

# Exhibit A

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SUPERIOR COURT OF THE STATE OF WASHINGTON  
FOR KING COUNTY

NGOC TRAN and MARKITA GUIDEN,

Plaintiffs,

v.

DAIYA HEALTHCARE PLLC, a Washington  
professional limited liability company; and  
BHUPINDER WALIA and "JANE DOE" WALIA,  
and their marital community,

Defendants.

NO. 21-2-05474-5 KNT

SUMMONS

TO: All of the Above-Named Defendants

A lawsuit has been started against you in the above-entitled court by Ngoc Tran and Markita Guiden. Plaintiffs' claims are stated in the written Complaint, a copy of which is served upon you with this Summons.

In order to defend against this lawsuit, you must respond to the Complaint by stating your defense in writing, and by serving a copy upon the persons signing this Summons within 20 days after the service of this Summons within the State of Washington or 60 days if served outside of the State of Washington, excluding the day of service, or a default judgment may be entered against you without notice. A default

SUMMONS - 1  
[4831-8868-7847]

Law Office  
GORDON THOMAS HONEYWELL LLP  
1201 PACIFIC AVENUE, SUITE 2100  
POST OFFICE BOX 1157  
TACOMA, WASHINGTON 98401-1157  
(253) 620-6500 - FACSIMILE (253) 620-6565

1 judgment is one where Plaintiffs are entitled to what they ask for because you have not  
2 responded. If you serve a notice of appearance on the undersigned attorney, you are  
3 entitled to notice before a default judgment may be entered.

4 You may demand that the Plaintiffs file this lawsuit with the Court. If you do so,  
5 the demand must be in writing and must be served upon the persons signing this  
6 Summons. Within 14 days after you serve the demand, the Plaintiff must file this lawsuit  
7 with the Court, or the service on you of this Summons and Complaint will be void.

8 If you wish to seek the advice of an attorney in this matter, you should do so  
9 promptly so that your written response, if any, may be served on time.

10 This Summons is issued pursuant to Rule 4 of the Superior Court Civil Rules of  
11 the State of Washington.  
12

13 DATED this 26<sup>th</sup> day of April, 2021.  
14

15 GORDON THOMAS HONEYWELL LLP

16 By: Stephanie Bloomfield  
17 Stephanie Bloomfield, WSBA No. 24251  
18 [sbloomfield@gth-law.com](mailto:sbloomfield@gth-law.com)  
19 Andrea H. McNeely, WSBA No.  
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21 ATTORNEYS FOR PLAINTIFF  
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COMPLAINT FOR DAMAGES

**I. PARTIES**

1.1 In this Complaint Plaintiff Ngoc Tran ("Tran") asserts claims for discrimination and retaliation in violation of RCW Chapter 49.60, wrongful termination in violation of public policy, retaliation in violation of the False Claims Act 31 U.S.C. § 3729, 3730, negligent or intentional infliction of emotional distress, defamation, and intentional interference with a business expectancy against all Defendants. Tran also asserts claims for discrimination and retaliation under Title VII and the ADA against Defendant Daiya Healthcare PLLC.

1.2 In this Complaint Plaintiff Markita Guiden ("Guiden") asserts claims for discrimination and retaliation in violation of RCW Chapter 49.60, wrongful termination in

1 violation of public policy, and retaliation in violation of the False Claims Act 31  
2 U.S.C. § 3729, 3730 against all Defendants.

3 1.3 This court has original and concurrent jurisdiction of all claims asserted.

4 1.4 Plaintiff Tran resides in King County, Washington and was employed by  
5 Defendant Daiya Healthcare PLLC, and primarily worked at facilities in South King County  
6 Washington (Burien and Auburn) as well as in Pierce County (Puyallup), Washington,  
7 where a substantial part of the events or omissions giving rise to this claim occurred and  
8 where the injury and damage to Tran occurred.

9 1.5 Plaintiff Guiden resides in King County, Washington and was employed by  
10 Defendant Daiya Healthcare PLLC and primarily worked at facilities in South King County  
11 Washington (Burien and Auburn) as well as in Pierce County (Puyallup), Washington,  
12 where a substantial part of the events or omissions giving rise to this claim occurred and  
13 where the injury and damage to Guiden occurred.

14 1.6 Defendant Daiya Healthcare PLLC ("Daiya") is a Washington professional  
15 limited liability company, with its principal place of business in Bellevue. Daiya does  
16 business throughout the South Puget Sound area and including at facilities in Burien,  
17 Auburn (South King County) and Puyallup (Pierce County) Washington.

18 1.7 Defendant Bhupinder Walia ("Walia") resides in King County, Washington  
19 and, in the course of his work with Daiya, works in Burien, Auburn (South King County)  
20 and Puyallup (Pierce County) Washington. Walia is married to Defendant "Jane Doe"  
21 Walia, and his actions described in this Complaint were for the benefit of his wife and  
22 their marital community.

23 1.8 Venue is appropriate in King County, Washington.  
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**II. FACTS**

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2.1 Daiya is Washington-based company that provides healthcare providers to patients in post-acute and long-term care facilities throughout Washington and in several other states.

2.2 Daiya employs over 500 employees.

2.3 As a corporate entity, Daiya acts through its officers and employees, and the actions of its officers and employees with respect to Plaintiffs and their employment described herein were all within the scope of their employment with Daiya and attributable to Daiya.

2.4 Plaintiff Tran is female, a veteran of the United States Air Force (Operation Enduring Freedom 2001-2005), has a same-sex sexual orientation, and is of Vietnamese-American national origin.

2.5 Plaintiff Tran is a highly trained medical professional with thousands of hours of training and is licensed as a Physician Assistant in the State of Washington. She has substantial experience and expertise in psychiatry.

2.6 As a Physician Assistant, Plaintiff works under a physician's supervision to diagnose, develop and manage treatment plans, prescribe medications, and often serves as the primary healthcare provider for her patients.

2.7 Plaintiff Tran began working for Defendant Daiya in Washington as a Physician Assistant in March 2019 providing clinical care to patients at her various assigned work sites, including Burien and Puyallup.

2.8 Plaintiff Guiden is female, has a same-sex sexual orientation, and is African American.

2.9 Plaintiff Guiden is a highly trained medical professional with thousands of hours of training and is licensed as an Advanced Registered Nurse Practitioner ("ARNP") in the State of Washington. She has substantial experience and expertise in cardiology.

1           2.10 As an ARNP, Guiden provides primary care and can admit, discharge,  
2 diagnose, develop and manage treatment plans, prescribe medications, and often  
3 serves as the primary healthcare provider for her patients requiring physician supervision  
4 only if implementing new or unfamiliar practices.

5           2.11 Guiden began working for Defendant Daiya in Washington as an ARNP in  
6 May 2019, and was assigned to various worksites, including Burien and Puyallup.

7           2.12 Plaintiffs consistently met or exceeded expectations throughout their  
8 employment with Daiya, and never received any negative performance reviews or  
9 reprimands.

10          2.13 At all times relevant in 2019, Plaintiffs reported to Daiya's owner and CEO,  
11 Defendant Walia.

12          2.14 Beginning in July 2019, Plaintiffs also began reporting to Daiya's Chief  
13 Operating Officer Chris Lafrenz.

14          2.15 Throughout her employment Defendants asked Plaintiff Tran to take on  
15 additional tasks and responsibilities, including training new providers and requested that  
16 she take on a "preceptor" role. In healthcare a preceptor is an experienced practitioner  
17 who supervises clinical practitioners and helps educate and evaluate their performance.

18          2.16 In May 2019, Walia asked Tran to take on additional duties as an  
19 Infectious Disease Physician Assistant, in addition to her Psychiatric Physician Assistant  
20 Duties.

