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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

U.S. EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION,

Plaintiff,

and

DOUGLAS ABDON, DAVID AGBAYANI,
PACITA AGUSTIN, MANUELA ANINION,
MELCHOR APOSTOL, ANGELITA
BALIGAD, NENA BALLESTEROS,
FERDINAND BARACEROS, MARIA
BUSTO, BELEN CABBAB MICHELLE
CABBAB, FELY CACAL, NORMI CACAL,
ERLINDA CAMOTUYA, ESTHER
CASABAR, NORA CASIMIRO, ELNORA
CAYME, GINA CORREA, ARMELIZA
DELA CRUZ, ESTER DELOS SANTOS,
HILDA DUCUSIN, AIDA ESTRELLA,
FLORENTINA FAILANO, EDUARDO
FRIAL, CONSOLACION GALAFTE,
JOVENA GALLEGOS, LUZ GALLEGOS,
TOMASA GUMALLAOI, MELINDA
INTOC, CALIXTO LAMUG, WILMA
LAMUG, ANIELYN MANALASTAS, ROME
MANALASTAS, MARIBELLE MANANKIL,
SOL MANAOIS, ELIZABETH MATIAS,
CRISTINA NELMIDA, NELSON NISPEROS,
VENUS PAGSUBERON, PRISCILLA
PENALOSA, EVANGELINE PICATO, JOSE
PIRA, FEDERICO QUINIONES,
NANNETTE QUINO, TERESITA
RAFANAN, MELANIE REFUERZO,
MARILOU RIOLA, MARIA TERESA
SOLANO, NECITA TABAJONDA, MYRNA
TORRES, ELENA VILLAMOR, and ROMEO
VILLAMOR.

Case No. 1:10-cv-01492-LJO-JLT

**FIRST AMENDED COMPLAINT IN
INTERVENTION FOR DAMAGES AND
INJUNCTIVE RELIEF**

1. National Origin Discrimination (Title VII, 42 U.S.C. § 2000e *et seq.*)
2. Harassment (Title VII, 42 U.S.C. § 2000e *et seq.*)
3. National Origin Discrimination (Cal. Gov. Code §§12900 *et seq.*)
4. Unlawful use of Workplace Language Policy (Cal. Gov. Code §12951)
5. Harassment (Cal. Gov. Code §12940 (j))
6. Failure to Prevent Discrimination and Harassment (Cal. Gov. Code §12940 (k))
7. Unfair and Unlawful Business Practices (Cal. Bus. & Prof. Code §§ 17200 *et seq.*)

JURY TRIAL DEMANDED

1 Plaintiff-Intervenors

2 v.

3 CENTRAL CALIFORNIA FOR HEALTH
4 d/b/a DELANO REGIONAL MEDICAL
5 CENTER; AND DELANO HEALTH
6 ASSOCIATES, INC., and DOES 1 through 15,
7 inclusive.

8 Defendants.

9 Plaintiff-Intervenors allege as follows:

10 **INTRODUCTION**

11 1. Plaintiff-Intervenors, who comprise a group of fifty-two Filipino hospital staff, bring
12 this action against their employer, Central California Foundation for Health (“CCFH”) d/b/a/ Delano
13 Regional Medical Center (“DRMC”) and Delano Health Associates, Inc. (“DHA”) (collectively
14 referred to herein as “Defendants”), to challenge the hospital’s pervasive practice of discrimination
15 and harassment and to enforce federal and state laws which prohibit employers from discriminating
16 against or harassing employees on the basis of national origin.

17 2. Defendants discriminated against Plaintiff-Intervenors because of their Filipino
18 national origin and subjected them to severe and pervasive workplace harassment. Defendants
19 prohibited Filipino employees from speaking Tagalog and other Filipino languages under a broad-
20 reaching English-only policy. Defendants singled out only Filipino American employees in
21 enforcing the policy but allowed non-Filipino employees to speak languages other than English.
22 Defendants required only Filipino American employees to attend mandatory meetings where
23 management reprimanded them and threatened to monitor them with surveillance equipment and
24 discipline them. Defendants also encouraged other employees to watch and report Filipino
25 American employees to supervisors. Filipino American employees were monitored, chastised and
26 threatened by supervisors and other co-workers who constantly told them to speak English.
27 Defendants’ acts of national origin discrimination and harassment violate various provisions of Title
28 VII of the Civil Rights Act of 1964 (“Title VII”) and the Fair Employment and Housing Act
 (“FEHA”).

