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ORIGINAL FILED  
Superior Court of California  
County of Los Angeles

APR 04 2017

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Sherril R. Carter, Executive Officer/Clerk  
By: M. Sale, Deputy  
Moses Sale

9 Attorneys for Plaintiff FE PALOMIQUE

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
11 FOR THE COUNTY OF LOS ANGELES

12 FE PALOMIQUE, an individual,  
13  
14 Plaintiff,

Case No. **BC 656483**

15 vs.

**COMPLAINT FOR DAMAGES FOR:**

16 QUEST DIAGNOSTICS CLINICAL  
LABORATORIES, INC., a Delaware  
17 corporation dba QUEST DIAGNOSTICS; and  
DOES 1-50, inclusive,  
18  
19 Defendants.

- 1. FAILURE TO ACCOMMODATE  
DISABILITY (FEHA)
- 2. FAILURE TO ENGAGE IN THE  
GOOD FAITH INTERACTIVE  
PROCESS (FEHA)
- 3. DISCRIMINATION ON THE  
BASIS OF DISABILITY (FEHA)
- 4. RETALIATION IN VIOLATION  
OF FEHA
- 5. WRONGFUL TERMINATION IN  
VIOLATION OF PUBLIC  
POLICY

**[DEMAND FOR JURY TRIAL]**

20 For its complaint against QUEST DIAGNOSTICS CLINICAL LABORATORIES, INC., a  
21 Delaware corporation dba QUEST DIAGNOSTICS; and Does 1 through 50, Plaintiff FE  
22 PALOMIQUE, an individual, alleges as follows:  
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1       **I.       THE PARTIES**

2           1.       Plaintiff Fe Palomique is an individual who is a resident of Los Angeles County,  
3 California.

4           2.       Plaintiff is informed and believes and based thereon alleges that Defendant Quest  
5 Diagnostics Clinical Laboratories, Inc. is a Delaware corporation doing business as Quest  
6 Diagnostics (“Quest Diagnostics”) that conducts business in and has a principal place of business  
7 in Los Angeles County, California.

8           3.       The true names, capacities, and/or liabilities of DOES 1 through 50, inclusive  
9 (hereinafter “Does” or “Doe Defendants”), are unknown to Plaintiff at this time, and Plaintiff  
10 therefore sues said defendants by such fictitious names under California Code of Civil Procedure  
11 Section 474. After the true names, capacities, and/or liabilities of the Doe Defendants, or any of  
12 them, are ascertained, Plaintiff will amend this Complaint accordingly. Each of the Doe  
13 Defendants is liable to Plaintiff and is legally responsible in some manner for the events and  
14 happenings herein referred to, and caused injury and damages proximately thereby to Plaintiff.

15           4.       Plaintiff is informed and believes and based thereon alleges that at all relevant  
16 times herein, each of the Defendants, including DOES 1 through 50, inclusive (collectively  
17 “Defendants”) directed, knew, or reasonably should have known of the acts and behavior alleged  
18 herein and the damages caused thereby, and by their actions and/or inaction directed, ratified, and  
19 encouraged such acts and behavior. Each of the Defendants was the agent, servant, and/or  
20 employee of each of the other Defendants, and was at all relevant times acting within the course  
21 and scope of their authority as such agents, servants, and/or employees, and with the consent of  
22 the other Defendants.

23       **II.       JURISDICTION AND VENUE**

24           5.       Jurisdiction and venue are appropriate in this Court because, among other things,  
25 Plaintiff was employed in Los Angeles County. In addition, Plaintiff is informed and believes that  
26 Defendant transacts business in Los Angeles County.

27           6.       Plaintiff has filed, within one year of the wrongful acts alleged herein,  
28 “Complaint[s] of Discrimination Under The Provisions of The California Fair Employment and

1 Housing Act” with the California Department of Fair Employment and Housing (“DFEH”) and  
2 Plaintiff has received from the DFEH her “Right to Sue” Notices and has therefore satisfied the  
3 administrative prerequisites for the timely bringing of this suit.

4 **III. FACTUAL BACKGROUND**

5 7. Plaintiff Fe Palomique began her employment with Defendant Quest Diagnostics  
6 on or about May 20, 2013 as a “Clinical Laboratory Scientist II-Floater” at Defendant’s Arcadia,  
7 California facility.

8 8. Plaintiff is informed and believes and thereon alleges that Defendant is a for-profit,  
9 private employer.