21          2.17 At the time, Tran had continued working outside Daiya as a contractor who  
22 reviewed Veteran disability submissions. Based on Defendants' promise of an expanded  
23 role with a substantial additional pay raise, Tran resigned her outside position in May  
24 2019 to devote additional time to her work with Defendants. Tran took on those  
25 additional duties in June 2019.  
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1           2.18 In the course of their employment, Plaintiffs became concerned that the  
2 coding practices imposed by Walia on Daiya providers did not follow federally imposed  
3 guidelines.

4           2.19 The Centers for Medicare and Medicaid Services (CMS) and the National  
5 Center for Health Statistics (NCHS), two departments within the United States  
6 Government's Department of Health and Human Services (DHHS) provides guidelines to  
7 be used by providers in coding and reporting that use the International Classification of  
8 Diseases, 10th Revision, Clinical Modification (ICD-10-CM).

9           2.20 The ICD-10-CM is a morbidity classification published by the United States  
10 for classifying diagnoses and reason for visits in all health care settings. The ICD-10-CM  
11 is based on the ICD-10, the statistical classification of disease published by the World  
12 Health Organization (WHO). These guidelines have been approved by the four  
13 organizations that make up the Cooperating Parties for the ICD-10-CM: the American  
14 Hospital Association (AHA), the American Health Information Management Association  
15 (AHIMA), CMS, and NCHS.

16           2.21 DHHS has mandated that all entities covered by the Health Insurance  
17 Portability and Accountability Act ("HIPAA") must use ICD-10-CM codes. The ICD-10-CM  
18 codes are used for a variety of purposes including billing and claims reimbursement.

19           2.22 CMS and NCHS publish official guidelines for Coding and Reporting that  
20 are to be followed by providers using ICD-10-CM coding for services that will be  
21 submitted to Medicare (and others) for reimbursement.

22           2.23 Because the coding practices Defendants mandated were not accurate  
23 and did not represent services actually provided by the provider seeing the patient,  
24 Plaintiffs reasonably believed the practices were fraudulent and/or in violation of law.  
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1           2.24 Tran initially raised her concerns about coding with Defendant Daiya's  
2 then Chief Operating Officer, Theresa Utecht.

3           2.25 Utecht instructed Tran to code properly for the services provided.

4           2.26 Tran followed Utecht's instructions and continued to code properly for  
5 services she provided.

6           2.27 Because Tran followed the law and federal guidelines rather than the  
7 improper practices imposed by Daiya, Walia confronted Tran about her coding. Tran  
8 responded that she was coding properly as instructed by Utecht.

9           2.28 Shortly thereafter, Utecht's employment with Daiya ended.

10          2.29 Tran continued to raise coding issues verbally with Walia, but he brushed  
11 off her concerns.

12          2.30 Walia continued to pressure Tran to "upcode" or use codes that would  
13 allow Defendants to obtain higher reimbursement than was justified by the actual time  
14 and services Tran rendered to the patient.

15          2.31 By way of example, on or about July 31, 2019, Walia wrote to Tran  
16 accusing her of improperly coding her encounters with patients with the 99308 code,  
17 claiming that her documentation did not support this and to "take corrective action  
18 immediately." This was due to Tran's continued refusal to falsely upcode her interactions  
19 to the 99310 code Defendants were pushing to obtain higher reimbursements.

20          2.32 The parameters for using ICD-10-CM code 99308 vs. 99310 are briefly  
21 summarized as follows:

22           **99308**

23           Expanded problem-focused history  
24           Expanded problem-focused exam  
25           Low complexity medical decision making  
26           Typical time = 15 minutes

**99310**

            Comprehensive history  
            Comprehensive exam  
            High complexity medical decision making  
            Typical time = 35 minutes

            2.33 On July 31, 2019, Walia criticized Tran's documentation and referenced  
            purported "complaints" about Tran's documentation at the lower 99308 coding level.

1           2.34   Walia told Tran he would be reviewing all of her medical notes personally.

2           2.35   At this point, concerned about these various issues, Tran told Defendants  
3 that she would not continue in the expanded role with Infectious Disease duties, and  
4 expressed her desire to obtain full time work as a psychiatric Physician Assistant.

5           2.36   Around this same time Tran was called into a meeting with the new COO,  
6 Chris Lafrenz, to discuss the coding issues in Walia's July 31, 2019 email. During this  
7 meeting Lafrenz told Tran she was gay and then described how she chased after her wife  
8 during a work interview. Tran became very uncomfortable. Lafrenz then told Tran she  
9 liked her women "butch and brown" (like Tran, who identifies as "butch" and "brown").  
10 Lafrenz was crossing and uncrossing her legs repeatedly during this interaction.

11           2.37   Knowing Lafrenz was the new COO with authority over her pay and related  
12 issues, Tran was extremely concerned about Lafrenz's comments and actions, and was  
13 extremely anxious about the situation.

14           2.38   Tran discussed these comments with Guiden at the time, and Tran tried to  
15 avoid Lafrenz as much as possible so she would not be subjected to further unwelcome  
16 sexually based harassment.

17           2.39   Throughout Plaintiffs' employment, Defendant Walia continually referred  
18 to women with derogatory sexual terms. Walia referred to female employees he did not  
19 like as "whores", "c\*nts", and "b\*tches."

20           2.40   Another Physician Assistant, Melinda Brown, who also protested the  
21 coding practices of Defendants, expressed her concerns about coding to Defendants  
22 when she resigned. To Plaintiffs' knowledge, no investigation was performed and  
23 Defendants continued to pressure employees to "upcode" beyond what the services  
24 warranted.

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1           2.41 Defendants continued to call on Tran for additional duties, now as an  
2 Internal Medicine Physician Assistant, after they fired another employee.

3           2.42 Around this same time frame Defendant Walia told Tran, "Thank you so  
4 much for filling in in Burien – they LOVE you! People stopped me in the hallways and  
5 asked me repeatedly to have you stay at Burien forever."

6           2.43 Tran continued to receive positive comments about her work, and on  
7 August 9, 2019, Defendants provided Plaintiff Tran with a bonus.

8           2.44 Around August 14, 2019, a group of Daiya providers met socially outside  
9 of work. In the course of the gathering, those present began to discuss their concerns  
10 with Defendants' coding practices. Tran was not present at the gathering, but Guiden  
11 was.

12           2.45 After the gathering, Guiden shared with Tran that one of the employees in  
13 attendance, Daiya employee Alicia Ferrell who had indicated that she was going to  
14 resign, said she wanted to report Walia's actions to the Medical Board.

15           2.46 After the gathering, Tran again tried to raise the issue of improper coding  
16 with Walia directly hoping he would now take her reports seriously and correct the  
17 problems.

18           2.47 However, Walia and COO Lafrenz responded by telling Alicia Ferrell that  
19 Tran was "a whistleblower," who had revealed the discussion at the social event and, as  
20 a result, they would all be investigated for fraud. This caused the other providers to  
21 react angrily toward Tran.

22           2.48 Shortly thereafter in August 2019, Walia held a Daiya staff meeting. Daiya  
23 did not investigate any reports of fraud or improper coding, did not address the concerns  
24 in the staff meeting, and did not make any effort to address the hostility directed at Tran.  
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1           2.49 On September 4, 2019, Defendants provided Tran with a substantial raise  
2 in her salary “per Dr. Walia” effective September 2, 2019.

3           2.50 Soon after this, Plaintiffs became aware that Defendant Walia was  
4 sending electronic healthcare records (“EHRs”) which are patient encounter records to  
5 India, where he was paying ten cents per chart to have them copied and then pasted into  
6 a Word format. This was extremely concerning to Plaintiffs, because this would permit  
7 edits or changes to EHRs without there being a record in the system of who and when  
8 the changes were made. In other words, if a provider was not “upcoding” as pressured  
9 to do by Defendants, Daiya could change the EHR through the copied chart and paste it  
10 back in, avoiding any warning to the actual provider of the changes made to their  
11 charting and coding.

