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**FILED**  
Superior Court of California  
County of Riverside  
11/5/2019  
L. Melendrez  
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6 Attorney for Plaintiff, Elizabeth Becker

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
9 FOR THE COUNTY OF RIVERSIDE

10 ELIZABETH BECKER,

12 vs.

13 RIVERSIDE COMMUNITY HOSPITAL, an  
14 entity unknown; FAST STAFF, an entity  
15 unknown, US NURSING CORPORATION,  
an unknown entity; and DOES 1-10,

16 Defendants.

) CASE NO. **RIC1905540**

) COMPLAINT FOR:

) 1. VIOLATION OF LABOR CODE  
SECTION 1102.5;

) 2. VIOLATION OF LABOR CODE  
SECTION 6310;

) 3. WRONGFUL TERMINATION IN  
VIOLATION OF PUBLIC POLICY

) 4. INTENTIONAL INFLICTION OF  
EMOTIONAL DISTRESS;

) 5. NEGLIGENT INFLICTION OF  
EMOTIONAL DISTRESS;

) 6. NEGLIGENCE;

21  
22 Plaintiff, ELIZABETH BECKER, as and for her complaint, alleges as follows:

24  
25 **PRELIMINARY ALLEGATIONS**

26 1. Plaintiff, ELIZABETH BECKER (hereinafter referred to as "Plaintiff"), is  
27 now and at all material times herein mentioned has been an individual working in the County  
28

1 County of Riverside, State of California.

2 2. Plaintiff is informed and believes and based thereon alleges that Defendant,  
3 RIVERSIDE COMMUNITY HOSPITAL, an unknown entity (hereinafter referred to as "RCH"),  
4 is now and at all material times herein mentioned, is a corporation of unknown structure with its  
5 principal place of business located at 4445 Magnolia Avenue, Riverside, California and is  
6 authorized to do business and doing business in the County of Riverside, State of California.  
7 Plaintiff worked at the Defendant's facility from May 2019 until she was terminated July 2019.  
8

9  
10 3. Plaintiff is informed and believes and based thereon alleges that Defendant,  
11 FASTAFF, an unknown entity (hereinafter referred to as "FASTAFF"). Plaintiff is informed and  
12 believes and thereon alleges that and is authorized to do business and doing business in the  
13 County of Riverside, State of California. Plaintiff has worked and continued to work for  
14 FASTAFF at health care facilities around the country. Plaintiff was placed on assignment to  
15 RCH by FASTAFF at the RCH's facility from May 2019 until she was terminated July 2019.

16 4. Plaintiff is informed and believes and based thereon that Defendant, US  
17 Nursing Corporation is an unknown corporate entity (hereinafter referred to as "US  
18 NURSING"). Plaintiff is informed and believes and thereon alleges that US NURSING is  
19 authorized to do business and is doing business in the County of Riverside, State of California.

20 5. Plaintiff is unaware of the true names and capacities of Defendants sued herein  
21 as DOES 1 through 10, inclusive, and therefore sues said Defendants by such fictitious  
22 names. Plaintiff will amend this complaint to set forth the true names and capacities of said  
23 defendants when same have been ascertained. Plaintiff is informed and believes and based  
24 thereon alleges that each of the fictitiously-named Defendants is responsible in some manner for  
25 the occurrences herein alleged, and that Plaintiff's damages, as herein alleged, were proximately  
26 caused by their conduct.

27 6. Plaintiff is informed and believes and based thereon alleges that the Defendants,  
28

1 and each of them, are now, and at all material times herein mentioned were, the agents,  
2 servants, and/or representatives of each of their remaining co-defendants, and were, at all  
3 times herein mentioned, acting within the course, scope, and purpose of said agency, service,  
4 and/or representation and with the permission, consent, and/or ratification of each of their  
5 remaining co-defendants.

6 7. Plaintiff is informed and believes and based thereon alleges that the Defendants,  
7 and each of them, are now, and at all material times herein mentioned were, the agents, servants,  
8 and/or representatives of each of their remaining co-defendants, and were, at all times herein  
9 mentioned, acting within the course, scope, and purpose of said agency, service, and/or  
10 representation and with the permission, consent, and/or ratification of each of their remaining co-  
11 defendants.

12 8. In perpetrating the acts and omissions alleged herein, Defendants, and each of  
13 them, acted pursuant to and in furtherance of a policy and practice of retaliating against  
14 Plaintiff for her complaining about the health and safety violations at the hospital, the failure to  
15 follow the proper timing of lab draws for patients and complained about missing compute  
16 equipment which prevented her from performing her duties in an efficient manner.