10 9. Plaintiff was hired to work the “evening shift,” which lasted from 11:00 a.m. to  
11 12:00 a.m. However, on or about November 4, 2013, Plaintiff was forced to work the graveyard  
12 shift until the end of 2013. Plaintiff was again forced to work the graveyard shift from April 27,  
13 2014 through April 29, 2014. Plaintiff suffers from diabetes and hypertension. On the third day of  
14 her graveyard shifts, April 29, 2014, Plaintiff had to go to urgent care, who sent her to the  
15 emergency room, because she felt dizzy, and suffered from chest pains and shortness of breath.  
16 She was diagnosed with vertigo and informed that her blood sugar was abnormally high.

17 10. Plaintiff’s primary care physician’s office recommended that Plaintiff not work  
18 graveyard shifts in or about May 2014. Plaintiff’s supervisor thereafter assigned extremely  
19 inconvenient back to back shifts at different facilities to Plaintiff and criticized Plaintiff and her  
20 work performance. Therefore, Plaintiff applied for the day shift position. Plaintiff’s supervisor  
21 denied the application and stated that Plaintiff had to be transferred to another facility.

22 11. On August 19, 2014, Plaintiff learned that the company had posted two CLS-II job  
23 openings; one for the “second shift” (from 3:00 p.m. to 11:30 p.m.) and one for the “third shift”  
24 (from 12:00 a.m. to 8:30 a.m.).

25 12. On December 13, 2014, Plaintiff suffered a work-related injury and was placed on  
26 restricted duty.

27 13. On January 28, 2015, Plaintiff was informed that her position was being eliminated  
28 at the Arcadia facility and was told to apply for a position at the West Hills facility. Despite

1 management's claim that Plaintiff's position was being eliminated, two new employees holding  
2 the same position as Plaintiff had been hired in September and December of 2014.

3 14. Plaintiff went on a medical leave due to her injury from March 27, 2015 through  
4 July 19, 2015. She returned to work on July 20, 2015, but was told to go to the West Hills facility.

5 15. On or about July 31, 2015, Plaintiff was informed by her physician that she could  
6 not drive long distances due to her injuries, and was given a "Work Status Form" memorializing  
7 this restriction.

8 16. Plaintiff visited her physician's office again on August 28, 2015. A staff member  
9 who was evaluating Plaintiff informed her that someone had called the day before and had  
10 questioned the driving restriction. Plaintiff is informed and believes and thereon alleges that as a  
11 result of this call, the doctor filled out a "Work Status Form" purporting to lift Plaintiff's driving  
12 restriction (despite having recommended it only a month earlier, and despite there being no  
13 material change in Plaintiff's condition).

14 17. The following day, August 29, 2015, Plaintiff was instructed to work at the West  
15 Hills location beginning September 1, 2015. Of course, Ms. Palomique was not able to drive to  
16 the West Hills facility.

17 18. On September 14, 2015, Ms. Palomique discovered another job opening for a CLS-  
18 II in Arcadia with varying hours, despite the representations about her job having been eliminated.

19 19. On September 25, 2015, Plaintiff saw her physician again on her regular visit and  
20 was informed that the driving restriction had been removed because the insurance company case  
21 manager did not want the driving restriction any longer. Plaintiff is informed and believes that  
22 Defendant's worker's compensation insurance company adjustor/case manager requested her  
23 physician to remove the driving restriction.

24 20. Between September 30, 2015 and October 8, 2015, Plaintiff exchanged  
25 correspondence with Defendant's human resources department, and was told that they expected  
26 her to report to the West Hills office. Plaintiff sent responses to the effect she was working on  
27 getting a doctor's note. She asked if they really needed a doctor's note again since she had already  
28 sent one with a driving restriction. It was Plaintiff's belief and understanding that medically she

1 still was subject to the driving restriction, despite the one note to the contrary, and tried to explain  
2 this to human resources, and challenged the accuracy of the work status form which had released  
3 this restriction, as well as the circumstances under which it had been created. Despite this,  
4 management did not engage Plaintiff in a good faith interactive process to clear up the matter, and  
5 instead ignored it, moving directly to termination.

6 21. On or about October 9, 2015, Plaintiff was terminated.

7 22. Plaintiff is informed and believes, and thereon alleges, as is further set forth herein,  
8 that Plaintiff was in fact denied an accommodation in the form of forcing her to drive to the West  
9 Hills facility despite the driving restriction ordered by her doctor, and terminating her employment  
10 because of her disability.

