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IN THE CIRCUIT COURT FOR THE STATE OF OREGON
FOR THE COUNTY OF MARION

DANIEL “LAYNE” TARBOX,)	Case No. <u>24CV51489</u>
)	
Plaintiff,)	COMPLAINT–Unlawful Employment
)	Practices in Violation of ORS 659A.199 and
v.)	Intentional Infliction of Severe Emotional
)	Distress
NORTHWEST PERMANENTE, P.C., a)	
Domestic Business Corporation,)	(Prayer: \$8,250,000.00)
)	
Defendant.)	(Fee Authority; ORS 21.160(d))
)	
)	(Jury Trial Requested; Not Subject to
)	Mandatory Arbitration)

16 Plaintiff alleges:

17 **JURISDICTION AND VENUE**

18 1.

19 Plaintiff, Daniel “Layne” Tarbox (“Plaintiff”), is a resident of Marion County, Oregon.
20 Defendant, Northwest Permanente P.C., (“NWP”) is a Domestic Business Corporation licensed
21 to do business in the state of Oregon and is a person pursuant to ORS 659A.001(9).

22 2.

23 Venue is appropriate in this Court, because NWP employed Plaintiff in Marion County,
24 Oregon; the facts giving rise to this Complaint occurred in Marion County, Oregon; and NWP

1 conducts regularly sustained business activity in Marion County, Oregon. All conditions
2 precedent to the initiation of this Complaint have been met. Plaintiff filed a complaint with the
3 Oregon Bureau of Labor and Industries on April 11, 2024 and was sent a notice of right to sue
4 dated October 15, 2024. Plaintiff requests a jury trial in this matter.

5 **FACTUAL ALLEGATIONS**

6 3.

7 Plaintiff is a licensed radiologist and a Doctor of Medicine (“MD”) with a residency in
8 Diagnostic Radiology. Plaintiff’s profession is governed by the Oregon Medical Board and the
9 American Board of Radiology.

10 4.

11 On or about July 9, 2013, Plaintiff was hired by NWP for the position of Radiologist in
12 Salem, Oregon, and he continues to be employed by NWP in that position.

13 5.

14 Radiologists at NWP provide medical services that are typically covered and paid for by
15 health insurance and/or government funding including Medicare.

16 6.

17 Plaintiff is one of two radiologists that work at NWP’s Salem, Oregon office. Plaintiff
18 works out of this office with another radiologist assigned to the office referred to herein as
19 Plaintiff’s “Salem Partner”. In or around 2022 Plaintiff’s Salem Partner was still a relatively
20 new co-worker of Plaintiff. His Salem Partner worked primarily out of the Salem office with
21 occasional shifts at one of NWP’s Portland locations.

22 7.

23 In NWP’s Radiology Department the management structure from the top down is a
24 Director of Operations (“DO”), followed by a Chief of Radiology (“CR”), a Radiology

1 Department Executive Committee (“EC”), and then the radiologists including Plaintiff. The EC
2 is a group of department leaders that meet weekly with the DO and CR. They assist the CR with
3 management and supervision in a lead worker position over the other radiologists.

4 8.

5 In or about September 2022 Eric Poolman MD (“Poolman”) became DO for Radiology
6 following the position being vacant with the Radiology Department reporting directly to the
7 Chief Operating Officer (COO), Mary Giswold MD (“Giswold”). Winthrop Hall MD (“Hall”) was the Chief of the Radiology Department from 2014 until January 1, 2023. When Hall left,
8 there was a recruitment process and election placing Teran Colen MD (“Colen”) in the position.
9 Colen continues to be employed in that position.

10 9.

11 Joe Shen MD (“Shen”) and Dorothy Pao MD (“Pao”) are a married couple that were
12 employed by NWP as radiologists in Portland until November 2022. Shen served on the EC for
13 NWP. In Plaintiff’s duties in Salem, he had limited telephonic communications with Shen, and
14 never met Pao.

15 10.

16 In the summer of 2022, Plaintiff’s Salem Partner told Plaintiff that Shen was reading
17 examinations and/or taking shifts for Pao. At the time, Plaintiff had no reason to believe his
18 Salem Partner was referring to anything other than them swapping shifts with one another;
19 something that regularly occurs.

20 11.

21 On or about October 31, 2022, Plaintiff’s Salem Partner texted Plaintiff to explain that
22 Shen was using Pao’s credentials to read exams causing the creation of fraudulent medical
23 records, and an appearance Pao was providing medical care to patients when the care was
24

1 coming from someone else. Plaintiff reasonably believed that logging in with another
2 radiologist's credentials to read exams and document the findings was a violation of the law,
3 and the rules governing the practice of medicine. Plaintiff also reasonably believed it was a
4 crime to practice medicine without a license or to impersonate anyone to whom a license has
5 been granted by the Oregon Medical Board (ORS 677.080; ORS 677.990). Plaintiff understood
6 that a physician loses the right to practice if they go two years without practicing. Plaintiff
7 reasonably believed that Shen's conduct, if true as it was reported to him, violated the Health
8 Care Fraud statute, as well as insurance fraud.

9 12.

10 On or about November 3, 2022, Plaintiff's Salem Partner told him that their colleagues
11 in Portland had not seen Pao in over two years. Plaintiff's Salem Partner said, "we don't even
12 know if she's OK." Plaintiff responded asking, "has anyone talked with Joe [Shen]?" Plaintiff
13 asked, "why don't I just call Joe?" Plaintiff's Salem Partner said, "don't do that, he can be really
14 vindictive." Plaintiff's Salem Partner recommended contacting EC member Christina Blecher,
15 MD ("Blecher") instead. According to Plaintiff's Salem Partner, Blecher had tried to report this
16 a year earlier. Plaintiff's Salem Partner said the colleagues in Portland were calling this "the
17 DOJO problem" referencing Dorothy (Pao) and Joe (Shen). Plaintiff contacted Blecher and
18 disclosed what he learned from his Salem Partner via text message then by a telephone call.
19 Plaintiff asked Blecher if the information provided by his Salem Partner was true. Plaintiff
20 understood that Blecher worked closely with Shen. Blecher stated that the year prior she had
21 reported similar information "up the chain" to Hall, and the conversation "didn't go well."
22 Plaintiff asked Blecher, "[S]o is this pretty much a "worst-kept secret" in the department?", and
23 Blecher replied in the affirmative. Blecher agreed that it would be a problem if Pao and Shen's
24 conduct ever got out of the Radiology Department.

1 13.

2 The communication with Blecher caused Plaintiff greater concern that NWP was
3 violating the law, placing the Radiology Department and patients at risk, and actively covering
4 up evidence supporting the disclosures Plaintiff made.

5 14.

