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CHARLENE HASTINGS

7
8 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **IN AND FOR THE COUNTY OF SAN FRANCISCO**
10 **UNLIMITED CIVIL CASE**

11 CHARLENE HASTINGS,

12 Plaintiffs,

13 v.

14 SETON MEDICAL CENTER and DOES 1
15 through 50, inclusive,

16 Defendants.

Case No.:

**COMPLAINT FOR DAMAGES;
REQUEST FOR INJUNCTION**

1. **VIOLATION OF THE RALPH
CIVIL RIGHTS ACT (CIV. CODE
§ 51.7);**
2. **INTENTIONAL INFLICTION OF
EMOTIONAL DISTRESS**

DEMAND FOR A JURY TRIAL

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22 Comes now Charlene Hastings, Plaintiff in the above action, and files this Complaint, seeking
23 damages and injunctive relief, and further alleges as follows:

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PARTIES

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2 1. The true names and capacities of the Defendants, DOES 1 through 50, whether individual,
3 corporate, associate or otherwise, are unknown to Plaintiff at the time of filing this Complaint and
4 Plaintiff, therefore, sues said Defendants by such fictitious names and will ask leave of Court to
5 amend this Complaint to show their true names or capacities when the same have been ascertained.
6 Plaintiff is informed and believes, and thereupon alleges, that each of the DOE Defendants is, in some
7 manner, responsible for the events and happenings herein set forth and proximately caused injury and
8 damages to the Plaintiff as herein alleged.

9 2. Plaintiff is informed and believes, and thereupon alleges, that at all times herein mentioned,
10 each of the Defendants was the agent, employee, servant, co-venturer, and/or employee of each of the
11 other Defendants and was at all times herein mentioned acting within the scope of said agency,
12 venture, and/or employment and with actual or ostensible authority and/or agency and that each of the
13 Defendants ratified the actions and/or conduct of the others.

14 3. Plaintiff CHARLENE HASTINGS, a woman, was at all relevant times, actually and/or
15 perceived, to be transsexual. Plaintiff is informed and believes, and thereupon alleges, that her status
16 as a transsexual was known, communicated to and/or perceived by the Defendants and others during
17 events herein.

18 4. Defendant SETON MEDICAL CENTER (hereinafter "SETON") and/or Defendants DOES
19 1-25, are and were at all times herein mentioned a health care provider serving the public, created and
20 existing under the laws of the State of California.

21 5. Plaintiff is informed and believes, and thereupon alleges, Defendants VICKI VIRI (hereinafter
22 "VIRI") was SETON's Outpatient Surgery Manager at all times herein mentioned, and was
23 responsible for communicating the general policy and/or the specific decision to prohibit Plaintiff's
24 surgery from taking place in SETON's facilities.

25 6. Plaintiff is informed and believes, and thereupon alleges, Defendant BERNADETTE SMITH
26 (hereinafter "SMITH") was SETON's Hospital Administrator at all times herein mentioned, and was
27 responsible for among other things, providing input into, making, implementing, and/or supervision of
28 adherence to the policies of SETON.

1 7. Defendants DOES 1-50 are herein sued under fictitious names. Their true names and identities
2 are unknown to Plaintiff. Plaintiff is informed and believes and thereon alleges that Defendants
3 DOES 1-25 are business organizations of unknown form, existing as subsidiaries, parent organizations
4 and/or otherwise related entities to Defendant SETON, who were the employers of the Plaintiff and/or
5 Defendants SMITH, VIRI, and/or DOES 26-50, and each of them (hereinafter jointly “CORPORATE
6 DEFENDANTS”). Plaintiff is informed and believes and thereon alleges that Defendants DOES 26-
7 50 were the employees, officers, directors, managing agents, and/or supervisors of CORPORATE
8 DEFENDANTS, and each of them, who were acting within the course and scope of their employment
9 and/or authority at all times relevant to this Complaint.

12 **VENUE AND JURISDICTION**

13 8. Venue in this court is proper as the injuries to the Plaintiff occurred within the City and County
14 of San Francisco and the CORPORATE DEFENDANTS regularly seek to avail themselves of the
15 subject jurisdiction for the purposes of obtaining additional clients and/or providing services to
16 existing clients.

17 9. Subject matter in this action is properly heard in this Court, as the action incorporates an
18 amount in controversy as set forth in this complaint exceeds \$25,000.00.

