

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

ADRIANNE HARKLESS,)	
)	
Plaintiff,)	
)	
v.)	Case No. 14 CV 3711
)	
PLANNED PARENTHOOD OF ILLINOIS,)	
PLANNED PARENTHOOD FEDERATION)	
OF AMERICA., and KAI TAO,)	
)	
Defendants.)	

ANSWER TO COMPLAINT

NOW COME the Defendants, PLANNED PARENTHOOD OF ILLINOIS (“PPIL”), and KAI TAO (“Tao”)(collectively referred to as “Defendants”), by and through their attorneys, SmithAmundsen LLC, and in response to Plaintiff’s Complaint, answer as follows:

PARTIES AND JURISDICTION

1. Count I is brought to remedy a violation of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000e, *et seq.* Counts II, III, IV and V of Plaintiff’s complaint are brought to remedy violations of the Family & Medical Leave Act of 1993 (“FMLA”), as amended, 29 U.S.C. §2601, *et seq.* Counts VI, VII and VIII are brought to remedy violations under the Americans With Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. §12101, *et seq.* Count IX alleges negligence under Illinois common law.

ANSWER: Defendants admit that this matter is brought pursuant to the statutes and common law referenced above but deny that they have violated said statutes or common law.

2. Plaintiff Adrienne Harkless is a resident of Chicago, Illinois.

ANSWER: Upon information and belief, Defendants admit this allegation.

3. Defendant Planned Parenthood of Illinois (“Defendant PPIL”) is a health care provider which delivers reproductive health care, sex education, and sexual health information throughout Illinois. Each of Defendant PPIL’s 17 health centers also provides preventive services, including cancer screenings, breast health care, well-woman exams, contraceptive services, and sexually transmitted infection prevention and treatment, to men, women, and teens. PPIL identifies its mission as providing and promoting compassionate comprehensive reproductive healthcare, education and rights. It is an affiliate of Defendant Planned Parenthood Federation of America (“Defendant PPFa”).

ANSWER: Defendants generally admit the allegations in Paragraph 3.

4. Defendant PPIL was Plaintiff’s employer.

ANSWER: Admit.

5. Defendant PPIL was Plaintiff’s health care provider.

ANSWER: Defendants admit that PPIL was one of Plaintiff’s health care providers but are without knowledge or information sufficient to form a belief about whether PPIL was Plaintiff’s sole health care provider and, therefore, deny the remaining allegations.

6. Defendant Planned Parenthood Federation of America, Inc. is the umbrella organization of the Planned Parenthood affiliates. PPFa establishes the standards and guidelines used to run the organization and all of its affiliates, including Defendant PPIL. The organization

standards provided by PPFA to PPIL include, *inter alia*, standards for patient care, Board membership (diversity), employee retention, employee records, and revenue and operational costs. To insure that Defendant PPIL maintains the aforesaid standards and guidelines, it is audited by Defendant PPFA, which insures that those standards and guidelines are met and makes recommendations for improvement. In August 2013, Defendant PPFA conducted an organizational assessment of PPIL entitled “Move the Dot,” which reviewed Defendant PPIL’s senior management, including Defendant Tao.

ANSWER: Upon information and belief, Defendants admit that PPFA issues certain standards and guidelines for its independent affiliates, including PPIL, to follow, as well as, “Move the Dot,” a voluntary organizational assessment, did take place around August 2013 by PPIL; however, Defendants deny the remaining allegations.

7. Defendant Kai Tao was Vice President of Clinical Operations and Associate Medical Director of PPIL and Plaintiff’s direct supervisor. Defendant Tao was a member of PPIL’s senior management team reporting to the Medical Director, Caroline Hoke, and the CEO, Carol Brite. As Vice President of Clinical Operations, Defendant Tao provided strategic leadership and oversaw daily operations for all PPIL health centers. Defendant Tao’s duties entailed managing and implementing PPIL’s overall mission, goals and objectives, including developing and implementing operational changes and insuring compliance with Defendant PPFA’s standards and guidelines. Her responsibilities also included developing, maintaining, and implementing Defendant PPIL’s adherence to federal, state, and local regulations. In her role as Associate Medical Director, Defendant Tao supervised Defendant PPIL’s nurse practitioners in the clinics statewide.

ANSWER: Admit.

8. This Court has jurisdiction over Count I under Title VII, as amended, 42 U.S.C. §2000e, *et seq.*; Counts II-V under the FMLA, as amended, 29 U.S.C. §2601, *et seq.*; over Counts VI-VIII under the ADA, as amended, 42 U.S.C. §12101, *et seq.*; and pursuant to 28 U.S.C. §1331. This Court has jurisdiction over Count IX pursuant to 28 U.S.C. §1367. Venue of this action lies in the Northern District of Illinois pursuant to 28 U.S.C. §1391.

ANSWER: Defendants admit that this Court has jurisdiction over Plaintiff's claims and that venue is proper in the Northern District of Illinois.

9. All conditions precedent to jurisdiction have occurred. On January 28, 2013, Plaintiff filed a charge of discrimination with the Equal Employment Opportunity Commission ("EEOC") alleging violations of the ADA and retaliation under Title VII. Plaintiff amended her Charge of Discrimination on March 29, 213 [sic].

ANSWER: Admit.

10. The EEOC mailed Plaintiff her Notice of Right to Sue dated February 14, 2014, and it was received February 19, 2014. Copies of Plaintiffs Charges of Discrimination and Notice of Right to Sue are attached hereto.

ANSWER: Upon information and belief, Defendants admit this allegation.

BACKGROUND FACTS

A. Plaintiff's Hire, Promotions, and More Than Satisfactory Performance

11. In March 2006, Plaintiff became an employee of Defendant PPIL as a

Reproductive Health Assistant in PPIL's Naperville Express Health Center.

ANSWER: Admit.

12. Plaintiff's performance was satisfactory, as recognized, in part, by multiple promotions. She was promoted to be the Orland Park Clinic Manager within her first seven months with PPIL. In this role, Plaintiff managed the daily operations of Defendant PPIL's Orland Park office.

ANSWER: Defendants aver that Plaintiff was promoted to Assistant Manager of Orland Park on October 30, 2006, just over seven (7) months after her initial hire date. Plaintiff was promoted to manager of Orland Park in May 2007. Defendants admit the remaining allegations.

13. As a result of her more than satisfactory performance, less than a year later, Plaintiff was promoted again. In her new role as Manager of the Aurora Health Center, Plaintiff was responsible for launching and managing PPIL's significantly larger flagship site in Aurora. As Manager of the Aurora Health Center, Plaintiff managed a staff of 30-35 people and was responsible for the launch and success of the flagship site, including operations, hiring, implementation of operational goals and budgets, and implementation of strategic plans and operational goals.

ANSWER: Defendants admit that Plaintiff was promoted to Manager of the Aurora facility effective May 28, 2007. Defendants further admit the remaining allegations but aver that Plaintiff was part of a management team responsible for all the listed duties.

14. In 2010, Plaintiff was promoted again, this time to the position of Regional Director of Clinical Operations in the Medical Services Department of PPIL. Initially, Plaintiff

was responsible for operational oversight of two health centers and the creation of the call center and the training department. In 2011, Plaintiff's role expanded when she was promoted to also oversee five health centers and two departments.

ANSWER: Defendants aver that Plaintiff was promoted to Director of Clinical Operations effective January 18, 2009. Defendants admit the remaining allegations but aver that Plaintiff was part of a management team responsible for all the listed duties.

15. During Plaintiff's employment, her performance reviews were more than satisfactory. In recognition of her excellent performance, Defendant PPIL awarded Plaintiff regular pay increases and bonuses. Plaintiff also received positive verbal feedback on her performance from her managers.

ANSWER: Defendants generally admit these allegations, but deny that her performance ratings and reviews were ever scored as "excellent."

16. When Plaintiff was promoted to Regional Director in September 2010, she began reporting to senior management of Defendant PPIL — specifically, Defendant Tao.

