IN THE CIRCUIT COURT FOR THE STATE OF OREGON

IN THE COUNTY OF MULTNOMAH

SHARMIN RAHMAN, Plaintiff, vs. CASCADE BEHAVIORAL HEALTHCARE, INC., Defendant.	Case No. **PLAINTIFF'S COMPLAINT FOR DAMAGES AND DEMAND FOR JURY TRIAL** UNLAWFUL EMPLOYMENT PRACTICE **JURY TRIAL DEMANDED** Claim over $10,000; amount pleaded: $500,000. NOT SUBJECT TO MANDATORY ARBITRATION FILING FEE PER ORS 21.160

Plaintiff Sharmin Rahman alleges as follows:

1. This action is an action for damages and equitable relief, including compensatory damages, back pay, front pay, liquidated damages, and attorneys' fees and costs, to redress violation of Oregon state laws regarding Unlawful Employment Practice and breach of contact.

2. On March 22, 2015, Plaintiff filed a charge of employment discrimination and retaliation with the Oregon Bureau of Labor and Industries (BOLI), case number STEMNO1260322-10389 for Oregon Unlawful Employment.

3. On July 12, 2016, BOLI issued Plaintiff a notice of right to file a civil suit for case number STEMNO1260322-10389

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4. This lawsuit was filed within 90 days of Plaintiff receiving a notice of right to file a civil suit.

5. Venue is appropriate in Multnomah County because the claims arose in Portland, Multnomah County, Oregon.

PARTIES

6. Plaintiff Sharmin Rahman is a citizen of the United States of America. At all times material, Plaintiff worked for the Defendant in Multnomah County, Oregon.

7. Defendant Cascadia Behavioral Healthcare, Inc. is an Oregon corporation, registered to do business in Oregon. Defendant does regular and sustained business in Oregon, including Multnomah County, Oregon. Defendant has an office in Portland, Oregon, where Plaintiff was employed.

8. At all times relevant, Defendant's employees and supervisors as their conduct is alleged herein were acting within the course and scope of their employment with Defendant.

GENERAL FACTUAL ALLEGATIONS

9. Plaintiff was born in Bangladesh. Plaintiff's race or ethnic background is South Asian. English is Plaintiff's second language.

10. Plaintiff's religion is Islam. Plaintiff is a female.

11. For religious reasons, Plaintiff always wears modest attire which includes a headscarf and neck scarf. Plaintiff prays five times a day. Plaintiff prays up to three times a day while at work depending on the season. For religious reasons, Plaintiff does not shake hands with men.

12. Plaintiff has been diagnosed with a disability, asthma, an impairment that substantially limits one or more major life activities, including breathing and sleeping.

13. Plaintiff has a post graduate Masters of Social Work degree. Plaintiff worked in counseling positions before going to work for Defendant.

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14. Defendant hired Plaintiff as a Case Manager. Before Defendant hired Plaintiff, she went through a telephone screening process with Royce Bowline, Senior Director of Residential Services. During the screening, Bowline asked Plaintiff how long had she been living in the United States. Bowline did not say during the interview that Plaintiff's accent was a barrier to employment.

15. Plaintiff then had an in-person interview with Elizabeth Miller, who later became her supervisor. Miller did not say during the interview that Plaintiff accent was a barrier to employment.

16. On December 1, 2014, Plaintiff began working for Defendant. After beginning work for Defendant, Plaintiff requested a private place to pray during the workday.

17. After Defendant hired Plaintiff, she met with Royce Bowline, in Elizabeth Miller's office. Bowline offered Plaintiff his hand, which she declined to shake. Plaintiff explained at that time that she was prohibited by her faith from shaking the hands of men. Bethany Kuhn said to Plaintiff, "I was told that you did not shake Royce's hand. Did you know that he is our boss?" Plaintiff said, "Yes, but that does not change things. I can't shake his hand."

18. In December 2014, Elizabeth Miller asked Plaintiff whether her religious attire, posed a safety problem at work because a client might pull on the scarf. Plaintiff said that no one has ever touched her headscarf or neck scarf. Plaintiff was asked this question at least twice by Miller.

