"), and Gall, attempted to constructively address Frazier's deficiencies directly with her through coaching. However, Frazier was not receptive to direction or instruction; instead, she responded with hostility and made no efforts to improve her performance.

49. Graham and several other staff members raised their concerns regarding Frazier's deficient performance to PPGOH's Practice Manager, Jeannine Dzuban ("Dzuban") and Shanks. PPGOH took no action to address these concerns.

50. As a result of the continued issues with Frazier's deficient performance, on or about July 22, 2022, Gall, on behalf of the staff, submitted written documentation of Frazier's performance issues to Dzuban. In addition, Bailey, Wall, Gall, and Graham made verbal reports of Frazier's deficient performance to Dzuban and Shanks.

51. Consequently, on or about July 22, 2022, Dzuban and Gall removed Frazier from the workflow for the remainder of the workday and assigned her to review education modules to address the patient safety concerns raised by the staff.

**D. Frazier Retaliates by Making False Allegations Against Graham.**

52. Immediately after her removal from the workflow, Frazier confronted Graham in her office claiming, in part, that Graham had said "multiple condescending things" about her, though she could not articulate any specific statements.

53. Frazier next lodged a complaint against Graham falsely alleging she had personally attacked her, threatened her with violence, and had intentionally triggered her "PTSD." Ultimately, PPGOH found no merit to Frazier's claims.

54. In light of the retaliatory nature of Frazier's complaint, on or about July 26, 2022, Graham filed a formal written complaint documenting Frazier's performance deficiencies over the past 30 days and expressing concern regarding Frazier's retaliatory conduct. Graham expressly stated, "I do not feel comfortable working with Brianna for the sake of patient safety, as well as potential risk to my career."

55. Graham explicitly requested PPGOH transfer either her or Frazier because she did not feel safe working with her.

**E. PPGOH Appoints a Racist Investigatory to Conduct a Retaliatory and Bad-Faith Investigation into Graham's Complaint.**

56. PPGOH assigned its Chief Equity and Inclusion Officer, Eady, African American, to investigate Graham's complaint against Frazier.

57. At all relevant times herein, Eady was an employee of PPGOH.

58. Eady publicly and openly announced her racial bias and contempt for white individuals.

59. For example, Eady posted on social media a photo of her posing with a vanity license plate that read "YT TEARS." She admitted the vanity license plate belonged to her. Similarly, Eady's social media included a post of a shirt, which said "Caucasians" in the Cleveland Guardians font and depicted a racist caricature of a white man with a money sign over his head. Upon information and belief, Eady owned this shirt. A true and accurate copy of Eady's social media posts is attached hereto as Exhibit C.

60. As a result, PPGOH knew or should have known of Eady's racism and bias toward white individuals.

61. On or about July 28, 2022, Eady conducted an approximately 18-minute phone interview with Graham regarding her complaint against Frazier. During this interview, Eady was unprofessional, contemptuous, and confrontational towards Graham. At the outset, Eady told Graham her claims were false and refused to address the substance of Graham's complaint. Instead, accused Graham of being condescending and using micro-aggressions in the workplace. Throughout the interview, Eady did not allow Graham to respond to the accusations against her and cut her off when she attempted to provide input.

62. Eady's manner was so openly hostile and aggressive that Graham asked to record their conversation. Eady refused.

63. As a result, on or about August 12, 2022, Graham filed a formal written complaint with PPGOH against Eady for discriminatory treatment. In her complaint, Graham provided Eady's racist social media posts as evidence of her racial bias and proof that she did not conduct the investigation in good faith.

64. On or about August 18, 2022, PPGOH's Vice President of Human Resources, Weathers, African American, advised Graham that she would assume investigation of her complaints.

65. At all relevant times herein, Weathers was an employee of PPGOH that had supervisory authority over Graham.

66. Upon information and belief, rather than conduct her own investigation, Weathers merely relied on Eady's biased and incomplete investigation to make her determinations that neither Frazier nor Eady had engaged in any wrongdoing, retaliation, and/or discriminatory behavior. Moreover, Weathers also concluded that Graham had not acted improperly towards Frazier.

**F. Graham Applies for PPGOH's Director of Nursing Position.**

67. On or about September 23, 2022, Shanks encouraged Graham to apply for PPGOH's open Director of Nursing position and/or its Director of Care Coordination position. Medical Director and Chief Medical Officer Dr. Adarsh Krishen expressly informed Graham that, while she would be a good fit for either position, she was the only CNP who was qualified for the Director of Nursing role. Dr. Krishen felt Graham was such an exemplary candidate for both positions that he allowed her to select whichever position she preferred.

68. Approximately one week later, Graham applied for PPGOH's Director of Nursing position.

69. In the months leading up to her termination, Graham received repeated feedback from multiple supervisors that she was the best candidate for the Director of Nursing position.

70. While Graham's application for the Director of Nursing position was pending, Frazier's work performance had deteriorated further so as to pose an immediate risk of safety to PPGOH's patients.

71. Despite the results of Weathers' investigations, Frazier's co-workers continued to make complaints regarding her deficient work performance, unwillingness to accept feedback, and negative attitude. At or around this time, PPGOH gave Frazier an additional 30 days to improve her work performance by extending her probationary period.

72. On or about September 15, 2022, the clinical staff scheduled a meeting with Frazier. During this meeting, upon information and belief, PPGOH managers discussed the importance of feedback and positive responses to constructive criticism. After this meeting, and unbeknownst to Graham, Frazier again filed a retaliatory complaint against Graham containing multiple false allegations.

**G. PPGOH Denies Graham's Promotion and Terminates Her Employment.**

73. In early November 2022, Graham requested a meeting with Weathers to discuss the Director of Nursing role as well as her continued concerns regarding Frazier's work performance.

74. Weathers and Graham met on November 3, 2022. In this meeting, Weathers informed Graham that PPGOH would not be promoting her to Director of Nursing. Weathers then explained that PPGOH had received anonymous reports of unprofessional behavior being

exhibited by Graham. Specifically, Weathers reported that Graham had been accused of making Islamophobic comments, refusing to train staff, and acting in an unprofessional manner.