ANSWER: Defendants aver that Plaintiff was promoted to Director of Clinical Operations effective January 18, 2009. Defendants admit the remaining allegations.

B. PPIL's Failure to Notify Plaintiff of Her Rights Under the FMLA After Notification of Her Serious Health Conditions

17. During her employment with Defendant PPIL, Plaintiff was provided with a copy of PPIL's Employment Handbook and, later, its April 2011 update, which included Defendant PPIL's family and medical leave policy.

ANSWER: Admit.

18. Defendant PPIL's FMLA policy identifies Defendant PPIL as an employer implementing the FMLA in compliance with the Family & Medical Leave Act (FMLA).

ANSWER: Admit.

19. Defendant PPIL's FMLA policy informs all of its employees that, under the FMLA, they are eligible to take time off work "when the employee is unable to work because of a serious health condition."

ANSWER: Admit.

20. Defendant PPIL's FMLA policy confirms that "PPIL's family and medical leave policy and practices comply with the Federal Family and Medical Leave Act." Defendant PPIL's FMLA policy also states that employees are eligible for FMLA leave if they have been employed by Defendant PPIL for at least 12 months and have worked at least 1,250 hours during that time.

ANSWER: Admit.

21. Defendant PPIL's FMLA policy confirms that the "FMLA makes it unlawful for any employer to: Interfere with, restrain, or deny the exercise of any right provided under the FMLA"; or "Discharge or discriminate against any person for opposing any practice made unlawful by FMLA"

ANSWER: Admit.

22. At the time of her leaves and days off work (described further herein), Plaintiff had been employed by Defendant PPIL for over 12 months and had worked at least 1,250 hours

during the prior 12-month period.

ANSWER: Admit.

23. At no time during her employment was Plaintiff notified that Defendant PPIL had revoked or withdrawn its FMLA policy.

ANSWER: Admit.

24. Plaintiff has serious health conditions, as defined by the FMLA, which require continuing treatment by a health care provider.

ANSWER: Upon information and belief, Defendants admit this allegation.

25. Plaintiff gave Defendant PPIL notice of her serious health conditions — vulvar intraepithelial neoplasia (VIN) and cervical intraepithelial neoplasia (CIN) — and informed Defendant PPIL's Human Resources Department of her need to take time off work for treatment of her serious health conditions, including surgery in August 2008.

ANSWER: Admit.

26. After her surgery and until her termination, Plaintiff took days off work for continued monitoring and treatment of her continuing chronic serious health conditions, including the day before her termination — July 31, 2012.

ANSWER: Defendants generally admit.

27. Defendant PPIL did not provide Plaintiff with any notice of her rights under the FMLA. To wit, Plaintiff was not advised of her obligations and expectations under the FMLA and the consequences of any failure to meet her obligations; that her leave could be designated

and counted against her annual leave entitlement; that she could be obligated to provide certification; that she had the right to substitute paid leave; and that she had a right to maintenance and benefits during leave.

ANSWER: Defendants deny all allegations since FMLA notification was given to Plaintiff during her employment for a requested leave. PPIL avers that it never designated Plaintiff's absences for her VIN and CIN as FMLA leave or denied any time off for VIN and CIN, and, thus, Plaintiff suffered no damages or adverse consequences.

28. Defendant PPIL also failed to designate Plaintiff's time off for treatment and care of her medical conditions as leave under the FMLA.

ANSWER: Deny; answering further, PPIL avers that it did designate certain leave as FMLA leave during Plaintiff's employment, however, PPIL admits that it never designated Plaintiff's absences for her VIN and CIN as FMLA leave or denied any time off for VIN and CIN, and, thus, Plaintiff suffered no damages or adverse consequences.

29. As a result of Defendant PPIL's failure to comply with the FMLA, Plaintiff was denied her FMLA rights and knowledge of those rights.

ANSWER: Denied; answering further, Plaintiff got all leave that she requested and was not denied any leave or any rights under the FMLA.

30. Plaintiff's need for medical leave was viewed negatively by Defendant PPIL and Tao. On several occasions — including July 31, 2012, the day Plaintiff took off right before her termination — Defendant Tao questioned Plaintiff's need for time off for the treatment of her serious health conditions.

ANSWER: Defendants admit that Plaintiff took time off for treatment of her VIN and CIN but deny the remaining allegations.

C. Violation of the Confidentiality of Plaintiff's Medical Records by Defendants PPIL and Tao

31. As noted above, Plaintiff has chronic health issues of the vaginal region — vulvar intraepithelial neoplasia (VIN), a skin condition that affects the vulva and could develop into cancer; and cervical intraepithelial neoplasia (CIN), a transformation and abnormal growth of cells on the surface of the cervix which could lead to cervical cancer. Plaintiff was treated for these conditions at PPIL, and information about her conditions was contained in her PPIL medical file.

ANSWER: Admit.

32. Plaintiff did not share her medical conditions with Defendant Tao.

ANSWER: Deny.

33. Plaintiff's need for medical leave to treat and monitor her conditions continued after she began reporting to Defendant Tao. When Plaintiff needed time off work due to her medical conditions, she did not specify what her conditions were, but informed Defendant Tao only of her need to be absent due to her medical conditions. Plaintiff was careful to never share the details of her medical issues with Defendant Tao because Plaintiff was aware that Defendant Tao had misused personal information about employees.

ANSWER: Upon information and belief, Defendants admit that Plaintiff's need for medical leave for her VIN and CIN continued after she began reporting to Tao. Tao denies that Plaintiff did not specify to her what her conditions were. Defendants deny Tao had misused personal

information about employees. Defendants are without knowledge or information sufficient to form a belief about the truth of the remaining allegations and, therefore, deny same.

34. Despite Plaintiff's efforts to keep her chronic medical conditions confidential from her supervisor, Defendant Tao became aware of Plaintiff's conditions.

ANSWER: Defendants admit that Tao, in the course of conversations with Plaintiff and in the course of her role as Vice President of Clinical Operations and Associate Medical Director, became aware of Plaintiff's conditions. Defendants are without knowledge or information sufficient to form a belief about the truth of the remaining allegations and, therefore, deny same.

35. In August 2011, Plaintiff informed Defendant Tao that she had a doctor's appointment.

ANSWER: Admit.

36. Defendant Tao asked Plaintiff if the appointment was related to her "vagina."

ANSWER: Deny.

37. Defendant Tao's question about Plaintiff's conditions demonstrated that she had obtained information from Plaintiff's PPIL medical records without Plaintiff's knowledge or permission.

ANSWER: Deny.

38. Defendant Tao, acting in the scope and course of her employment, accessed Plaintiff's confidential, private patient information contained in Defendant PPIL's medical records of Plaintiff. In so doing, Defendant Tao reviewed Plaintiff's medical history without

Plaintiff's knowledge or permission.

ANSWER: Deny.

39. Defendant Tao, acting in the scope and course of her employment, improperly questioned Plaintiff about her disabilities.

ANSWER: Defendants deny these allegations and are without sufficient knowledge or information as to whether Plaintiff had "disabilities", and, thus, deny same.

D. Defendant Tao's Inappropriate and Discriminatory Comments and Behavior Toward Plaintiff and Other PPIL Employees

40. During her employment, Plaintiff was subjected to and repeatedly witnessed the inappropriate and discriminatory comments and behavior of Defendant Tao.

ANSWER: Deny.

41. It was clear that Defendant Tao held biased views about PPIL employees and candidates for employment because she characterized individuals by their groups — i.e., sexual orientation, race and gender.

ANSWER: Deny.

42. Defendant Tao repeatedly discussed sexual behavior and sexual orientation in the PPIL workplace. For example, Defendant Tao referenced the sexual orientation of another PPIL employee during conversations, including asking her when she was going to get married to her same-sex partner or asking when they were going to "have babies." On another occasion, Defendant Tao asked a PPIL employee, who is lesbian, how she and her partner got pregnant — "Was it insemination or the old-fashioned way?"