19. Because Plaintiff prayed at set intervals during the day, she explained to staff that at times she would be praying in her office; that her prayer would not take longer than ten minutes; Plaintiff would attend to any questions or problems after prayer; Plaintiff would put up a "do not disturb" sign on the door to her office; and Plaintiff would lock the office when she was praying. On approximately four occasions, a staff member at the Glisan Street facility who reported to Plaintiff knocked on her door when she was praying, then unlocked Plaintiff's door

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and entered her office despite her request and the presence of the sign and locked door. This staff member became distant to Plaintiff and would not share information about clients.

20. Plaintiff reported to Elizabeth Miller that she had asthma. Defendant exposed Plaintiff to secondhand smoke during the period December 2014 through April 2015 in more than one way. Plaintiff asked Miller and others not to expose her to secondhand smoke which was denied.

21. Plaintiff was exposed to secondhand smoke when meeting with Miller in her office. Miller smoked frequently and reeked of cigarette smoke when meeting with Plaintiff. Plaintiff asked Miller not to smoke before their meetings as an accommodation for her asthma, which Miller denied by continuing to smoke.

22. Plaintiff was exposed to second hand smoke from Miller when Miller attended client consultation with her. Again, Miller reeked of cigarette smoke. Plaintiff asked Miller not to smoke before meeting with her and clients as an accommodation for her asthma, which Miller denied by continuing to smoke.

23. Defendant uses a process called "walk and talk" for meetings. In or about December 2014, shortly after Plaintiff was hired, Elizabeth Miller took Plaintiff on a walk-and-talk meeting. During their first walk-and-talk meeting, Miller walked to a store to buy cigarettes which she smoked during the walk-and-talk. Plaintiff repeated that she had asthma and requested that Miller not smoke in front of her or just before meeting her as a reasonable accommodation for her asthma because second-hand smoke exacerbates her disability. Plaintiff did not give Miller permission to smoke during these walk-and-talk meetings. Miller denied Plaintiff's request for accommodations each time they went on a walk and talk from December 2014 to April 2015.

24. Although Plaintiff asked Miller not to smoke around her because it bothered her asthma, Miller refused to stop smoking when they met for walk-and-talks. The smoke caused Plaintiff to cough during the office and walk-and-talk meetings with Miller.

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25. Bethany Kuhn also smoked. Kuhn would take a cigarette break and then immediately meet with Plaintiff. Plaintiff could smell the cigarette smoke on Kuhn's breath and clothing and it made it Plaintiff cough. Plaintiff asked Bethany Kuhn not to smoke just before meeting with Plaintiff. Kuhn did not honor Plaintiff's request and continued to meet with Plaintiff just after smoking.

26. Plaintiff has been told that she speaks English with an accent. On several occasions from December 2014 to April 2015, Elizabeth Miller and Bethany Kuhn mocked the way Plaintiff spoke English. Bethany Kuhn and Elizabeth Miller parroted Plaintiff's voice, said "we do not understand you," and "your English is poor." This offended Plaintiff to the point that she cried. Bethany Kuhn questioned where Plaintiff learned English. Plaintiff replied, "I began learning British English in kindergarten. My English may not sound the same as yours, but I am competent in English." Bethany Kuhn said, "I am surprised that you went to PSU." Bethany Kuhn told Plaintiff to go back to school to learn English.

27. On several occasions from December 2014 to April 2015, Elizabeth Miller watched Plaintiff while she ate lunch and derisively said "what are you eating" referring to the traditional foods from Bangladesh. This offended Plaintiff.

28. On several occasions from December 2014 to April 2015, Elizabeth Miller and Bethany Kuhn said that Plaintiff was not able to keep up with technology because of her age. Respondent complained and mocked Plaintiff because she typed with her index finger.

29. On April 14, 2015, Defendant terminated Plaintiff's employment. The listed reason was "Inability or Not Qualified." Plaintiff was given no warnings about her performance. There was not any discipline imposed prior to termination.

FIRST CLAIM FOR RELIEF

(Race, National Origin, and Religion Discrimination – ORS 659A.030(1)(a), (b))

30. Plaintiff re-alleges all prior relevant paragraphs as if fully set forth herein.

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31. Defendant Cascade is an "employer" within the meaning of ORS 659A.001(4) and ORS 659A.030.