75. Graham emphatically denied these false allegations. She then asked for the identity of the individual who made these reports, suspecting that Frazier made them in retaliation for the September 2022 meeting. She communicated to Weathers that she believed the allegations were retaliation for the September 2022 meeting held to address Frazier's performance issues.

76. Weathers, PPGOH's Vice President of Human Resources denied any knowledge of Frazier's continuing deficient job performance and further claimed she had no knowledge that multiple staff members continued to complain about Frazier's work. Weathers expressly directed Graham to provide documentation of the complaints she previously filed and to document any of Frazier's continuing performance issues.

77. Weathers' professed ignorance as to Frazier's deficient performance made it clear that PPGOH had failed to conduct a good faith investigation of Graham's prior complaint against her and Eady. Instead, PPGOH relied on Eady's incomplete and biased "investigation," dismissed Graham's complaints of discrimination and retaliation, and, as a result, both allowed and perpetuated discrimination and retaliation against Graham in the workplace.

78. The same day, based upon Weathers' professed ignorance, Graham reported to Stevenson, PPGOH's Director of Nursing, that the myriad of complaints that she and co-workers submitted about Frazier's performance had not been sent through the appropriate channels and addressed. Stevenson advised Graham to document Frazier's performance issues by filing reports electronically through PPGOH's AIMS database. Graham did so that day and continued filing updated reports. In addition, Graham continued emailing her supervisors about Frazier's performance issues.

79. On November 14, 2022, Graham, after receiving no response from Weathers, escalated the staff's concerns to Erica Wilson, the President of Human Resources for PPGOH and Weathers' supervisor.

80. Four (4) days later, on November 18, 2022, PPGOH terminated Graham's employment for retaliation under its "zero-tolerance" policy. Specifically, PPGOH claimed that Graham's submission of AIMs reports regarding Frazier's repeated performance deficiencies were in retaliation for Frazier's "anonymous" complaint against Graham.

81. PPGOH failed to address, reprimand, or otherwise discipline Frazier for the retaliatory actions to which she subjected Graham. Similarly, PPGOH failed to address, reprimand, or otherwise discipline Eady for her racially discriminatory actions and treatment of Graham.

82. PPGOH terminated Graham four (4) days after she elevated her complaints to Weathers' supervisor and four (4) days before she was to commence her FMLA leave.

## **CAUSES OF ACTION**

### **COUNT I**

#### **RACE DISCRIMINATION IN VIOLATION OF 42 U.S.C. §§ 2000e, et seq.**

83. Graham re-alleges and incorporates by reference the allegations set forth in preceding paragraphs of the Complaint as if fully rewritten herein.

84. 42 U.S.C. § 2000e-2(a)(1) prohibits employers from discriminating against employees on the basis of race with respect to their compensation, terms, conditions, or privileges of employment.

85. PPGOH, at all relevant times herein, was Graham's employer within the meaning of 42 U.S.C. § 2000e(b).

86. Graham, at all relevant times herein, was PPGOH's employee within the meaning of 42 U.S.C. § 2000e(f).

87. Graham is white.

88. Graham was highly qualified to perform the job duties required of her position and the position for which she applied.

89. PPGOH is the unusual employer who discriminates against white employees, as evidenced by the following racist treatment to which PPGOH subjected Graham and her co-workers:

a. PPGOH allowed African American employees such as Frazier, Eady, and Weathers to repeatedly violate its policies and standards of performance, subject patients to increased risk of harm, make false accusations, distribute illegal drugs, refuse to perform their essential job duties, and ignore complaints made by white employees. PPGOH held white employees to a much stricter standard in all respects than their African American counterparts.

b. PPGOH failed to conduct complete, good faith investigations of Graham's reports of discrimination and retaliation while accepting and relying upon Frazier's retaliatory complaints.

c. Eady, PPGOH's Chief Equity and Inclusion Officer, who was first tasked with investigating Graham's complaints against Frazier posted overtly racist content against white people in her social media accounts. (*See Ex. C.*) PPGOH knew and/or should have known of Eady's racism and bias against white people.

d. PPGOH prioritized the well-being of its African American employees over employees of all other races. In or around August 24, 2023, PPGOH initiated the Black Staff Equity Program, a strategic plan to promote African American leadership and management. Graham, while expressing praise and support for this program, was ignored

when she pointed out that non-white employees of other races employed by PPGOH would not benefit from this program nor would white employees.

90. PPGOH discriminated against Graham by subjecting her to adverse employment actions, including but not limited to denying her promotion to Director of Nursing and terminating her employment. Upon information and belief, PPGOH subjected Graham to these adverse employment actions, in whole or in part, because of her race, white.

91. PPGOH has not provided and cannot provide a legitimate non-discriminatory reason for refusing to promote Graham.

92. PPGOH's purported legitimate, non-discriminatory reason for terminating Graham's employment, i.e., that she retaliated against Frazier by accurately reporting her job performance deficiencies and violations of PPGOH's policies & standards of conduct, has no basis in fact, did not actually motivate her termination, and/or was insufficient to motivate her termination.

93. Accordingly, PPGOH discriminated against Graham by subjecting her to these adverse employment actions, in whole or in part, because of her race, white.

94. As a direct and proximate result of PPGOH's tortious conduct, Graham has suffered economic and non-economic compensatory damages in an amount to be determined at trial but exceeding \$75,000.00.

95. Graham is entitled to punitive damages pursuant to 42 U.S.C. § 1981a(b)(1) because PPGOH acted with malice or reckless indifference towards Grahams' federally protected rights.

96. Graham, pursuant to 42 U.S.C. § 2000e-5(k), is entitled to reasonable attorneys' fees, expert witness fees, and costs incurred in pursuing this claim.

**COUNT II**  
**RACE DISCRIMINATION IN VIOLATION OF 42 U.S.C. § 1981**

97. Graham re-alleges and incorporates by reference the allegations set forth in preceding paragraphs of the Complaint as if fully rewritten herein.

98. 42 U.S.C. § 1981 prohibits discrimination on the basis of race with respect to the performance, modification, and termination of contracts as well as the enjoyment of all benefits, privileges, terms, and conditions of that contractual relationship.