1 3. By filing this action, Plaintiff-Intervenors seek an injunction to remedy these
2 egregious violations of their rights, and to ensure that such violations are not repeated. Plaintiff-
3 Intervenors also seek monetary relief in the form of economic, compensatory and punitive damages.

4 **JURISDICTION AND VENUE**

5 4. The jurisdiction of this court is based upon section 703(a)(1) of Title VII of the Civil
6 Rights Act of 1964, 42 U.S.C. §2000e-2(a)(1), as amended. Jurisdiction of this Court is also invoked
7 pursuant to 28 U.S.C. §§ 1331, 1337, 1343 and 1345, and the Court's supplemental jurisdiction over
8 related state law claims. Injunctive and declaratory relief, damages and other appropriate legal and
9 equitable relief are sought pursuant to 42 U.S.C. §2000e-5(f) and (g) as amended, and state law.

10 5. Jurisdiction in this court is proper because the employment practices that Plaintiff-
11 Intervenors allege to be unlawful were and are now being committed in California within the
12 jurisdiction of the United States District Court for the Eastern District of California.

13 **PARTIES**

14 6. Plaintiff, the U.S. Equal Employment Opportunity Commission ("EEOC") is the
15 agency of the United States of America charged with the administration, interpretation and
16 enforcement of Title VII, and is expressly authorized to bring this action by Section 706(f)(1) and
17 (3) of Title VII, 42 U.S.C. § 2000e-5.

18 7. Plaintiff-Intervenors are expressly authorized to intervene in this action pursuant to
19 Fed. R. Civ. P. 24(a)(1), 42 U.S.C. § 12117(a), and 42 U.S.C. §2000e-5(f)(1).

20 8. Plaintiff-Intervenor David Agbayani is a resident of Kern County and started work
21 for Defendants in 2005 and is currently employed by Defendants.

22 9. Plaintiff-Intervenor Pacita Agustin is a resident of Kern County and started work for
23 Defendants in 1980 and is currently employed by Defendants.

24 10. Plaintiff-Intervenor Manuela Aninion is a resident of Kern County and started work
25 for Defendants in 1996 and is currently employed by Defendants.

26 11. Plaintiff-Intervenor Ferdinand Baraceros is a resident of Kern County and was
27 employed by Defendants in 2000 and is currently employed by Defendants.

1 12. Plaintiff-Intervenor Nena Ballesteros is a resident of Kern County and started work
2 for Defendants in 1985 and is currently employed by Defendants.

3 13. Plaintiff-Intervenor Maria Busto is a resident of Kern County and started work for
4 Defendants in 2005 and is currently employed by Defendants.

5 14. Plaintiff-Intervenor Belen Cabbab is a resident of Kern County and started work for
6 Defendants in 1987 and is currently employed by Defendants.

7 15. Plaintiff-Intervenor Michelle Cabbab is a resident of Kern County and started work
8 for Defendants in 2005 and is currently employed by Defendants.

9 16. Plaintiff-Intervenor Normi Cacal is a resident of Kern County and started work for
10 Defendants in 2006 and is currently employed by Defendants.

11 17. Plaintiff-Intervenor Erlinda Camotuya is a resident of Kern County and started work
12 for Defendants in 1995 and is currently employed by Defendants.

13 18. Plaintiff-Intervenor Esther Casabar is a resident of Kern County and started work for
14 Defendants in 2001 and is currently employed by Defendants.

15 19. Plaintiff-Intervenor Gina Correa is a resident of Kern County and started work for
16 Defendants in 2001 and is currently employed by Defendants.

17 20. Plaintiff-Intervenor Ester Delos Santos is a resident of Kern County and started work
18 for Defendants in 1997 and is currently employed by Defendants.