17 9. Plaintiff is informed and believes and thereon alleges that each and every one of  
18 the acts and omissions alleged herein were performed by, and/or attributable to, all Defendants,  
19 each acting as agents and/or employees, and/or under the direction and control of each of the  
20 other Defendants, and that said acts and failures to act were within the course and scope of said  
21 agency, employment and/or direction and control.

22 10. Plaintiff is informed and thereon alleges that RCH, FASTAFF and US  
23 NURSING, and DOES 1 through 10, and each of them, were Plaintiff's joint employers as set  
24 forth herein as Plaintiff performed services for the mutual benefit of each corporate defendant,  
25 defendants shared control of Plaintiff as an employee, either directly or indirectly, and  
26 defendants conducted the business in a manner consistent with finding RCH and anyone of the  
27 DOES as a joint enterprise, including the termination decision. There exists at all times herein  
28

1 mentioned a unity of interest between the defendants that such individuality and separateness  
2 between the defendants have ceased as related to the Plaintiff=s employment. Adherence to  
3 the existence of a separate existence of the corporate defendants would permit an abuse of the  
4 corporate privilege and sanction fraud and promote injustice.

5 11. As a direct and proximate result of the unlawful actions of Defendants, Plaintiff  
6 has suffered damages, in an amount in excess of the jurisdiction of this Court.

7 12. Whenever in this Complaint reference is made to any of the Defendants, and  
8 each of them, unless otherwise stated, such allegations shall be deemed to mean the act of  
9 Defendant, acting individually, jointly and/or severally.

10 13. The acts complained of herein occurred in, and were performed in, the County  
11 of Riverside, State of California.

12 14. In May 2019, Plaintiff was given an assignment as a traveling nurse to work for  
13 RCH at its Magnolia facility by FASTAFF. FASTAFF is an organization which provides  
14 traveling Registered Nurses to hospitals nationwide which are in urgent and crucial situations  
15 necessitating the hospitals employing additional nurses. FASTAFF claims to be the pioneer and  
16 industry leader in Rapid Response supplemental nurse staffing, providing experienced nursing  
17 talent in ten days or less.

18 15. Pursuant to FASTAFF policies, a nurse's orientation is unique to each client  
19 facility, provided by the facility, in this instance, RCH. After you receive an assignment date,  
20 you will receive orientation information from the facility. Additional when on assignment at  
21 RCH, Plaintiff was to follow the schedule set by RCH, float to units/assignments as needed by  
22 RCH, even if they were different from what she was initially hired for, and required to follow  
23 RCH's including policies, procedures, or patient-care related items, include following the  
24 appropriate chain of command. Report any incident or concern to RCH's managers or  
25 supervisors, including workplace violence, concerns about patient safety, or violations  
26 administering medical treatment to patients.

27 16. Plaintiff was assigned to RCH and began working under its control and  
28

1 direction, including the ability to control the Plaintiff as to the work done and the manner and  
2 means in which she performed her services. Generally, Plaintiff worked 12 hour shifts 4 days  
3 per week; however, there were instances wherein she worked in excess of 16 hours.

4 17. During her time at RCH, Plaintiff noticed and reported violation of medical  
5 orders and the lack of equipment to perform her duties. There was missing computer equipment  
6 which prevented Plaintiff from scanning equipment and inventory in conformity with policy and  
7 practices and orders for lab draws were not being followed. For one patient, blood was to be  
8 drawn every 6 hours; however, RCH was only drawing the blood every 12 hours. Plaintiff  
9 reported these problems directly to the unit director, Carol as well as to the assistant director of  
10 nursing.

11 18. On July 6, 2019, Plaintiff reported for work at approximately 5:00 pm. She  
12 reported to the charge nurse for her assignment for that night. Plaintiff was assigned a pod  
13 assignment wherein she was responsible for the four patients in room 52 a b and 53 a b. Upon  
14 entering room 52, daughter of the patient in bed 52a ask Plaintiff if her father has a sitter.  
15 Plaintiff explained there was no sitter assigned. When told there was supposed to be a sitter  
16 with her father, Plaintiff told her she would check with the charging nurse.

17 19. Plaintiff then inquired of the charge nurse, Marilou, about a sitter for bed 52a.  
18 The charging nurse replied with "your on a pod assignment, do you know what that  
19 means?" Plaintiff explained no. It was explained to Plaintiff that while there was a sitter in 53 a  
20 b, Plaintiff was required to sit with 52 a and b and could not leave the room. She would have to  
21 coordinate with the sitter in 53ab when she needed a break. However, Plaintiff is informed and  
22 believes and thereon alleges that all four patients were confused, non-compliant, and combative  
23 at times. All four had orders requiring for 1:1 observation, not the two patients for one nurse as  
24 had been scheduled for the night.