ANSWER: Defendants admit that, in her role as Vice President of Clinical Operations and Associate Medical Director of PPIL, Tao often discussed sexual behavior, sexual orientation and reproduction. Defendants deny the remaining allegations and aver that employees came to Tao for professional advice to discuss same-sex partners having children due to Tao's medical background and experience as a nurse mid-wife while also quizzing Tao about her then-recent engagement and choice to have children with her fiancé.

43. During a fact-finding conference at the Illinois Department of Human Rights (IDHR) regarding another discrimination complaint made against Defendant PPIL, Defendant Tao stated that she felt it was acceptable to discuss an individual's sexual orientation, male and female sexual organs, or sexual behavior with staff members because PPIL provided reproductive health services.

ANSWER: Defendants admit that, based on the nature of services that PPIL provides, it was often appropriate, and sometimes necessary, for staff members including Tao, to discuss items such as sexual orientation, sexual organs, and sexual behavior.

44. Defendant Tao also made inappropriate comments about race. For example, she stated that because she is Chinese, she should be better at math, or because she is Chinese, she is a terrible driver.

ANSWER: Defendants admit that Tao made self-deprecating comments about herself related to her Chinese heritage in order to put her subordinate employees at ease and to feel comfortable with Tao in management. Defendants deny that Tao made inappropriate comments about race. Answering further, Defendants note that Chinese is a national origin, not a race.

45. Plaintiff witnessed other examples of biased behavior by Defendant Tao. During

interviews to fill an open PPIL position, Defendant Tao asked a candidate how old her children were and whether they were in school or day care. After the interview, Defendant Tao commented to Plaintiff about how clever she [Tao] had been since the purpose of her questions was to determine if the candidate was more dedicated to her family or to work because she was looking for someone who felt work was more important.

ANSWER: Defendants are without knowledge or information sufficient to form a belief as to what Plaintiff may have witnessed and, therefore, deny that Plaintiff witnessed “other examples of behavior by Defendant Tao.” Answering further, Defendants deny the remaining allegations.

46. After an interview with another candidate, Defendant Tao asked Plaintiff if she thought the candidate was “gay,” stating that she thought he was “completely homosexual.”

ANSWER: Deny.

E. PPIL Had Notice of Defendant Tao’s Discriminatory Behavior and Comments

47. In late 2011, Plaintiff complained to PPIL’s Director of Human Resources, Megan Loutfi, about Defendant Tao’s discriminatory and inappropriate statements and behavior.

ANSWER: Defendants admit that, in or about late 2011, Plaintiff complained to Ms. Loutfi, Director of Human Resources, about Tao but deny the remaining allegations.

48. Plaintiff also told Ms. Loutfi that Defendant Tao had accessed her medical information without her permission or knowledge.

ANSWER: Deny.

49. No investigation was conducted and Defendant PPIL did not discipline Defendant

Tao in 2011.

ANSWER: Defendants deny that “no investigation was conducted” but admit that no formal investigation was conducted and that Tao was not disciplined in 2011 because Plaintiff asked to keep the conversations confidential and did not want an investigation or even a meeting with Tao to rectify their differences.

50. In June 2012, Plaintiff again complained about Defendant’s Tao discriminatory statements and behavior. Once again, PPIL took no action against Defendant Tao.

ANSWER: Defendants admit that, in or about June 2012, Plaintiff complained to Ms. Loutfi about Tao but deny the remaining allegations.

51. After Plaintiff’s second complaint, Ms. Loutfi’s response was to encourage Plaintiff’s departure from PPIL. Ms. Loutfi suggested to Plaintiff that she find a new job, telling her that “moving on is sometimes for the best.”

ANSWER: Defendants admit that due to the personality conflict between Plaintiff and Tao (which was the subject of Plaintiff’s complaints) Ms. Loutfi offered as one suggestion of many regarding finding employment elsewhere in the spirit of problem solving and finding solutions, however, this was not based on Plaintiff’s serious health condition, purported disability, complaining of discrimination, or any other unlawful reason.

52. Defendant PPIL did not discipline Defendant Tao in 2012.

ANSWER: Defendants deny and aver that PPIL did address with Tao the concerns raised by Plaintiff and offered Tao some management coaching.

53. After Plaintiff complained to PPIL, her working relationship with Defendant Tao declined, and Defendant Tao refused to interact with Plaintiff.

ANSWER: Deny.

54. Defendant PPIL was aware of the multiple complaints about Defendant Tao's discriminatory conduct. Several employees complained to Defendant PPIL about Ms. Tao's discriminatory behavior on more than one occasion.

ANSWER: Defendants admit that PPIL was aware that Plaintiff and others complained to PPIL about Tao's management style. Defendants deny the remaining allegations.

55. Defendant PPFA was also aware of the multiple complaints about Defendant Tao's discriminatory conduct. Several employees complained to Defendant PPFA about Ms. Tao's discriminatory behavior on more than one occasion.

ANSWER: Defendant PPFA will be filing a Motion to Dismiss the Complaint as against PPFA if Plaintiff refuses to voluntarily dismiss, so no answer is required to this allegation. To the extent an answer is required, upon information and belief, Defendants deny these allegations.

56. In August 2011, another employee complained to PPIL about Defendant Tao's discriminatory conduct. Several months later, that complaining employee was fired.

ANSWER: Defendants admit that another PPIL employee complained re Tao in August 2011 and was terminated later for unrelated reasons, but Defendants deny remaining allegations.

57. Defendant PPIL did not discipline Defendant Tao after this complaint.

ANSWER: Defendants admit that no formal discipline was issued; answering further,

Defendants aver that Defendant Tao was counseled about her management style and was advised that employees had raised concerns about it.

58. In early Fall 2011, two other employees, Rachel Senecal and Brandi Steck, complained to PPIL about Defendant Tao's discriminatory behavior.

ANSWER: Defendants admit that, in or about Fall 2011, those employees complained about Tao but deny the remaining allegations.

59. Defendant PPIL did not discipline Defendant Tao after their complaints.

ANSWER: Defendants admit that no formal discipline was issued; answering further, Defendants aver that Defendant Tao was counseled about her management style and was advised that employees had raised concerns about it.

60. In September 2011, Defendant PPIL's management had a meeting with PPIL's employees to chill complaints against Defendant PPIL's senior management. The employees were instructed that complaints about Defendant PPIL's senior management were not to be presented to PPIL's Human Resources Department. At the meeting, the employees were asked repeatedly for complaints against management while those same managers sat in the meeting. Management warned the employees that, in the future, any issues related to Defendant Tao had to go through the business "chain of command."

ANSWER: Deny.

61. In August 2013, during an IDHR fact-finding conference, Ms. Loutfi stated that while Defendant Tao had engaged in behavior with staff that "would not be tolerated," she had never been disciplined.

ANSWER: Deny.

62. In August 2013, Defendant PPFA did an organizational audit of Defendant PPIL's compliance with PPFA's organizational standards and guidelines.

ANSWER: Defendants deny that any such audit was performed by PPFA for PPIL, but aver that a PPIL voluntary assessment was performed around August 2013.

63. By August 2013, Defendant PPFA had been aware for more than a year that multiple employees had complained about Defendant Tao engaging in inappropriate and discriminatory actions and comments.

ANSWER: Defendant PPFA will be filing a Motion to Dismiss the Complaint as against PPFA if Plaintiff refuses to voluntarily dismiss, so no answer is required to this allegation. To the extent an answer is required, upon information and belief, Defendants deny this allegation.

64. Upon information and belief, PPFA's assessment criticized Defendant PPIL and its senior management, including Defendant Tao. In its report entitled "Move the Dot," Defendant PPFA confirmed that Defendant Tao's conduct regarding the management of employees was improper.

ANSWER: Defendant PPFA will be filing a Motion to Dismiss the Complaint as against PPFA if Plaintiff refuses to voluntarily dismiss, so no answer is required to this allegation. To the extent an answer is required, Defendants deny these allegations.

F. Plaintiff's Termination and PPIL's Changing Reasons Given to Support It

65. On July 27, 2012, Plaintiff received an email from Defendant Tao setting up an

August 1, 2012 meeting to discuss Plaintiffs performance review.