19 21. Plaintiff-Intervenor Aida Estrella is a resident of Kern County and started work for
20 Defendants in 1991 and is currently employed by Defendants.

21 22. Plaintiff-Intervenor Florentina Failano is a resident of Kern County and started work
22 for Defendants in 1987 and is currently employed by Defendants.

23 23. Plaintiff-Intervenor Eduardo Frial is a resident of Kern County and started work for
24 Defendants in 1981 and is currently employed by Defendants.

25 24. Plaintiff-Intervenor Jovena Gallegos is a resident of Kern County and started work
26 for Defendants in 1988 and is currently employed by Defendants.

27 25. Plaintiff-Intervenor Luz Gallegos is a resident of Kern County and started work for
28 Defendants in 1985 and is currently employed by Defendants.

1 26. Plaintiff-Intervenor Calixto Lamug is a resident of Kern County and started work for
2 Defendants in 2005 and is currently employed by Defendants.

3 27. Plaintiff-Intervenor Anielyn Manalastas is a resident of Kern County and started
4 work for Defendants in 2002 and is currently employed by Defendants.

5 28. Plaintiff-Intervenor Sol Manaois is a resident of Kern County and started work for
6 Defendants in 1985 and is currently employed by Defendants.

7 29. Plaintiff-Intervenor Cristina Nelmidia is a resident of Kern County and started work
8 for Defendants in 2004 and is currently employed by Defendants.

9 30. Plaintiff-Intervenor Nelson Nisperos is a resident of Kern County and started work
10 for Defendants in 2003 and is currently employed by Defendants.

11 31. Plaintiff-Intervenor Nannette Quino is a resident of Kern County and started work for
12 Defendants in 1981 and is currently employed by Defendants.

13 32. Plaintiff-Intervenor Teresita Rafanan is a resident of Kern County and started work
14 for Defendants in 2005 and is currently employed by Defendants.

15 33. Plaintiff-Intervenor Marilou Riola is a resident of Kern County and started work for
16 Defendants in 1982 and is currently employed by Defendants.

17 34. Plaintiff-Intervenor Necita Tabajonda is a resident of Kern County and started work
18 for Defendants in 1988 and is currently employed by Defendants.

19 35. Plaintiff-Intervenor Myrna Torres is a resident of Kern County and started work for
20 Defendants in 1999 and is currently employed by Defendants.

21 36. Plaintiff-Intervenor Elena Villamor is a resident of Kern County and started work for
22 Defendants in 1988 and is currently employed by Defendants.

23 37. Plaintiff-Intervenor Romeo Villamor is a resident of Kern County and started work
24 for Defendants in 1987 and is currently employed by Defendants.

25 38. Plaintiff-Intervenor Consolacion Galafate is a resident of Tulare County and started
26 work for Defendants in 1978 and is currently employed by Defendants.

27 39. Plaintiff-Intervenor Douglas Abdon is a resident of Kern County and was employed
28 by Defendants from 2005 through 2006.

1 40. Plaintiff-Intervenor Melchor Apostol is a resident of Kern County and was employed
2 by Defendants from 1993 through 2007.

3 41. Plaintiff-Intervenor Angelita Baligad is a resident of Kern County and was employed
4 by Defendants from 2001 through 2008.

5 42. Plaintiff-Intervenor Fely Cacal is a resident of Kern County and was employed by
6 Defendants from 1996 through 2008.

7 43. Plaintiff-Intervenor Nora Casimiro is a resident of Kern County and was employed
8 by Defendants from 1998 through 2008.

9 44. Plaintiff-Intervenor Elnora Cayme is a resident of Kern County and was employed by
10 Defendants from 1989 through 2008.

11 45. Plaintiff-Intervenor Armeliza Dela Cruz is a resident of Kern County and was
12 employed by Defendants from 1999 through 2007.

13 46. Plaintiff-Intervenor Hilda Ducusin is a resident of Kern County and was employed by
14 Defendants from 2000 through 2009.

15 47. Plaintiff-Intervenor Tomasa Gumallaoui is a resident of Kern County and was
16 employed by Defendants from 1984 through 2007.

