

IN THE CIRCUIT COURT OF ST. LOUIS COUNTY
STATE OF MISSOURI

KATIE MOTHERSHED,

and

GINA JAKSETIC,

Plaintiffs,

v.

FOUNDATION CARE, LLC,

Serve:

Daniel Blakeley



MICHAEL SCHULTZ,

Serve at:



DANIEL BLAKELEY,

Serve at:



And

INSPERITY,

Serve at:



Defendants.

Cause No.:

Division No.:

JURY TRIAL REQUESTED

PETITION FOR DAMAGES

COUNT I

**SEXUAL HARASSMENT AND HOSTILE WORK ENVIRONMENT IN VIOLATION
OF THE MISSOURI HUMAN RIGHTS ACT**

COME NOW Plaintiffs Katie Mothershed and Gina Jaksetic, by and through their attorneys, and for their Petition for Damages against Defendants Foundation Care LLC (“Foundation Care”), Insperity, Michael Schultz, and Daniel Blakeley, state as follows:

1. Plaintiff Mothershed is a female citizen. At all times relevant herein, Plaintiff Mothershed worked for Defendant Foundation Care and resided in Glen Carbon, Illinois.

2. Plaintiff Jaksetic is a female citizen. At all times relevant herein, Plaintiff Jaksetic worked for Defendant Foundation Care and resided in St. Louis County, Missouri.

3. Defendant Foundation Care is a Missouri corporation doing business in St. Louis County, Missouri.

4. Defendant Insperity is a Texas corporation doing business in St. Louis County, Missouri. At all relevant times herein, Defendant Insperity was a joint employer of Plaintiffs, along with Defendant Foundation Care.

5. Defendant Schultz is a male citizen. At all relevant times herein, Defendant Schultz was an owner of Defendant Foundation Care and resided in St. Louis County, Missouri.

6. Defendant Blakeley is a male citizen. At all relevant times herein, Defendant Blakeley was an owner of Defendant Foundation Care and resided in St. Louis County, Missouri.

7. Venue in this Court is proper pursuant to Mo. Rev. Stat. § 508.010(4) and/or Mo. Rev. Stat. § 213.111.1.

8. At all times relevant herein, Defendant Foundation Care was an employer, as defined by the Missouri Human Rights Act (“MHRA”), Mo. Rev. Stat. § 213.010(7), in that Defendant Foundation Care employs six (6) or more persons in the State of Missouri.

9. At all times relevant herein, Defendant Insperity was an employer, as defined by the MHRA, Mo. Rev. Stat. § 213.010(7), in that Defendant Insperity employs six (6) or more persons in the State of Missouri.

10. At all times relevant herein, Defendant Schultz was an employer within the meaning of the MHRA, Mo. Rev. Stat. § 213.010(7), in that Defendant Schultz employs six (6) or more persons in the State of Missouri and was a person directly acting in the interest of an employer.

11. At all times relevant herein, Defendant Blakeley was an employer within the meaning of the MHRA, Mo. Rev. Stat. § 213.010(7), in that Defendant Blakeley employs six (6) or more persons in the State of Missouri and was a person directly acting in the interest of an employer.

12. Plaintiff Mothershed worked for Defendant Foundation Care from approximately May 2012 to April 17, 2017. Defendant Foundation Care first hired Plaintiff Mothershed as a Compounding Manager in 2012. Plaintiff Mothershed became Director of Pharmacy Programs in approximately 2014. Plaintiff Mothershed became Senior Director of Pharmacy and Clinical Operations in approximately December 2015.

13. During her employment, Plaintiff Mothershed performed the duties and responsibilities of her job in a satisfactory manner.