12           2.51 On or about September 13, 2019, Tran reported concerns about  
13 psychological harm to a patient with dementia due to repeated moves of the patient’s  
14 room. At the direction of the facility’s director of nursing, Tran made a written note  
15 regarding the issues with the patient.

16           2.52 COO Lafrenz then called Tran into her office and pressured Tran to change  
17 the note. Lafrenz forced Tran to make the changes under duress. However, because the  
18 revised note was not accurate and complete, Tran did not submit it.

19           2.53 Tran later learned that the revised note was subsequently signed and  
20 submitted by Defendant Walia, who had not seen the patient. This submission was in  
21 violation of the law and applicable standards.

22           2.54 Also on or about October 4, 2019, Walia began escalating his  
23 inappropriate comments to Guiden, calling her at home and at work and asking her “are  
24 you alone?” Walia made a variety of inappropriate derogatory comments of a sexual  
25 nature to Guiden, referring to female nurses as “c\*nts”, “whores” and “b\*tches” and  
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1 telling Guiden that a facility administrator was “f\*cking powerless” because Walia had  
2 “cut off his f\*cking balls.”

3 2.55 Guiden found these comments unwelcome and harassing, but Walia was  
4 the CEO and owner of Daiya and she felt powerless. Guiden had no clear path to avoid  
5 contact with Walia when he was demanding she respond to calls at home and work.

6 2.56 Plaintiffs also learned that Walia was paying another nurse to log in using  
7 his credentials to make entries on patient charts, also an illegal practice.

8 2.57 Under applicable Medicare rules, physicians have to perform admissions.  
9 Nevertheless, Walia offered Guiden an additional \$70,000 per year to “do admissions in  
10 bed.” This made Guiden even more uncomfortable, bringing a sexual innuendo into what  
11 she already believed to be an illegal practice.

12 2.58 After Guiden confirmed with licensing authorities that Medicare guidelines  
13 would not allow her to do perform admissions in this fashion, Guiden declined the offer  
14 and told Walia it was improper.

15 2.59 Guiden also asked to meet with an auditor or coding specialist at Daiya so  
16 she could address her concerns. At no time was she allowed to meet with them to  
17 address her concerns.

18 2.60 By October 2019, Tran was aware that Walia, who was reviewing her  
19 patient documentation, would fraudulently note that Tran spent more time with patients  
20 than she actually did, fraudulently upcoding her chart entries.

21 2.61 Also around this same time Tran met another Daiya employee, Adiba  
22 Syeda, when they were both working at the Puyallup facility. Tran noted a medication  
23 discrepancy for a patient and raised the issue with the nurses. The chart note included a  
24 medication that had been discontinued for some time.

1           2.62 Tran then pointed out the error to Dr. Syeda, who eventually admitted that  
2 she had copied and pasted an earlier chart entry to save time.

3           2.63 Tran also reported this issue to COO Lafrenz, who dismissed Tran's  
4 concerns.

5           2.64 Finally, fed up with these improper activities, and continued pressure to  
6 "upcode," Tran asked in writing on the morning of Friday October 11, 2019, to meet with  
7 an auditor who reviews coding, so that she could address concerns she had about how  
8 she was being instructed by Defendants to improperly code for certain services. Her  
9 email expressly states: "I don't feel what I'm coding is in compliance. 99310 does not  
10 match services, 99308 does."

11           2.65 Within 30 minutes after Tran sent the email asking to meet with the  
12 auditor regarding her coding concerns, and raising a written concern about what she  
13 believed to be a fraudulent practice of Defendants, Defendants suspended Plaintiff Tran  
14 from all duties, citing a purported "complaint" against her that required investigation.

15           2.66 Tran had received no notice of any complaint before her written request to  
16 meet with a coding auditor.

17           2.67 Guiden had previously protested what she reasonably believed to be  
18 Medicare fraud directly to Walia and others at Daiya, but her concerns about improper  
19 coding practices by Defendants had not been addressed. On or about October 11, 2019  
20 she emailed requesting a meeting with a coding specialist to address concerns of  
21 improper coding.

22           2.68 Dr. Walia responded to Guiden's email that he would set up a meeting  
23 with the coding specialist to address her concerns. He also wrote that Guiden should  
24 chart and code properly for the services she was performing and not upcode or include  
25 services not provided. This statement was in direct conflict with Defendants' practices,  
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1 because Plaintiffs noted that Dr. Walia added procedures that were not performed,  
2 increased time spent with the patient, and made changes to providers' submitted  
3 documentation after the fact without the knowledge or consent of the providers involved.

4 2.69 On October 13, 2019, Guiden contacted Walia to report an incident in  
5 Puyallup where a Daiya employee referred to Tran as a "c\*nt", language similar to that  
6 used by Walia to describe female employees he did not like. The employee then made a  
7 variety of comments stereotyping Tran's sexual orientation and presentation as "manly  
8 and intimidating" because Tran had ignored her. Guiden was concerned about this  
9 discriminatory comment regarding Tran and what appeared to be a pattern of  
10 persecuting Tran relating to her sexual orientation.

11 2.70 Concerned about what was going on and Daiya's response to her coding  
12 fraud reports, Tran contacted the OIG to further report her concerns on or about  
13 October 14, 2019.

14 2.71 At no time was Tran contacted by any investigator regarding any purported  
15 complaint of any nature or any investigation by Defendants into her coding concerns.

16 2.72 Instead, two working days later, on Tuesday October 15, 2019,  
17 Defendants terminated Tran's employment. The only reasons Defendants provided to  
18 Tran for her termination were: 1) Tran was not "friendly" enough; and 2) someone had  
19 asked not to work in the same building with her.

20 2.73 On October 18, 2019, Tran was threatened by Defendant Daiya's attorney,  
21 Patrick Vail, via email for reporting concerns about Defendant Daiya's improper coding  
22 and fraudulent billing practices to two of the facilities where Tran had worked.

23 2.74 In the email, Vail, stating that he represented Daiya, threatened Tran with  
24 a "financially ruinous" lawsuit if she continued to report improper coding and fraud and  
25 for the first time stated that Tran was terminated "due to a pattern of egregious, unlawful  
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1 and inappropriate conduct within the workplace and other violations of your obligations  
2 and job duties and Washington law, many of which resulted in numerous complaints  
3 from other staff . . . [including that] you made sexually inappropriate and harassing and  
4 threatening statement to an/or in the presence of other staff and created a hostile work  
5 environment for those staff members.”

6 2.75 Vail's statements were false. Tran had not been notified of any unlawful,  
7 inappropriate, or other misconduct or complaints of sexual harassment or inappropriate  
8 conduct while employed by Daiya or when she was terminated.

9 2.76 No investigator ever contacted Tran on behalf of Daiya to discuss any such  
10 allegations before or after her termination.

11 2.77 Following Tran's termination, Lafrenz contacted Guiden on or about  
12 October 16, 2019, to interview her as part of her “investigation” into Tran. When Guiden  
13 asked why Tran had been fired already if the investigation was not complete, Lafrenz  
14 responded that she “knew where it was going.”

15 2.78 Lafrenz then asked Guiden if anyone ever made her feel uncomfortable.  
16 Guiden responded that Walia made her very uncomfortable and described to Lafrenz  
17 both the offensive sexual comments Walia made to her as well as coding issues Walia  
18 discussed with her over the past months. Guiden also raised concerns about other Daiya  
19 employees making improper comments about Tran.

20 2.79 Lafrenz responded by stating that she knew of Guiden's same sex  
21 orientation and that she knew Guiden was in a relationship with Tran. When Guiden  
22 protested the invocation of her sexual orientation into the discussion, Lafrenz told  
23 Guiden that her keystrokes were being monitored and any violation of HIPAA would result  
24 in termination.



1           2.80 Guiden told Lafrenz she was in fear for her job, that Lafrenz was also  
2 retaliating against her for bringing up information about improper conduct at Daiya and  
3 Guiden feared being fired over false allegations as Tran had been. Lafrenz ended the  
4 call and said she would call Guiden back.