6 On or about November 4, 2022 (a Friday afternoon), Plaintiff reached out directly to
7 Shen to determine if the allegations were true and make sure Pao was doing well. Plaintiff sent
8 text messages to Shen stating he had some departmental concerns and requesting to speak with
9 him. Shen called Plaintiff at 2:30 pm and they spoke until 3:20 pm. When Shen called Plaintiff,
10 Shen stated that he thought Plaintiff was concerned about the CR selection process. Plaintiff
11 asked Shen about him logging in using his wife's credentials. Shen stated that he has done more
12 for the Radiology Department than anyone. Shen stated the Radiology Department would "crash
13 and burn" without him. Shen stated that "goody two shoes ingrates" should mind their own
14 business. Shen was evasive and attempted to change the subject to his value to NWP as well as
15 their supervisor's failures. Shen stated that Hall was not doing the required clinical work, had
16 been "checked out for the past 3 years," and Shen was running the Radiology Department. Shen
17 stated he met with Poolman and Hall about this, and Poolman confronted Hall about not doing
18 clinical work. Shen stated he stood up for a co-worker that was going to have their employment
19 terminated for not getting the vaccine. Shen discussed Shen's value to the organization and
20 people in management wanted him to seek a higher leadership position. Shen stated he helped
21 get a previous CEO removed, and Shen was dubbed "the strategist" for his work behind the
22 scenes in doing to. Shen expressed a lot of resentment towards many radiology colleagues, and
23 said, "Radiologist X might want to get rid of me, but he won't because I give him all the right
24 cases." Plaintiff found the conversation disturbing, because it appeared Shen was admitting to

1 bribing employees to keep them quiet. Shen also told Plaintiff that Shen and Pao read up to 4x a
2 normal radiologist workload. This concerned Plaintiff, because if true, Shen was doing up to 150
3 hours of work per week, which would be impossible to perform without compromising quality,
4 and creating a risk to patient care. Shen did not answer where Pao was working and denied any
5 wrongdoing. A few days later, Plaintiff reported to Blecher what he learned from the phone call.

6 15.

7 Shen's statements and demeanor caused Plaintiff to believe further investigation was
8 necessary to determine whether there was evidence to substantiate the allegations that Shen was
9 causing his department to violate the law. Given the seriousness of the allegation, and the
10 statements that NWP was aware of the allegations, Plaintiff decided he needed to be certain of
11 the veracity of the allegations before escalating the disclosures to higher management within and
12 outside the Radiology Department at NWP. Plaintiff explored how to determine if the allegations
13 were true.

14 16.

15 On or about November 7, 2022 (the following Monday), Shen called Plaintiff at work
16 about 8:00 am. Shen stated that he hoped Plaintiff did not take his ranting on Friday personally.
17 Shen stated he was frustrated because of the rumor that was spread about him. Shen stated the
18 person spreading the rumor was "[n]aive, didn't see the big picture, and suffered from a lack of
19 gratitude." Shen attempted to put Plaintiff's concerns at ease stating, "it's all Kosher, we went
20 over all of it with Eric (Poolman)." Plaintiff was distressed by what appeared to Plaintiff to be
21 Shen attempting to manipulate Plaintiff by disparaging others. Plaintiff was fearful that Shen
22 would do the same to Plaintiff.

23 ///

24 ///

1 17.

2 On or about early November 7, 2022, as Plaintiff was making disclosures to the EC that
3 he reasonably believed evidenced illegal activities and fraud, Plaintiff's Salem Partner was
4 contacted while on vacation by NWP's employees and expressed concern that Plaintiff had used
5 the term "DOJO" with Shen, that Shen was acting erratically in Portland, and that Jon Helwig
6 ("Helwig") MD was contacting her. Plaintiff's Salem Partner contacted him and stated she
7 wanted Plaintiff to stay out of the situation and stop talking to Shen.

8 18.

9 On or about November 8, 2022, Plaintiff concluded the truth of the allegations against
10 Shen and Hall could be determined utilizing NWP's Powerscribe software. Plaintiff sent a text
11 message to EC member, Cody MacMillan ("MacMillan") MD, and then spoke to him by
12 telephone sometime around 4:30 PM. Plaintiff told McMillan that he reasonably believed illegal
13 conduct and fraud had occurred, and Plaintiff believed he needed to disclose this to NWP's
14 Board of Directors ("NWP Board"). MacMillan expressed that the EC was unsure how to
15 proceed and asked for a couple of days to think about it. MacMillan volunteered that Shen had
16 pressured McMillan to become the next CR stating, "No one leans on a colleague like that."

17 19.

18 On or about November 8, 2022, after speaking with McMillan, Plaintiff contacted EC
19 member Blecher to keep her informed about the communications he had with others regarding
20 his reporting.

21 20.

22 On or about November 9, 2022, Plaintiff gathered direct evidence from Powerscribe
23 supporting the allegations against Shen. Plaintiff emailed Poolman to get additional information
24 about Hall's duties. Plaintiff texted the Radiology EC. Plaintiff was told the EC was consulting

1 with Colen regarding how to proceed. Upon information and belief, Colen was also close to Shen
2 and handpicked by Shen to be the next CR.

3 21.

4 On or about November 10, 2022, Plaintiff communicated with a co-worker in
5 Information Technology (“IT”) at NWP, Ky Gehring (“Gehring”), about using data to determine
6 what terminal a radiologist used when reading a particular study. Plaintiff was able to gain
7 information evidencing that Shen and Pao were both logged in at the same workstation, minutes
8 apart, at the Interstate clinic on September 12, 2022. This data was consistent with Shen finishing
9 reading a study for himself, logging out, and then logging back in as Pao to read the next study.

10 22.

11 On or about November 10, 2022, shortly after 8:00 AM, Plaintiff sent a text message to
12 Blecher and MacMillian requesting that they join him in disclosing the evidence he gathered
13 about Shen and Pao to the NWP Board. Plaintiff stated that he would report his findings alone if
14 needed, but he believed it would be better to report his findings along with EC members.
15 Plaintiff emailed the evidence he had gathered to them after he received it from Gehring later
16 that morning.

17 23.

18 On or about November 10, 2022, at 12:00 PM, Blecher sent a text message to Plaintiff
19 indicating that Colen was going to call Plaintiff. At the time, Plaintiff had never spoken to Colen.
20 Colen called Plaintiff and stated he was not comfortable having this conversation with Plaintiff
21 because he was not the CR yet; but that he soon would be. Colen pressured and intimidated
22 Plaintiff in an effort to stop him from making a disclosure to the NWP Board. Colen requested a
23 week so that he could determine how he wanted the situation handled with the EC. Colen wanted
24 the EC to speak with Poolman the following week during their regularly scheduled meeting.