14. During her employment, Plaintiff Mothershed reported directly to Defendants Schultz and Blakeley.

15. Plaintiff Jaksetic worked for Defendant Foundation Care from approximately June 2004 to April 17, 2017. Defendant Foundation Care first hired Plaintiff Jaksetic in 2004. Plaintiff Jaksetic became Director of Reimbursement in approximately 2006. Plaintiff Jaksetic

became Director of Reimbursement and Patient Care in approximately 2010. Plaintiff Jaksetic became Senior Director of Reimbursement and Patient Care in approximately 2012. Plaintiff Jaksetic became Senior Director of Healthcare Client and Consumer Relations in approximately December 2015.

16. During her employment, Plaintiff Jaksetic performed the duties and responsibilities of her job in a satisfactory manner.

17. During her employment, Plaintiff Jaksetic reported directly to Defendants Schultz and Blakeley.

18. Throughout Plaintiff Mothershed's employment, from approximately October 2013 to February 2017, Defendant Schultz frequently demeaned and/or verbally abused Plaintiff Mothershed, including but not limited to frequently yelling and screaming at Plaintiff Mothershed, calling her "dumb" and "stupid," stating that she was too emotional because she was a woman, and stating, "Women are too emotional."

19. Defendant Schultz's hostile and demeaning behavior toward Plaintiff Mothershed increased in frequency and intensity from 2013 to 2017.

20. Defendant Schultz was hostile and demeaning toward Plaintiff Jaksetic during her employment. On one occasion, Defendant Schultz yelled at and demeaned Plaintiff Jaksetic for approximately two hours.

21. Defendant Schultz's hostile and demeaning behavior toward Plaintiff Jaksetic increased in frequency and intensity from 2015 to 2017.

22. Plaintiffs felt threatened by Defendant Schultz's escalating hostility.

23. Defendant Blakeley was aware of Defendant Schultz's hostile behavior toward Plaintiffs, but failed to take any remedial action to prevent or stop it.

24. In or about July 2016, Plaintiff Mothershed reported Defendant Schultz's hostile conduct to Defendant Insperity. Defendant Insperity was aware of Defendant Schultz's hostile behavior toward Plaintiff Mothershed.

25. In February 2017, Defendant Blakeley actively prevented Plaintiffs from escaping from Defendant Schultz's harassing behavior, as described below in ¶¶ 27 through 35.

26. On information and belief, Defendants Schultz and Blakeley both carry firearms to work, despite Foundation Care's no-firearms policy for employees.

27. On February 21, 2017, Plaintiffs and Defendants Schultz and Blakeley met in Plaintiff Jaksetic's office with the expectation that they would be discussing a letter that Plaintiff Mothershed wrote to a subordinate. During that meeting, Defendant Schultz began yelling about the personnel files for Plaintiffs and Defendants Schultz and Blakeley. Defendant Schultz repeatedly yelled at Plaintiff Mothershed to "shut up" and "shut her mouth." During the meeting, Defendant Schultz also repeatedly yelled "Who do you work for?" in an animated, intimidating manner.

28. At one point during the meeting, Defendant Schultz stated that he had moved his personnel file and Blakeley, Mothershed, and Jaksetic's personnel files two weeks before, and accused Plaintiff Mothershed of having let people read the files. Plaintiff Mothershed told Defendant Schultz that his statements were not accurate. Defendant Schultz then sprang toward Plaintiff Mothershed with his hands in the air. Plaintiffs believed Defendant Schultz was going to hit Plaintiff Mothershed. As Plaintiff Mothershed sat in her chair, Defendant Schultz stood over her, leaning his face close to hers. Defendant Schultz then yelled, "I told you to shut up! You don't know what you're talking about!"

29. Defendant Schultz's behavior and demeanor during the meeting was aggressive

and intimidating toward Plaintiffs.

30. After Defendant Schultz yelled at her while close to her face, Plaintiff Mothershed began crying. Defendant Schultz told Plaintiff Mothershed that she had a problem and was too emotional because she was a woman.

31. Approximately 30 to 35 minutes into the meeting, Plaintiff Mothershed tried to leave the room, but Defendant Blakeley held the door closed so that she could not leave. Defendant Schultz yelled "I'm not done with you!" and "Sit down!"