99. PPGOH and Graham, by virtue of their employer-employee relationship, were parties to a contract within the meaning of 42 U.S.C. § 1981(b).

100. Graham is white.

101. Graham was highly qualified to perform the job duties required for her position and the Director of Nursing position for which she applied.

102. PPGOH is the unusual employer who discriminates against white employees, as evidenced by the following racist treatment to which PPGOH subjected Graham and her co-workers:

a. PPGOH allowed African American employees such as Frazier, Eady, and Weathers to repeatedly violate its policies and standards of performance, subject patients to increased risk of harm, make false accusations, distribute illegal drugs, refuse to perform their essential job duties, and ignore complaints made by white employees. PPGOH held white employees to a much stricter standard in all respects than their African American counterparts.

b. PPGOH failed to conduct complete, good faith investigations of Graham's reports of discrimination and retaliation while accepting and relying upon Frazier's retaliatory complaints.

c. Eady, PPGOH's Chief Equity and Inclusion Officer, who was first tasked with investigating Graham's complaints against Frazier posted overtly racist content against white people in her social media accounts. (*See* Ex. C.) PPGOH knew and/or should have known of Eady's racism and bias against white people.

d. PPGOH prioritized the well-being of its African American employees over employees of all other races. In or around August 24, 2023, PPGOH initiated the Black Staff Equity Program, a strategic plan to promote African American leadership and management. Graham, while expressing praise and support for this program, was ignored when she pointed out that non-white employees of other races employed by PPGOH would not benefit from this program nor would white employees.

103. PPGOH discriminated against Graham by subjecting her to adverse employment actions, including but not limited to denying her promotion to Director of Nursing and terminating her employment. Upon information and belief, PPGOH subjected Graham to these adverse employment actions, in whole or in part, because of her race, white.

104. PPGOH has not provided and cannot provide a legitimate non-discriminatory reason for refusing to promote Graham.

105. PPGOH's proffered legitimate, non-discriminatory reason for terminating Graham's employment, i.e., that she retaliated against Frazier by accurately reporting Frazier's job performance deficiencies and violations of PPGOH's policies & standards of conduct, has no basis in fact, did not actually motivate her termination, and/or was insufficient to motivate her termination.

106. Accordingly, PPGOH discriminated against Graham by subjecting her to these adverse employment actions, in whole or in part, because of her race, white.

107. As a direct and proximate result of PPGOH's wrongful and discriminatory conduct, Graham has suffered economic and non-economic compensatory damages in an amount to be determined at trial but exceeding \$75,000.00.

108. Graham is entitled to punitive damages pursuant to 42 U.S.C. § 1981a(b)(1) because PPGOH acted with malice or reckless indifference towards her federally protected rights.

109. Graham, pursuant to 42 U.S.C. § 1988(b)-(c), is entitled to reasonable attorneys' fees, costs, and expenses incurred in pursuing this claim.

**COUNT III**  
**RACE DISCRIMINATION IN VIOLATION OF OHIO REV. CODE § 4112.02(B)**

110. Graham re-alleges and incorporates by reference the allegations set forth in preceding paragraphs of the Complaint as if fully rewritten herein.

111. Ohio Rev. Code § 4112.02(A) prohibits employers from discriminating against employees on the basis of race with respect to hiring, terms, conditions, privileges, or any other matter directly or indirectly related to employment.

112. PPGOH, at all relevant times herein, was Graham's employer within the meaning of Ohio Rev. Code § 4112.01(A)(2).

113. Graham, at all relevant times herein, was PPGOH's employee within the meaning of Ohio Rev. Code § 4112.01(A)(3).

114. Graham is white.

115. Graham was highly qualified to perform the job duties required for her position and the Director of Nursing position for which she applied.

116. PPGOH is the unusual employer who discriminates against white employees, as evidenced by the following racist treatment to which PPGOH subjected Graham and her co-workers:

a. PPGOH allowed African American employees such as Frazier, Eady, and Weathers to repeatedly violate its policies and standards of performance, subject patients to increased risk of harm, make false accusations, distribute illegal drugs, refuse to perform their essential job duties, and ignore complaints made by white employees. PPGOH held white employees to a much stricter standard in all respects than their African American counterparts.

b. PPGOH failed to conduct complete, good faith investigations of Graham's reports of discrimination and retaliation while accepting and relying upon Frazier's retaliatory complaints.

c. Eady, PPGOH's Chief Equity and Inclusion Officer, who was first tasked with investigating Graham's complaints against Frazier posted overtly racist content against white people in her social media accounts. (*See Ex. C.*) PPGOH knew and/or should have known of Eady's racism and bias against white people.

d. PPGOH prioritized the well-being of its African American employees over employees of all other races. In or around August 24, 2023, PPGOH initiated the Black Staff Equity Program, a strategic plan to promote African American leadership and management. Graham, while expressing praise and support for this program, was ignored when she pointed out that non-white employees of other races employed by PPGOH would not benefit from this program nor would white employees.

117. PPGOH discriminated against Graham by subjecting her to adverse employment actions, including but not limited to denying her promotion to Director of Nursing and terminating her employment. Upon information and belief, PPGOH subjected Graham to these adverse employment actions, at whole or in part, because of her race, white.

118. PPGOH has not provided and cannot provide a legitimate non-discriminatory reason for refusing to promote Graham.

119. PPGOH's purported legitimate, non-discriminatory reason for terminating Graham's employment, i.e., that she retaliated against Frazier by accurately reporting Frazier's job performance deficiencies and violations of PPGOH's policies & standards of conduct, has no basis in fact, did not actually motivate her termination, and/or was insufficient to motivate her termination.

120. Accordingly, PPGOH discriminated against Graham by subjecting her to these adverse employment actions, in whole or in part, because of her race, white.

121. As a direct and proximate result of PPGOH's wrongful and discriminatory conduct, Graham has suffered economic and non-economic compensatory damages in an amount to be determined at trial but exceeding \$75,000.00.

122. Graham is entitled to punitive damages pursuant to Ohio Rev. Code §§ 4112.99 and 2315.21(C) because PPGOH's actions or omissions demonstrate malice or aggravated or egregious fraud, or PPGOH as principal or master knowingly authorized, participated in, or ratified the actions or omissions of an agent or servant that so demonstrate.