1 Colen told Plaintiff to leave it to them. Colen stated that neither Blecher, Shen, or himself
2 wanted Plaintiff to report “up the chain” instead keeping it within the Radiology Department.
3 Colen told Plaintiff that it might not be good for Plaintiff to go forward with escalating Plaintiff’s
4 concerns to Poolman or the NWP Board. Plaintiff questioned why Colen said that. Colen did not
5 answer and instead asked Plaintiff if they could take any actions to persuade Plaintiff not to
6 report Shen’s actions. Colen asked, “would you be ok if we get Shen to stop?” Plaintiff explained
7 why Shen’s conduct needed to be disclosed to higher level management. Plaintiff then returned
8 to Colen’s earlier suggestion asking, “So how might it be bad for me if I go forward with this?”
9 Colen did not answer, and simply said, “Lunch is almost over, I have to go talk to Joe [Shen].”
10 This conversation and threat by Colen was highly distressing to Plaintiff.

11 24.

12 On or about November 10, 2022, during Plaintiff’s telephone conversation with Colen,
13 Plaintiff was concerned what Shen would do if he learned of the evidence that Plaintiff had
14 obtained against him. Plaintiff specifically asked that Colen not inform Shen of the evidence
15 Plaintiff gathered. Colen denied the request, and he responded that he was going to inform Shen.
16 Colen did not respond to Plaintiff’s concerns that Pao had not been seen at work over the
17 previous two years. Plaintiff agreed to consider waiting escalate the disclosures to higher
18 management within and outside the Radiology Department at NWP until the EC’s next meeting
19 with Poolman out of respect for higher management within and outside of the Radiology
20 Department. Colen attempted to manage the situation stating that Plaintiff should not even talk
21 with Poolman. Before ending the call, Colen told Plaintiff that Colen needed to end the
22 conversation so he could “talk to Joe [Shen].” Colen’s attempts to prevent Plaintiff’s disclosures
23 and control the narrative, seeming lack of interest in Pao’s status or whereabouts, and his refusal
24 to keep the evidence confidential from Shen, was very distressing to Plaintiff.

1 25.

2 Upon information and belief, on or about November 10, 2022, after Colen's telephone
3 call with Plaintiff, Colen and other members of NWP's Executive Committee met with Shen and
4 disclosed emails from Plaintiff which provided evidence of Shen's conduct. Rather than
5 protecting Plaintiff from retaliation, Colen and the EC provided Shen a reason to do so.

6 26.

7 On or about November 10, 2022, after Colen and the Executive Committee met with
8 Shen, Plaintiff received calls from both Blecher and Shen between 2:00 PM and 3:30 PM. Shen
9 pressured and threatened Plaintiff with threats. Shen suggested Plaintiff's schedule could get
10 worse stating, "People are saying you don't take enough calls. That your schedule is too light. I
11 won't be in my 'role'. I need you to downplay this." Plaintiff stated he had already explained to
12 others on the EC why this needed to be reported to people in higher management within and
13 outside of the Radiology Department. Shen stated that Poolman knew about both issues (Hall not
14 working, and the issue with Shen working and impersonating Pao). Plaintiff stated that even if
15 that is true, Plaintiff needed to talk to Poolman directly. Shen responded, "no, he (Shen) would
16 lose his job if [Plaintiff] did that." Shen said that he would get fired based on appearances even
17 though he had done nothing wrong. Shen asked, "you don't want to bring down the whole ship
18 do you?" Shen stated, "Have you thought that maybe the problem is in your head? You should
19 listen to your colleagues."

20 27.

21 Blecher called Plaintiff increasing the pressure Plaintiff was facing. Blecher pressured
22 him not to report and to respect the higher management within and outside the Radiology
23 Department at NWP. Blecher attempted to convince Plaintiff that, if he did go to Poolman, to
24 only address the issue of Hall not working. Blecher told Plaintiff she did not want him

1 mentioning Shen and Pao. Blecher sounded frustrated and stated that Plaintiff had blown their
2 “plausible deniability” by sending them the evidence.

3 28.

4 Shen called back after the conversation with Blecher and had another short conversation
5 with Plaintiff. Shen was speaking in a low whisper asking, “Layne, what do I need to do?”
6 Plaintiff replied, “well, do you have something to get off your chest?” Shen then raised his voice
7 to yelling and replied, “[n]o, I don’t have anything to get off my chest.” Shen then returned to a
8 low whisper and asked again , “Layne, what do I need to do?” Plaintiff replied, “there’s nothing
9 you can do.” Shen then asked Plaintiff to inform him before Plaintiff provided information to
10 Poolman or NWP Board so Shen could make preparations. This conversation with Shen was
11 both threatening and distressing to Plaintiff.

12 29.

13 Given the threats and pressure Plaintiff received, he became concerned for his well-being
14 and safety, and determined he needed to report the evidence he had to Poolman immediately.

15 30.

16 On or about November 10, 2022, around 3:45 PM, Plaintiff sent a text message to
17 Poolman stating, “I’m being asked not to talk with you.” Poolman replied to Plaintiff, and they
18 had a lengthy conversation later in the evening. Plaintiff explained what he reasonably believed
19 to be fraudulent and illegal conduct of Shen discussing the evidence Plaintiff gathered.
20 Poolman’s questions of Plaintiff focused on whether Plaintiff knew Shen’s motives, and how
21 Plaintiff was able to gather evidence instead of the significance of Shen’s conduct relating to
22 illegal activity and fraud. Poolman’s demeanor during this conversation lacked emotion and
23 presented as being more concerned that Shen’s conduct might be exposed rather than the severity
24 of the alleged conduct itself. Plaintiff directly asked, “[S]o, you’re okay with me contacting the

1 NWP Board about this?” Poolman hesitated but said the NWP Board did have “a couple of
2 levers” ultimately telling Plaintiff it would be appropriate for him to speak with the NWP Board
3 if he felt it was necessary. Poolman also mentioned that there was a fraud reporting hotline listed
4 somewhere on NWP’s website.

5 31.

6 On or about November 10, 2022, during the conversation referenced in paragraph 30,
7 Plaintiff explained the pressure, resistance, threats, and retaliatory conduct was being subjected
8 to about reporting Shen’s conduct. When Plaintiff explained this, Poolman chuckled. Plaintiff
9 described Blecher’s conduct in attempting to dissuade him from reporting. Poolman exclaimed,
10 “But you’re friends with Blecher!” in a manner that communicated Plaintiff should not report her
11 conduct.

12 32.

13 On or about November 11, 2022, Plaintiff called the fraud hotline. Plaintiff also emailed
14 and texted NWP’s Chairman of the NWP Board, Keith Bachman (“Bachman”) MD and NWP’s
15 CEO and President, Leong Koh (“Koh”) MD to report what he reasonably believed to be
16 unlawful and fraudulent conduct. Plaintiff had a conversation with Bachman regarding Shen and
17 Hall. Bachman said, “this is going to affect a lot of people.”

18 33.