ANSWER: Admit.

66. At the August 1, 2012 meeting, Defendant Tao, Ms. Loutfi, and Ms. Brite were present. Plaintiff was told by Defendant Tao that she was fired.

ANSWER: Admit.

67. Plaintiff's termination came less than two months after her last complaint to PPIL about Defendant Tao's discriminatory behavior.

ANSWER: Deny.

68. Plaintiff's termination occurred just days after Defendant Tao again questioned her need for medical leave.

ANSWER: Deny.

69. Defendant PPIL has given different and shifting reasons for Plaintiff's firing.

ANSWER: Deny.

70. During the August 1, 2012 meeting, Plaintiff was given several reasons for her discharge. She was told that she was fired for "exhibiting an ongoing pattern of unprofessional behavior." When Plaintiff asked what Defendant meant, she was told that there had been "multiple instances of insubordination." When she asked for specific examples of the insubordinate behavior, none were given. The only response was that there had been "multiple instances." Ms. Brite then claimed there was "evidence that Plaintiff shared confidential salary information with another employee" inappropriately. Again, although Plaintiff asked, no details

were provided. Then, in a third statement, Ms. Loutfi accused Plaintiff of “side-stepping projects in the hope they would fail.” No side-stepped projects were identified.

ANSWER: Admit.

71. None of PPIL’s allegations had been raised previously to Plaintiff.

ANSWER: Admit.

72. In August 2012, after Plaintiff was fired, she obtained her personnel file. In the file, there was a note from Ms. Loutfi stating that a “sampling” of emails used during the “investigation of Plaintiff’s professionalism” that resulted in her discharge was included. Three emails were included.

ANSWER: Admit.

73. The three emails were communications between Plaintiff and PPIL employees. One email dated July 16, 2012 was from Plaintiff to Amber Frykman, Aurora Health Center Manager. A second email dated July 18, 2012, was an email string that began with Ms. Loutfi and included Dr. Hoke and June Gupta (Clinical Services Manager), and ended with Plaintiff and Ms. Senecal. A third email dated July 24, 2012, was between Plaintiff and Ms. Senecal.

ANSWER: Defendants admit that there were email exchanges between Plaintiff and Amber Frykman dated July 16, 2012; between Plaintiff and Rachel Senecal dated July 18, 2012; and between Plaintiff and Rachel Senecal dated July 24, 2012. Answering further, Defendants aver that, in the case of the July 18 and July 24 emails, Ms. Senecal was included in work-related email chains with co-workers that Ms. Senecal then forwarded to Plaintiff and to which Plaintiff replied. Defendants deny all remaining allegations.

74. Defendant PPIL never said anything negative to Plaintiff about her communications before her firing.

ANSWER: Deny.

75. None of the emails referenced the accusations made in the August 1, 2012 termination meeting.

ANSWER: Admit.

76. Months later, after Plaintiff engaged counsel, Defendant PPIL raised a new reason for her discharge. In November 2012, Defendant PPIL alleged that Plaintiff was fired for instructing staff not to participate in a meeting with management.

ANSWER: Defendants admit this specific reason may not have been expressed in the August 1, 2012, meeting, but deny that it was a “new” reason for Plaintiff’s termination.

77. At or about the time of the meeting and alleged improper instruction, an employee of Defendant PPIL, Stacy Greco, was questioned by PPIL’s senior management. Ms. Greco denied Defendant PPIL’s allegation that Plaintiff had instructed staff not to participate in a meeting with management, stating that Plaintiff gave no such instruction.

ANSWER: Admit; answering further, upon information and belief, Ms. Greco made those denials falsely out of a reluctance to appear to be unsupportive of Plaintiff.

G. Defendant PPIL’s Intimidation of a Witness Who Did Not Support Its Defense for Terminating Plaintiff

78. Defendant PPIL attempted to intimidate an employee who supported Plaintiff. When Defendant PPIL’s management interviewed Ms. Greco, she told them that the alleged

instruction not to participate in the management meeting had never occurred.

ANSWER: Defendants deny that they attempted to intimidate anyone. Defendants admit the remaining allegations; answering further, upon information and belief, Ms. Greco made those denials falsely out of a reluctance to appear to be unsupportive of Plaintiff.

79. Ms. Greco was then berated and harassed by PPIL management. When Ms. Greco told PPIL that its allegation against Plaintiff was false, she was called a “liar.” Her denial was ignored and she was told that the allegation was true.

ANSWER: Defendants deny these allegations, but admit that they did not believe Ms. Greco’s denial during the investigation.

80. After being interviewed by PPIL, Ms. Greco’s employment was threatened. PPIL management, including Defendant Tao, told Ms. Greco that management was looking through her computer and phone to “get proof that she was also involved” in Plaintiff’s alleged malfeasance.

ANSWER: Deny.

81. As a result of Defendants’ actions in Paragraphs 11-80, Plaintiff has suffered humiliation, embarrassment, emotional distress, loss of enjoyment of life, and lost income, benefits, and other compensation.

ANSWER: Defendants deny these allegations and that Plaintiff is entitled to any damages or relief.

COUNT I
TITLE VII -- RETALIATION (PPIL)

82. Plaintiff repeats and realleges Paragraphs 1-81 as though fully set forth herein.

ANSWER: Defendants repeat and adopt their answers to Paragraphs 1-81 as if fully restated herein.

83. Plaintiff complained to Defendant PPIL that she was subjected to and witnessed inappropriate and discriminatory statements and behavior by Defendant Tao.

ANSWER: Deny.

84. Following Plaintiffs complaint to Defendant PPIL, and continuing through her termination, Defendant PPIL's management engaged in a pattern of adverse and retaliatory conduct, including creating a negative work environment for Plaintiff; damaging Plaintiff's reputation with false allegations of misconduct; negatively characterizing Plaintiff as a problem employee; refusing to communicate with Plaintiff during work hours; failing to investigate Plaintiff's complaint of discrimination; attempting to chill complaints of discrimination by requiring that employees only complain through the "chain of command"; and terminating Plaintiff.

ANSWER: Deny.

85. By engaging in the foregoing conduct, Defendant PPIL intentionally retaliated against Plaintiff because of her complaints about discrimination and interfered in Plaintiff's enjoyment of all the benefits, privileges, terms and conditions of her employment with Defendant PPIL, in violation of 42 U.S.C. §2000e, *et seq.*

ANSWER: Deny.

86. By engaging in the foregoing conduct, Defendant PPIL acted with malice and/or with reckless indifference to Plaintiff's federally protected rights, in violation of 42 U.S.C. §2000e, *et seq.*

ANSWER: Deny.

WHEREFORE, Plaintiff prays for judgment in her favor and against Defendant PPIL as follows:

a) that a finding be entered that Defendant PPIL intentionally retaliated against Plaintiff on the basis of her complaints about discrimination and harassment with malice and/or with reckless indifference to Plaintiff's federally protected rights;

b) that Plaintiff be awarded all wages, benefits, and other compensation lost due to Defendant PPIL's discriminatory conduct;

c) that Plaintiff be awarded in excess of \$300,000 in compensatory and punitive damages;

d) that Plaintiff be awarded her attorneys' fees and costs;

e) that Plaintiff be awarded prejudgment interest; and

f) that Plaintiff be awarded such other relief as this Court may deem just and proper.

ANSWER: Defendants deny that Plaintiff is entitled to a finding in her favor on Count I and further deny that Plaintiff is entitled to any damages or relief.

COUNT II -- FAILURE TO NOTIFY PLAINTIFF OF FMLA RIGHTS (PPIL)

87. Plaintiff repeats and realleges Paragraphs 11-81 as though fully set forth herein.

ANSWER: Defendants repeat and adopt their answers to Paragraphs 11-81 as if fully restated herein.