5           2.81 Because Lafrenz never called Guiden to complete the interview, Guiden  
6 wrote to Lafrenz asking when they would be completing the interview. Lafrenz did not  
7 respond. Guiden wrote again, this time expressing her concerns about retaliation and  
8 explaining she did not feel safe returning to work. Lafrenz did not respond.

9           2.82 Defendants never scheduled a meeting between Guiden and the coding  
10 specialist as Guiden requested.

11           2.83 Because now both Walia and Lafrenz had not responded to Guiden's  
12 report of harassment and discrimination, on October 18, 2019, Guiden wrote to Penny  
13 Silvernale, Daiya's Human Resources Director, with the subject line "Hostile Work  
14 Environment/Sexual Harassment", reporting again the sexually hostile environment and  
15 related issues so they could be properly investigated.

16           2.84 After once again receiving no response, Guiden wrote again to Silvernale  
17 on October 23, 2019, noting that she feared returning to the workplace after Lafrenz's  
18 threats and Walia's actions and asked again what provisions had been made to address  
19 her retaliation concerns.

20           2.85 Instead of addressing Guiden's concerns, Defendants fired Guiden via  
21 email on October 23, 2019, accusing her of insubordination and describing her reports  
22 of "dishonesty, intimidation, harassment and retaliation", as "false and inflammatory  
23 accusations." Defendants stated that they investigated Guiden's accusations  
24 themselves and found no wrongdoing, and also threatened Guiden if she made any  
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1 statements related to those accusations to third parties – in an attempt to prevent  
2 Guiden raising her concerns with the EEOC or other regulatory agencies.

3 2.86 Guiden twice requested a copy of her personnel file and Defendants  
4 refused to provide it to her.

5 2.87 On October 25, 2019, Daiya sent a Tran a letter, signed by Chris Lafrenz,  
6 that now included a vague and repetitive laundry list of purported “reasons” for Tran’s  
7 termination as follows:

- 8 (a) Engaging in a pattern of egregious and inappropriate conduct within  
9 the workplace which resulted in numerous complaints from other staff  
10 members.
- 11 (b) Materially breaching your job duties to Daiya, including but not limited  
12 to, failing to comply with Daiya’s company policies, engaging in  
13 unprofessional conduct that interferes with the treatment and care of  
14 patients, all of which affect the immediate care or safety of patients
- 15 (c) Violating the Daiya employee Handbook and applicable rules ; Policies  
16 and procedures;
- 17 (d) Violating the standards of ethics of Daiya;
- 18 (e) Violating Daiya policy against harassment;
- 19 (f) Engaging in a pattern of harassment, including derogatory and  
20 offensive remarks made to other staff, providers and/or employees,  
21 including, but not limited to, statements of a sexual nature and/or  
22 relating to the use of illegal drugs;
- 23 (g) Engaging in a pattern of sexual harassment, including making sexually  
24 oriented jokes and graphic verbal commentaries, and using sexually  
25 degrading words;
- 26 (h) Creating an intimidating, hostile or offensive working environment;
- (i) Insubordination, bad attitude, rude, discourteous, abusive, and/or  
threatening language toward staff, providers and/or employees;
- (j) Displaying abusive behavior toward other staff providers and/or  
employees, including, but not limited to, by sending intimidating text  
messages and yelling at other providers; and
- (k) Harassing, threatening and or intimidating other staff, providers  
and/or employees, including, but not limited to, by sending  
intimidating text messages and yelling and speaking in an  
unprofessional and harassing manner to other providers.

1           2.88 On October 18, 2019, Guiden was also threatened by Defendant Daiya's  
2 attorney, Patrick Vail, via email for reporting concerns about Defendant Daiya's improper  
3 coding and fraudulent billing practices. The letter characterized her reporting concerns  
4 about coding practices as "almost certainly" violating HIPAA and threatened to sue her.

5           2.89 On or about November 15, 2019, Guiden filed a charge of discrimination  
6 with the EEOC relating to sexual harassment, discrimination, and retaliation concerns  
7 during her employment with Defendant Daiya.

8           2.90 On or about December 20, 2019, Tran filed a charge of discrimination with  
9 the EEOC relating to sexual harassment, discrimination, and retaliation concerns during  
10 her employment with Defendant Daiya.

11           2.91 Tran also looked for work, seeking other Physician Assistant positions but  
12 was unsuccessful even though she had solid credentials and she had not previously had  
13 difficulty finding employment.

14           2.92 On about January 20, 2020, Guiden provided additional information to the  
15 EEOC, reiterating her charge of sexual harassment and retaliation and providing  
16 additional detail, as well as reporting coding and ethical problems at Daiya.

17           2.93 On January 28, 2020, Defendant Walia was contacted by a physician who  
18 was potentially hiring Tran. After confirming that Tran's "medical care for patients is not  
19 in question and that no patients suffered harm," Defendant Walia made numerous false,  
20 humiliating, and harmful statements regarding Tran intended to damage her reputation  
21 and ability to obtain employment, which were confirmed as follows in writing to Tran by  
22 the potential employer who had spoken with Walia:

- 23           1. You were terminated for threatening bodily harm to nursing staff and were the most terrible employee he ever had  
24           2. At the time of termination Dr. Walia's wife was concerned for her safety due to retaliation from you  
25           3. You were described as having significant personality issues, and possibly a personality disorder, and that you are alcoholic.  
26           4. The staff were afraid of you and believed you were stalking them  
              5. You have been the scariest provider that he has out of 75  
              6. He confirmed your employment from March -October 2019 but was not able to describe to describe the level of care you provide.

- 6. Your medical license in WA is under review and that is likely why you are applying in AZ
- 7. You had a boundary violation with a patient without further details

2.94 Around September 2020, Tran learned that Defendant Daiya had filed a retaliatory complaint with the MQAC falsely accusing Tran of a variety of things, including sexually harassing a medical assistant, threatening another employee with physical violence, forced out of a facility where she worked up until her termination, and asserting that she had made false complaints about Daiya to various regulatory entities. That complaint is set forth below:

Ngoc Tran was fired [REDACTED] because she was very unprofessional. She sexually harassed one [REDACTED] Medical Assistants who reported it to HR. She was insubordinate and had many interpersonal conflicts with staff at facilities and other providers. Daiya Healthcare was asked to not allow her to practice in certain facilities, and [REDACTED] then terminated her employment. In retaliation, she has filed complaint after complaint with several agencies leading to investigation after investigation. [REDACTED] She is abusing the system by lodging complaints [REDACTED], and taking our valuable time away from patient care.

I would like to formally lodge a complaint against Ngoc Tran PA-C. She was asked to never return to Puyallup Nursing and Rehabilitation as she was unprofessional with staff. She would use foul language, and not communicate well with others. Further, she continues to abuse the system by lodging false complaint after false complaint which has significantly taken [REDACTED] resources away from patient care.

Also, she threatened another PA-C Alicia with physical violence just prior to a staff meeting [REDACTED]. [REDACTED]. Ngoc and Alicia were separated and not allowed to work in the same facility thereafter, and Ngoc was eventually fired after an internal investigation revealed multiple instances of unprofessional conduct by her. She continues to harass our group, months after termination.

2.95 On February 4, 2021, representatives of Staff Care, another company that hires Physician Assistants to provide locum tenens assignments, notified Tran that it could not assign her to positions due to the open MQAC investigation.

2.96 Daiya chose to retain less qualified or less experienced employees who were not perceived as disabled, or were heterosexual, or who were not Vietnamese-American, and who had not protested inappropriate medical coding and fraud.



1 and Defendant CEO Walia, was sufficiently offensive or pervasive that it altered the  
2 conditions of Plaintiffs' employment, also constituting Sexual Harassment and a Hostile  
3 Work Environment for which Defendants are strictly liable.

4 3.7. Plaintiffs' sex and/or sexual orientation, and/or perceived disability,  
5 and/or national origin, and/or race was a substantial factor in Defendants' decision to  
6 take adverse employment actions against Plaintiffs.