19 On or about November 11, 2022, Poolman texted Plaintiff asking which fraud hotline
20 Plaintiff called.

21 34.

22 On or about November 11, 2022, Plaintiff attempted to forward texts that he had
23 exchanged with the EC to Poolman regarding the pressure, threats, and retaliatory conduct he
24

1 was subjected to, but Poolman declined receipt of the texts, and explained that texts could not be
2 forwarded on the work phones – it was a safety feature.

3 35.

4 On or about November 11, 2022, Blecher called Plaintiff and texted Plaintiff requesting
5 that he tell her exactly what he communicated to Poolman and whether Poolman stated what he
6 was going to do.

7 36.

8 On or about November 11, 2022, Nii Koney MD (“Koney”), another EC member, texted
9 Plaintiff and asked to speak with him. The following day they spoke. Koney wanted to know
10 everything that Plaintiff knew as well as what Plaintiff communicated to Poolman. Plaintiff told
11 Koney what he had said to Poolman. Plaintiff explained to Koney what Shen had done. Koney
12 said that he was previously aware of Shen’s actions. Koney’s communications expressed concern
13 regarding whether Plaintiff disclosed the resistance, threats, and retaliatory conduct to Poolman.

14 37.

15 On or about November 11, 2022, Plaintiff was contacted by an NWP attorney, who asked
16 him about Shen, Pao, and Hall and appeared focused on keeping the conversation limited to
17 those issues.

18 38.

19 On or about November 12, 2022, Shen and Pao resigned from NWP.

20 39.

21 On or about November 16, 2022, Plaintiff attended a virtual Radiology Department team
22 meeting with NWP. Hall and Poolman led the meeting. Plaintiff and his colleagues were told that
23 Shen and Pao were on leave, and that employees were not allowed to speculate about anyone’s
24 leave. During the meeting, Plaintiff’s colleagues were expressing fear and confusion regarding

1 what was happening. Plaintiff then began to report to the attendees, and said, “About six months
2 ago, I heard a rumor”, and was immediately interrupted by Poolman, who said, “I have to stop
3 you there.” One of Plaintiff’s colleagues exclaimed, “Let him finish!” Poolman explained that he
4 wanted to protect Shen and Pao’s privacy. Plaintiff assured Poolman that he would respect their
5 privacy. Plaintiff then reported that he had reported conduct that concerned Plaintiff to higher
6 management within and outside the Radiology Department at NWP after disagreeing with the
7 EC about how to proceed.

8 40.

9 On or about November 16, 2022, Plaintiff texted Poolman apologizing for the way
10 Plaintiff handled the aforementioned conversation in the meeting, thinking Plaintiff might have
11 offended Poolman. Plaintiff received a reply from Poolman praising Colen and members of the
12 Executive Committee in their official leadership roles for their “courageous leadership.”
13 Poolman sent this text to Plaintiff only days after Plaintiff had reported the pressure and threats
14 he had received while reporting. NWP’s conduct throughout Plaintiff’s reporting, including the
15 November 16, 2022 email, was confusing and disheartening to Plaintiff, and cultivated a lack of
16 trust in NWP to follow its own policies and protect its employees. Throughout Plaintiff’s
17 employment at NWP, Plaintiff has received policies and training from NWP emphasizing and
18 advertising a “speak up” culture that invites reporting concerns, prompt investigations, and anti-
19 retaliation. Plaintiff’s treatment by NWP was not consistent with the policies and training that
20 was provided. Instead, Plaintiff experienced threats, resistance and retaliation for reporting,
21 expressing disbelief in Plaintiff’s complaints, a failure to investigate, and praising employees for
22 engaging in threats, resistance and retaliation.

23 ///

24 ///

1 41.

2 In or about November 2023, and within a few days of Pao and Shen’s retirement, their
3 names were removed from the Powerscribe search box that was used by Plaintiff to gather
4 evidence. NWP taking this action hid the illegal and fraudulent activity from employees of NWP.
5 In Plaintiff’s protected disclosures, he explained the evidence he obtained through Powerscribe.
6 NWP did not take this action with previously retired radiologists. Upon information and belief,
7 this action was taken to prevent other NWP employees from learning about the conduct that
8 Plaintiff complained about.

9 42.

10 On or about November 30, 2022, Plaintiff spoke with a Compliance Investigator from
11 NWP, Sandra Burleson (“Burleson”). Burleson told Plaintiff that Shen and Pao resigned without
12 being questioned. Plaintiff told Burleson about the pressure and threats directed at him that he
13 believed to be retaliation. Burleson stated that a number of employees for NWP were involved in
14 the conduct, and it appeared as though they needed to investigate a lot more employees. Plaintiff
15 told Burleson that he was concerned about his safety. Burleson stated she would put him in touch
16 with someone in regard to his physical safety. Burleson did not place him in touch with anyone,
17 Plaintiff was not interviewed by an investigator, and Plaintiff was not asked to provide his
18 evidence supporting the disclosures he made. Burleson had no further contact with Plaintiff until
19 Plaintiff reached out a year later to discuss with management his concerns and NWP’s failure to
20 take action on his concerns. Burleson’s failure to follow up with Plaintiff, as promised, caused
21 Plaintiff to feel abandoned, alone, and vulnerable.

22 43.

23 In or around November and December 2022, NWP began the process of installing a new
24 CR to replace Hall, who was retiring. The process for selecting a new CR is a two-step process.

1 During the first step of the process, DO along with a panel of interviewers conducts interviews of
2 those that have applied for the position. With advice from the panel, the DO selects a CR. After
3 selecting a CR, the department ratifies the choice with a “yes” or “no” vote. If the candidate does
4 not receive a majority of the vote, the process starts over again. NWP recommended and
5 supported Colen to become their new CR which was announced to the Radiology Department on
6 or about November 29, 2022.

7 44.

8 On or about November 30, 2022, Plaintiff emailed Poolman and Bachman expressing
9 concern with promoting Colen to CR given his overt and explicit resistance to Plaintiff reporting
10 fraud and illegal activity; something that had not yet been investigated.

11 45.

12 On or about December 2, 2022, Poolman spoke with Plaintiff and told him that there was
13 “no cabal of individuals,” but rather only honest people. Plaintiff protested saying, “[B]ut I
14 thought the investigation...” Poolman interrupted “No.” Poolman stated that so many people
15 were involved that they needed to be shown grace. Plaintiff responded that there was a difference
16 between some people knowing about the illegal conduct versus people actively trying to stop him
17 from escalating the disclosures to higher management within and outside the Radiology
18 Department at NWP. Poolman made no reply. Poolman’s statement to Plaintiff was distressing
19 given Plaintiff’s previous disclosure to Poolman and Burleson’s recent statements that an
20 investigation regarding the retaliation needed to be conducted. Plaintiff was confused and
21 disheartened by Poolman making a factual determination to dismiss Plaintiff’s whistleblowing
22 complaint without any investigation. Poolman’s statements during this conversation with
23 Plaintiff were consistent with Defendant wanting to cover-up Plaintiff’s concerns and make them
24 go away rather than investigating the veracity of them.