11 23. Despite efforts by Plaintiff to engage Defendant in a good faith interactive process  
12 regarding accommodation of her disability, Defendant refused to engage in such a process in good  
13 faith. Had Defendant engaged Plaintiff in a good faith interactive process, Plaintiff could have  
14 been accommodated and/or Defendant would have recognized that she did not actually need  
15 affirmative accommodation other than allowing her to continue working her normal shift at the  
16 same Arcadia facility she was working in.

17 24. Plaintiff is informed and believes, and thereon alleges that she was discriminated  
18 against in the terms and conditions of her employment, as outlined herein, on the basis of her  
19 disability.

20 25. Plaintiff is informed and believes, and thereon alleges that Plaintiff was retaliated  
21 against because she could not work the graveyard shift and could not drive to the West Hills  
22 facility. This retaliation included the false requirement that Plaintiff drive to the West Hills facility  
23 and termination of her employment.

24 26. Plaintiff is informed and believes and thereon alleges that the termination of her  
25 employment was in violation of public policy. Plaintiff is informed and believes and thereon  
26 alleges that her termination was on account of her disability.



**FIRST CAUSE OF ACTION**

**FAILURE TO ACCOMMODATE DISABILITY IN VIOLATION OF THE FAIR  
EMPLOYMENT AND HOUSING ACT (Govt. Code § 12900, et seq.)  
(Against All Defendants)**

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3  
4 27. The preceding paragraphs of this Complaint are re-alleged and incorporated by  
5 reference as though fully set forth herein.

6 28. During the relevant time period herein, Plaintiff was “a qualified individual with a  
7 disability” within the meaning of the California Fair Employment and Housing Act (“FEHA”).  
8 More particularly, Plaintiff had a physical impairment that substantially limited one or more of her  
9 major life activities, had a record of such an impairment, and was regarded as having such  
10 impairment. In addition, Plaintiff was an individual with a disability who, with reasonable  
11 accommodation, could have performed the essential functions of her position for Defendant.

12 29. Defendant was required to undertake a reasonable investigation of Plaintiff’s  
13 request for an accommodation for her disability, and to continue to provide a reasonable  
14 accommodation for the known physical limitations of Plaintiff, but failed to do so. Such  
15 accommodation included but was not limited to making a determination not to terminate  
16 Plaintiff’s employment and/or allowing her to continue her employment during her regular shift at  
17 the Arcadia facility she was working from.

18 30. Defendant was required to engage in a good faith interactive process to determine if  
19 Plaintiff’s disability could be accommodated without undue hardship, but failed to do so.

20 31. At all times herein mentioned, Plaintiff was willing and able to perform the duties  
21 and functions of her position if such reasonable accommodation had been made by Defendant. At  
22 no such time would the performance of the employment position, with a reasonable  
23 accommodation for Plaintiff’s disability, have been a danger to the health and safety of Plaintiff or  
24 any other person.

25 32. As a direct and proximate result of the unlawful conduct of Defendant, Plaintiff has  
26 suffered special damages, including but not limited to past and future loss of income, benefits, and  
27 other damages to be proven at the time of trial.

28 33. As a direct and proximate result of the unlawful conduct of Defendant, Plaintiff has

1 suffered general damages including but not limited to shock, embarrassment, physical distress and  
2 injury, humiliation, emotional distress, stress, and other damages. The specific amount of these  
3 damages is currently unknown and to be proven at the time of trial.

4 34. The unlawful conduct alleged above was engaged in by the officers, directors,  
5 supervisors, and/or managing agents of Defendant who were acting at all times relevant to this  
6 Complaint within the scope and course of their employment. Defendant is therefore liable for the  
7 conduct of said agents and employees under the Doctrine of Strict Liability.

8 35. Defendant committed the acts herein alleged maliciously, fraudulently, and  
9 oppressively in conscious disregard for Plaintiff's rights and such acts were committed by and/or  
10 ratified by, and/or were committed with the knowledge of the employee's lack of fitness in the  
11 workplace but were allowed to proceed, by officers, directors, and/or managing agents of  
12 Defendant. Plaintiff is, therefore, entitled to recover punitive damages from Defendant in an  
13 amount according to proof at trial.

14 36. As a result of the conduct of Defendant, Plaintiff was forced to retain an attorney in  
15 order to protect her rights. Accordingly, Plaintiff seeks the reasonable attorney's fees and costs  
16 incurred in this litigation in an amount according to proof at trial.