7 3.8. Defendants' wrongful and discriminatory actions caused harm to Plaintiffs.

8 3.9. Under Washington's Law Against Discrimination, on their discrimination  
9 claims Plaintiffs are entitled to recover all actual and compensatory, economic and non-  
10 economic, special and general damages, as well as attorneys' fees and litigation  
11 expenses and an enhanced award to offset any negative tax consequences.  
12

13 **IV. SECOND CAUSE OF ACTION**  
14 **RETALIATION – RCW 49.60**

15 4.1 Plaintiffs engaged in protected activity by opposing conduct that she  
16 reasonably believed to be prohibited by Washington's Law Against Discrimination, in  
17 particular the conduct of Defendant Daiya's CEO Defendant Walia and Daiya's COO,  
18 Chris Lafrenz.

19 4.2 Defendants' conduct described herein constitutes illegal retaliation  
20 against Plaintiffs in violation of Washington's Law Against Discrimination, RCW 49.60 et  
21 seq.  
22

23 4.3 Plaintiffs opposed discriminatory conduct and engaged in protected  
24 activity under state and federal laws.  
25  
26







1           6.3    Tran further opposed Defendant Daiya's discriminatory and retaliatory  
2   conduct by filing a charge of discrimination with the EEOC on or about December 19,  
3   2019, raising issues of sexual harassment and discrimination as well as retaliation.

4           6.4    The initial discrimination charge was protected activity under the law.

5           6.5    Following the filing of that charge of discrimination, Defendant Daiya  
6   began a campaign of further retaliation against Tran, including instituting a baseless  
7   complaint with state medical licensing authorities as well as providing false information  
8   to Tran's potential employers.

9           6.6    Defendant Daiya's conduct was malicious, oppressive or in reckless  
10   disregard for Plaintiff's rights.

11           6.7    Tran filed a second charge of discrimination and retaliation with the EEOC  
12   on February 20, 2020.

13           6.8    The EEOC issued a reasonable cause finding in favor of Tran on her  
14   retaliation charge on November 19, 2020.

15           6.9    Following the reasonable cause finding, conciliation efforts failed and the  
16   EEOC issued a "Right to Sue" letter to Tran on February 1, 2021.

17           6.10   Defendant Daiya's wrongful and retaliatory actions caused harm to  
18   Plaintiff Tran.

19           6.11   Defendant Daiya's conduct described herein constitutes illegal retaliation  
20   against Plaintiff in violation of Title VII, 42 U.S.C. §2000e et seq., as was found by the  
21   EEOC in its investigation and confirmed by its reasonable cause finding in favor of Tran.

22           6.12   On her federal retaliation claims, Tran is entitled to recover all actual and  
23   compensatory, economic and non-economic, special and general damages, punitive  
24   25  
26

1 damages, as well as attorneys' fees, offsets for tax impacts of any award from Defendant  
2 Daiya.

3 **VII. FIFTH CAUSE OF ACTION**  
4 **RETALIATION - FALSE CLAIMS ACT (31 U.S.C. §§ 3729, 3730)**

5 7.1 The False Claims Act ("FCA") prohibits knowing submission of false  
6 information to obtain payment from the Government. 31 U.S.C. § 3729(a)(1)(A)-(C).

7 7.2 The FCA also prohibits retaliation against any employee who engages in  
8 protected activity by bringing forward complaints that the employee reasonably believes  
9 to be regarding acts in violation of the FCA. 31 U.S.C. § 3729(h).

10 7.3 Plaintiffs reasonably and in good faith believed that a variety of  
11 Defendants' coding instructions and practices and were fraudulent and violated the FCA.

12 7.4 Plaintiffs reasonably believed that their internal complaints about  
13 improper coding practices were necessarily complaints about potentially fraudulent  
14 claims to the government, and were protected conduct under the FCA.

15 7.5 Despite Plaintiffs' repeated complaints, Defendants' practices with respect  
16 to coding did not change.

17 7.6 Plaintiffs then affirmatively took steps to meet with an auditor to further  
18 prevent false claims from being submitted through the Medicare program.

19 7.7 Plaintiffs' conduct described herein was activity protected under the FCA.

20 7.8 Defendants knew that Plaintiffs engaged in activity protected by the FCA.

21 7.9 Defendants' adverse actions described herein leading up to, including,  
22 and following Plaintiffs' wrongful termination, were motivated by Plaintiffs' protected  
23 activity and were in violation of the FCA.

24 7.10 By these actions, Defendants violated 31 U.S.C. § 3730(h).





1           9.6 To establish fault as a private figure, a plaintiff “must prove negligence by  
2 a preponderance of the evidence.” *Alpine Indus. Computers, Inc. v. Cowles Pub. Co.*, 114  
3 Wn. App. 371, 388, 57 P.3d 1178 (2002), *amended*, 64 P.3d 49 (2003). This means  
4 that the plaintiff “must show fault by the publisher in not acting reasonably to ensure  
5 that the report is accurate and complete.” *Id.* at 390 (citation omitted).

6           9.7 Additionally, to show fault “concerning a subject of general or public  
7 interest,” a private figure must show “that in publishing the statement, the defendant  
8 knew or, in the exercise of reasonable care, should have known that the statement was  
9 false, or would create a false impression in some material respect.” *Id.* at 389 (citation  
10 omitted).

11           9.8 Moreover, “a public figure plaintiff must prove by clear and convincing  
12 evidence that the defendant uttered the offensive statement with actual malice, that is,  
13 with knowledge of falsity or reckless disregard of the truth or falsity of the statement.” *Id.*  
14 at 387-88 (citing *New York Times Co. v. Sullivan*, 376 U.S. 254, 279-80 (1964); *Herron*  
15 *v. Tribune Publ'g Co.*, 108 Wn.2d 162, 169-79, 736 P.2d 249 (1987)).

16           9.9 Plaintiff Tran is not a public figure and her employment was not a matter  
17 of public concern until Defendants decided to make it one, but Defendants cannot  
18 transform a private matter into a public one through their own defamatory statements, or  
19 all such matters would be public in nature.

20           9.10 Defendants did not take reasonable care to investigate and ensure that  
21 their statements about Plaintiff Tran were accurate and in doing so were negligent.

22           9.11 Even if Plaintiff Tran was considered a public figure or her employment  
23 was deemed to be of public interest, Defendants acted with actual malice.  
24  
25  
26

1           9.12 Actual malice exists when there is “knowledge of the falsity or reckless  
2 disregard of the truth or falsity of the statement.” *Maison de France, Ltd. v. Mais Ouil,*  
3 *Inc.*, 126 Wn. App. 34, 44, 108 P.3d 787 (2005). Reckless disregard “requires evidence  
4 that the publisher was plagued with serious doubts as to the truth of the statement.”  
5 *Alpine Indus. Computers, Inc.*, 114 Wn. App. at 394.

6           9.13 Defendant Daiya is chargeable with the knowledge possessed by its  
7 agents or employees. See, e.g., *State ex rel. Hayes Oyster Co. v. Keypoint Oyster Co.*,  
8 64 Wn.2d 375, 386, 394 P.2d 979 (1964).

9           9.14 Defendants’ statements made to MQAC and to Plaintiff Tran’s potential  
10 employers, were not only false, at the time Defendants’ published these statements,  
11 Defendants knew they were false, or had a high degree of awareness of their probable  
12 falsity and had completely failed to even investigate their accuracy. Thus, Defendants  
13 acted with actual malice.