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46.

On or about Dec. 2, 2022, Poolman called Plaintiff and told Plaintiff that the pressure to stop him from reporting was “dealt with in HR.”

47.

On or about December 14, 2022, Plaintiff exchanged emails with Poolman and NWP’s Practice Director and Non-physician Administer James McGhee (“McGhee”) in regard to questions he would like to have asked in the interviews for the CR position that the radiologists attended. Given the pressure and threats Plaintiff had been subjected to, and NWP’s failure to conduct an investigation into Colen’s conduct that he reported, Plaintiff wanted the candidates to be asked questions about reporting fraud and illegal activities so that his voting colleagues could make an informed decision. Poolman and McGhee would not ask these questions. Poolman stated it could be viewed as “casting aspersions on one of the candidates.” Poolman’s statements to Plaintiff caused frustration and confusion that NWP would actively attempt to promote an employee while covering up, and failing to investigate, their conduct.

48.

In or about December 2023 Colen was voted in as the new CR. NWP kept the voting employees ignorant, at the time they voted, about Colen’s recent conduct attempting to dissuade Plaintiff from making protected disclosures. Colen assumed the position on January 1, 2023.

49.

In or about January 2023, within a few days of Hall’s retirement, Hall’s name was removed from the Powerscribe search box that was used by Plaintiff to gather evidence. This was the same thing that occurred when Shen and Pao left their employment.

///

1 50.

2 In or about May 2023, Plaintiff reported to Poolman what Plaintiff believed to be
3 retaliatory actions by Colen being disrespectful in communications with Plaintiff. Plaintiff
4 received no response to his concerns. Hearing no response, Plaintiff reached out to Poolman
5 again in June 2023. Poolman responded to Plaintiff this time and expressed support for Colen's
6 conduct. Plaintiff was not told any investigation occurred or that he needed to report the conduct
7 elsewhere to have it investigated.

8 51.

9 On or about October 27, 2023, Plaintiff spoke with Poolman. Plaintiff had still not been
10 interviewed regarding his complaints that he was threatened, intimidated, and pressured not to
11 elevate his protected whistleblowing disclosures. Plaintiff communicated that over the last year,
12 he had been threatened, bullied, deceived, and intimidated by NWP employees. He stated that it
13 had been reported to him that NWP's employees at the Interstate Clinic were saying hostile
14 things about him as well. Plaintiff told Poolman that Colen had acted in ways to ostracize him.

15 52.

16 On or about October 27, 2023, during Plaintiff's conversation with Poolman, Plaintiff
17 told him that the people helping Shen to try to cover up his conduct had been promoted in
18 management. This had placed Plaintiff in a difficult situation, because those employees did not
19 want him to make the disclosures that he made. Plaintiff told Poolman that statements circulating
20 through the Radiology Department have been reported to Plaintiff. One was that what Shen and
21 Pao were doing was "not that big of a deal", and another was that "you can try to shade things
22 however you want, but the fact is, the EC was going to go forward, and you just jumped the gun
23 on them." The EC were the people involved in threatening, intimidating, and pressuring Plaintiff
24 not to report and trying to keep the information "in-house" and not let it out. They were the same

1 people that expressed frustration with Plaintiff making disclosures to them, because he destroyed
2 their “plausible deniability” by sending emails and evidence to them. Even though Plaintiff was
3 reporting what he believed to be retaliatory conduct and a lack of investigation, Poolman did not
4 offer to investigate Plaintiff’s concerns or have them investigated. Instead, Poolman attempted to
5 reframe the issues, make excuses for conduct, and gaslight Plaintiff going so far as to suggest
6 that those people might actually appreciate him for stepping forward. Plaintiff told Poolman that
7 his supervisors were watching him closer after his disclosures.

8 53.

9 In or about December 2023, Colen slighted Plaintiff in a public meeting.

10 54.

11 After Plaintiff’s protected disclosures and complaints of pressuring, threats, and
12 retaliatory actions by NWP’s employees in November and December 2022, Plaintiff was not
13 interviewed regarding his concerns.

14 55.

15 In or about December 2023 NWP had still failed to investigate Plaintiff’s complaints of
16 retaliation made in November 2022 as well as the more recent complaints made in October 2023.
17 Having witnessed what appeared to be NWP covering up Plaintiff’s whistleblowing disclosures
18 and its failure to investigate the complaints of retaliation, Plaintiff began reaching out to a
19 number of leadership employees to inquire why this had and was continuing to occur. Plaintiff
20 reached out to Colen, Bachman, Poolman, Burleson, Giswold, Blecher, MacMillan, and Ruth
21 Chang (“Chang”) MD, the Chief People Officer and Vice-President of NWP, among others.
22 During those conversations, Plaintiff learned of actions taken by Respondent to cover-up and fail
23 to investigate the allegations made by Plaintiff. This included Burleson being instructed not to
24 investigate the pressure, threats, and retaliation that Plaintiff reported. Poolman told Plaintiff he

1 elevated Plaintiff's concerns of pressure, threats, and retaliation to HR. However, Plaintiff was
2 never interviewed regarding them. Blecher told Plaintiff she was never spoken to about the
3 issues, and no one asked her for any evidence. Plaintiff asked Colen multiple times if he had
4 been talked to by legal, HR, or Poolman about these issues, and he said his only discussion on
5 this topic was with a lawyer of NWP after he was promoted to CR. Plaintiff was told he should
6 accept this and move on.

7 56.

8 On or about January 5, 2024, Plaintiff spoke with Linda Branch-Dasch ("Branch-
9 Dasch"), a Senior Human Resources Business Partner from NWP. Plaintiff disclosed the threats,
10 pressure and retaliatory behavior that he was subjected to in November 2022. She told Plaintiff
11 that she had not heard about these concerns previously. She stated she would now gather the
12 information and determine how to proceed.

13 57.

14 On or about January 8, 2024, Plaintiff spoke with Cody MacMillan. Plaintiff expressed
15 concern about the safety of his job at NWP. MacMillan told Plaintiff that "[I]t sounds like it's not
16 uncommon for people to be sort of disappeared if they aren't towing the party line", and that
17 there is a "no asshole" policy at NWP. MacMillan gave an example of another colleague who
18 disappeared without explanation. These assertions increased Plaintiff's fear and apprehension
19 regarding his job security.

20 58.