25 20. After returning from lunch, the patient in bed 52b had become restless and  
26 difficult. Plaintiff was informed that the 52b patient had been disconnected from his IV and  
27 began throwing things.  
28

1           21.       Later that night, the patient tried getting out of bed several times. When  
2 assisting this patient with urinal he became agitated throwing the urinal at Plaintiff. During the  
3 process of cleaning the patient, the patient became highly combative grabbing Plaintiff's right  
4 wrist and twisting it with both hands. She called for assistance however, no one showed.

5           22.       The patient continued to be difficult, so difficult that Plaintiff called for a code  
6 gray-combative patient. The charge nurse cancelled the code gray. Again, the same patient  
7 continues to be difficult, but the charge nurse again cancels the code gray. During this period  
8 Plaintiff paged the responsible numerous times.

9           23.       The same patient continues to be agitated. He throws his pillow on the face of  
10 his roommate. He, among other things, takes his heart monitor box apart and threw the box on  
11 floor. Plaintiff again calls for assistance. However, no one shows. The patient throws his heart  
12 monitor cables at the Plaintiff striking her in the face. Plaintiff was able to exit room and, in  
13 tears, told charge nurse to call a code gray. At that point in time, Plaintiff informed the  
14 charge nurse that she would not return to that room as the inadequate staffing violated the orders  
15 and was not safe for either the patients or the staff to be in that room alone. Security finally  
16 showed up and restrained the patient. The doctor, Dr. Patel, finally called back and was provided  
17 an update by Plaintiff.

18           24.       At the time of the assault by the patient, Plaintiff's wrist was aching and her  
19 face stung. Instead of sending Plaintiff to the Emergency Room for treatment and care as a result  
20 of the assault, the charge nurse merely told Plaintiff to change assignments. Plaintiff opposed  
21 this order and requested to speak to the nursing supervisor. Plaintiff subsequently, went to  
22 emergency department to be checked and was subsequently sent home.

23           25.       Prior to leaving for the night, Plaintiff filed all incident reports and charted  
24 everything that had happened. Plaintiff left the hospital at approximately 4:00 a.m. on  
25 Sunday, July 7<sup>th</sup>.

26           26.       Plaintiff was scheduled to have Sunday, July 7<sup>th</sup> and Monday July 8<sup>th</sup> off from  
27 work. However, no one contacted Plaintiff about the incident. Plaintiff became concerned  
28

1 and on July 8<sup>th</sup>, went in to discuss the situation with the director of nursing, Carol.

2 27. During the meeting, Plaintiff reported her safety concerns, as well as the  
3 violation of orders and inoperable equipment to the director of the unit. The Director of  
4 Nursing informed Plaintiff that she had done everything properly.

5 28. However, on July 9<sup>th</sup>, the day after Plaintiff's meeting with the Director of  
6 Nursing, instead of investigating Plaintiff's complaints and address the short-falls and  
7 violations illustrated by the Plaintiff, the very next day, Plaintiff was notified that she was  
8 suspended. On Thursday, July 11<sup>th</sup>, Plaintiff was terminated. No reason for the termination  
9 was provided. Plaintiff is informed and believes and thereon alleges that she was terminated  
10 in retaliation for reporting the issues she encountered while working at RCH as well as in order  
11 to prevent her from reporting the RCH's violations to the state regulators. In fact, Plaintiff is  
12 informed and believes thereon that RCH has threatened to file a complaint about her with the  
13 California Board of Nursing in order maintain leverage over her to prevent her from  
14 complaining to state regulators or undermining the effectiveness of any evidence she might  
15 give.

16  
17 **FIRST CAUSE OF ACTION**  
18 **RETALIATION -LABOR CODE SECTION 1102.5**  
19 **(Against all Corporate Defendants)**

20 29. Plaintiff, realleges, reasserts and incorporates by reference Paragraphs 1 through  
21 28 set forth above as if fully set forth hereat.

22 30. Labor Code section 1102.5 prohibits employers from retaliating against  
23 employees who the employer believes may disclose information to a governmental entity which  
24 would disclose a violation of the law or retaliating against an employee for refusing to participate  
25 in any illegal activities.

26 31. Plaintiff is informed and believes that she was terminated because Defendants  
27 were concerned about the disclosures of all of their violations of law and/or for her complaining  
28

1 about their failure to follow the prescribed staffing requirements and reporting the unsafe  
2 conditions for employees and patients.