14           9.15 A defamatory publication is libelous per se (actionable without proof of  
15 special damages) if it (1) exposes a living person to hatred, contempt, ridicule or  
16 obloquy, to deprive him of the benefit of public confidence or social intercourse, or  
17 (2) injures him in his business, trade, profession or office.” *Maison de France, Ltd. v.*  
18 *Mais Ouil, Inc.*, 126 Wn. App. 34, 44–45, 108 P.3d 787 (2005) (citing *Caruso v. Local*  
19 *Union No. 690 of Int’l Brotherhood of Teamsters*, 100 Wn.2d 343, 353, 670 P.2d 240  
20 (1983)). A publication is also libelous per se if it imputes to the plaintiff criminal conduct  
21 involving moral turpitude. *Id.*

22           9.16 Defendants’ statements described above constitute per se defamation.  
23  
24  
25  
26

1 9.17 Because of Defendants' malicious defamatory statements, Plaintiff Tran's  
2 reputation suffered severe damage and Plaintiff Tran has had many potential employers  
3 refuse to employ her citing Defendants' false and defamatory statements as the reason.

4 9.18 As a result of Defendants' defamatory actions, Plaintiff Tran has suffered  
5 serious damages personally, professionally, economically and emotionally.

6 9.19 The service of this complaint, together with a summons, satisfies the  
7 requirements of the Uniform Correction or Clarification of Defamation Act, without the  
8 need for a prior request for correction, because it "[s]pecifies with particularity the  
9 statement alleged to be false and defamatory or otherwise actionable and, to the extent  
10 known, the time and place of publication," and it "[a]lleges the defamatory meaning of  
11 the statement[s][.]" See RCW 7.96.040(3)(b)-(c).  
12

13 9.20 Plaintiff Tran is entitled to actual and exemplary damages, including but  
14 not limited to damages for reputational harm and lost income.

15 **VIII. EIGHTH CAUSE OF ACTION**  
16 **FALSE LIGHT**

17 10.1 Washington has adopted Restatement (Second) of Torts § 652E,  
18 recognizing invasion of privacy by false light as an independent claim. *Eastwood v.*  
19 *Cascade Broad. Co.*, 106 Wn.2d 466, 471, 473-74, 722 P.2d 1295 (1986). Defamation  
20 and invasion of privacy by false light are similar, yet distinct, causes of action. *Id.*  
21 Although both actions rest on the disclosure of false or misleading information, they  
22 require different elements and allow for recovery of different damages. *Id.*  
23

24 10.2 Defendants are liable for an invasion of privacy by false light when they  
25 publish statements that place a plaintiff in a false light if (1) the false light would be  
26

1 highly offensive and (2) defendants knew of or recklessly disregarded the falsity of the  
2 publication and the subsequent false light it would place the plaintiff in. *Eastwood*,  
3 106 Wn.2d at 470-71.

4 10.3 Tran is not a public figure and no actual malice by Defendants is required  
5 to establish a false light claim.

6 10.4 Defendants knew or recklessly disregarded the falsity of their highly  
7 offensive statements to Tran's prospective employers and to MQAC and the false light  
8 that these statements would place Tran in.

9 10.5 Because of Defendants' false and highly offensive statements that placed  
10 Tran in a false light, Plaintiff Tran has suffered serious damages personally,  
11 professionally, economically and emotionally.  
12

13 **IX. NINTH CAUSE OF ACTION**  
14 **NEGLIGENT AND/OR INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

15 11.1 Defendants are liable for intentional infliction of emotional distress or  
16 outrage when they engage in extreme or outrageous conduct that is intended to cause  
17 emotional distress and does cause severe emotional distress to a plaintiff. *Dicomes v.*  
18 *State*, 113 Wn.2d 612, 630, 782 P.2d 1002 (1989).

19 11.2 Defendants deliberately made up false accusations described above for  
20 the sole purpose of justifying Tran's termination and published them to a variety of  
21 others to persecute Tran, ruin her career and deny her employment.  
22

23 11.3 Defendants intentionally and knowingly made false statements to the  
24 MQAC and to Plaintiff's prospective employers.

25 11.4 The false accusations were humiliating, offensive and outrageous.  
26



1 11.5 Defendants made up accusations with the intent of deliberately harming  
2 Plaintiff Tran and preventing her from working as a Physician Assistant.

3 11.6 Defendants' actions were so outrageous as to be totally intolerable in a  
4 civilized community.

5 11.7 As a result of Defendants' outrageous conduct, Tran sustained severe  
6 harm and emotional distress.

7 11.8 Defendants are liable to Tran for any and all damages resulting from their  
8 outrageous and abusive actions.

9  
10 **X. TENTH CAUSE OF ACTION**  
11 **INTENTIONAL INTERFERENCE WITH A BUSINESS EXPECTANCY**

12 12.1 Defendants are liable for intentional interference with a business  
13 expectancy when they (1) had knowledge of the existence of the business expectancy;  
14 (2) intentionally interfered inducing or causing termination of the expectancy;  
15 (3) interfered for an improper purpose or used improper means; and (4) as a result  
16 caused damage to plaintiff. *Greensung Group, LLC v. City of Bellevue*, 7 Wn. App. 754,  
17 768 (2019).

18 12.2 Tran's prospective employers contacted Defendants regarding prospective  
19 employment opportunities for Tran.

20 12.3 Defendants had knowledge of those business expectancies by virtue of  
21 receiving contact from potential employers of Tran.

22 12.4 Defendants intentionally provided false and damaging information to  
23 prospective employers and to others regarding Tran.  
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DATED this 26<sup>th</sup> day of April, 2021.

GORDON THOMAS HONEYWELL LLP

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ATTORNEYS FOR PLAINTIFF

**IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
FOR THE COUNTY OF KING**

NGOC TRAN AND MARKITA GUIDEN		NO. 21-2-05474-5 KNT
Plaintiff(s)		ORDER SETTING CIVIL CASE SCHEDULE
vs		ASSIGNED JUDGE: PORT, Dept. 51
DAIYA HEALTHCARE PLLC, ET AL		FILED DATE: 04/26/2021
Defendant(s)		TRIAL DATE: 04/25/2022

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A civil case has been filed in the King County Superior Court and will be managed by the Case Schedule on Page 3 as ordered by the King County Superior Court Presiding Judge.

**I. NOTICES .**

**NOTICE TO PLAINTIFF:** The Plaintiff may serve a copy of this **Order Setting Case Schedule (Schedule)** on the Defendant(s) along with the **Summons and Complaint/Petition**. Otherwise, the Plaintiff shall serve the *Schedule* on the Defendant(s) within 10 days after the later of: (1) the filing of the **Summons and Complaint/Petition** or (2) service of the Defendant's first response to the **Complaint/Petition**, whether that response is a **Notice of Appearance**, a response, or a Civil Rule 12 (CR 12) motion. The *Schedule* may be served by regular mail, with proof of mailing to be filed promptly in the form required by Civil Rule 5 (CR 5).

**NOTICE TO ALL PARTIES:**

All attorneys and parties should make themselves familiar with the King County Local Rules [*KCLCR*] -- especially those referred to in this *Schedule*. In order to comply with the *Schedule*, it will be necessary for attorneys and parties to pursue their cases vigorously from the day the case is filed. For example, discovery must be undertaken promptly in order to comply with the deadlines for joining additional parties, claims, and defenses, for disclosing possible witnesses [*See KCLCR 26*], and for meeting the discovery cutoff date [*See KCLCR 37(g)*].

**You are required to give a copy of these documents to all parties in this case.**

**I. NOTICES (continued)**

**CROSSCLAIMS, COUNTERCLAIMS AND THIRD PARTY COMPLAINTS:**

A filing fee of \$240 must be paid when any answer that includes additional claims is filed in an existing case.

**KCLCR 4.2(a)(2)**

A Confirmation of Joinder, Claims and Defenses or a Statement of Arbitrability must be filed by the deadline in the schedule. The court will review the confirmation of joinder document to determine if a hearing is required. If a Show Cause order is issued, all parties cited in the order must appear before their Chief Civil Judge.