21 On or about January 10, 2024, Plaintiff had a conversation with Colen. Colen denied
22 knowing about the allegations Plaintiff made against Shen until after he became the CR in 2023.
23 He then admitted to being involved in conversations before Plaintiff reported Shen's conduct to
24 higher management within and outside the Radiology Department at NWP. When Plaintiff

1 expressed fear of further retaliation, Colen told Plaintiff that it should have been handled “in-
2 house” and not reported outside of the Radiology Department. Colen told Plaintiff, “[i]f you’re a
3 good citizen, I don’t think you have anything to worry about.” Colen expressed the importance
4 of towing the party line. Plaintiff and Colen’s conversation was interrupted and completed a
5 couple days later.

6 59.

7 On or about January 12, 2024, Branch-Dasch spoke to Plaintiff. During this conversation,
8 Plaintiff stated that he believed Shen committed Medicare fraud and people in his department
9 and management knew of this and tried to cover it up.

10 60.

11 On or about January 16, 2024, Plaintiff finished the January 10, 2024, conversation with
12 Colen. Colen told Plaintiff that the first HR or legal spoke with him about the issues regarding
13 Shen was after he became CR. Colen said that Shen was very popular, and “larger than life”
14 within the group. Colen said Plaintiff might have been viewed as an unpopular colleague after
15 Plaintiff revealed his identity as the whistleblower to the Radiology Department.

16 61.

17 On or about January 17, 2024, Plaintiff had a conversation with Giswold and Chang.
18 During this conversation, Plaintiff addressed Poolman’s conduct when Plaintiff reached out to
19 him about illegal conduct, fraud, and his treatment of Plaintiff. Giswold told Plaintiff that
20 Poolman had reported to her for years, and that he was a man of integrity. Giswold stated that
21 she could not sit here and listen to Plaintiff compare his and Shen’s treatment of Plaintiff. This
22 caused Plaintiff to feel further abandoned and isolated. Plaintiff felt like he did not have a safe
23 place to report his concerns. During this conversation, they stated that Branch-Dasch would be
24 opening up an investigation into Plaintiff’s complaints that were initially reported in November

1 2022. Plaintiff expressed concerns that a proper investigation had not been conducted at the
2 outset.

3 62.

4 On or about January 19, 2024, Burleson reached out and spoke to Plaintiff for the first
5 time since their November 30, 2022 conversation. Burleson discussed her role in investigating
6 Shen and Pao’s conduct stating that Pao's employee badge that was used for entry into buildings
7 had automatically deactivated during the summer of 2020 due to non-use for 90 days and never
8 reactivated. However, when Plaintiff addressed his retaliation complaint he brought to her,
9 Burleson was unaware whether the retaliation complaint lodged by Plaintiff to her was
10 investigated. Burleson stated she had no involvement in investigating it. Burleson told Plaintiff
11 that she was instructed not to “go down the path” of investigating the conduct that Plaintiff was
12 subjected to when he made his reports. Burleson told Plaintiff that the investigation parameters
13 were determined by the legal team. Plaintiff told Burleson that no one reached out to him to
14 investigate and no one requested his evidence. Burleson then justified the retaliation Plaintiff
15 received stating that people are naturally going to fight to “protect themselves against
16 wrongdoing” as that is just human nature. Burleson’s statements suggest that Plaintiff brought
17 the retaliation upon himself, and suggest that Plaintiff’s reporting of the illegal activity was
18 “wrongdoing”. Even though Burleson knew of no investigation into the retaliatory conduct, she
19 told Plaintiff to accept it was handled and leave it alone. Burleson told Plaintiff that, if he has
20 knowledge that it was not investigated and dealt with, he can just live with that. Plaintiff
21 questioned how an investigation could occur without interviewing anyone and especially without
22 interviewing him. Burleson told him, “[t]hat may be a hard pill to swallow.” Burleson’s
23 statements to Plaintiff made him feel unsafe and further isolated. Rather than protected, he felt
24 like NWP was victim blaming him for being subjected to retaliation.

1 63.

2 Plaintiff received information that led to a concern that Shen and Pao were working for a
3 service provider that contracted with NWP and were still providing services to NWP's patients.
4 Plaintiff reported this to Colen who told him it was not Colen's issue to worry about. Colen did
5 say that the contract with the service provider had been set up by Shen when he worked at NWP.
6 Colen told Plaintiff he could look into it. In or about February 2024, Plaintiff reached out to the
7 service provider requested to know if Shen and Pao worked for the provider, and if so, when they
8 began their employment.

9 64.

10 On or about February 8, 2024, Chang and Poolman had a telephone conversation with
11 Plaintiff. Plaintiff was threatened with litigation for reaching out to the service provider, and he
12 was instructed to report concerns to Compliance and defer to them. Plaintiff told Poolman that he
13 has been taking things to HR and Compliance but many were not investigated. Poolman told
14 Plaintiff that he put himself at risk, and he had acted inappropriately. Chang told Plaintiff that if
15 he discusses his concerns with colleagues, it could be perceived as gossiping.

16 65.

17 In or about February 2024, Plaintiff continued communicating with NWP leadership,
18 including Koh. Plaintiff expressed concerns with how his reports were handled and that
19 information was kept from radiologists in regard to Colen's conduct. Colen's Conduct was
20 relevant and critical for consideration when the department voted to confirm Colen as the CR.

21 66.

22 On or about March 6, 2024, Plaintiff spoke out during a Radiology Department Meeting
23 ("Team Huddle") to his colleagues. Plaintiff reported the conduct he reported in 2022 that was
24 withheld from them, in addition to what Plaintiff reasonably believed to be fraud, illegal activity,

1 retaliation, resistance, as well as attempts to cover-up his reporting, including the way the CR
2 selection had been handled.

3 67.

4 On or about March 7, 2024, Poolman emailed Plaintiff, wanting a meeting with Plaintiff
5 and Chang regarding Plaintiff's "communication with the department".

6 68.

7 On or about March 11, 2024, Plaintiff had an extended conversation with Poolman and
8 Chang. During the conversation, Poolman admitted to violating Plaintiff's trust with regards to
9 Plaintiff's reporting to him. Chang and Poolman expressed that Plaintiff needed to limit the way
10 he communicated with his co-workers. Poolman told Plaintiff that Colen has discretion to decide
11 what is discussed at Team Huddles like March 6, 2024. Poolman stated that this call is to discuss
12 ground rules for Plaintiff's communications that will then be sent to the entire department.
13 Towards the end of the telephone call, Chang and Poolman told Plaintiff that he needed to
14 submit to Colen in regard to communication. Chang told Plaintiff that she was concerned that his
15 speaking publicly and telling his side of the story would cause "issues".

16 69.