123. Because Graham is entitled to punitive damages, she is entitled to reasonable attorneys' fees incurred in pursuing this claim as well.

**COUNT IV**  
**DISABILITY DISCRIMINATION IN VIOLATION OF 42 U.S.C. §§ 12111, et seq.**

124. Graham re-alleges and incorporates by reference the allegations set forth in preceding paragraphs of the Complaint as if fully rewritten herein.

125. 42 U.S.C. § 12112(a) prohibits any covered entity from discriminating against a qualified individual on the basis of disability in regard to job application procedures, hiring,

advancement, or discharge of employees, employee compensation, job training, and other terms, conditions, and privileges of employment.

126. PPGOH, at all relevant times herein, was Graham's employer within the meaning of 42 U.S.C. § 12111(5)(A) and a covered entity within the meaning of 42 U.S.C. § 12111(2).

127. Graham, at all relevant times herein, was PPGOH's employee within the meaning of 42 U.S.C. § 12111(4) and a qualified individual within the meaning of 42 U.S.C. § 12111(8).

128. Graham's ankle injury is a physical impairment that, at all relevant times herein, substantially limited her in walking, running, moving, and working. Accordingly, it is a disability within the meaning of 42 U.S.C. § 12102(1)(A). Alternatively, PPGOH regarded Graham as disabled within the meaning of 42 U.S.C. § 12102(1)(C).

129. PPGOH knew of this disability, at the very latest, when Graham requested medical leave to treat it.

130. PPGOH discriminated against Graham on the basis of her disability by subjecting her to adverse employment actions, including but not limited to denying her promotion to Director of Nursing and terminating her employment. Upon information and belief, PPGOH subjected Graham to these adverse employment actions, in whole or in part, because of her disability and/or because it regarded her as disabled.

131. PPGOH has not provided and cannot provide a legitimate non-discriminatory reason for refusing to promote Graham.

132. PPGOH's purported legitimate, non-discriminatory reason for terminating Graham's employment, i.e., that she retaliated against Frazier by accurately reporting Frazier's job performance deficiencies and violations of PPGOH's policies & standards of conduct, has no basis

in fact, did not actually motivate her termination, and/or was insufficient to motivate her termination.

133. Accordingly, PPGOH discriminated against Graham by subjecting her to these adverse employment actions, in whole or in part, because of her disability and/or because it regarded her as disabled.

134. As a direct and proximate result of PPGOH's tortious conduct, Graham has suffered economic and non-economic compensatory damages in an amount to be determined at trial but exceeding \$75,000.00.

135. Graham is entitled to punitive damages pursuant to 42 U.S.C. § 12117(a) and 42 U.S.C. § 1981a(b)(1) because PPGOH acted with malice or reckless indifference towards her federally protected rights.

136. Graham, pursuant to 42 U.S.C. § 12117(a) and 42 U.S.C. § 2000e-5(k), is entitled to reasonable attorneys' fees, expert witness fees, and costs incurred in pursuing this claim.

**COUNT V**  
**DISABILITY DISCRIMINATION IN VIOLATION OF OHIO REV. CODE § 4112.02(A)**

137. Graham re-alleges and incorporates by reference the allegations set forth in preceding paragraphs of the Complaint as if fully rewritten herein.

138. Ohio Rev. Code § 4112.02(A) prohibits employers from discriminating against employees on the basis of disability with respect to hiring, terms, conditions, privileges, or any other matter directly or indirectly related to employment.

139. PPGOH, at all relevant times herein, was Graham's employer within the meaning of Ohio Rev. Code § 4112.01(A)(2).

140. Graham, at all relevant times herein, was PPGOH's employee within the meaning of Ohio Rev. Code § 4112.01(A)(3).

141. Graham was highly qualified to perform the job duties required of her position.

142. Graham's ankle injury is a physical impairment that, at all relevant times herein, substantially limited her in walking, running, moving, and working. Accordingly, it is a disability within the meaning of Ohio Rev. Code § 4112.02(A)(13). Alternatively, PPGOH regarded Graham as disabled within the meaning of Ohio Rev. Code § 4112.02(A)(13).

143. PPGOH knew of this disability, at the very latest, when Graham requested medical leave to treat it.

144. PPGOH discriminated against Graham on the basis of her disability by subjecting her to adverse employment actions, including but not limited to denying her promotion to Director of Nursing and terminating her employment. Upon information and belief, PPGOH subjected Graham to adverse employment actions, in whole or in part, because of her disability and/or because it regarded her as disabled.

145. PPGOH's purported legitimate, non-discriminatory reason for terminating Graham's employment, i.e., that she retaliated against Frazier by accurately reporting Frazier's job performance deficiencies and violations of PPGOH's policies & standards of conduct, has no basis in fact, did not actually motivate her termination, and/or was insufficient to motivate her termination.

146. Accordingly, PPGOH discriminated against Graham by subjecting her to these adverse employment actions, in whole or in part, because of her disability and/or because it regarded her as disabled.

147. As a direct and proximate result of PPGOH's tortious conduct, Graham has suffered economic and non-economic compensatory damages in an amount to be determined at trial but exceeding \$75,000.00.

148. Graham is entitled to punitive damages pursuant to Ohio Rev. Code §§ 4112.99 and 2315.21(C) because PPGOH's actions or omissions demonstrate malice or aggravated or egregious fraud, or PPGOH as principal or master knowingly authorized, participated in, or ratified the actions or omissions of an agent or servant that so demonstrate.

149. Because Graham is entitled to punitive damages, she is entitled to reasonable attorneys' fees incurred in pursuing this claim as well.

**COUNT VI**  
**RETALIATION IN VIOLATION OF 42 U.S.C. §§ 2000e, et seq.**

150. Graham re-alleges and incorporates by reference the allegations set forth in preceding paragraphs of the Complaint as if fully rewritten herein.

151. 42 U.S.C. § 2000e-3 prohibits any employer from discriminating against an employee who has opposed any discriminatory practice or has participated in any investigation related thereto.