**PENDING DUE DATES CANCELED BY FILING PAPERS THAT RESOLVE THE CASE:**

When a final decree, judgment, or order of dismissal of all parties and claims is filed with the Superior Court Clerk's Office, and a courtesy copy delivered to the assigned judge, all pending due dates in this *Schedule* are automatically canceled, including the scheduled Trial Date. It is the responsibility of the parties to 1) file such dispositive documents within 45 days of the resolution of the case, and 2) strike any pending motions by notifying the bailiff to the assigned judge.

Parties may also authorize the Superior Court to strike all pending due dates and the Trial Date by filing a *Notice of Settlement* pursuant to KCLCR 41, and forwarding a courtesy copy to the assigned judge. If a final decree, judgment or order of dismissal of all parties and claims is not filed by 45 days after a *Notice of Settlement*, the case may be dismissed with notice.

If you miss your scheduled Trial Date, the Superior Court Clerk is authorized by KCLCR 41(b)(2)(A) to present an *Order of Dismissal*, without notice, for failure to appear at the scheduled Trial Date.

**NOTICES OF APPEARANCE OR WITHDRAWAL AND ADDRESS CHANGES:**

*All parties to this action must keep the court informed of their addresses.* When a Notice of Appearance/Withdrawal or Notice of Change of Address is filed with the Superior Court Clerk's Office, parties must provide the assigned judge with a courtesy copy.

**ARBITRATION FILING AND TRIAL DE NOVO POST ARBITRATION FEE:**

A Statement of Arbitrability must be filed by the deadline on the schedule **if the case is subject to mandatory arbitration** and service of the original complaint and all answers to claims, counterclaims and cross-claims have been filed. If mandatory arbitration is required after the deadline, parties must obtain an order from the assigned judge transferring the case to arbitration. **Any party filing a Statement must pay a \$250 arbitration fee.** If a party seeks a trial de novo when an arbitration award is appealed, a fee of \$400 and the request for trial de novo must be filed with the Clerk's Office Cashiers.

**NOTICE OF NON-COMPLIANCE FEES:**

All parties will be assessed a fee authorized by King County Code 4A.630.020 whenever the Superior Court Clerk must send notice of non-compliance of schedule requirements and/or Local Civil Rule 41.

King County Local Rules are available for viewing at [www.kingcounty.gov/courts/clerk](http://www.kingcounty.gov/courts/clerk).

## II. CASE SCHEDULE

* CASE EVENT	EVENT DATE
Case Filed and Schedule Issued.	04/26/2021
* Last Day for Filing Statement of Arbitrability without a Showing of Good Cause for Late Filing [See KCLMAR 2.1(a) and Notices on Page 2]. <b>\$220 arbitration fee must be paid</b>	10/04/2021
* <b>DEADLINE</b> to file Confirmation of Joinder if not subject to Arbitration [See KCLCR 4.2(a) and Notices on Page 2].	10/04/2021
<b>DEADLINE</b> for Hearing Motions to Change Case Assignment Area [KCLCR 82(e)].	10/18/2021
<b>DEADLINE</b> for Disclosure of Possible Primary Witnesses [See KCLCR 26(k)].	11/22/2021
<b>DEADLINE</b> for Disclosure of Possible Additional Witnesses [See KCLCR 26(k)].	01/03/2022
<b>DEADLINE</b> for Jury Demand [See KCLCR 38(b)(2)].	01/18/2022
<b>DEADLINE</b> for a Change in Trial Date [See KCLCR 40(e)(2)].	01/18/2022
<b>DEADLINE</b> for Discovery Cutoff [See KCLCR 37(g)].	03/07/2022
<b>DEADLINE</b> for Engaging in Alternative Dispute Resolution [See KCLCR 16(b)].	03/28/2022
<b>DEADLINE:</b> Exchange Witness & Exhibit Lists & Documentary Exhibits [KCLCR 4(j)].	04/04/2022
* <b>DEADLINE</b> to file Joint Confirmation of Trial Readiness [See KCLCR 16(a)(1)]	04/04/2022
<b>DEADLINE</b> for Hearing Dispositive Pretrial Motions [See KCLCR 56; CR 56].	04/11/2022
* Joint Statement of Evidence [See KCLCR 4 (k)]	04/18/2022
<b>DEADLINE</b> for filing Trial Briefs, Proposed Findings of Fact and Conclusions of Law and Jury Instructions (Do not file proposed Findings of Fact and Conclusions of Law with the Clerk)	04/18/2022
Trial Date [See KCLCR 40].	04/25/2022

The \* indicates a document that must be filed with the Superior Court Clerk's Office by the date shown.

## III. ORDER

Pursuant to King County Local Rule 4 [KCLCR 4], IT IS ORDERED that the parties shall comply with the schedule listed above. Penalties, including but not limited to sanctions set forth in Local Rule 4(g) and Rule 37 of the Superior Court Civil Rules, may be imposed for non-compliance. It is FURTHER ORDERED that the party filing this action must serve this *Order Setting Civil Case Schedule* and attachment on all other parties.

DATED: 04/26/2021



\_\_\_\_\_  
PRESIDING JUDGE

#### IV. ORDER ON CIVIL PROCEEDINGS FOR ASSIGNMENT TO JUDGE

##### **READ THIS ORDER BEFORE CONTACTING YOUR ASSIGNED JUDGE.**

This case is assigned to the Superior Court Judge whose name appears in the caption of this case schedule. The assigned Superior Court Judge will preside over and manage this case for all pretrial matters.

**COMPLEX LITIGATION:** If you anticipate an unusually complex or lengthy trial, please notify the assigned court as soon as possible.

**APPLICABLE RULES:** Except as specifically modified below, all the provisions of King County Local Civil Rules 4 through 26 shall apply to the processing of civil cases before Superior Court Judges. The local civil rules can be found at [www.kingcounty.gov/courts/clerk/rules/Civil](http://www.kingcounty.gov/courts/clerk/rules/Civil).

**CASE SCHEDULE AND REQUIREMENTS:** Deadlines are set by the case schedule, issued pursuant to Local Civil Rule 4.

##### **THE PARTIES ARE RESPONSIBLE FOR KNOWING AND COMPLYING WITH ALL DEADLINES IMPOSED BY THE COURT'S LOCAL CIVIL RULES.**

##### **A. Joint Confirmation regarding Trial Readiness Report**

No later than twenty one (21) days before the trial date, parties shall complete and file (with a copy to the assigned judge) a joint confirmation report setting forth whether a jury demand has been filed, the expected duration of the trial, whether a settlement conference has been held, and special problems and needs (e.g., interpreters, equipment).

The Joint Confirmation Regarding Trial Readiness form is available at [www.kingcounty.gov/courts/scforms](http://www.kingcounty.gov/courts/scforms). If parties wish to request a CR 16 conference, they must contact the assigned court. Plaintiff's/petitioner's counsel is responsible for contacting the other parties regarding the report.

##### **B. Settlement/Mediation/ADR**

a. Forty five (45) days before the trial date, counsel for plaintiff/petitioner shall submit a written settlement demand. Ten (10) days after receiving plaintiff's/petitioner's written demand, counsel for defendant/respondent shall respond (with a counter offer, if appropriate).

b. Twenty eight (28) days before the trial date, a Settlement/Mediation/ADR conference shall have been held. **FAILURE TO COMPLY WITH THIS SETTLEMENT CONFERENCE REQUIREMENT MAY RESULT IN SANCTIONS.**

##### **C. Trial**

Trial is scheduled for 9:00 a.m. on the date on the case schedule or as soon thereafter as convened by the court. The Friday before trial, the parties should access the court's civil standby calendar on the King County Superior Court website [www.kingcounty.gov/courts/superiorcourt](http://www.kingcounty.gov/courts/superiorcourt) to confirm the trial judge assignment.

#### **MOTIONS PROCEDURES**

##### **A. Noting of Motions**

**Dispositive Motions:** All summary judgment or other dispositive motions will be heard with oral argument before the assigned judge. The moving party must arrange with the hearing judge a date and time for the hearing, consistent with the court rules. Local Civil Rule 7 and Local Civil Rule 56 govern procedures for summary judgment or other motions that dispose of the case in whole or in part. The local civil rules can be found at [www.kingcounty.gov/courts/clerk/rules/Civil](http://www.kingcounty.gov/courts/clerk/rules/Civil).