32. Defendant Cascade discriminated against Plaintiff by subjecting her to disparate treatment and harassment on the basis of her race, national origin, and religion.

33. Defendant Cascade's conduct violated ORS 659A.030 (1) (a) and (b).

34. As a result of Defendant Cascade's unlawful employment actions, Plaintiff suffered and continues to suffer humiliation, distress, and impairment of Plaintiff's personal dignity and right to be free from discrimination. Plaintiff suffered and continues to suffer economic damages including but not limited to past and future lost wages, past and future lost benefits, and other expenses.

35. Plaintiff is entitled to a finding that Defendant Cascade's conduct violated ORS 659A.030.

36. Plaintiff is entitled to equitable relief, including but not limited reinstatement to employment with Defendant Cascade, as well as an award of back pay and lost benefits. If reinstatement is not appropriate, then Plaintiff is entitled to an award for future lost earnings, benefits, and lost earning capacity, and other compensatory damages for future pecuniary losses. Plaintiff's economic damages are continuing in nature and are not presently known.

37. Plaintiff is entitled to noneconomic damages sufficient to compensate her for her emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment of life, and other nonpecuniary losses in an amount to be proved at trial.

38. To the extent any amount awarded to Plaintiff is for damages occurring prior to the entry of judgment, Plaintiff is entitled to an award of prejudgment interest at the legal rate from the date the damage occurred to the date of judgment.

39. Plaintiff is entitled to recover Plaintiff's reasonable attorney fees and costs, including expert witness fees, pursuant to ORS Chapter 659A and ORS 20.107.

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40. Plaintiff is entitled to post-judgment interest on all damages, costs, expenses, and fees from the date of judgment to the date paid.

41. Plaintiff also seeks an award for such additional relief as justice may require.

SECOND CLAIM FOR RELIEF

(Retaliation – ORS 659A.030(1)(f))

42. Plaintiff re-alleges all prior relevant paragraphs as if fully set forth herein.

43. Defendant Cascade is an "employer" within the meaning of ORS 659A.001(4) and ORS 659A.030.

44. Defendant Cascade retaliated against Plaintiff for opposing discrimination on the basis of race, national origin, and religion by Defendant Cascade against herself and others by denying her prayer time, subjecting her to discipline, and terminating her employment.

45. Defendant Cascade's conduct violated ORS 659A.030(1)(f).

46. As a result of Defendant Cascade's unlawful employment actions, Plaintiff suffered and continues to suffer humiliation, distress, and impairment of Plaintiff's personal dignity and right to be free from discrimination. Plaintiff suffered and continues to suffer economic damages including but not limited to past and future lost wages, past and future lost benefits, and other expenses.

47. Plaintiff is entitled to a finding that Defendant Cascade's conduct violated ORS 659A.030.

48. Plaintiff is entitled to equitable relief, including, but not limited to, reinstatement to employment with Defendant Cascade, as well as an award of back pay and lost benefits. If reinstatement is not appropriate, then Plaintiff is entitled to an award for future lost earnings, benefits, and lost earning capacity, and other compensatory damages for future pecuniary losses. Plaintiff's economic damages are continuing in nature and are not presently known.

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49. Plaintiff is entitled to noneconomic damages sufficient to compensate him for his emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment of life, and other nonpecuniary losses in an amount to be proved at trial.

50. To the extent any amount awarded to Plaintiff is for damages occurring prior to the entry of judgment, Plaintiff is entitled to an award of prejudgment interest at the legal rate from the date the damage occurred to the date of judgment.

51. Plaintiff is entitled to recover Plaintiff's reasonable attorney fees and costs, including expert witness fees, pursuant to ORS Chapter 659A and ORS 20.107.

52. Plaintiff is entitled to post-judgment interest on all damages, costs, expenses, and fees from the date of judgment to the date paid.

53. Plaintiff also seeks an award for such additional relief as justice may require.

THIRD CLAIM FOR RELIEF

(Disability Discrimination – ORS 659A.103 *et seq*.)