152. PPGOH, at all relevant times herein, was Graham's employer within the meaning of 42 U.S.C. § 2000e(b).

153. Graham, at all relevant times herein, was PPGOH's employee within the meaning of 42 U.S.C. § 2000e(f).

154. Graham engaged in activities protected by 42 U.S.C. §§ 2000e et seq. when she reported Frazier's discriminatory and retaliatory conduct to Weathers, Eady, and others at PPGOH.

155. PPGOH knew of Graham's protected activities.

156. PPGOH retaliated against Graham for engaging in protected activities by subjecting her to adverse employment actions, including but not limited to denying her promotion to Director of Nursing and terminating her employment. PPGOH subjected Graham to these adverse employment actions, in whole or in part, because she engaged in protected activities.

157. The temporal proximity, in whole or in part, between Graham's protected activities and the adverse employment actions and/or the increased scrutiny to which PPGOH subjected her following her protected activities, demonstrates a causal link between the two.

158. PPGOH has not provided and cannot provide a legitimate non-discriminatory reason for refusing to promote Graham.

159. PPGOH's purported legitimate, non-discriminatory reason for terminating Graham's employment, i.e., that she retaliated against Frazier by accurately reporting Frazier's job performance deficiencies and violations of PPGOH's policies & standards of conduct, has no basis in fact, did not actually motivate her termination, and/or was insufficient to motivate her termination.

160. Accordingly, PPGOH retaliated against Graham by subjecting her to these adverse employment actions, in whole or in part, because she engaged in protected activities.

161. As a direct and proximate result of PPGOH's tortious conduct, Graham has suffered economic and non-economic compensatory damages in an amount to be determined at trial but exceeding \$75,000.00.

162. Graham is entitled to punitive damages pursuant to 42 U.S.C. § 1981a(b)(1) because PPGOH acted with malice or reckless indifference towards her federally protected rights.

163. Graham, pursuant to 42 U.S.C. § 2000e-5(k), is entitled to reasonable attorneys' fees, expert witness fees, and costs incurred in pursuing this claim.

**COUNT VII**  
**RETALIATION IN VIOLATION OF 42 U.S.C. §§ 1981-82**

164. Graham re-alleges and incorporates by reference the allegations set forth in preceding paragraphs of the Complaint as if fully rewritten herein.

165. 42 U.S.C. §§ 1981-82 prohibits nongovernmental discrimination on the basis of race with respect to the performance, modification, and termination of contracts, the enjoyment of all benefits, privileges, terms, and conditions of that contractual relationship, and the rights to inherit, purchase, lease, sell, hold, and convey real and personal property. Such privileges, rights, and property interests protected by this law include the right to be free from retaliation for reporting or otherwise opposing race-based discrimination in the workplace.

166. PPGOH and Graham, by virtue of their employer-employee relationship, were parties to a contract within the meaning of 42 U.S.C. § 1981(b).

167. Graham engaged in activities protected by 42 U.S.C. §§ 1981-82 when she reported Frazier's discriminatory and retaliatory conduct to Weathers, Eady and others at PPGOH.

168. PPGOH knew of Graham's protected activities.

169. PPGOH retaliated against Graham by subjecting her to adverse employment actions, including but not limited to denying her promotion to Director of Nursing and terminating her employment. PPGOH subjected Graham to these adverse employment actions, in whole or in part, because she engaged in protected activities.

170. The temporal proximity between Graham's protected activities and the adverse employment actions and/or the increased scrutiny to which PPGOH subjected her following her protected activities, demonstrates a causal link between the two.

171. PPGOH has not provided and cannot provide a legitimate non-discriminatory reason for refusing to promote Graham.

172. PPGOH's proffered legitimate, non-discriminatory reason for terminating Graham's employment, i.e., that she retaliated against Frazier by accurately reporting Frazier's job performance deficiencies and violations of PPGOH's policies & standards of conduct, has no basis

in fact, did not actually motivate her termination, and/or was insufficient to motivate her termination.

173. Accordingly, PPGOH retaliated against Graham by subjecting her to these adverse employment actions, in whole or in part, because she engaged in protected activities.

174. As a direct and proximate result of PPGOH's tortious conduct, Graham has suffered economic and non-economic compensatory damages in an amount to be determined at trial but exceeding \$75,000.00.

175. Graham is entitled to punitive damages pursuant to 42 U.S.C. § 1981a(b)(1) because PPGOH acted with malice or reckless indifference towards her federally protected rights.

176. Graham, pursuant to 42 U.S.C. § 1988(b)-(c), is entitled to reasonable attorneys' fees, costs, and expenses incurred in pursuing this claim.

**COUNT VIII**  
**RETALIATION IN VIOLATION OF OHIO REV. CODE § 4112.02(I)**

177. Graham re-alleges and incorporates by reference the allegations set forth in preceding paragraphs of the Complaint as if fully rewritten herein.

178. Ohio Rev. Code § 4112.02(I) prohibits any person from discriminating against another person in any manner who has opposed any discriminatory practice or has participated in any investigation related thereto.

179. Graham and PPGOH are persons within the meaning of Ohio Rev. Code § 4112.01(A)(1).

180. Graham engaged in activities protected by Ohio Rev. Code § 4112.02 when she reported Frazier's discriminatory and retaliatory conduct to Weathers, Eady, and others at PPGOH.

181. PPGOH knew of these protected activities.

182. PPGOH retaliated against Graham by subjecting her to adverse employment actions, including but not limited to denying her promotion to Director of Nursing and terminating her employment. Upon information and belief, PPGOH subjected Graham to these adverse employment actions, in whole or in part, because she engaged in protected activities.

183. The temporal proximity between Graham's protected activities and the adverse employment actions and/or the increased scrutiny to which PPGOH subjected Graham following her protected activities, demonstrates a causal link between the two.

184. PPGOH has not provided and cannot provide a legitimate non-discriminatory reason for refusing to promote Graham.

185. PPGOH's proffered legitimate, non-discriminatory reason for terminating Graham's employment i.e., that Graham retaliated against Frazier by accurately reporting Frazier's performance deficiencies and her violations of PPGOH's policies and standards of conduct, has no basis in fact, did not actually motivate her termination, and/or was insufficient to motivate her termination.