88. In 2004, Plaintiff was diagnosed with vulvar intraepithelial neoplasia (VIN) and cervical intraepithelial neoplasia (CIN), chronic conditions which require continuous examination, testing, monitoring, and treatment from health care providers, including, but not limited to, multiple visits to health care providers to insure that the conditions do not flare up and/or become cancerous.

ANSWER: Upon information and belief, Defendants admit.

89. On multiple occasions, Plaintiff notified Defendant PPIL of her serious health conditions and her need to take time off work for surgery and to receive treatment. After giving such notices, Plaintiff took time off work for treatment of her serious health conditions, including multiple follow-up visits with her health care providers for additional testing and treatment and continued monitoring of her conditions for the complications and symptoms that could develop, including cancer.

ANSWER: Admit.

90. Following Plaintiff's notices of her need to take time off work for her serious health conditions, Defendant PPIL failed to provide Plaintiff with any notice of her rights under the FMLA.

ANSWER: Defendants deny all allegations since FMLA notification was given to Plaintiff during her employment for a requested leave. PPIL avers that it never designated Plaintiff's absences as FMLA leave due to her VIN and CIN nor did it count those absences against her FMLA entitlement, and, thus, Plaintiff suffered no damages or adverse consequences.

91. By failing to provide Plaintiff with notice of her rights under the FMLA, Defendant PPIL violated the FMLA's notice requirements. 29 C.F.R. §825.300(b) and (c).

ANSWER: Deny.

92. As a result of Defendant PPIL's failure to comply with the FMLA and its clearly articulated promises to its employees, Plaintiff was denied her FMLA rights.

ANSWER: Deny.

93. As a result of Defendant PPIL's actions, Plaintiff has suffered humiliation, embarrassment, emotional distress, loss of enjoyment of life, and lost income, benefits, and other compensation.

ANSWER: Upon information and belief, Defendants deny.

WHEREFORE, Plaintiff prays for judgment in her favor and against Defendant PPIL as follows:

a) that a finding be entered that Defendant PPIL violated the FMLA by failing to provide Plaintiff with notice of her FMLA rights after receiving notice of FMLA-qualifying conditions;

b) that a finding be entered that Defendant PPIL's failure to provide Plaintiff with

notice of her FMLA rights constitutes interference with, restraint, or denial of the exercise of Plaintiff's FMLA rights;

c) that Plaintiff be awarded all compensation and benefits lost due to Defendant PPIL's interference with her FMLA rights;

d) that Plaintiff be awarded all monetary losses sustained as a direct result of Defendant PPIL's violation of her FMLA rights;

e) that Plaintiff be awarded equitable or other relief, including, but not limited to, reinstatement;

f) that Plaintiff be awarded interest on all monetary sums awarded and/or liquidated damages;

g) that Plaintiff be awarded her attorneys' fees and costs; and

h) that Plaintiff be awarded such other relief as this Court may deem just and proper.

ANSWER: Defendants deny that Plaintiff is entitled to a finding in her favor on Count II and further deny that Plaintiff is entitled to any damages or relief.

COUNT III — FAILURE TO DESIGNATE TIME OFF UNDER FMLA (PPIL)

94. Plaintiff repeats and realleges Paragraphs 11-81 and 87-93 as though fully set forth herein.

ANSWER: Defendants repeat and adopt their answers to Paragraphs 11-81 and 87-93 as if fully restated herein.

95. In 2004, Plaintiff was diagnosed with vulvar intraepithelial neoplasia (VIN) and cervical intraepithelial neoplasia (CIN), chronic conditions which require continuous treatment from health care providers, including, but not limited to, multiple visits to health care providers to insure that the conditions do not become cancerous.

ANSWER: Upon information and belief, Defendants generally admit.

96. After her hire, Plaintiff notified Defendant PPIL of her serious health conditions and her need to take time off work to receive treatment for her conditions. After giving such notice, Plaintiff took time off work for treatment of her serious health conditions, including multiple follow-up visits with her health care providers for additional testing, treatment, and monitoring of her conditions for the complications and symptoms that can develop, including cancer.

ANSWER: Admit.

97. Following Plaintiff's notice of her need to take time off work for her serious health conditions, Defendant PPIL failed to designate Plaintiff's time off work as leave under the FMLA.

ANSWER: Defendants deny all allegations since FMLA notification was given to Plaintiff during her employment for a requested leave. PPIL avers that it never designated Plaintiff's absences for her VIN and CIN as FMLA leave or denied any time off for VIN and CIN, and, thus, Plaintiff suffered no damages or adverse consequences.

98. By failing to designate Plaintiff's time off for her serious health conditions as FMLA leave time, Defendant PPIL violated the FMLA's designation requirements. 29 C.F.R.

§825.301(a).

ANSWER: Deny.

99. As a result of Defendant PPIL's failure to comply with the FMLA, Plaintiff was denied her FMLA rights.

ANSWER: Deny.

100. As a result of Defendant PPIL's actions, Plaintiff has suffered humiliation, embarrassment, emotional distress, loss of enjoyment of life, and lost income, benefits, and other compensation.

ANSWER: Upon information and belief, Defendants deny.

WHEREFORE, Plaintiff prays for judgment in her favor and against Defendant PPIL as follows:

a) that a finding be entered that Defendant PPIL violated the FMLA by failing to designate Plaintiff's time off in 2012 for her serious health conditions as leave under the FMLA;

b) that a finding be entered that Defendant PPIL's failure to designate Plaintiff's time off in 2012 as FMLA leave constitutes interference with, restraint, or denial of the exercise of Plaintiff's FMLA rights;

c) that Plaintiff be awarded all compensation and benefits lost due to Defendant PPIL's interference with her FMLA rights;

d) that Plaintiff be awarded all monetary losses sustained as a direct result of Defendant's violation of her FMLA rights;

e) that Plaintiff be awarded equitable or other relief, including, but not limited to, reinstatement;

f) that Plaintiff be awarded interest on all monetary sums awarded and/or liquidated damages;

g) that Plaintiff be awarded her attorneys' fees and costs; and

h) that Plaintiff be awarded such other relief as this Court may deem just and proper.

ANSWER: Defendants deny that Plaintiff is entitled to a finding in her favor on Count III and further deny that Plaintiff is entitled to any damages or relief.

COUNT IV
RETALIATION FOR ATTEMPTING TO
EXERCISE RIGHTS UNDER THE FMLA (PPIL)

101. Plaintiff repeats and realleges Paragraphs 11-81, 87-93, and 94-100 as though fully set forth herein.

ANSWER: Defendants repeat and adopt their answers to Paragraphs 11-81, 87-93 and 94-100 as if fully restated herein.

102. In 2004, Plaintiff was diagnosed with vulvar intraepithelial neoplasia (VIN) and cervical intraepithelial neoplasia (CIN), chronic conditions which require continuing treatment from health care providers, including, but not limited to, multiple visits to health care providers for examination, testing, treatment, and monitoring to insure that the conditions do not become cancerous.

ANSWER: Admit.

103. After her hire, Plaintiff notified Defendant PPIL of her serious health conditions and her need to take time off work to receive treatment. After giving such notice, Plaintiff took time off work for treatment of her serious health conditions, including multiple follow-up visits with her health care providers for additional testing and treatment and continued monitoring of her conditions for the complications and symptoms that can develop, including cancer.

ANSWER: Admit.

104. In July 2012, after Plaintiff took time off work for her serious health conditions, Defendant Tao questioned Plaintiff's need for time off. Just days before Plaintiff's termination, she questioned whether Plaintiff needed to take a full day off for a medical appointment for her chronic conditions. This was not her first inquiry regarding Plaintiff's need to take time off work for her serious health conditions.

ANSWER: Defendants admit that in July 2012 Plaintiff took time off work for her medical conditions and Tao, in her capacity as Plaintiff's manager, inquired as to the reasons Plaintiff needed time off since Plaintiff had a recent history of needing excessive time off unrelated to her health. Defendants deny all remaining allegations.

105. On August 1, 2012, Defendant terminated Plaintiff's employment.

ANSWER: Admit.