17 On or about March 13, 2024, Plaintiff was a recipient of a department-wide email issued
18 by Colen about "guidelines" of communication, directly referencing the "[S]econd half of the
19 huddle last Wednesday." This was the section of the meeting where Plaintiff reported what he
20 reasonably believed to be fraud, illegal activity, retaliation, resistance, as well as attempts to
21 cover-up his reporting. The email gave the appearance that Plaintiff had not used the proper
22 channels to report his concerns. Plaintiff expressed his concerns to his colleagues, because he
23 had been trying to use the proper channels over the previous sixteen months and had been largely
24 ignored. Plaintiff also felt that if he did not express his concerns to his colleagues, he would be

1 cooperating with management in their deception of the Radiology Department. The email
2 suggested that Plaintiff reporting what he believed to be retaliatory misconduct by management
3 in addressing his good faith reports of illegal activity was airing grievances that were only
4 personal to him, and not of importance to the Radiology Department.

5 70.

6 NWP has communicated to Plaintiff that his report of NWP actions and his disclosures to
7 NWP made his co-workers uncomfortable suggesting that he should not continue engaging in
8 that contact.

9 71.

10 On or about March 13, 2024, one of Plaintiff's colleagues in the Radiology Department
11 spoke with him. During this conversation, the colleague stated that Shen's co-workers tried to
12 protect Shen from Plaintiff's disclosures. The colleague told Plaintiff that management tried to
13 protect Shen. This colleague stated that prior to Plaintiff reporting Shen, Pao, and Hall's conduct,
14 he knew that Plaintiff was looking into the issues the week prior, because colleagues told him
15 that he needed "make Layne [Tarbox] stop." This colleague apologized to Plaintiff for the way
16 he was treated by NWP and his co-workers.

17 72.

18 On or about March 21, 2024, Plaintiff contacted Physician Advocate Resources ("PAR");
19 a group provided by NWP to provide support to physicians working through emotionally
20 charged situations and dealing with emotional distress. Mike Marcus (Marcus), head of PAR,
21 made statements to Plaintiff that had the appearance of having prior knowledge about personal
22 details of Plaintiff's life. During their communications, Marcus pressed Plaintiff for information
23 regarding the facts that Plaintiff knew and where he knew them from. He asked Plaintiff if he
24 had allies in the department. Marcus told Plaintiff that if he pursued his claims, he would be on a

1 ledge, and Marcus asked Plaintiff if he wanted to leave his employment. Marcus asked Plaintiff
2 what his end game was. Marcus told Plaintiff that if he pursued his claims he would be
3 marginalized and not be able to continue in his career. Given the questions asked, it appeared to
4 Plaintiff like Marcus was trying to gather information regarding Plaintiff's knowledge of the
5 situation and encourage Plaintiff to consider employment elsewhere before more retaliation
6 occurred.

7 73.

8 NWP has reporting procedures and anti-retaliation policies. However, throughout
9 Plaintiff's disclosures referenced in Paragraphs 12-72, NWP has attempted to manage and
10 control Plaintiff's protected disclosures rather than investigate and taken prompt remedial action
11 to prevent them from happening in the future. NWP has been more concerned with the
12 appearance that the disclosures create than taking actions necessary to remedy the situations that
13 led to the disclosures.

14 74.

15 Since Plaintiff's disclosures, NWP has taken actions targeting him including working
16 extended hours and increased duties. During 2024 this has included negative scheduling changes
17 that only impact Plaintiff with increased job duties outside of his Salem, Oregon office. On or
18 about July 29, 2024, Colen emailed Plaintiff and Plaintiff's Salem Partner about a proposal to
19 extend Plaintiff's hours. "Any concerns?" Colen wrote. Discussions ensued over the next two
20 months after Plaintiff balked at the change to his schedule. On or about August 6, 2024, Colen
21 hosted a Teams meeting with Plaintiff, Plaintiff's Salem Partner, and McGhee. In that meeting,
22 Colen denied responsibility for the change in Plaintiff's schedule, and blamed a Kaiser
23 Permanente administrator for "escalating", naming that individual and exposing her to potential
24 retaliation. Colen and McGhee discouraged Plaintiff from escalating to management above

1 Colen’s level, specifically saying that he should not talk with Poolman about this, because
2 Poolman would not be supportive, and would not “have our backs”. McGhee said, regarding
3 such escalations that Kaiser Permanente employees and managers used to escalate frequently,
4 but “we just don’t do that in our company” (in NWP), and that we (at NWP) are trying to retrain
5 them. Plaintiff understood that McGhee was suggesting that escalation was inappropriate, and
6 that NWP managers were trying to retrain KP administrators not to escalate issues that concerned
7 them. This made Plaintiff feel trapped and dismayed, as he was being told not to escalate to
8 higher levels of management regarding the issue of the increase in his work duties that Plaintiff
9 believed was retaliatory.

10 75.

11 During the conversation referenced in paragraph 74 above, Colen told Plaintiff that, if
12 Plaintiff could “work things out” with the KP administrator himself regarding Plaintiff’s
13 schedule, Colen, “[w]ouldn’t ask about what’s going on with those afternoons.” This greatly
14 distressed Plaintiff, as Colen suggested that Plaintiff use his position as a physician to
15 inappropriately pressure the KP administrator to reverse the negative change in his schedule;
16 something that would put Plaintiff at risk of misconduct.

17 76.

18 On or about August 16, 2024, Plaintiff reached out to Laura Jacobsen (“Jacobsen”) from PAR.
19 This was his second conversation with her. Plaintiff spoke to her due to the emotional distress
20 that NWP’s treatment of him was causing in addition to stress caused by NWP negatively
21 changing his schedule to place him on two shifts in one day; something that he had never
22 experienced. Given the questions asked, it appeared to Plaintiff like Jacobsen was trying to
23 gather information regarding Plaintiff’s knowledge of the situation and asked what he wanted to
24

1 resolve his claims. Jacobsen asked Plaintiff what outcome Plaintiff would be comfortable with,
2 and whether Plaintiff’s lawyer would be able to help him attain that.

3 77.

4 On or about August 28, 2024, Plaintiff emailed Poolman about the July 29, 2024 conversation
5 with Colen and McGhee. Plaintiff reported that he was once again being discouraged from
6 escalating issues of concern to management.

7 78.

8 On or about September 8, 2024, Poolman emailed Plaintiff, saying he had discussed the
9 issue with Colen. He defended Colen’s actions, and said that Colen, “reaffirmed that he would
10 never want to dissuade you from raising issues to me”, and suggested that Plaintiff
11 misunderstood. Poolman then wrote, “I’d ask you to assume going forward that Teran and others
12 are never trying to dissuade you from raising your concerns.” Plaintiff felt abandoned, frustrated,
13 and dismayed by Poolman’s backing of Colen, regardless of the facts. Plaintiff’s feelings of
14 desperation motivated him to call the crisis hotline.

15 79.