17 48. Plaintiff-Intervenor Melinda Intoc is a resident of Kern County and was employed by
18 Defendants from 1998 through 2007.

19 49. Plaintiff-Intervenor Wilma Lamug is a resident of Kern County and was employed by
20 Defendants from 1996 through 2006.

21 50. Plaintiff-Intervenor Rome Manalastas is a resident of Kern County and was
22 employed by Defendants from 2006 through 2010.

23 51. Plaintiff-Intervenor Elizabeth Matias is a resident of Kern County and was employed
24 by Defendants from 2004 through 2008.

25 52. Plaintiff-Intervenor Priscilla Penalosa is a resident of Kern County and was employed
26 by Defendants from 1999 through 2010.

27 53. Plaintiff-Intervenor Evangeline Picato is a resident of Kern County and was
28 employed by Defendants from 2002 through 2008.

1 54. Plaintiff-Intervenor Federico Quiniones is a resident of Kern County and was
2 employed by Defendants from 2005 through 2007.

3 55. Plaintiff-Intervenor Maria Teresa Solano is a resident of Kern County and was
4 employed by Defendants from 2007 through 2010.

5 56. Plaintiff-Intervenor Jose Pira is a resident of Tulare County and was employed by
6 Defendants from 2007 through 2008.

7 57. Plaintiff-Intervenor Melanie Refuerzo is a resident of Tulare County and was
8 employed by Defendants from 2005 through 2008.

9 58. Plaintiff-Intervenor Maribelle Manankil is a resident of Ventura County and was
10 employed by Defendants from 1988 through 2008.

11 59. Plaintiff-Intervenor Venus Pagsuberon is a resident of Ventura County and was
12 employed by Defendants from 2001 through 2008.

13 60. At all relevant times, Defendants have continuously been California corporations
14 doing business in the State of California and Kern County and have continuously had at least 15
15 employees. At all relevant times, Defendants have continuously been employers engaged in an
16 industry affecting commerce within the meaning of Sections 701(b), (g) and (h) of Title VII, 42
17 U.S.C. §§2000e(b),(g) and (h).

18 61. Upon information and belief, Defendants CCFH and DHA have individually and
19 collectively done business and are and have been joint employers of the Plaintiff-Intervenors and
20 similarly situated individuals.

21 62. All of the acts and failures to act alleged herein were duly performed by and were
22 attributable to all Defendants, each acting as a successor, agent, employee, or under the direction
23 and control of the others, except as specifically alleged otherwise. Said acts and failures to act were
24 within the scope of such agency and/or employment, and each Defendant participated in, approved
25 and/or ratified the unlawful acts and omissions by the other Defendants complained of herein.
26 Whenever and wherever reference is made in this Complaint to any act by a Defendant or
27 Defendants, such allegations and reference shall also be deemed to mean the acts and failures to act
28 of each Defendant acting individually, jointly and/or severally.

1 63. Plaintiff-Intervenors are ignorant of the true names and capacities of Defendants sued
2 herein as Does 1 through 15, inclusive, and therefore sues these Defendants by such fictitious
3 names. Plaintiff-Intervenors will amend this Complaint to allege their true names and capacities
4 when ascertained. Plaintiff-Intervenors are informed and believe, and thereon allege, that each of
5 the fictitiously named Defendants is responsible in some manner for the occurrences herein alleged,
6 and that the harm herein alleged was proximately caused by these fictitiously named Defendants'
7 actions or failures to act.

8 FACTUAL ALLEGATIONS

9 64. At all times relevant to this action, Defendants have operated a hospital located at
10 1401 Garces Highway, Delano, California 93215. Defendants' employees speak various languages
11 including English, Tagalog, Ilocano, Spanish and Hindi.

12 65. Plaintiff-Intervenors are all of Filipino national origin.

13 66. Since at least August 2006, Defendants subjected Plaintiff-Intervenors to an English
14 only policy, prohibiting employees from speaking Tagalog and other Filipino languages and
15 requiring its employees to speak English at the hospital.

16 67. On or about August 25, 2006, Defendants singled out Plaintiff-Intervenors and other
17 Filipino employees only and told them that they were required to attend mandatory meetings with
18 management staff, without any explanation.