**Non-dispositive Motions:** These motions, which include discovery motions, will be ruled on by the assigned judge without oral argument, unless otherwise ordered. All such motions must be noted for a date by which the ruling is requested; this date must likewise conform to the applicable notice requirements. Rather than noting a time of day, the Note for Motion should state "Without Oral Argument." Local Civil Rule

7 governs these motions, which include discovery motions. The local civil rules can be found at [www.kingcounty.gov/courts/clerk/rules/Civil](http://www.kingcounty.gov/courts/clerk/rules/Civil).

**Motions in Family Law Cases not involving children:** Discovery motions to compel, motions in limine, motions relating to trial dates and motions to vacate judgments/dismissals shall be brought before the assigned judge. All other motions should be noted and heard on the Family Law Motions calendar. Local Civil Rule 7 and King County Family Law Local Rules govern these procedures. The local rules can be found at [www.kingcounty.gov/courts/clerk/rules](http://www.kingcounty.gov/courts/clerk/rules).

**Emergency Motions:** Under the court's local civil rules, emergency motions will usually be allowed only upon entry of an Order Shortening Time. However, some emergency motions may be brought in the Ex Parte and Probate Department as expressly authorized by local rule. In addition, discovery disputes may be addressed by telephone call and without written motion, if the judge approves in advance.

**B. Original Documents/Working Copies/ Filing of Documents:** All original documents must be filed with the Clerk's Office. Please see information on the Clerk's Office website at [www.kingcounty.gov/courts/clerk](http://www.kingcounty.gov/courts/clerk) regarding the requirement outlined in LGR 30 that attorneys must e-file documents in King County Superior Court. The exceptions to the e-filing requirement are also available on the Clerk's Office website. The local rules can be found at [www.kingcounty.gov/courts/clerk/rules](http://www.kingcounty.gov/courts/clerk/rules).

The working copies of all documents in support or opposition must be marked on the upper right corner of the first page with the date of consideration or hearing and the name of the assigned judge. The assigned judge's working copies must be delivered to his/her courtroom or the Judges' mailroom. Working copies of motions to be heard on the Family Law Motions Calendar should be filed with the Family Law Motions Coordinator. Working copies can be submitted through the Clerk's office E-Filing application at [www.kingcounty.gov/courts/clerk/documents/eWC](http://www.kingcounty.gov/courts/clerk/documents/eWC).

**Service of documents:** Pursuant to Local General Rule 30(b)(4)(B), e-filed documents shall be electronically served through the e-Service feature within the Clerk's eFiling application. Pre-registration to accept e-service is required. E-Service generates a record of service document that can be e-filed. Please see the Clerk's office website at [www.kingcounty.gov/courts/clerk/documents/efiling](http://www.kingcounty.gov/courts/clerk/documents/efiling) regarding E-Service.

**Original Proposed Order:** Each of the parties must include an original proposed order granting requested relief with the working copy materials submitted on any motion. **Do not file the original of the proposed order with the Clerk of the Court.** Should any party desire a copy of the order as signed and filed by the judge, a pre-addressed, stamped envelope shall accompany the proposed order. The court may distribute orders electronically. Review the judge's website for information: [www.kingcounty.gov/courts/SuperiorCourt/judges](http://www.kingcounty.gov/courts/SuperiorCourt/judges).

**Presentation of Orders for Signature:** All orders must be presented to the assigned judge or to the Ex Parte and Probate Department, in accordance with Local Civil Rules 40 and 40.1. Such orders, if presented to the Ex Parte and Probate Department, shall be submitted through the E-Filing/Ex Parte via the Clerk application by the attorney(s) of record. E-filing is not required for self-represented parties (non-attorneys). If the assigned judge is absent, contact the assigned court for further instructions. If another judge enters an order on the case, counsel is responsible for providing the assigned judge with a copy.

**Proposed orders finalizing settlement and/or dismissal by agreement of all parties shall be presented to the Ex Parte and Probate Department.** Such orders shall be submitted through the E-Filing/Ex Parte via the Clerk application by the attorney(s) of record. E-filing is not required for self-represented parties (non-attorneys). Formal proof in Family Law cases must be scheduled before the assigned judge by contacting the bailiff, or formal proof may be entered in the Ex Parte Department. **If final order and/or formal proof are entered in the Ex Parte and Probate Department, counsel is responsible for providing the assigned judge with a copy.**

### C. Form

Pursuant to Local Civil Rule 7(b)(5)(B), the initial motion and opposing memorandum shall not exceed 4,200 words and reply memoranda shall not exceed 1,750 words without authorization of the court. The word count



includes all portions of the document, including headings and footnotes, except 1) the caption; 2) table of contents and/or authorities, if any; and 3) the signature block. Over-length memoranda/briefs and motions supported by such memoranda/briefs may be stricken.

**IT IS SO ORDERED. FAILURE TO COMPLY WITH THE PROVISIONS OF THIS ORDER MAY RESULT IN DISMISSAL OR OTHER SANCTIONS. PLAINTIFF/PETITIONER SHALL FORWARD A COPY OF THIS ORDER AS SOON AS PRACTICABLE TO ANY PARTY WHO HAS NOT RECEIVED THIS ORDER.**



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PRESIDING JUDGE

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The Honorable Cindi Port

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

NGOC TRAN and MARKITA GUIDEN,

Plaintiff,

vs.

DAIYA HEALTHCARE PLLC, a Washington professional limited liability company; and BHUPINDER WALIA and "JANE DOE" WALIA, and their marital community;

Defendants.

NO. 21-2-05474-5 KNT

**NOTICE OF APPEARANCE OF DAIYA HEALTHCARE PLLC AND BHUPINDER WALIA**


COMES NOW Defendants Daiya Healthcare PLLC, a Washington professional limited liability company and Bhupinder Walia, and hereby enter their appearance in the above-entitled action through Erin C. Seeberger of Bennett Bigelow & Leedom, P.S. as attorneys of record, and requests that all further pleadings herein, exclusive of process, be served upon said attorneys at their office address below stated.

Erin C. Seeberger  
Bennett Bigelow & Leedom, P.S.  
601 Union Street, Suite 1500  
Seattle, WA 98101  
T: (206) 622-5511  
F: (206) 622-8986

You are not authorized to serve pleadings or papers by use of facsimile or electronic mail unless specifically negotiated with an attorney in the firm.

1 DATED this 3rd day of May, 2021.

2 BENNETT BIGELOW & LEEDOM, P.S.

3  
4 By:   
5 Erin C. Seeberger, WSBA #43809  
6 Attorneys for Defendants  
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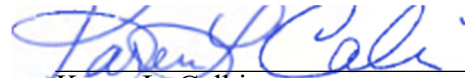
**CERTIFICATE OF SERVICE**

The undersigned hereby certifies under penalty of perjury under the laws of the state of Washington, that I am now, and at all times material hereto, a resident of the state of Washington, over the age of 18 years, not a party to, nor interested in the above entitled action, and competent to be a witness herein. I caused to be served, pursuant to CR5(b)(7), on this date the foregoing in the manner indicated to the parties listed below:

***Counsel for Plaintiff***  
Stephanie Bloomfield  
Andrea H. McNeely  
Law Office of Gordon Thomas Honeywell, LLP  
1201 Pacific Avenue, Suite 2100  
Post Office Box 1157  
Tacoma, WA 98401-1157  
sbloomfield@gth-law.com  
amcneely@gth-law.com

- Legal Messenger
- Facsimile
- ECF/Email
- 1<sup>st</sup> Class mail
- Federal Express

DATED this 3rd day of May, 2021.

  
\_\_\_\_\_  
Karen L. Calkins  
Legal Assistant