19 10. At all times mentioned herein, California Civil Code Section 51.7, 52, and 52.1, were in full
20 force and effect, and were binding upon Defendants.

21 11. Within the time provided by law, Plaintiff filed a complaint with the Department of Fair
22 Employment and Housing and received a right-to-sue letter in response. Plaintiff now timely files this
23 action.

25 **FACTS COMMON TO ALL CAUSES OF ACTION**

26 12. By the fall of 2006, Plaintiff HASTINGS had completed gender reassignment surgery after
27 having been in the care of numerous physicians and undergoing extensive evaluations.

28 13. Plaintiff’s birth gender was male, but, by the fall of 2006, Plaintiff’s gender was female.

1 14. Subsequent to Plaintiff's gender reassignment surgery, Plaintiff sought to further advance her
2 gender reassignment by having breast augmentation surgery. Plaintiff is informed and believes, and
3 thereupon alleges, that surgeon Dr. Leonard Gray was willing and/or prepared to complete a breast
4 augmentation for Plaintiff on or around October, 2006.

5 15. Plaintiff is informed and believes, and thereupon alleges, that Dr. Leonard Gray often
6 performed surgeries at CORPORATE DEFENDANTS' facilities.

7 16. Plaintiff is informed and believes, and thereupon alleges, that CORPORATE DEFENDANTS
8 refused to allow Plaintiff's surgery to occur in CORPORATE DEFENDANTS' facilities after learning
9 that Plaintiff's birth gender did not match her gender at the time she sought the medical care in the fall
10 of 2006.

11 17. On or about October 24, 2006, VIRI told Plaintiff that CORPORATE DEFENDANTS would
12 not allow its facilities to be used for her surgery as "God made you a man."

13 18. Plaintiff is informed and believes, and thereupon alleges, that the policy of CORPORATE
14 DEFENDANTS to preclude individuals with a current gender different from their birth gender from
15 access and/or use of CORPORATE DEFENDANTS' facilities and/or other services, was established,
16 propagated, supported, enforced, and/or otherwise overseen by Defendant SMITH and/or DOES 26-
17 50.

18 19. Plaintiff is informed and believes, and thereupon alleges, that CORPORATE DEFENDANTS
19 and/or its employees sought to preclude Plaintiff from access to health care services on the basis of
20 Plaintiff's birth gender and then existing gender being different. Plaintiff is further informed and
21 believes, and thereupon alleges, that the exclusion of transsexuals from health care services and/or use
22 of facilities for procedures related to gender reassignment is the policy of CORPORATE
23 DEFENDANTS.

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25 **FIRST CAUSE OF ACTION**
26 **Violation of Unruh Civil Rights Act**
(Against ALL DEFENDANTS)

27 20. Plaintiff incorporates by reference the allegations contained in the above paragraphs, and each and
28 every part thereof with the same force and effect as though set out at length herein.

1 21. Plaintiff was subjected to the above referenced conduct including but not limited to harassment
2 and/or discrimination on the basis of gender at the hands of Defendants.

3 22. Plaintiff is informed and believes, and thereupon alleges that she was targeted for harassment
4 and/or discrimination on the basis of gender by Defendants because her gender at the time she sought
5 health care services and/or use of CORPORATE DEFENDANTS' facilities was not the same as her
6 birth gender.

7 23. Plaintiff is informed and believes, and thereupon alleges, that it was the routine practice and/or
8 defacto policy of Defendants to target, deny services and/or access to facilities to transsexual
9 individuals.

10 24. As a direct and proximate result of Defendants unlawful conduct, Plaintiff has suffered special
11 damages to be proven at time of trial.

12 25. As a direct and proximate result of Defendants unlawful conduct, Plaintiff has suffered general
13 damages including but not limited to shock, embarrassment, intimidation, physical distress and injury,
14 humiliation, fear, stress and other damages to be proven at the time of trial.

15 26. Plaintiff is informed and believes, and thereupon alleges, that Defendants, and each of them,
16 committed the acts herein alleged maliciously and oppressively in conscious disregard for Plaintiff's
17 rights. Plaintiff is entitled to recover punitive damages in an amount according to proof.

18 27. As a result of the conduct of Defendants, and each of them, Plaintiff was forced to retain an
19 attorney in order to protect her rights. Accordingly, Plaintiff seeks the reasonable attorneys fees
20 incurred in this litigation in an amount according to proof at trial and other relief as requested in
21 Plaintiff's prayer for relief below.