3 32. As a proximate result of Defendants' conduct, Plaintiff has suffered and  
4 continues to suffer humiliation, emotional distress, and mental and physical pain and anguish,  
5 loss of wages, retirement benefits and loss of medical benefits all to her damage both economic  
6 and non-economic, in a sum according to proof at trial.

7 33. Defendants conduct as described above was willful, despicable, knowing, and  
8 intentional. Accordingly, Plaintiff seeks an award of punitive and exemplary damages in an  
9 amount according to proof at trial.

10 **SECOND CAUSE OF ACTION**

11 **(Violation of Labor Code section 6310)**

12 **(Against all Corporate Defendants)**

13 34. Plaintiff re-alleges and incorporates as if fully set forth herein each and every  
14 allegation contained in the above paragraphs 1 through 33, as if fully set forth hereat.

15 35. The California legislature passed California Labor Code section 6310. This  
16 statute was enacted to protect employees from wrongful termination in retaliation for employee  
17 complaints about health and safety in the workplace.

18 36. Similar to Labor Code section 1102.5, an employee making a claim under this  
19 section must be able to establish that he engaged in a protected activity and faced adverse  
20 employment action, while also being able to show a causal link between the activity and adverse  
21 action.

22 37. The statute states, in part, "No person shall discharge or in any manner  
23 discriminate against any employee because the employee has done any of the following: (1)  
24 Made any oral or written complaint to the division, other governmental agencies having statutory  
25 responsibility for or assisting the division with reference to employee safety or health, his or her  
26 employer, or his or her representative."  
27  
28



1 38. Moreover, the statute provides, “(b) Any employee who is discharged,  
2 threatened with discharge, demoted, suspended, or in any other manner discriminated against in  
3 the terms and conditions of employment by his or her employer because the employee has made  
4 a bona fide oral or written complaint to the division, other governmental agencies having  
5 statutory responsibility for or assisting the division with reference to employee safety or health,  
6 his or her employer, or his or her representative, of unsafe working conditions, or work practices,  
7 in his or her employment or place of employment, or has participated in an employer-employee  
8 occupational health and safety committee, shall be entitled to reinstatement and reimbursement  
9 for lost wages and work benefits caused by the acts of the employer”.

10  
11 39. Plaintiff is informed and believes that she was terminated because Defendants  
12 were concerned about the disclosures of all of their violations of law and/or for her complaining  
13 about their failure to follow the prescribed staffing requirements and reporting the unsafe  
14 conditions for employees and patients.

15 40. As a proximate result of Defendants conduct, Plaintiff has suffered and continues  
16 to suffer humiliation, emotional distress, and mental and physical pain and anguish, loss of  
17 wages, retirement benefits and loss of medical benefits all to her damage both economic and  
18 non-economic, in a sum according to proof at trial.

19 41. Defendants conduct as described above was willful, despicable, knowing, and  
20 intentional. Accordingly, Plaintiff seeks an award of punitive and exemplary damages in an  
21 amount according to proof at trial.

22 **THIRD CAUSE OF ACTION**

23 **(Wrongful Termination in Violation of Public Policy)**

24 **(Against all Corporate Defendants)**

25 42. Plaintiff re-alleges and incorporates as if fully set forth herein each and every  
26 allegation contained in the above paragraphs 1 through 41, as if fully set forth hereat.

27 43. The actions defendant inflicted upon Plaintiff violated California’s Constitution  
28

1 and the Labor Code's prohibition against retaliation. Such actions or inactions ordered by the  
2 Defendants.

3 44. As a proximate result of Defendants conduct, Defendants and each of them  
4 acted for the purpose of causing Plaintiff to suffer financial loss, including lost earnings and  
5 future earnings and other employment benefits, humiliation, embarrassment and severe  
6 emotional distress in an amount to be established at trial.

7 45. In doing the acts set forth herein, Defendants knew that the conduct they would  
8 have required of Plaintiff was unlawful and required Plaintiff to choose between violating the  
9 law and losing her job. As such Defendants are guilty of oppression and malice, justifying an  
10 award of exemplary and punitive damages.  
11

12 **FOURTH CAUSE OF ACTION**

13 **INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

14 (Against all Defendants)

15 46. Plaintiff refers to the allegations of Paragraphs 1 through 45 inclusive of this  
16 complaint and incorporates the same herein by this reference as though said paragraphs were set  
17 forth in full hereat.