32. Plaintiff Jaksetic repeatedly told Defendant Blakeley to open the door and stated that Plaintiffs needed to leave. Defendant Blakeley refused to let Plaintiffs out of the room.

33. Plaintiff Mothershed was crying and had trouble breathing during the meeting.

34. After Defendant Blakeley held the door closed and refused to allow Plaintiffs to leave, Defendant Schultz continued to yell at Plaintiffs for another 10-15 minutes.

35. Defendant Schultz then said that Plaintiff Mothershed "can't handle men in corporate suits" and left with Defendant Blakeley. The meeting with Schultz and Blakeley lasted approximately 45 minutes.

36. A few minutes after Defendants Schultz and Blakeley left the meeting, Defendant Blakeley returned to Plaintiff Jaksetic's office and told Plaintiff Mothershed that Defendant Schultz's behavior was her fault.

37. Plaintiffs worked on February 22, 23, and worked part of February 26, 2017, but they both feared workplace violence from Defendants Schultz and Blakeley. Plaintiffs left work early on February 26, 2017 and took personal leave until April 2017.

38. Plaintiffs notified Defendant Foundation Care that they had been constructively discharged in April 2017.

39. Defendant Schultz's offensive, abusive, and threatening behavior toward Plaintiffs, as described in ¶¶ 18 through 21 and ¶¶ 26 through 35, created a hostile work environment based on sex. Defendant Blakeley's active prevention of Plaintiffs' departure from the meeting on February 21, 2017, his failure to prevent and/or stop Defendant Schultz's threats and abuse, and his own threatening behavior, as described in ¶¶ 23 and 25 through 36, also created a hostile work environment based on sex. Insperity's failure to prevent Defendant Schultz's hostile behavior, as described in ¶¶ 24, also created a hostile work environment based on sex.

40. Plaintiffs have been constructively discharged because of their sex. As such, Defendants' hostile treatment of Plaintiffs and their constructive discharge constitutes a violation of Mo. Rev. Stat. § 213.055.

41. On or about June 2, 2017, Plaintiff Mothershed timely filed charges of sex discrimination with the Missouri Commission on Human Rights ("MCHR").

42. On or about August 7, 2017, Plaintiff Mothershed requested that the MCHR issue a Notice of Right to Sue for the above charges. A copy of that request is attached hereto as Exhibit 1.

43. On or about June 2, 2017, Plaintiff Jaksetic timely filed charges of sex discrimination with the Missouri Commission on Human Rights ("MCHR").

44. On or about August 7, 2017, Plaintiff Jaksetic requested that the MCHR issue a Notice of Right to Sue for the above charges. A copy of that request is attached hereto as Exhibit 2.

45. As a direct result of Defendants' unlawful conduct and actions, Plaintiffs have suffered lost wages and benefits of employment and will likely continue to incur further such

damages in the future.

46. As a direct result of Defendants' unlawful conduct and actions, Plaintiffs have suffered emotional distress and mental anguish and will likely suffer such damages in the future.

47. As a direct result of Defendants' unlawful conduct and actions, Plaintiffs have incurred attorney's fees and costs of litigation, and will continue to incur such fees and costs.

48. Defendants' conduct was outrageous because of Defendants' evil motive or reckless disregard of Plaintiffs' legally protected rights, and is conduct for which an award of punitive damages is warranted to deter Defendants and others from such future like conduct.

WHEREFORE, Plaintiffs pray that this Court, after trial by jury, enter judgment for Plaintiffs Mothershed and Jaksetic and against Defendants Foundation Care, Insperty, Schultz, and Blakeley, in an amount to exceed \$25,000, for Plaintiffs' lost wages and benefits of employment; for prejudgment interest on same; for future lost wages and benefits; for damages for Plaintiffs' past and future emotional distress and mental anguish; for punitive damages; for attorney's fees and cost of litigation, and for such other relief that this Court deems just and proper.