186. Accordingly, PPGOH retaliated against Graham by subjecting her to these adverse employment actions, in whole or in part, because she engaged in protected activities.

187. As a direct and proximate result of PPGOH's wrongful conduct, Graham has suffered economic and non-economic compensatory damages in an amount to be determined at trial but exceeding \$75,000.00.

188. Graham is entitled to punitive damages pursuant to Ohio Rev. Code § 2315.21(C) because PPGOH's actions or omissions demonstrate malice or aggravated or egregious fraud, or PPGOH as principals or masters knowingly authorized, participated in, or ratified the actions or omissions of an agent or servant that so demonstrate.

189. Because Graham is entitled to punitive damages, she is entitled to reasonable attorneys' fees incurred in pursuing this claim as well.

**COUNT IX**  
**RETALIATION FOR REQUESTING A REASONABLE ACCOMMODATION IN**  
**VIOLATION OF 42 U.S.C. § 12203.**

190. Graham re-alleges and incorporates by reference the allegations set forth in preceding paragraphs of the Complaint as if fully rewritten herein.

191. 42 U.S.C. § 12203(a) prohibits covered entities from interfering with employees' rights under 42 U.S.C. §§ 12111 et seq., including the right to request a reasonable accommodation that would allow the employee to perform the essential functions of their position with a disability.

192. PPGOH, at all relevant times herein, was Graham's employer within the meaning of 42 U.S.C. § 12111(5)(A) and a covered entity within the meaning of 42 U.S.C. § 12111(2).

193. Graham, at all relevant times herein, was PPGHOH's employee within the meaning of 42 U.S.C. § 12111(4) and a qualified individual within the meaning of 42 U.S.C. § 12111(8).

194. Graham's ankle injury is a physical impairment that, at all relevant times herein, substantially limited her in walking, running, moving, and working. Accordingly, it is a disability within the meaning of 42 U.S.C. § 12102(1)(A).

195. PPGOH knew of this disability, at the very latest, when Graham requested medical leave to treat it.

196. Graham engaged in activity protected by 42 U.S.C. § 12112(b)(5) when she requested medical leave to treat her disability.

197. PPGOH knew of this protected activity.

198. PPGOH subjected Graham to adverse employment actions, including but not limited to denying her promotion to Director of Nursing and terminating her employment. Upon information and belief, PPGOH subjected Graham to these adverse employment actions, in whole or in part, because she engaged in protected activity.

199. The brief time frame between Graham's protected activity and the adverse employment actions and/or the increased scrutiny to which PPGOH subjected her following her protected activity, demonstrates a causal link between the two.

200. PPGOH has not provided and cannot provide a legitimate non-discriminatory reason for refusing to promote Graham.

201. PPGOH's legitimate, non-discriminatory reason for terminating Graham's employment, i.e., that she retaliated against Frazier by accurately reporting Frazier's job performance deficiencies and violations of PPGOH's policies & standards of conduct, has no basis in fact, did not actually motivate her termination, and/or was insufficient to motivate her termination.

202. Accordingly, PPGOH retaliated against Graham by subjecting her to these adverse employment actions, in whole or in part, because she engaged in protected activity.

203. As a direct and proximate result of PPGOH's tortious conduct, Graham has suffered economic and non-economic compensatory damages in an amount to be determined at trial but exceeding \$75,000.00.

204. Graham is entitled to punitive damages pursuant to 42 U.S.C. § 12117(a) and 42 U.S.C. § 1981a(b)(1) because PPGOH acted with malice or reckless indifference towards her federally protected rights.

205. Graham, pursuant to 42 U.S.C. § 12117(a) and 42 U.S.C. § 2000e-5(k), is entitled to reasonable attorneys' fees, expert witness fees, and costs incurred in pursuing this claim.

**COUNT X**  
**RETALIATION FOR REQUESTING A REASONABLE ACCOMMODATION IN**  
**VIOLATION OF OHIO REV. CODE § 4112.02(I)**

206. Graham re-alleges and incorporates by reference the allegations set forth in preceding paragraphs of the Complaint as if fully rewritten herein.

207. Ohio Rev. Code § 4112.02(I) prohibits a person from subjecting another person to adverse employment actions in retaliation for reasonable accommodations for their disability or disabilities.

208. Graham and PPGOH are persons within the meaning of Ohio Rev. Code § 4112.01(A)(1).

209. Graham's ankle injury is a physical impairment that, at all relevant times herein, substantially limited her in walking, running, moving, and working. Accordingly, it is a disability within the meaning of Ohio Rev. Code § 4112.02(A)(13).

210. Graham engaged in activity protected by Ohio Rev. Code § 4112.02 when she requested medical leave to help treat her disability.

211. PPGOH knew of this protected activity.

212. PPGOH subjected Graham to adverse employment actions, including but not limited to denying her promotion to Director of Nursing and terminating her employment. Upon information and belief, PPGOH subjected Graham to these adverse employment actions, in whole or in part, because she engaged in protected activity.

213. The temporal proximity between Graham's protected activity and the adverse employment actions and/or the increased scrutiny to which PPGOH subjected her following her protected activity, demonstrates a causal link between the two.

214. PPGOH has not provided and cannot provide a legitimate non-discriminatory reason for refusing to promote Graham.

215. PPGOH's proffered legitimate, non-discriminatory reason for terminating Graham's employment, i.e., that Graham retaliated against Frazier by accurately reporting Frazier's performance deficiencies and her violations of PPGOH's policies and standards of conduct, has no basis in fact, did not actually motivate her termination, and/or was insufficient to motivate her termination.

216. Accordingly, PPGOH retaliated against Graham by subjecting her to these adverse employment actions, in whole or in part, because she engaged in protected activity.

217. As a direct and proximate result of PPGOH's tortious conduct, Graham has suffered economic and non-economic compensatory damages in an amount to be determined at trial but exceeding \$75,000.00.

218. Graham is entitled to punitive damages pursuant to Ohio Rev. Code §§4112.99 and 2315.21(C) because PPGOH's actions or omissions demonstrate malice or aggravated or egregious fraud, or PPGOH as principals or masters knowingly authorized, participated in, or ratified the actions or omissions of an agent or servant that so demonstrate.