54. Plaintiff re-alleges all prior relevant paragraphs as if fully set forth herein.

55. Plaintiff is an individual with a disability as defined at ORS 659A.104 (1).

56. Defendant Cascade is an "employer" as defined at ORS 659A.106.

57. After Plaintiff disclosed Plaintiff's disability to Defendant Cascade, Defendant Cascade discriminated against Plaintiff as alleged above. Said discrimination was based on Defendant Cascade's failure to reasonably accommodate Plaintiff, disparate treatment, retaliation, and a hostile work environment.

58. Defendant Cascade failed to engage in the interactive process with Plaintiff.

59. Plaintiff could perform the essential functions of Plaintiff's job with or without reasonable accommodation.

60. Defendant Cascade's refusal to provide reasonable accommodations for Plaintiff's known disability constitutes discrimination on the basis of disability under ORS 659A.103 *et seq*.

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61. As a result of Defendant Cascade's unlawful employment actions, Plaintiff suffered and continues to suffer humiliation, anxiety, distress, and impairment of Plaintiff's personal dignity and right to be free from discrimination. Plaintiff suffered, and continues to suffer, economic damages, including, but not limited to, past and future wages, past and future benefits, and other expenses.

62. Plaintiff is entitled to equitable relief, including, but not limited to, a finding that Defendant Cascade violated the Oregon Rehabilitation Act and reinstatement to employment with Defendant Cascade, as well as an award of back pay and lost benefits. If reinstatement is not appropriate, then Plaintiff is entitled to an award of back pay and lost benefits and future lost earnings, benefits, and lost earning capacity, and other compensatory damages for pecuniary losses. Plaintiff's economic damages are continuing in nature and are not presently known.

63. Plaintiff is entitled to noneconomic damages sufficient to compensate Plaintiff for emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment of life, and other nonpecuniary losses in an amount to be proved at trial. Plaintiff should be awarded noneconomic damages in an amount determined fair by a jury.

64. To the extent any amount awarded to Plaintiff is for damages occurring prior to the entry of judgment, Plaintiff is entitled to an award of prejudgment interest at the legal rate from the date the damage occurred until the date of judgment.

65. Pursuant to ORS Chapter 659A and ORS 20.107, Plaintiff is entitled to recover Plaintiff's reasonable attorney fees and costs, including expert witness fees.

66. Plaintiff is entitled to post-judgment interest on all damages, costs, expenses, and fees from the date of judgment until the date paid.

FOURTH CLAIM FOR RELIEF

(Wrongful Termination)

67. Plaintiff re-alleges all prior relevant paragraphs as if fully set forth herein.

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68. At all materials times, the public policy of the State of Oregon were to prohibit an employer from retaliation and discrimination against employees for good faith reporting of illegal conduct and/or participating a civil proceeding. This public policy is embodied in the common law, statutes, and regulations of the State of Oregon.

69. At all material times, the public policy of the State of Oregon was to prohibit an employer from interfering with, discriminating and retaliating against employees for utilizing protected family and medical leave. This public policy is embodied in the common law, statutes, and regulations of the State of Oregon.

70. Defendant Cascade discharged Plaintiff for pursuing his rights under ORS 659A.199 and ORS 659A.203.

71. Plaintiff's remedies under state and federal statutory law provide an inadequate remedy for the damage Defendant Cascade has inflicted.

72. As a result of Defendant Cascade's wrongful termination of Plaintiff's employment, Plaintiff suffered and continues to suffer humiliation, distress, and impairment of Plaintiff's personal dignity and right to be free from discrimination. Plaintiff suffered, and continues to suffer, economic damages, including, but not limited to, past and future wages, past and future benefits, and other expenses.

73. Plaintiff is entitled to economic, compensatory and/or non-economic damages, in amounts to be determined at trial.

PRAYER FOR RELIEF

Plaintiff prays for the following judgment against Defendant:

(a). A sum which will fully compensate Plaintiff for Plaintiff's noneconomic damages in a sum that is just as determined by a jury, here alleged to be not more than $500,000;

(b). A sum which will fully compensate Plaintiff for Plaintiff's economic damages in a sum that is just as determined by a jury, here alleged to be not more than $500,000;

(c). Equitable relief, including but not limited to, reinstatement if Plaintiff so chooses;

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(d). Plaintiff's costs and disbursements incurred herein;

(e). Plaintiff's attorney fees; and

(f). For such other and further relief as the Court may deem just and equitable.

Plaintiff demands a trial by Jury.

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