22 28. Plaintiff requests an injunction against Defendants to prohibit the targeting of actual and/or
23 perceived transsexual, transgendered, and/or gender non-conforming status in the provision of health
24 care services and/or access to health care facilities.

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26 WHEREFORE, Plaintiff prays for relief as set forth below.
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1 **SECOND CAUSE OF ACTION**
2 **Intentional Infliction of Emotional Distress**
3 **(Against ALL DEFENDANTS)**

4 29. Plaintiff re-alleges the allegations set forth in paragraphs 1-28, *supra*, and incorporates them
5 herein by reference as though set forth here in full.

6 30. By the conduct alleged above, which is prohibited under California Civil Code §§ 51 and 52, et
7 seq., the California Constitution, and the public policy of the State of California, Defendants, and each
8 of them, acted outrageously, with the intention to cause, or with reckless disregard of the probability
9 of causing Plaintiff severe emotional distress. This conduct, which was unprivileged and unwanted by
10 Plaintiff, actually and proximately caused Plaintiff severe emotional distress.

11 31. Defendants, and each of them, harmed Plaintiff because those actions caused her to suffer
12 humiliation, embarrassment, mental anguish, and emotional distress. The actions of Defendants, and
13 each of them, injured Plaintiff's mind and body. As a result of such unlawful conduct and consequent
14 harm, Plaintiff suffered damages that will be proven at trial.

15 32. The conduct of Defendants proximately caused Plaintiff to suffer, and to continue to suffer,
16 damages, including injuries to her person in an amount which will be proven at trial.

17 33. The malicious and/or oppressive conduct of CORPORATE DEFENDANTS, and/or
18 Defendants SMITH and VIRI, and each of them, was in reckless disregard of Plaintiff's rights and
19 therefore warrants the imposition of punitive damages.

20 WHEREFORE, Plaintiff prays for relief as set forth below.

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22 WHEREFORE, Plaintiff, CHARLENE HASTINGS prays for judgments against the Defendants, and
23 each of them, as follows:

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25 **FIRST CAUSE OF ACTION**

- 26 A. Special damages in a sum according to proof against all Defendants;
27 B. General damages in a sum according to proof against all Defendants;
28 C. For interest provided by law including, but not limited to, California Civil Code Section 3291

- 1 against all Defendants;
- 2 D. For attorney's fees as allowed by law against all Defendants;
- 3 E. Costs of suit and for such other and further relief as the court deems proper against all
- 4 Defendants;
- 5 F. For civil penalty provided by law including, but not limited to that provided by California Civil
- 6 Code Section 52 against all Defendants;
- 7 G. For punitive damages against all Defendants;
- 8 H. For injunctive relief against all Defendants prohibiting any further harassment and/or
- 9 discrimination in the provision of health care services and/or access to facilities against actual
- 10 and/or perceived transsexual, transgendered, and/or gender non-conforming status in the
- 11 provision of health care services and/or access to health care facilities.
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14 **SECOND CAUSE OF ACTION**

- 15 A. Special damages in a sum according to proof against all Defendants;
- 16 B. General damages in a sum according to proof against all Defendants;
- 17 C. For interest provided by law including, but not limited to, California Civil Code Section 3291
- 18 against all Defendants;
- 19 D. Costs of suit and for such other and further relief as the court deems proper against all
- 20 Defendants;
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- 1 E. For punitive damages against all Defendants;
2 F. For injunctive relief against all Defendants prohibiting any further harassment and/or
3 discrimination in the provision of health care services and/or access to facilities against actual
4 and/or perceived transsexual, transgendered, and/or gender non-conforming status in the
5 provision of health care services and/or access to health care facilities.
6

7 DATED: December _____, 2007

THE DOLAN LAW FIRM

8
9 By: _____
10 CHRISTOPHER B. DOLAN
11 SHAWN R. MILLER
12 Attorneys for Plaintiff
13 CHARLENE HASTINGS

14 **DEMAND FOR A JURY TRIAL**

15 DATED: December _____, 2007

THE DOLAN LAW FIRM

16
17 By: _____
18 CHRISTOPHER B. DOLAN
19 SHAWN R. MILLER
20 Attorneys for Plaintiff
21 CHARLENE HASTINGS
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