219. Because Graham is entitled to punitive damages, she is entitled to reasonable attorneys' fees incurred in pursuing this claim as well.

**COUNT XI**  
**INTERFERENCE WITH ENTITLEMENT TO LEAVE UNDER THE FAMILY AND**  
**MEDICAL LEAVE ACT IN VIOLATION OF 29 U.S.C. § 2615(a)(1)**

220. Graham re-alleges and incorporates by reference the allegations set forth in preceding paragraphs of the Complaint as if fully rewritten herein.

221. 29 U.S.C. § 2615(a)(1) prohibits a person from attempting to interfere with, restrain, or deny the exercise of any right under 29 U.S.C. § 2611 et seq.

222. Graham is an eligible employee within the meaning of 29 U.S.C. § 2611(2)(A) as she worked full time for more than a year.

223. PPGOH is an employer within the meaning of 29 U.S.C. § 2611(4)(A).

224. Graham's ankle injury is a serious health condition within the meaning of 29 U.S.C. § 2611(11).

225. Graham was entitled to FMLA leave pursuant to 29 U.S.C. § 2612(a)(1)(D) because she suffered from a serious health condition that temporarily made her unable to perform the functions of her position.

226. Graham provided PPGOH with notice of her need for FMLA leave within the meaning of 29 U.S.C. § 2612(e).

227. PPGOH interfered with Graham's FMLA rights within the meaning of 29 U.S.C. § 2615(a) by terminating her employment.

228. PPGOH termination of Graham's employment was related, in whole or in part, to her attempted exercise of her FMLA rights, including but not limited to her right to leave.

229. PPGOH's proffered legitimate, business reason for terminating Graham's employment, i.e., that Graham retaliated against Frazier by accurately reporting Frazier's performance deficiencies and her violations of PPGOH's policies and standards of conduct, has

no basis in fact, did not actually motivate her termination, and/or was insufficient to motivate her termination.

230. Accordingly, PPGOH interfered with and retaliated against Graham by terminating her employment, in whole or in part, for her attempt to exercise her right to take FMLA leave.

231. As a direct and proximate result of PPGOH's wrongful conduct, Graham has suffered economic compensatory damages in an amount to be determined at trial but exceeding \$75,000.00.

232. Pursuant to 29 U.S.C. § 2617(a)(1)(A)(iii) Graham is entitled liquidated damages because PPGOH did not act in good faith or with reasonable grounds for believing its conduct did not violate 29 U.S.C. § 2615.

233. Pursuant to 29 U.S.C. § 2617(a)(3), Graham is entitled to reasonable attorneys' fees, expert witness fees, and other costs incurred in pursuing this claim.

**COUNT XII**  
**RETALIATION IN VIOLATION OF THE FAMILY AND MEDICAL LEAVE ACT – 29**  
**U.S.C. § 2615(a)(2)**

234. Graham re-alleges and incorporates by reference the allegations set forth in preceding paragraphs of the Complaint as if fully rewritten herein.

235. 29 U.S.C. § 2615(a)(2) prohibits an employer from discharging or in any other manner discriminating against any individual for opposing any practice made unlawful by 29 U.C.S § 2611 et seq.

236. Graham is an eligible employee within the meaning of 29 U.S.C. § 2611(2)(A) as she worked full time for more than a year.

237. PPGOH is an employer within the meaning of 29 U.S.C. § 2611(4)(A).

238. Graham's ankle injury is a serious health condition within the meaning of 29 U.S.C. § 2611(11).

239. Graham was entitled to FMLA leave pursuant to 29 U.S.C. § 2612(A)(1)(D) because she suffered from a serious health condition that temporarily made her unable to perform the functions of her position.

240. Graham engaged in activity protected by 29 U.S.C. § 2611 et seq. when she provided PPGOH notice of her intent to exercise her right to FMLA leave.

241. PPGOH knew of this protected activity.

242. PPGOH discriminated against Graham within the meaning of 29 U.S.C. § 2615(a)(2) by terminating her employment.

243. PPGOH subjected Graham to these adverse employment actions, in whole or in part, in retaliation for her exercising her FMLA rights, a protected activity.

244. PPGOH's proffered legitimate, business reason for terminating Graham's employment, i.e., that Graham retaliated against Frazier by accurately reporting Frazier's performance deficiencies and her violations of PPGOH's policies and standards of conduct, has no basis in fact, did not actually motivate her termination, and/or was insufficient to motivate her termination.

245. Accordingly, PPGOH interfered with and retaliated against Graham by terminating her employment, in whole or in part, for her attempt to exercise her rights under the FMLA.

246. As a direct and proximate result of PPGOH's wrongful conduct, Graham has suffered economic compensatory damages in an amount to be determined at trial but exceeding \$75,000.00.

247. Pursuant to 29 U.S.C. § 2617(a)(1)(A)(iii) Graham is entitled liquidated damages because PPGOH did not act in good faith or with reasonable grounds for believing its conduct did not violate 29 U.S.C. § 2615.

248. Pursuant to 29 U.S.C. § 2617(a)(3), Graham is entitled to reasonable attorneys' fees, expert witness fees, and other costs incurred in pursuing this claim.

**COUNT XIII**  
**RETALIATION IN VIOLATION OF PUBLIC POLICY ENSURING PATIENT SAFETY**

249. Graham re-alleges and incorporates by reference the allegations set forth in preceding paragraphs of the Complaint as if fully rewritten herein.

250. R.C. 4101.11 and R.C. 4101.12 manifest a clear public policy requiring healthcare providers to ensure patient safety.

251. Graham engaged in activities protected by this public policy by reporting to PPGOH Frazier's violations of PPGOH's policies and standards of conduct related to patient care.

252. PPGOH knew of these protected activities.

253. PPGOH subjected Graham to adverse employment actions, including but not limited to denying her promotion to Director of Nursing and terminating her employment. Upon information and belief, PPGOH subjected Graham to these adverse employment actions, in whole or in part, because she engaged in protected activities.