106. At the time she was fired, Plaintiff was given several reasons for her discharge. After her firing, she was given at least two new and different reasons for her termination.

ANSWER: Deny; answering further, Plaintiff was given an explanation for her termination. Upon further inquiry by Plaintiff's attorney, PPIL provided additional (not "new and different") bases for Plaintiff's termination. All such bases were legitimate, non-discriminatory and non-retaliatory reasons for termination.

107. Defendant PPIL's actions toward Plaintiff in ending her employment were in retaliation for Plaintiff's attempt to exercise her rights under the FMLA.

ANSWER: Deny.

108. As a result of Defendant PPIL's failure to comply with the FMLA, Plaintiff was denied her FMLA rights.

ANSWER: Deny.

109. As a result of Defendant PPIL's actions, Plaintiff has suffered humiliation, embarrassment, emotional distress, loss of enjoyment of life, and lost income, benefits, and other compensation.

ANSWER: Upon information and belief, Defendants deny.

WHEREFORE, Plaintiff prays for judgment in her favor and against Defendant PPIL as follows:

- a) that a finding be entered that Defendant PPIL violated the FMLA by terminating Plaintiff's employment in retaliation for her attempt to exercise her rights under the FMLA;
- b) that a finding be entered that Defendant PPIL's actions toward Plaintiff constitute unlawful retaliation for Plaintiff's attempt to exercise her rights under the FMLA;

c) that Plaintiff be awarded all compensation and benefits lost due to Defendant PPIL's retaliation for her attempt to exercise her FMLA rights;

d) that Plaintiff be awarded all monetary losses sustained as a direct result of Defendant's violation of the FMLA;

e) that Plaintiff be awarded equitable or other relief, including, but not limited to, reinstatement;

f) that the Plaintiff be awarded interest on all monetary sums awarded and/or liquidated damages;

g) that Plaintiff be awarded her attorneys' fees and costs; and

h) that Plaintiff be awarded such other relief as this Court may deem just and proper.

ANSWER: Defendants deny that Plaintiff is entitled to a finding in her favor on Count IV and further deny that Plaintiff is entitled to any damages or relief.

COUNT V
RETALIATION FOR ATTEMPTING TO
EXERCISE RIGHTS UNDER THE FMLA (TAO)

110. Plaintiff repeats and realleges Paragraphs 11-81, 87-93, 94-100, and 101-109 as though fully set forth herein.

ANSWER: Defendants repeat and adopt their answers to Paragraphs 11-81, 87-93, 94-100 and 101-109 as if fully restated herein.

111. In or around 2004, Plaintiff was diagnosed with vulvar intraepithelial neoplasia

(VIN) and cervical intraepithelial neoplasia (CIN), chronic conditions which require continuous treatment from health care providers, including, but not limited to, multiple visits to health care providers for examination, testing, treatment, and monitoring to insure that the conditions do not become cancerous.

ANSWER: Admit.

112. Plaintiff notified Defendant Tao of her need to take time off work to receive treatment for her serious health conditions. After giving such notice, Plaintiff took time off work for treatment of her serious health conditions, including multiple follow-up visits with her health care providers for additional testing and treatment and continued monitoring of her conditions for the complications and symptoms that can develop, including cancer.

ANSWER: Admit.

113. After Plaintiff took time off work for her serious health conditions, Defendant Tao questioned Plaintiff's need for time off. Just days before Plaintiff's termination, Defendant Tao questioned whether Plaintiff needed to take a full day off for a previously approved medical appointment for her chronic conditions.

ANSWER: Defendants admit that they allowed Plaintiff time off work for her medical conditions and Tao, in her capacity as Plaintiff's manager, inquired as to the reasons Plaintiff needed time off since Plaintiff had a recent history of needing excessive time off unrelated to her health. Defendants deny all remaining allegations.

114. On August 1, 2012, Defendant Tao participated in the decision and the meeting to terminate Plaintiff's employment.

ANSWER: Defendants admit Tao was involved in the decision to terminate Plaintiff's employment, but deny remaining allegations.

115. At the time she was fired, Plaintiff was given a number of different explanations for her firing. After her termination, she was given at least two other reasons for her discharge.

ANSWER: Deny; answering further, Plaintiff was given an explanation for her termination. Upon further inquiry by Plaintiff's attorney, PPIL provided additional (not "new and different") bases for Plaintiff's termination. All such bases were legitimate, non-discriminatory and non-retaliatory reasons for termination.

116. Defendant Tao's actions toward Plaintiff in ending her employment with PPIL were in retaliation for Plaintiff's attempt to exercise her rights under the FMLA

ANSWER: Deny.

117. As a result of Defendant Tao's failure to comply with the FMLA, Plaintiff was denied her FMLA rights.

ANSWER: Deny.

118. As a result of Defendant Tao's actions, Plaintiff has suffered humiliation, embarrassment, emotional distress, loss of enjoyment of life, and lost income, benefits, and other compensation.

ANSWER: Upon information and belief, Defendants deny.

WHEREFORE, Plaintiff prays for judgment in her favor and against Defendant Tao as follows:

- a) that a finding be entered that Defendant Tao violated the FMLA by terminating Plaintiff's employment in retaliation for her attempt to exercise her rights under the FMLA;
- b) that a finding be entered that Defendant Tao's actions toward Plaintiff constitute unlawful retaliation for Plaintiff's attempt to exercise her rights under the FMLA;
- c) that Plaintiff be awarded all compensation and benefits lost due to Defendant Tao's retaliation against Plaintiff for her attempt to exercise her FMLA rights;
- d) that Plaintiff be awarded all monetary losses sustained as a direct result of Defendant Tao's violation of the FMLA;
- e) that Plaintiff be awarded equitable or other relief, including, but not limited to, reinstatement;
- f) that Plaintiff be awarded interest on all monetary sums awarded and/or liquidated damages;
- g) that Plaintiff be awarded her attorneys' fees and costs; and
- h) that Plaintiff be awarded such other relief as this Court may deem just and proper.

ANSWER: Defendants deny that Plaintiff is entitled to a finding in her favor on Count V and further deny that Plaintiff is entitled to any damages or relief.

COUNT VI
TITLE I OF THE ADA — DISCRIMINATION (PPIL)

119. Plaintiff repeats and realleges Paragraphs 11-81 as though fully set forth herein.

ANSWER: Defendants repeat and adopt their answers to Paragraphs 11-81 as if fully

restated herein.

120. Plaintiff is an individual with disabilities within the meaning of the ADA in that she has, *inter alia*, vulvar intraepithelial neoplasia (VIN) and cervical intraepithelial neoplasia (CIN). Her disabilities limit her in the major bodily functions of reproduction and cellular regeneration.

ANSWER: Defendants admit that Plaintiff has informed them that she has VIN and CIN. Defendants are without knowledge or information sufficient to form a belief about the truth of the remaining allegations and, therefore, deny same.

121. Defendant PPIL is an employer subject to the requirements of the ADA and was aware of Plaintiffs disabilities.

ANSWER: Defendants admit that PPIL is an “employer” as defined by the ADA and that PPIL was informed by Plaintiff that Plaintiff had VIN and CIN. Defendants deny that Plaintiff’s VIN and CIN are “disabilities” under the ADA.

122. Defendant PPIL intentionally subjected Plaintiff to adverse employment actions, including, but not limited to, terminating Plaintiffs employment.

ANSWER: Defendants admit that PPIL terminated Plaintiff’s employment. Defendants deny the remaining allegations.

123. Defendant PPIL acted with malice and/or with reckless indifference to Plaintiffs federally protected rights.

ANSWER: Deny.

124. As a proximate result of the actions complained of herein, Plaintiff has suffered loss of wages, compensation, and benefits, as well as emotional distress.

ANSWER: Deny.