COUNT II

WRONGFUL DISCHARGE IN VIOLATION OF PUBLIC POLICY

Come Now Plaintiffs Katie Mothershed and Gina Jaksetic and for Count II of their Petition against Defendants Foundation Care and Insperty, state as follows:

49. Plaintiffs reallege and incorporate by reference ¶¶ 1 through 6, and ¶¶ 12 through 40 in Count I as if fully set forth herein.

50. Venue in this Court is proper pursuant to § 508.010 R.S.Mo.

51. Defendant Foundation Care is a licensed pharmacy within the meaning of

§ 338.210 R.S.Mo. and is therefore required to follow the regulations and standards promulgated by the Missouri Board of Pharmacy and the State of Missouri.

52. Defendant Schultz is a licensed pharmacist as defined and/or referenced within Chapter 338 R.S.Mo. and is therefore required to follow the regulations and standards promulgated by the Missouri Board of Pharmacy and the State of Missouri.

53. Defendant Blakeley is a licensed pharmacist and pharmacist-in-charge as defined and/or referenced within Chapter 338 R.S.Mo. and is therefore required to follow the regulations and standards promulgated by the Missouri Board of Pharmacy and the State of Missouri.

54. Throughout Plaintiffs' employment, Plaintiffs refused to follow directives from Defendants Blakeley and Schultz to engage in illegal behavior or in what Plaintiffs reasonably believed to be illegal behavior.

55. Throughout Plaintiffs' employment, Plaintiffs became aware of and informed Defendant Foundation Care, Defendant Insperity, Michael Schultz, and/or Daniel Blakeley of illegal behavior or behavior that Plaintiffs reasonably and in good faith believed to be illegal.

56. Plaintiffs' refusal to engage in behavior and/or reporting of behavior that Plaintiffs reasonably believed to be illegal includes but is not limited to the following incidents described in ¶¶ 57 through 81.

57. In or about December 2013, Defendants Schultz and Blakeley instructed Plaintiff Mothershed to exclude certain ingredients from a list of pain cream ingredients in electronic orders for billing, even though the ingredients remained in the pain cream. Removal of ingredients from an electronic order would cause the ingredients to not appear on the electronic record or on the label.

58. Plaintiff Mothershed refused to exclude the ingredients and told Defendants Schultz and Blakeley that it would be a violation of Missouri Board of Pharmacy laws to exclude the ingredients.

59. Plaintiffs' reasonable and good faith belief that excluding ingredients from a list was violating state law and regulations, as alleged in ¶¶ 57-58, is expressed in the Missouri Code of Regulations and the Revised Statutes of Missouri. 20 CSR 2220-2.400(7)(F) states that the "actual name of each active...ingredient contained in a compound shall be listed on the container of any product provided to a consumer." Section 338.059 R.S.Mo. requires that the label for a prescription drug must include "the exact name and dosage of the drug dispensed." § 338.059.1(7) R.S.Mo.

60. After Plaintiff Mothershed's refusal, Defendants asked Plaintiff Jaksetic to remove the ingredients from the list when billing insurance companies for the prescription pain creams.

61. Plaintiff Jaksetic refused and stated that it would be fraudulent billing to remove ingredients from a list when billing insurance companies for the prescription pain creams.

62. Plaintiff's reasonable and good faith belief that removing ingredients from the list was violating state law, as alleged in ¶¶ 60-61, is expressed in the Revised Statutes of Missouri. Section 338.055 R.S.Mo. states that "The board may refuse to issue any...permit or license...if the designated pharmacist-in-charge, manager-in-charge, or any officer, owner, manager, or controlling shareholder of the applicant has committed...[2.](4) obtaining or attempt to obtain any fee, charge, tuition or other compensation by fraud, deception, or misrepresentation." § 338.055 R.S.Mo.

63. On approximately four occasions between 2014 and 2017, including one incident on or about February 25, 2014, a pharmacist logged into Foundation Care's pharmaceutical system as Defendant Blakeley, and dispensed a Class II controlled substance under Defendant Blakeley's name.