19 68. On or about August 28, 2006 and August 30, 2006, Defendants held mandatory
20 meetings and required only Filipino employees to attend. During the meetings, management staff
21 reprimanded the Filipino employees who attended and told them that they were prohibited from
22 speaking Filipino languages and that they were required to speak English at the hospital.
23 Management also threatened to install surveillance equipment to monitor them and warned them that
24 they would be disciplined and/or terminated for speaking Filipino languages at the hospital.

25 69. Furthermore, Defendants instructed and encouraged supervisors and other employees
26 to monitor and report Filipino employees who were speaking Filipino languages. Supervisors and
27 other co-workers regularly taunted, admonished and threatened Plaintiff-Intervenors, telling them to
28 speak English and ridiculing their ability to speak English.

1 70. Defendants did not notify all of its employees of the circumstances and the time when
2 the language restriction was required to be observed and of the consequences for violating the
3 language restriction. Defendants only notified its Filipino employees that they were prohibited from
4 speaking Filipino languages and required to speak English at the hospital. Furthermore, Defendants
5 gave defective notice to their Filipino employees about the English only policy. Plaintiff-
6 Intervenors were unaware or confused about the circumstances and the time when the language
7 restriction was required to be observed and of the consequences for violating the language
8 restriction.

9 71. Defendants did not target any non-Filipino employees for such strict enforcement of
10 its language policy, nor did it ever subject its non-Filipino employees to the same meetings,
11 heightened scrutiny, threats, warnings and disciplinary actions to which it subjected Filipino
12 employees. Non-Filipino employees- including supervisors, doctors and nurses- regularly spoke in
13 languages other than English without being monitored or censured.

14 72. Defendants' constant monitoring, ridiculing and harassment caused Plaintiff-
15 Intervenors to suffer emotional distress.

16 73. Defendants encouraged and were aware of the harassment that Plaintiff-Intervenors
17 suffered but did not take any action whatsoever to correct the harassment.

18 74. On or about August 31, 2006, 115 Filipino employees submitted a petition to
19 Defendants complaining about discrimination and harassment.

20 75. On or about May 26, 2009, Plaintiff-Intervenors received a memorandum from
21 Defendants reiterating the English language policy and reminding Plaintiff-Intervenors that they
22 were prohibited from speaking languages other than English in hallways, nurses' stations, and
23 breakrooms. The memo said, "If you are in the break room on hospital break, it is not appropriate"
24 to speak any language other than English and it encouraged "all SCU staff to report any fellow
25 employees who are not speaking ENGLISH at the work place."

26 76. Defendants continue to strictly enforce the English only policy and continue to
27 monitor, reprimand and harass Plaintiff-Intervenors and other similarly situated employees on the
28 basis of their Filipino national origin.

1 77. Plaintiff-Intervenors filed charges of discrimination with the EEOC alleging national
2 origin discrimination and retaliation. These charges were simultaneously filed with the California
3 Department of Fair Employment and Housing (“DFEH”) which deferred its investigation pursuant
4 to the terms of a work sharing agreement between the two agencies.

5 78. The EEOC issued Letters of Determination finding that the Charging Parties and
6 similarly situated individuals were subjected to unlawful employment discrimination based upon
7 their national origin, Filipino, in violation of Title VII. The Letters of Determination stated that the
8 evidence obtained during the EEOC’s investigation established that “there is reasonable cause to
9 believe that Respondent has implemented and maintained restrictive English-only language policies
10 which constitute unlawful discrimination based on national origin and that Respondent has applied
11 such policies in a discriminatory manner.” The Letters of Determination also stated that the
12 evidence supports a finding of reasonable cause to believe that each Charging Party and other
13 similarly situated individuals were “subjected to adverse terms and conditions of employment and
14 disparate discipline based on their national origin” and “were subjected to unlawful harassment
15 based on their national origin.” All conditions precedent to the institution of this lawsuit have been
16 fulfilled.

17 79. On or about August 18, 2010, the EEOC filed suit in the instant matter under Title
18 VII of the Civil Rights Act of 1964 to correct Defendants’ unlawful employment practices on the
19 basis of national origin, and to provide relief to individuals who were adversely affected by such
20 practices.