17 **SECOND CAUSE OF ACTION**

18 **FAILURE TO ENGAGE IN THE GOOD FAITH INTERACTIVE PROCESS**  
19 **REGARDING ACCOMMODATION OF DISABILITY IN VIOLATION OF THE FAIR**  
20 **EMPLOYMENT AND HOUSING ACT (Govt. Code § 12900, et seq.)**  
21 **(Against All Defendants)**

22 37. The preceding paragraphs of this Complaint are re-alleged and incorporated by  
23 reference as though fully set forth herein.

24 38. Plaintiff is "a qualified individual with a disability" within the meaning of the  
25 California Fair Employment and Housing Act ("FEHA"). More particularly, Plaintiff had a  
26 physical impairment that substantially limited one or more of her major life activities, had a record  
27 of such an impairment, and/or was regarded by Defendant as having such an impairment. In  
28 addition, Plaintiff was an individual with a disability who, with or without reasonable  
accommodation, could have performed the essential functions of her employment position for

1 Defendant.

2 39. Defendant was required to engage in a good-faith interactive process with Plaintiff  
3 to determine if appropriate accommodations for Plaintiff's disability could be provided.

4 Defendant failed to do so.

5 40. At all times herein mentioned, Plaintiff was willing and able to engage in a good  
6 faith interactive process and to perform the duties and functions of her employment position if  
7 such reasonable accommodation had been made by Defendant. At no such time would the  
8 performance of the employment position, with a reasonable accommodation for Plaintiff's  
9 disability, have been a danger to the health and safety of Plaintiff or any other person.

10 41. As a direct and proximate result of the unlawful conduct of Defendant, Plaintiff has  
11 suffered special damages including but not limited to past and future loss of income, benefits, and  
12 other damages. The specific amount of these damages is currently unknown and to be proven at  
13 the time of trial.

14 42. As a direct and proximate result of the unlawful conduct of Defendant, Plaintiff has  
15 suffered general damages including but not limited to shock, embarrassment, physical distress and  
16 injury, humiliation, emotional distress, stress, and other damages to be proven at the time of trial.

17 43. The unlawful conduct alleged above was engaged in by the officers, directors,  
18 supervisors, and/or managing agents of Defendant who were acting at all times relevant to this  
19 Complaint within the scope and course of their employment. Defendant is, therefore, liable for the  
20 conduct of said agents and employees under the Doctrine of Strict Liability.

21 44. Defendant committed the acts herein alleged maliciously, fraudulently, and  
22 oppressively in conscious disregard for Plaintiff's rights and such acts were committed by and/or  
23 ratified by, and/or were committed with the knowledge of the employee's lack of fitness in the  
24 workplace but were allowed to proceed, by officers, directors, and/or managing agents of  
25 Defendant. Plaintiff is, therefore, entitled to recover punitive damages from Defendant in an  
26 amount according to proof at trial.

27 45. As a result of the conduct of Defendant, Plaintiff was forced to retain an attorney in  
28 order to protect her rights. Accordingly, Plaintiff seeks the reasonable attorney's fees and costs



1 incurred in this litigation in an amount according to proof at trial.

2 **THIRD CAUSE OF ACTION**

3 **DISCRIMINATION ON THE BASIS OF DISABILITY IN VIOLATION OF THE FAIR**  
4 **EMPLOYMENT AND HOUSING ACT (Govt. Code § 12900, et seq.)**  
5 **(Against All Defendants)**

6 46. The preceding paragraphs of this Complaint are re-alleged and incorporated by  
7 reference as though fully set forth herein.

8 47. During the relevant time period herein, Plaintiff was “a qualified individual with a  
9 disability” within the meaning of the California Fair Employment and Housing Act (“FEHA”).  
10 More particularly, Plaintiff had a physical impairment that substantially limited one or more of her  
11 major life activities, had a record of such an impairment, and was regarded by Defendant as  
12 having such impairment. In addition, Plaintiff was an individual with a disability who, with  
13 reasonable accommodation, could have performed the essential functions of her position for  
14 Defendant.

15 48. Plaintiff is informed and believes, and thereon alleges that she was discriminated  
16 against in the terms and conditions of her employment, as outlined above, on the basis of her  
17 disability, as set forth herein, in violation of the FEHA.

18 49. Plaintiff is informed and believes, and thereon alleges that Defendant willfully  
19 and/or with reckless indifference, violated California Government Code sections 12900, et seq.,  
20 and discriminated against Plaintiff as outlined above, on the basis of her disability. Such  
21 discrimination has resulted in damage and injury to Plaintiff as alleged herein.

22 50. As a direct and proximate result of the unlawful conduct of Defendant, Plaintiff has  
23 suffered special damages, including but not limited to past and future loss of income, benefits, and  
24 other damages to be proven at the time of trial.