64. On more than one occasion, Plaintiff Mothershed told Defendant Blakeley of the pharmacist's behavior and stated that it was illegal.

65. Plaintiff's reasonable and good faith belief that the pharmacist's actions in dispensing a Class II controlled substance under Defendant Blakeley's name was violating state law and regulations, as alleged in ¶¶ 63-64, is expressed in the Missouri Code of Regulations and the Revised Statutes of Missouri. 20 CSR 2220-2.010(3)(B) requires pharmacies to record the dispensing pharmacist's initials for any drug that is dispensed. Section 338.100 R.S.Mo. states that "Records maintained in an electronic record-keeping system shall contain all information otherwise required in a manual record-keeping system." Defendant Foundation Care utilizes an electronic record-keeping system.

66. From approximately 2012 until Plaintiffs' discharge, Defendant Schultz regularly and frequently ordered prescription drugs for himself through Foundation Care's online portal to its wholesaler, and then removed the prescription drugs from the pharmacy without a prescription and without filling out any paperwork.

67. On at least one occasion in or about Summer 2015, Defendant Schultz also removed epi pens from the pharmacy without a prescription and without filling out any paperwork.

68. Plaintiff Mothershed reported Defendant Schultz's taking of drugs and epi pens without prescriptions to Defendant Blakeley (the CEO and pharmacist-in-charge). Plaintiff

Mothershed also reported to Defendant Foundation Care's Compliance Department that Defendant Schultz was removing pharmaceutical drugs from the pharmacy without a prescription.

69. Plaintiff's reasonable and good faith belief that Defendant Schultz's actions in ordering and taking pharmaceutical drugs without a prescription was violating state law and regulations, as alleged in ¶¶ 66-68, is expressed in the Missouri Code of Regulations and the Revised Statutes of Missouri. Section 338.010 R.S.Mo. defines the practice of pharmacy, in part, as the "dispensing...of drugs...pursuant to medical prescription orders." Section 338.196 R.S.Mo. also requires that a pharmacist dispense medications based on a valid prescription. Section 338.100 R.S.Mo. requires that appropriate records must be kept when prescription medications are dispensed by a pharmacist. 20 CSR 2220-2.010(3)(I) requires that "Records must be maintained at these facilities to guarantee security, storage and accountability of all drugs and drug-related devices under proper conditions." 20 CSR 2220-2.010(5) states that "Pharmacies shall establish and maintain inventories and records of all transactions regarding the receipt and distribution or other disposition of legend drugs."

70. Throughout Plaintiff Mothershed's employment, medications returned from patients were sometimes returned to Foundation Care's pharmacy stock and reused for other patients.

71. From 2012 to 2017, on approximately 10 to 15 occasions, Plaintiff Mothershed informed Defendant Blakeley that medications returned by patients were sometimes reused for other patients, and that it was illegal.

72. Plaintiff's reasonable and good faith belief that reissuing medications that had been returned by patients was violating state law and regulations, as alleged in ¶¶ 70-71, is

expressed in the Missouri Code of Regulations. 20 CSR 2220-3.040 allows a prescription to be returned to stock only if: “1) The patient did not receive the prescription; and 2) The prescription was maintained in the pharmacy’s possession in accordance with the manufacturer’s labeled storage requirements at all times.”

73. Defendants regularly ship medical devices to all 50 states. From approximately 2006 to 2017, Defendants failed to pay sales taxes in some states where items were shipped.

74. Plaintiff Jaksetic told Defendant Blakeley that they needed to pay the sales tax in states where the items were shipped.

75. Plaintiff’s reasonable and good faith belief that failure to pay sales taxes in other states was violating state law and regulations, as alleged in ¶¶ 73-74, is expressed in each individual state’s tax laws, including 86 Ill. Adm. Code 130.310 in Illinois, Chapter 82.08 RCW in Washington, and 3.2 NMAC, Sections 7-9-1 to 7-9-115 NMSA 1978 in New Mexico. The State of Missouri also requires payment of applicable sales taxes in the State of Missouri. Section 34.040.6 R.S.Mo. requires the collection and proper payment of sales tax as provided in Chapter 144, R.S.Mo.