254. Permitting employers to subject employees to adverse employment actions for engaging in protected activities similar to those in which Graham engaged would jeopardize this public policy.

255. The temporal proximity between Graham's protected activities and the adverse employment actions and/or the increased scrutiny to which PPGOH subjected her following her protected activities, demonstrates a causal link between the two.

256. PPGOH cannot provide an overriding legitimate business justification for refusing to promote Graham.

257. PPGOH's proffered overriding legitimate business justification for terminating Graham's employment, i.e., that she retaliated against Frazier by accurately reporting Frazier's job performance deficiencies and violations of PPGOH's policies & standards of conduct, has no basis in fact, did not actually motivate her termination, and/or was insufficient to motivate her termination.

258. Accordingly, PPGOH retaliated against Graham by subjecting her to these adverse employment actions, in whole or in part, because she engaged in protected activities.

259. As a direct and proximate result of PPGOH's tortious conduct, Graham has suffered economic and non-economic compensatory damages in an amount to be determined at trial but exceeding \$75,000.00.

260. Graham is entitled to punitive damages pursuant to Ohio Rev. Code §§ 4112.99 and 2315.21(C) because PPGOH's actions or omissions demonstrate malice or aggravated or egregious fraud, or PPGOH as principals or masters knowingly authorized, participated in, or ratified the actions or omissions of an agent or servant that so demonstrate.

261. Because Graham is entitled to punitive damages, she is entitled to reasonable attorneys' fees incurred in pursuing this claim as well.

**WHEREFORE**, Plaintiff Jennifer Graham requests judgment against PPGOH as follows:

**Count I – Race Discrimination in Violation of 42 U.S.C. § 2000e, et seq.** Reinstatement or front pay from the conclusion of the trial in this matter, back pay, compensatory damages in an amount yet to be determined but in excess of \$75,000, punitive damages, interest, attorneys' fees, witness fees, costs, and any other relief this Court deems appropriate.

**Count II** – Race Discrimination in Violation of 42 U.S.C. § 1981. Reinstatement or front pay from the conclusion of the trial in this matter, back pay, compensatory damages in an amount yet to be determined but in excess of \$75,000, punitive damages, interest, attorneys’ fees, witness fees, costs, and any other relief this Court deems appropriate.

**Count III** – Race Discrimination in Violation of Ohio Rev. Code § 4112.02(B). Reinstatement or front pay from the conclusion of the trial in this matter, back pay, compensatory damages in an amount yet to be determined but in excess of \$75,000, punitive damages, interest, attorneys’ fees, witness fees, costs, and any other relief this Court deems appropriate.

**Count IV** – Disability Discrimination in Violation of 42 U.S.C. §§ 12111, et seq. Reinstatement or front pay from the conclusion of the trial in this matter, back pay, compensatory damages in an amount yet to be determined but in excess of \$75,000, punitive damages, interest, attorneys’ fees, witness fees, costs, and any other relief this Court deems appropriate.

**Count V** – Disability Discrimination in Violation of Ohio Rev. Code § 4112.02(B). Reinstatement or front pay from the conclusion of the trial in this matter, back pay, compensatory damages in an amount yet to be determined but in excess of \$75,000, punitive damages, interest, attorneys’ fees, witness fees, costs, and any other relief this Court deems appropriate.

**Count VI** – Retaliation in Violation of 42 U.S.C. §§ 2000e, et seq. Reinstatement or front pay from the conclusion of the trial in this matter, back pay, compensatory damages in an amount yet to be determined but in excess of \$75,000, punitive damages, interest, attorneys’ fees, witness fees, costs, and any other relief this Court deems appropriate.

**Count VII** – Retaliation in Violation of 42 U.S.C. §§ 1981-82. Reinstatement or front pay from the conclusion of the trial in this matter, back pay, compensatory damages in an amount yet

to be determined but in excess of \$75,000, punitive damages, interest, attorneys' fees, witness fees, costs, and any other relief this Court deems appropriate.

**Count VIII** – Retaliation in Violation of Ohio Rev. Code § 4112.02(I). Reinstatement or front pay from the conclusion of the trial in this matter, back pay, compensatory damages in an amount yet to be determined but in excess of \$75,000, punitive damages, interest, attorneys' fees, witness fees, costs, and any other relief this Court deems appropriate.

**Count IX** – Retaliation for Requesting a Reasonable Accommodation in Violation of 42 U.S.C. § 12203. Reinstatement or front pay from the conclusion of the trial in this matter, back pay, compensatory damages in an amount yet to be determined but in excess of \$75,000, punitive damages, interest, attorneys' fees, witness fees, costs, and any other relief this Court deems appropriate.

**Count X** – Retaliation for Requesting a Reasonable Accommodation in Violation of Ohio Rev. Code § 4112.02(I). Reinstatement or front pay from the conclusion of the trial in this matter, back pay, compensatory damages in an amount yet to be determined but in excess of \$75,000, punitive damages, interest, attorneys' fees, witness fees, costs, and any other relief this Court deems appropriate.

**Count XI** – Interference with Entitlement to Leave under The Family and Medical Leave Act in Violation of 29 U.S.C. § 2615(a)(1). Reinstatement or front pay from the conclusion of the trial in this matter, back pay, liquidated damages, interest, attorneys' fees, witness fees, costs, and any other relief this Court deems appropriate.

**Count XII** – Retaliation in Violation of The Family and Medical Leave Act – 29 U.S.C. § 2615(a)(2). Reinstatement or front pay from the conclusion of the trial in this matter, back pay,

liquidated damages, interest, attorneys' fees, witness fees, costs, and any other relief this Court deems appropriate.

**Count XIII – Retaliation in Violation of Public Policy Ensuring Patient Safety.**

Reinstatement or front pay from the conclusion of the trial in this matter, back pay, compensatory damages in an amount yet to be determined but in excess of \$75,000, punitive damages, interest, attorneys' fees, witness fees, costs, and any other relief this Court deems appropriate.

Respectfully submitted,

*/s/ Judith E. Galeano*

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**JURY DEMAND**

Plaintiff demands that a jury decide all claims in this Complaint.

*/s/ Judith E. Galeano*

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