WHEREFORE, Plaintiff prays for judgment in her favor and against Defendant PPIL as follows:

a) that a finding be entered that Defendant PPIL intentionally discriminated against Plaintiff, in violation of the ADA;

b) that a finding be entered that Defendant PPIL acted with malice and/or with reckless indifference to Plaintiff's federally protected rights, in violation of the ADA;

c) that Plaintiff be awarded all wages, benefits, and other compensation due to her as a result of Defendant's discriminatory conduct;

d) that Plaintiff be reinstated to her former position, but if reinstatement is not feasible, that Plaintiff be awarded front pay in lieu thereof;

e) that Plaintiff be awarded compensatory damages;

f) that Plaintiff be awarded her attorneys' fees and costs;

g) that Plaintiff be awarded prejudgment interest; and

h) that Plaintiff be awarded such other relief as this Court may deem just and proper.

ANSWER: Defendants deny that Plaintiff is entitled to a finding in her favor on Count VI and

further deny that Plaintiff is entitled to any damages or relief.

COUNT VII
TITLE I OF THE ADA — PROHIBITED INQUIRY (PPIL)

125. Plaintiff repeats and realleges Paragraphs 11-81 and 119-124 as though fully set forth herein.

ANSWER: Defendants repeat and adopt their answers to Paragraphs 11-81 and 119-124 as if fully restated herein.

126. Plaintiff is an individual with disabilities within the meaning of the ADA in that she has, *inter alia*, vulvar intraepithelial neoplasia (VIN) and cervical intraepithelial neoplasia (CIN). Her disabilities limit her in the major bodily functions of reproduction and cellular regeneration.

ANSWER: Defendants admit that Plaintiff has informed them that she has VIN and CIN. Defendants are without knowledge or information sufficient to form a belief about the truth of the remaining allegations and, therefore, deny same.

127. Defendant PPIL is an employer subject to the requirements of the ADA and was aware of Plaintiff's disabilities.

ANSWER: Defendants admit that PPIL is an "employer" as defined by the ADA and that PPIL was informed by Plaintiff that Plaintiff had VIN and CIN. Defendants deny that Plaintiff's VIN and CIN are "disabilities" under the ADA.

128. Defendant Tao was a senior management employee of PPIL when she questioned Plaintiff about the nature and severity of her disability.

ANSWER: Defendants admit that Tao was a senior management employee of PPIL and questioned Plaintiff regarding her excessive need for time off but deny the remaining allegations.

129. Defendant Tao's inquiry was not job-related or consistent with business necessity.

ANSWER: Deny.

130. Defendant PPIL intentionally subjected Plaintiff to adverse employment actions, including, but not limited to, making an illegal inquiry into the nature and severity of Plaintiff's disability.

ANSWER: Deny.

131. Defendant PPIL acted with malice and/or with reckless indifference to Plaintiff's federally protected rights.

ANSWER: Deny.

132. As a proximate result of the actions complained of herein, Plaintiff has suffered damages, including emotional distress.

ANSWER: Deny.

WHEREFORE, Plaintiff prays for judgment in her favor and against Defendant PPIL as follows:

a) that a finding be entered that Defendant PPIL intentionally discriminated against Plaintiff, in violation of the ADA;

- b) that a finding be entered that Defendant PPIL acted with malice and/or with reckless indifference to Plaintiff's federally protected rights, in violation of the ADA;
- c) that Plaintiff be awarded all wages, benefits, and other compensation due to her as a result of Defendant PPIL's discriminatory conduct;
- d) that Plaintiff be reinstated to her former position, but if reinstatement is not feasible, Plaintiff prays for front pay in lieu thereof;
- e) that Plaintiff be awarded compensatory damages;
- f) that Plaintiff be awarded her attorneys' fees and costs;
- g) that Plaintiff be awarded prejudgment interest; and
- h) that Plaintiff be awarded such other relief as this Court may deem just and proper.

ANSWER: Defendants deny that Plaintiff is entitled to a finding in her favor on Count VII and further deny that Plaintiff is entitled to any damages or relief.

COUNT VIII
TITLE I OF THE ADA — CONFIDENTIAL MEDICAL RECORD BREACH (PPIL)

133. Plaintiff repeats and realleges Paragraphs 11-81, 119-124, and 125-132 as though fully set forth herein.

ANSWER: Defendants repeat and adopt their answers to Paragraphs 11-81, 119-124 and 125-132 as if fully restated herein.

134. Plaintiff is an individual with disabilities within the meaning of the ADA in that she has, *inter alia*, vulvar intraepithelial neoplasia (VIN) and cervical intraepithelial neoplasia (CIN). Her disabilities limit her in the major bodily functions of reproduction and cellular regeneration.

ANSWER: Defendants admit that Plaintiff has informed them that she has VIN and CIN. Defendants are without knowledge or information sufficient to form a belief about the truth of the remaining allegations and, therefore, deny same.

135. Defendant PPIL is an employer subject to the requirements of the ADA and was aware of Plaintiff's disabilities.

ANSWER: Defendants admit that PPIL is an "employer" as defined by the ADA and that PPIL was informed by Plaintiff that Plaintiff had VIN and CIN. Upon information and belief, Defendants deny that Plaintiff's VIN and CIN are "disabilities" under the ADA.

136. Defendant Tao, as a senior management employee of PPIL, accessed Plaintiff's confidential patient information and records.

ANSWER: Defendants admit that Tao was a senior management employee of PPIL but deny the remaining allegations.

137. By accessing Plaintiff's confidential medical records, Defendant Tao violated the confidentiality of Plaintiff's medical information and records kept by Defendant PPIL.

ANSWER: Defendants deny that Tao accessed Plaintiff's confidential medical records. Defendants further deny the remaining allegations.

138. Defendant Tao did not need knowledge of Plaintiff's disability in order to perform her duties as Plaintiff's manager.

ANSWER: Admit; answering further, Defendants aver that Tao did not seek or gain knowledge of Plaintiff's condition "in order to perform her duties as Plaintiff's manager." Rather, Tao was consulted regarding Plaintiff's conditions in Tao's role as PPIL's Associate Medical Director and Plaintiff had certain medical conversations openly with Tao re same.

139. By allowing Defendant Tao access to Plaintiff's confidential medical information and records, Defendant PPIL failed in its duty to protect that confidential medical information and records.

ANSWER: Deny.

140. Defendant PPIL intentionally subjected Plaintiff to adverse employment actions, including, but not limited to, failing to protect Plaintiff's confidential medical information and records regarding her disability.

ANSWER: Deny.

141. Defendant PPIL acted with malice and/or with reckless indifference to Plaintiff's federally protected rights.

ANSWER: Deny.

142. As a proximate result of the actions complained of herein, Plaintiff has suffered damages, including emotional distress.

ANSWER: Deny.

WHEREFORE, Plaintiff prays for judgment in her favor and against Defendant PPIL as follows:

- a) that a finding be entered that Defendant PPIL acted with malice and/or with reckless indifference to Plaintiff's federally protected rights, in violation of the ADA;
- b) that a finding be entered that Defendant PPIL acted with malice and/or with reckless indifference to Plaintiff's federally protective rights, in violation of the ADA;
- c) that Plaintiff be awarded all wages, benefits, and other compensation due to her as a result of Defendant's discriminatory conduct;
- d) that Plaintiff be reinstated to her former position, but if reinstatement is not feasible, Plaintiff prays for front pay in lieu thereof;
- e) that Plaintiff be awarded compensatory damages;
- f) that Plaintiff be awarded her attorneys' fees and costs;
- g) that Plaintiff be awarded prejudgment interest; and
- h) that Plaintiff be awarded such other relief as the Court may deem just and proper.

ANSWER: Defendants deny that Plaintiff is entitled to a finding in her favor on Count VIII and further deny that Plaintiff is entitled to any damages or relief.

COUNT IX
NEGLIGENT TRAINING, SUPERVISION, AND RETENTION (PPFA and PPIL)

143. Plaintiff repeats and realleges Paragraphs 11-81 as though fully set forth herein.

ANSWER: Defendants repeat and adopt their answers to Paragraphs 11-81 as if fully

restated herein.

144. As a provider of health care, Defendant PPIL owes a duty to its patients to properly train its medical staff, including training and instruction in the protection of patient confidentiality.