16 On or about October 7, 2024, Plaintiff reached out to a mental health crisis line that NWP
17 offers to its employees. Plaintiff spoke to Jennifer Scarborough (“Scarborough”). The manner in
18 which Scarborough communicated to Plaintiff caused Plaintiff to question if she had independent
19 knowledge about him and his situation. Scarborough warned Plaintiff that management could use
20 the conversation to attempt to terminate Plaintiff’s employment. She told Plaintiff that getting
21 care from her could be dangerous to him professionally. Scarborough discouraged Plaintiff from
22 pursuing his claims stating he was not strong enough and did not have the power to take on NWP
23 and should instead just focus on nice things in his life – that “ignorance is bliss”. Scarborough
24 stated that NWP would grind Plaintiff down.

1 **FIRST CLAIM AGAINST NWP – VIOLATIONS OF WHISTLEBLOWING LAWS**

2 **(Violation of ORS 659A.199)**

3 80.

4 Plaintiff re-alleges paragraphs 1-79. According to ORS 659A.199, “It is unlawful
5 employment practice for an employer to discharge, demote, suspend, or in any manner
6 discriminate or retaliate against an employee with regard to promotion, compensation or other
7 terms, conditions or privileges of employment for the reason that the employee has in good faith
8 reported information that the employee believes is evidence of a violation of a state or federal
9 law, rule or regulation.”

10 81.

11 NWP is an employer pursuant to ORS 659A.199.

12 82.

13 Plaintiff made disclosures, as alleged above, that Plaintiff reasonably believed were
14 evidence of violations of state or federal law, rule or regulation.

15 83.

16 NWP discriminated and retaliated against Plaintiff because of his good faith disclosures.

17 84.

18 As a result of NWP’s unlawful employment actions, Plaintiff suffered and continues to
19 suffer humiliation, anxiety, distress, and impairment of Plaintiff’s personal dignity and right to
20 be free from discrimination or interference with Plaintiff’s statutory rights. Plaintiff has also
21 suffered, and continues to suffer, economic damages, including, but not limited to, past and
22 future wages, past and future benefits, and other expenses.

23 ///

24 ///

1 85.

2 Plaintiff is entitled to non-economic damages sufficient to compensate Plaintiff for
3 emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment of life, and other
4 non-pecuniary losses.

5 86.

6 Plaintiff is entitled to equitable relief including, but not limited to, an award of back pay,
7 lost benefits, future lost earnings and benefits, and other compensatory damages for future
8 pecuniary losses.

9 87.

10 Plaintiff requests a declaration by this Court that NWP violated ORS 659A.199. Plaintiff
11 requests that this Court require NWP to report to all patients affected by Shen's conduct what
12 occurred. Plaintiff requests that this Court order NWP to contract with a neutral third-party for
13 reporting and investigations of Whistleblowing and retaliation for a period of five years.
14 Plaintiff requests that this Court require NWP to issue a release to its employees that Plaintiff
15 received pressure, threats, and intimidation not to report Shen's conduct and not to report the
16 cover-up of said contact. Further, that NWP will not engage in, allow, or tolerate this conduct to
17 occur in the future. Plaintiff requests that NWP be required to provide Plaintiff counseling
18 services at their expense by a third-party provider of Plaintiff's choice for five years. Plaintiff
19 requests any further equitable relief that this Court deems appropriate.

20 88.

21 As a result of NWP's violations of ORS 659A.199, Plaintiff has suffered economic
22 damages not to exceed \$750,000.00 and to be determined by a jury at the time of trial and non-
23 economic damages not to exceed \$7,500,000.00 and to be determined by a jury at the time of
24 trial as a result of NWP's Whistleblowing Discrimination in addition to equitable relief and

1 reasonable attorney fees and costs pursuant to ORS 659A.885. The actions of NWP, as
2 described above, were knowing, intentional and malicious. Plaintiff gives notice of his intent to
3 amend the complaint to assert a claim for punitive damages.

4 **SECOND CLAIM AGAINST NWP—INTENTIONAL INFLICTION OF**

5 **SEVERE EMOTIONAL DISTRESS**

6 **(Special Relationship)**

7 89.

8 Plaintiff re-alleges paragraphs 1-79. Plaintiff has an employer-employee relationship
9 with NWP. NWP and its agents knew that the aforementioned conduct would cause severe
10 mental or emotional distress or acted despite a high degree of probability that the mental or
11 emotional distress would result.

12 90.

13 NWP's conduct caused Plaintiff severe mental or emotional distress from the
14 foreseeable highly unpleasant emotional reactions including fright, grief, shame, humiliation,
15 embarrassment, anger, disappointment, confusion, desperation, isolation, intimidation,
16 anxiousness, irritation, loss of enjoyment, and worry. Plaintiff's distress caused by NWP has
17 caused physical symptoms including, but not limited to, difficult sleeping, and chest pains
18 requiring medical care.

19 91.

20 The aforementioned continuing actions of NWP consisted of an extraordinary
21 transgression of contemporary standards of civilized conduct toward an employee.

22 92.

23 As a direct and proximate result of NWP's intentional actions, Plaintiff has suffered and
24 requests economic damages not to exceed \$750,000.00 and to be determined by a jury at the

1 time of trial and non-economic damages not to exceed \$7,500,000.00 and to be determined by a
2 jury at the time of trial Plaintiff requests his costs and disbursements in bringing this action. The
3 actions of NWP, as described above, were knowing, intentional and malicious. Plaintiff gives
4 notice of his intent to amend the complaint to assert a claim for punitive damages.

5 **PRAYER**

6 **WHEREFORE**, Plaintiff prays for the following for his claims for relief:

7 **For Plaintiff's First Claim For Relief:** Economic damages not to exceed \$750,000.00
8 and to be determined by a jury at the time of trial and non-economic damages not to exceed
9 \$7,500,000.00 and to be determined by a jury at the time of trial as a result of NWP's
10 Whistleblowing Discrimination. That Plaintiff receive the following equitable relief: a
11 declaration by this Court that NWP violated ORS 659A.199; that NWP be required to report to
12 all patients affected by Shen's conduct what occurred; that NWP be ordered to contract with a
13 neutral third-party for reporting and investigations of Whistleblowing and retaliation for a
14 period of five years; that NWP be ordered to issue a release to its employees that Plaintiff
15 received pressure, threats, and intimidation not to report Shen's conduct and not to report the
16 cover-up of said contact and that NWP will not engage in, allow, or tolerate this conduct to
17 occur in the future; that NWP be ordered to provide Plaintiff counseling services at their
18 expense by a third-party of Plaintiff's choosing for five years; and such further equitable relief
19 as this Court deems appropriate. Pursuant to ORS 659A.885, Plaintiff is entitled to his
20 reasonable attorney fees, costs, expert witness fees, and disbursements in this action. To the
21 extent that any amount awarded to Plaintiff represents damages occurring prior to the entry of
22 judgment, Plaintiff is entitled to an award of prejudgment interest at the legal rate from the date
23 the damage occurred until the date of judgment.

24 ///