76. In or about August 2016, Defendants refused to notify other states after they settled a dispute with the State of Kansas regarding Medicaid fraud allegations.

77. Plaintiffs told Defendant Blakeley that Defendants needed to notify the other states of the settlement and that failure to do so was illegal.

78. Plaintiff’s reasonable and good faith belief that failing to notify states of the settlement violates state law and regulations, as alleged in ¶¶ 76-77, is expressed in each individual state’s law, including the Revised Statutes of Missouri for the State of Missouri. Section 338.075 R.S.Mo. required that Defendant Foundation Care report to the Missouri Board

of Pharmacy “[a]ny final adverse action taken by another licensing state, jurisdiction, or government agency against any license, permit, or authorization held by the person or entity to practice or operate as a pharmacist, intern pharmacist, pharmacy technician, pharmacy, drug distributor, drug manufacturer, or drug outsourcing facility.” § 338.075 R.S.Mo.

79. In or about June 2016, a pharmacist employed by Defendant Foundation Care altered a prescription for her dog without consulting with or receiving permission from the prescribing veterinarian.

80. Plaintiff Mothershed reported the pharmacist’s behavior to Defendant Blakeley (the CEO and pharmacist-in-charge). Defendant Blakeley took no action against the pharmacist. In or about July 2016, Plaintiff Mothershed also reported the pharmacist’s illegal behavior, and that Defendant Blakeley took no action, to Insperity, including Phyllis Henley (Senior HR Specialist, Middle Market Solutions), Courtney Swillinger, and Kimberly (last name unknown).

81. Plaintiff’s reasonable and good faith belief that altering prescriptions without consulting with or receiving permission from the prescriber was violating state law and regulations, as alleged in ¶¶ 79-80, is expressed in the Missouri Code of Regulations. 20 CSR 2220-2.018 requires that a prescription show “any change or alteration made to the prescription dispensed based on contact with the prescriber.”

82. It is the public policy of Missouri to ensure safe pharmaceutical practices through compliance with state regulations governing pharmacies and pharmacists, including but not limited to § 34.040.6 R.S.Mo., § 338.010 R.S.Mo., § 338.055 R.S.Mo., § 338.059 R.S.Mo., § 338.075 R.S.Mo., § 338.100 R.S.Mo., 20 CSR 2220-2.010, 20 CSR 2220-2.018, 20 CSR 2220-2.400, and 20 CSR 2220-3.040. Plaintiffs allege they were discharged for reporting and for refusing to engage in, violations of state and federal laws and regulations.

83. Plaintiffs' reporting of illegal behavior or what Plaintiffs reasonably believed to be illegal behavior was a contributing factor in Plaintiffs' discharge.

84. Plaintiffs' refusal to engage in illegal behavior or what Plaintiffs reasonably believed to be illegal behavior was a contributing factor in Plaintiffs' discharge.

85. Defendant wrongfully discharged Plaintiffs for reporting what Plaintiffs reasonably and in good faith believed to be violations of state laws (whistleblowing) and for refusing to engage in Defendants' illegal behavior, in violation of the public policy of Missouri.

86. As a result of Defendants' conduct and actions, Plaintiffs have suffered, and will continue to suffer, lost wages and benefits of employment.

87. As a result of Defendants' conduct and actions, Plaintiffs have suffered emotional distress and mental anguish.

88. Defendants' conduct was outrageous because of Defendants' evil motive or reckless disregard of Plaintiffs' legally protected rights, and is conduct for which an award of punitive damages is warranted to deter Defendants and others from such future like conduct.