18 47. At all times relevant hereto, Defendants engaged in intentional and/or reckless  
19 conduct that was outrageous and unlawful and outside the bounds of all decency by intentionally  
20 imposing additional stress on Plaintiff, including the behavior by informing others that she had  
21 abandoned her patients despite knowing she had been assaulted by a patient requiring medical  
22 treatment.  
23

24 48. Defendants, intended to cause the Plaintiff emotional distress and acted with a  
25 conscious disregard of the probability that Plaintiff would suffer emotional distress by their  
26 conduct complained of herein.  
27

28 49. As a direct and proximate result of the conduct and actions of Defendants

1 Plaintiff suffered and continues to suffer and will in the future suffer severe emotional distress  
2 and mental anguish.

3 50. Defendants conduct as described above was willful, despicable, knowing  
4 and intentional. Accordingly, Plaintiff seeks an award of punitive and exemplary damages in an  
5 amount according to proof at trial.  
6

7 **FIFTH CAUSE OF ACTION**

8 **NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS**

9  
10 (Against all Defendants)

11  
12 51. Plaintiff refers to the allegations of Paragraphs 1 through 50 inclusive of  
13 this complaint and incorporates the same herein by this reference as though said paragraphs were  
14 set forth in full hereat.

15 52. Defendants knew or should have known that the actions, including  
16 terminating Plaintiff for exercising her lawful rights, and the post termination behavior, would  
17 cause Plaintiff severe emotional distress.  
18

19 53. As a proximate result of Defendant, terminating Plaintiff for exercising  
20 her lawful rights to, among other things, report harassment, refusal to participate in illegal  
21 activities, and having him arrested, Plaintiff suffered and continues to suffer and will in the  
22 future suffer severe emotional distress and mental anguish.  
23

24 **SIXTH CAUSE OF ACTION**

25 **Negligence**

26  
27 (Against all Corporate Defendants)  
28

1           54.           Plaintiff refers to the allegations of Paragraphs 1 through 53 inclusive of  
2 this complaint and incorporates the same herein by this reference as though said paragraphs were  
3 set forth in full hereat.

4           55.           Plaintiff is informed and thereon alleges, the Defendants owned and/or  
5 were in control of the property where she was assaulted and were negligent in the use and/or  
6 maintenance as alleges hereinabove.

7           56.           Defendants owned and/or controlled the property and have prior notice  
8 about the risks of staff being harmed by patients who require greater supervision that the  
9 defendants were willing to staff. Throughout the night she was harmed, Plaintiff reported the  
10 aggressive nature of the patient who eventually assaulted her, but those pleas fell on deaf ears.  
11 As the owner and occupier of the property, they had a duty to manage and act reasonably and  
12 control the property and protect all who enter the property, including protecting individuals from  
13 injury.

14           57.           Defendants were aware of the dangerous nature of the patient, but, in an  
15 effort to save costs, willfully ignored the order for 1-on-1 supervision of the patient, thereby  
16 creating the risk that the patient would injure and harm the Plaintiff.

17           58.           By virtue of the information provided for herein, Defendants knew or  
18 should have known about the patient's violent tendencies, Defendants owed a duty to the  
19 Plaintiff to prevent the kinds of injuries she sustained.

20           59.           Defendants breached this duty of care by way of their own conduct as  
21 alleged herein. Defendants failed to take reasonable steps to protect the Plaintiff and Plaintiff  
22 sustaining injuries as a result of this breach.

23           60.           As a direct and proximate result of Defendants illegal conduct, Plaintiff  
24 has suffered emotional distress, humiliation and embarrassment and economic harm all in excess  
25 of the jurisdictional minimum of this Court.  
26  
27  
28

1 **PRAYER FOR RELIEF**

2 WHEREFORE, the Plaintiff prays for judgment and relief against Defendants and DOES

3 1-10, jointly and severally, as follows:

- 4
- 5 1. For all applicable statutory penalties;
  - 6 2. For interest on the amount of any/all economic losses, at the prevailing legal rate;
  - 7 3. For reasonable attorney's fees, pursuant to statute.
  - 8 4. For costs of suit and any and all such other relief as the Court deems just/ proper.
  - 9 5. General and special damages in a sum according to proof;
  - 10 6. Exemplary and punitive damages in a sum sufficient to deter, according to proof;
  - 11 7. For all back and front pay, including lost earnings and other employee benefits,
  - 12 past and future;
  - 13 8. For pre-judgment interest on lost earnings and benefits at the legal rate.
- 14

15 Dated: November 5, 2019

REKTE | BRADSHAW

16  
17 By: 

Andre Rekte

18 Attorney for Plaintiff, ELIZABETH BECKER

19 **REQUEST FOR A JURY TRIAL**

20  
21 Plaintiff requests a jury trial on all matters triable to a jury.

22  
23  
24 Dated: November 5, 2019

REKTE | BRADSHAW

25  
26 By: 

Andre Rekte

27 Attorney for Plaintiff, ELIZABETH BECKER