ANSWER: Admit.

145. As a provider of health care, Defendant PPFA owes a duty to its patients to properly train its medical staff, including training and instruction in the protection of patient confidentiality.

ANSWER: Defendant PPFA will be filing a Motion to Dismiss the Complaint as against PPFA if Plaintiff refuses to voluntarily dismiss, so no answer is required to this allegation. To the extent an answer is required, Defendants deny that PPFA was or is a provider of health care and deny the remaining allegations.

146. Defendant PPIL breached its duty to Plaintiff in the training and instruction of its employee, Defendant Tao, in the protection of patient confidentiality.

ANSWER: Deny.

147. Defendant PPFA breached its duty to Plaintiff in the training and instruction of its employee, Defendant Tao, in the protection of patient confidentiality.

ANSWER: Defendant PPFA will be filing a Motion to Dismiss the Complaint as against PPFA if Plaintiff refuses to voluntarily dismiss, so no answer is required to this allegation. To the extent an answer is required, Defendants deny PPFA had any such duty, that Tao was an

employee of PPFA and deny the remaining allegations.

148. As a provider of health care, Defendant PPIL owes a duty to its patients to properly supervise its medical staff in the performance of their job duties and responsibilities.

ANSWER: Admit.

149. As a provider of health care, Defendant PPFA owes a duty to its patients to properly supervise its medical staff in the performance of their job duties and responsibilities.

ANSWER: Defendant PPFA will be filing a Motion to Dismiss the Complaint as against PPFA if Plaintiff refuses to voluntarily dismiss, so no answer is required to this allegation. To the extent an answer is required, Defendants deny that PPFA was or is a provider of health care or that PPFA has patients; and deny the remaining allegations.

150. Defendant PPIL breached its duty to Plaintiff in the supervision of its employee, Defendant Tao.

ANSWER: Deny.

151. Defendant PPFA breached its duty to Plaintiff in the supervision of its affiliate, Defendant PPIL.

ANSWER: Defendant PPFA will be filing a Motion to Dismiss the Complaint as against PPFA if Plaintiff refuses to voluntarily dismiss, so no answer is required to this allegation. To the extent an answer is required, Defendants deny that PPFA had any such duty since the two companies are separate entities; and deny the remaining allegations.

152. As a provider of health care, Defendant PPIL owes a duty to its patients to take

appropriate steps and implement appropriate measures for the protection of its patients after learning of an employee's misuse or abuse of authority granted in the course and scope of employment.

ANSWER: Admit.

153. As a provider of health care, Defendant PPFA owes a duty to its patients to implement appropriate standards and guidelines for the protection of its patients after learning of the misuse or abuse of authority granted in the course and scope of employment.

ANSWER: Defendant PPFA will be filing, or already has filed, a Motion to Dismiss the Complaint as against PPFA if Plaintiff refuses to voluntarily dismiss them, so no answer is required to this allegation. To the extent an answer is required, Defendants deny that PPFA was or is a provider of health care; and deny the remaining allegations.

154. Defendant Tao continued to be employed as Associate Medical Director and Vice President of Clinical Operations and continued to have access to Plaintiffs confidential medical information after Plaintiff complained to Defendant PPIL about Defendant Tao's intrusion into Plaintiffs confidential medical file.

ANSWER: Defendants admit that Tao remained the Associate Medical Director and VP of Clinical Operations after Plaintiff complained of her personality conflict with Tao, but deny Tao accessed any of Plaintiff's medical information.

155. Defendant PPIL breached its duty to Plaintiff to take appropriate steps and implement appropriate measures for the protection of Plaintiffs confidentiality after learning of Defendant Tao's conduct.

ANSWER: Deny.

156. Defendant PPFA breached its duty to Plaintiff to take appropriate steps and implement appropriate measures for the protection of Plaintiff's confidentiality after learning of Defendant Tao's conduct.

ANSWER: Defendant PPFA will be filing a Motion to Dismiss the Complaint as against PPFA if Plaintiff refuses to voluntarily dismiss, so no answer is required to this allegation. To the extent an answer is required, Defendants deny PPFA had any duty and deny the remaining allegations.

157. As a direct and proximate result of Defendant PPIL's negligence, Plaintiff has suffered damages.

ANSWER: Deny.

158. As a direct and proximate result of Defendant PPFA's negligence, Plaintiff has suffered damages.

ANSWER: Defendant PPFA will be filing a Motion to Dismiss the Complaint as against PPFA if Plaintiff refuses to voluntarily dismiss, so no answer is required to this allegation. To the extent an answer is required, Defendants deny this allegation.

WHEREFORE, Plaintiff prays that this Court enter judgment in her favor and against Defendant PPIL as follows:

a) that a finding be entered that Defendants PPIL and PPFA acted negligently, leading to a breach of duty to Plaintiff in the training and instruction of its employees in the

protection of patient confidentiality; in the supervision of its employees; and in its failure to take appropriate steps and implement appropriate measures for the protection of Plaintiff's confidentiality after learning of the improper conduct of its employees;

b) that Plaintiff be awarded all compensation and benefits lost due to Defendants' negligence that led to the breach of duty; and

c) that this Court order such other relief as it may deem just and proper.

ANSWER: Defendants deny that Plaintiff is entitled to a finding in her favor on Count IX and further deny that Plaintiff is entitled to any damages or relief.

AFFIRMATIVE DEFENSES

Without prejudice to the denials contained herein, Defendants PPIL and Tao assert the following affirmative defenses to Plaintiff's Complaint:

1. Plaintiff's Title VII and ADA claims are barred to the extent that she did not file a timely charge of discrimination against Defendants.

2. At all times relevant, PPIL had in place policies and procedures to remedy and correct any discriminatory or harassing behavior and Plaintiff unreasonably failed to take advantage of these corrective and remedial measures or to avoid harm otherwise.

3. Defendants assert that any requests for punitive damages are not applicable in this case as PPIL implemented policies and practices and made good faith efforts to comply with all state and federal laws regarding anti-discrimination, harassment and retaliation.

4. Plaintiff has failed to exercise reasonable diligence to mitigate her damages, if any, by seeking, returning to, or keeping some form of employment, and Defendants are accordingly entitled to an appropriate judgment offset in an amount to be determined.

5. Plaintiff's claims are barred to the extent that she did not file them within the applicable statute of limitations.

6. All actions taken by Defendants were for legitimate, non-retaliatory purposes unrelated to Plaintiff's alleged disability or attempts to exercise her FMLA rights.

7. Plaintiff's FMLA claims must fail because Plaintiff has not alleged that she was ever denied any leave that she requested for her health conditions, that any leave she took for those conditions was even designated as FMLA leave and/or counted against her detrimentally, or that Defendant PPIL failed to reinstate her after any such leave.

8. Plaintiff has waived the right, if any, to pursue the claims in the Complaint by reason of her own actions, course of conduct and unclean hands.

9. Any and all claims in the Complaint based in whole or in part upon any alleged physical or emotional injury or distress are barred because Plaintiff's sole and exclusive remedy, if any, for such injuries is governed by the Illinois Workers' Compensation Act.

10. Defendant Tao states that she is an individual and not an employer within the applicable statutes.

11. Defendants reserve any and all rights they may have to raise additional Affirmative Defenses that may be developed through the course of discovery in this litigation.

WHEREFORE, Defendants, PLANNED PARENTHOOD OF ILLINOIS and KAI TAO, respectfully request this Court to dismiss Plaintiff's Complaint in its entirety and with prejudice,

and to award PLANNED PARENTHOOD OF ILLINOIS and KAI TAO, their costs, reasonable attorneys' fees and such other just and equitable relief as the Court deems proper.

Dated: July 17, 2014

By: /s/ Heather A. Bailey
One of Defendants' Attorneys

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ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on July 17, 2014, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all CM/ECF participants who have appeared in the case, and I hereby certify that I have mailed by United States Postal Service, postage prepaid, the documents to any non-CM/ECF participants.

s/Heather A. Bailey
Heather A. Bailey