WHEREFORE, Plaintiffs pray that this Court, after trial by jury, find for Plaintiffs Mothershed and Jaksetic and against Defendants Foundation Care and Insperity, and enter judgment for Plaintiffs in an amount in excess of \$25,000 for Plaintiffs' lost wages and benefits of employment, and prejudgment interest on same; for emotional distress and mental anguish, for punitive damages, and for such other relief that this Court deems just and proper.

COUNT III

FALSE IMPRISONMENT

Comes Now Plaintiffs Katie Mothershed and Gina Jaksetic and for Count III of their Petition against Defendants Daniel Blakeley ("Blakeley") and Foundation Care state as follows:

89. Plaintiffs reallege and incorporate by reference ¶¶ 1 through 6, and ¶¶ 12 through 40 in Count I as if fully set forth herein.

90. Venue in this Court is proper pursuant to Mo. Rev. Stat. § 508.010.

91. On February 21, 2017, during the meeting in Plaintiff Jaksetic's office with Plaintiffs and Defendants Schultz and Blakeley, Plaintiff Mothershed stood up and stated that she was leaving. Defendant Blakeley blocked the door and held it closed and prevented Plaintiffs from exiting the room.

92. Plaintiff Jaksetic asked Defendant Blakeley repeatedly to open the door to let Plaintiffs leave. Plaintiff Jaksetic intended to exit the room right behind Plaintiff Mothershed.

93. Defendant Blakeley refused Plaintiffs' requests and willfully detained them in the room for approximately 10-15 minutes.

94. Plaintiffs did not consent to Defendant Blakeley's detention.

95. Defendant Blakeley's actions were unlawful and constitute false imprisonment of Plaintiff.

96. Defendant Blakeley acted in his capacity as a manager and owner of Defendant Foundation Care.

97. Plaintiffs have filed this action within two (2) years of Defendant Blakeley's act of false imprisonment on February 21, 2017.

98. As a direct and proximate result of the aforesaid false imprisonment, Plaintiffs have suffered emotional distress, including but not limited to depression, anxiety, and anxiety-induced headaches, and will continue to suffer such emotional distress.

99. As a result of Defendant's conduct and actions, Plaintiffs have been constructively discharged from their employment at Defendant Foundation Care, and have therefore sustained and continue to sustain lost wages and benefits of employment.

100. The aforesaid conduct of Defendant Blakeley was outrageous because of Defendant's evil motive or reckless indifference to Plaintiffs' protected rights, and is conduct for which punitive damages are warranted.

WHEREFORE, Plaintiffs pray that this Court, after trial by jury, find for Plaintiffs Mothershed and Jaksetic and against Defendants Blakeley and Foundation Care for Defendant Blakeley's actions in February of 2017, and enter judgment for Plaintiffs in an amount in excess of \$25,000 for Plaintiffs' lost wages, benefits of employment, and prejudgment interest on same; for emotional distress and mental anguish, for front pay, and/or future lost wages, for punitive damages, costs, and for such other relief that this Court deems just and proper.

COUNT IV

ASSAULT

Comes Now Plaintiff Katie Mothershed, and for Count IV of her Petition against Defendants Michael Schultz and Foundation Care states as follows:

101. Plaintiff realleges and incorporates by reference ¶¶ 1 through 6, and ¶¶ 12 through 40 in Count I as if fully set forth herein.

102. Venue in this Court is proper pursuant to Mo. Rev. Stat. § 508.010.

103. On or about February 21, 2017, during the meeting in Plaintiff Jaksetic's office with Plaintiffs and Defendants Schultz and Blakeley, Defendant Schultz sprang toward Plaintiff Mothershed with his hands in the air.

104. Plaintiff Mothershed reasonably believed that Defendant Schultz was going to hit or punch her when he sprang toward her with his hands in the air.

105. Defendant Schultz caused Plaintiff Mothershed to be in fear and apprehension of imminent offensive conduct and/or bodily harm, and said conduct constituted an assault on Plaintiff.