25 51. As a direct and proximate result of the unlawful conduct of Defendant, Plaintiff has  
26 suffered general damages, including but not limited to shock, embarrassment, emotional distress,  
27 stress, and other damages to be proven at the time of trial.

28 52. The unlawful conduct alleged above was engaged in by the officers, directors,  
supervisors, and/or managing agents of Defendant, who were acting at all times relevant to this

1 Complaint within the scope and course of their employment. Defendant is, therefore, liable for the  
2 conduct of said agents and employees under the Doctrine of Strict Liability.

3 53. Defendant committed the acts herein alleged maliciously, fraudulently, and  
4 oppressively in conscious disregard for Plaintiff's rights and such acts were committed by and/or  
5 ratified by, and/or were committed with the knowledge of the employee's lack of fitness in the  
6 workplace but were allowed to proceed, by officers, directors, and/or managing agents of  
7 Defendant. Plaintiff is, therefore, entitled to recover punitive damages from Defendant in an  
8 amount according to proof at trial.

9 54. As a result of the conduct of Defendant, Plaintiff was forced to retain an attorney in  
10 order to protect her rights. Accordingly, Plaintiff seeks the reasonable attorney's fees and costs  
11 incurred in this litigation in an amount according to proof at trial.

12 **FOURTH CAUSE OF ACTION**

13 **RETALIATION IN VIOLATION OF THE FAIR EMPLOYMENT AND HOUSING ACT**  
14 **(Govt. Code § 12900, et seq.)**  
15 **(Against All Defendants)**

16 55. The preceding paragraphs of this Complaint are re-alleged and incorporated by  
17 reference as though fully set forth herein.

18 56. Plaintiff is informed and believes, and thereon alleges that because she could not  
19 work the graveyard shift and could not drive to the West Hills facility, she was retaliated against in  
20 her employment. This retaliation included but was not limited to the termination of her  
21 employment with Defendant.

22 57. Plaintiff is informed and believes and thereon alleges that Defendant willfully  
23 and/or with reckless indifference, violated California Government Code Sections 12900, et seq.,  
24 and retaliated against Plaintiff as outlined above, which has resulted in damage and injury to  
25 Plaintiff as alleged herein.

26 58. As a direct and proximate result of Defendant's unlawful conduct, Plaintiff has  
27 suffered special damages, including but not limited to past and future loss of income, benefits, and  
28 other damages. The specific amount of these damages is currently unknown and to be proven at  
the time of trial.





1 Defendants and others;

2 e) That Plaintiff have and recover a judgment against Defendants in an amount to be  
3 determined at trial for expenses of this litigation, including, but not limited to, reasonable  
4 attorney's fees and costs of the litigation;

5 f) That Plaintiff have and recover a judgment against Defendants for all prejudgment  
6 interest;

7 g) That Plaintiff have such other relief as this Court deems just and appropriate.

8 For The Fifth Cause of Action:

9 a) That process be issued and served as provided by law, requiring Defendants to  
10 appear and answer or face judgment;

11 b) That Plaintiff have and recover a judgment against Defendants in an amount to be  
12 determined at trial as special and/or actual damages;

13 c) That Plaintiff have and recover a judgment against Defendants in an amount to be  
14 determined at trial as general damages;

15 d) That Plaintiff have and recover a judgment against Defendants for punitive  
16 damages in an amount to be determined at trial sufficient to punish, penalize and/or deter  
17 Defendants and others;

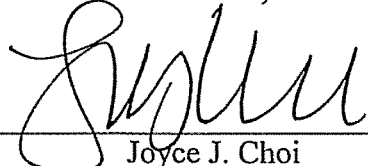
18 e) That Plaintiff have and recover a judgment against Defendants in an amount to be  
19 determined at trial for expenses of this litigation, including, but not limited to, reasonable costs of  
20 the litigation;

21 f) That Plaintiff have and recover a judgment against Defendants for all prejudgment  
22 interest;

23 g) That Plaintiff have such other relief as this Court deems just and appropriate.

24 DATED: April 4, 2017

THE KNEAFSEY FIRM, INC.

25  
26 By   
27 Joyce J. Choi  
28 Attorneys for Plaintiff FE PALOMIQUE




DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury of any issue triable by right of a jury.

DATED: April 4, 2017

THE KNEAFSEY FIRM, INC.

By   
Joyce J. Choi  
Attorneys for Plaintiff FE PALOMIQUE

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