106. Defendant Schultz acted in his capacity as a manager and owner of Defendant Foundation Care.

107. Plaintiff Mothershed has filed this action within two (2) years of Defendant Schultz's act of assault on or about February 21, 2017.

108. As a direct and proximate result of the aforesaid assault, Plaintiff Mothershed has suffered significant emotional distress and will continue to suffer such emotional distress.

109. As a result of Defendant Schultz's conduct and actions, Plaintiff Mothershed has been constructively discharge from her employment at Defendant Foundation Care, and has therefore sustained and continues to sustain lost wages and benefits of employment.

110. The aforesaid conduct of Defendant Schultz was outrageous because of Defendant's evil motive or reckless indifference to Plaintiff's protected rights, and is conduct for which punitive damages are warranted.

WHEREFORE, Plaintiff prays that this Court, after trial by jury, find for Plaintiff Mothershed and against Defendants Schultz and Foundation Care for Defendant Schultz's actions in February 2017, and enter judgment for Plaintiff Mothershed in an amount in excess of \$25,000 for Plaintiff's lost wages, benefits of employment, and prejudgment interest on same; for emotional distress and mental anguish, for front pay, and/or future lost wages, for punitive damages, costs, and for such other relief that this Court deems just and proper.

COUNT V

SEX DISCRIMINATION IN VIOLATION OF MISSOURI HUMAN RIGHTS ACT

Comes Now Plaintiff Gina Jaksetic and for Count V of her Petition against Defendants Foundation Care, Insperity, Michael Schultz, and Daniel Blakeley, states as follows:

111. Plaintiff realleges and incorporates by reference ¶¶ 1 through 40 in Count I as if fully set forth herein.

112. From approximately 2008 until the end of Plaintiff's employment, Defendants paid Plaintiff Jaksetic less compensation for her work than similarly situated male managers.

113. Throughout Plaintiff's employment, Defendant Schultz undermined Plaintiff Jaksetic's authority with her subordinates.

114. On at least one occasion, Defendant Schultz moved one of Plaintiff's subordinates from one position to another without discussing the move with Plaintiff.

115. Plaintiff's sex was a contributing factor in Defendants' ongoing practice of paying Plaintiff Jaksetic lower compensation than male employees performing comparable work. As such, Defendants' ongoing payment of lower compensation to Plaintiff constitutes a violation of Mo. Rev. Stat. § 213.055. This discrimination occurred throughout Plaintiff's employment and through her discharge from employment.

116. On or about June 2, 2017, Plaintiff Jaksetic timely filed charges of sex discrimination with the Missouri Commission on Human Rights ("MCHR").

117. On or about August 7, 2017, Plaintiff Jaksetic requested that the MCHR issue a Notice of Right to Sue for the above charges. A copy of Plaintiff Jaksetic's request is attached hereto as Exhibit 2.

118. As a direct result of Defendants' unlawful conduct and actions, Plaintiff has

suffered lost wages and benefits of employment and will likely continue to incur further such damages in the future.

119. As a direct result of Defendants' unlawful conduct and actions, Plaintiff has suffered emotional distress and mental anguish.

120. As a direct result of Defendants' unlawful conduct and actions, Plaintiff has incurred attorney's fees and costs of litigation, and will continue to incur such fees and costs.

121. Defendants' conduct was outrageous because of Defendants' evil motive or reckless disregard of Plaintiff's legally protected rights, and is conduct for which an award of punitive damages is warranted to deter Defendants and others from such future like conduct.

WHEREFORE, Plaintiff Jaksetic prays that this Court, after trial by jury, enter judgment for Plaintiff Jaksetic and against Defendants Foundation Care, Insperity, Blakeley, and Schultz, in an amount to exceed \$25,000, for Plaintiff Jaksetic's lost wages and benefits of employment; for prejudgment interest on same; for future lost wages and benefits; for damages for Plaintiff's past and future emotional distress and mental anguish; for punitive damages; for attorney's fees and cost of litigation, and for such other relief that this Court deems just and proper.

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