21 **FIRST CAUSE OF ACTION**

22 **National Origin Discrimination**

23 **(Title VII, 42 U.S.C. § 2000e *et seq.*)**

24 **(Plaintiff-Intervenors Against All Defendants)**

25 80. Plaintiff-Intervenors reallege and incorporate by reference every allegation contained
26 in the preceding paragraphs as though set forth fully herein.

27 81. Defendants unlawfully discriminated against Plaintiff-Intervenors based on their
28 Filipino national origin in violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e-

1 2. Defendants treated Plaintiff-Intervenors less favorably than similarly situated non-Filipino
2 employees, subjecting them to discrimination in the terms and conditions of their employment in
3 violation of Title VII.

4 82. Defendants' employment practice of requiring its employees to speak English in the
5 workplace had a disparate impact on Plaintiff-Intervenors and similarly situated Filipino employees
6 in violation of Title VII. Defendants' language policy caused persons of Plaintiff-Intervenors'
7 national origin to be demonstrably disadvantaged, whereas similarly situated non-Filipino
8 employees were not impacted by Defendants' language policy. Defendants' policy or practice is not
9 justified by any business necessity, or if it could be so justified, less discriminatory alternatives exist
10 that could equally serve said necessity.

11 83. Defendants have intentionally discriminated against Plaintiff-Intervenors because of
12 their national origin in violation of Title VII.

13 84. Defendants targeted and singled out its Filipino employees for the application and
14 enforcement of its language policy. Defendants subjected its Filipino employees to humiliating
15 meetings wherein they were berated, intimidated and threatened. Defendants subjected Plaintiff-
16 Intervenors to heightened scrutiny, threats of surveillance equipment in the workplace, warnings of
17 severe disciplinary actions, and in some cases, actual disciplinary measures.

18 85. Defendants did not target non-Filipino employees for such strict enforcement of its
19 language policy, nor did it subject its non-Filipino employees to the same meetings, heightened
20 scrutiny, threats, warnings and disciplinary actions to which it subjected Filipino employees.

21 86. As a result of the practices complained of above, Plaintiff-Intervenors have been
22 deprived of equal employment opportunities and their status has been adversely affected because of
23 their national origin.

24 87. As a direct and proximate result of the aforesaid discrimination, Plaintiffs have
25 sustained injuries in the form of severe emotional stress and economic damages in amounts to be
26 established at trial.

1 88. Defendants' conduct toward Plaintiff-Intervenors was wanton, willful, and intentional
2 with malicious and reckless disregard for the rights and sensibilities of Plaintiff-Intervenors,
3 entitling them to punitive damages.

4 89. Plaintiff-Intervenors request relief as hereinafter provided.

5 **SECOND CAUSE OF ACTION**

6 **Harassment**

7 **(Title VII, 42 U.S.C. § 2000e et seq.)**

8 **(Plaintiff-Intervenors Against All Defendants)**

9 90. Plaintiff-Intervenors reallege and incorporate by reference every allegation contained
10 in the preceding paragraphs as though set forth fully herein.

11 91. Since at least August 2006, Defendants violated Plaintiff-Intervenors' rights under
12 Section 703 of Title VII, 42 U.S.C. § 2000e-2, by subjecting them to abusive language and conduct
13 based on their Filipino national origin and by permitting and encouraging a work environment in
14 which they were subjected to harassment and intimidation because of their Filipino national origin.

15 92. Plaintiff-Intervenors and similarly situated Filipino employees were subjected to
16 unwelcome taunting, hostile and humiliating remarks, warnings and chastising by co-workers and
17 supervisors because of their national origin. Defendants failed to investigate, correct and/or prevent
18 the incidents of harassment based on Plaintiff-Intervenors' Filipino national origin. The harassment
19 toward Plaintiff-Intervenors and similarly situated Filipino employees was sufficiently frequent and
20 severe to adversely affect the terms and conditions of their employment and to create an atmosphere
21 of inferiority, isolation and intimidation based on national origin.

22 93. As a direct and proximate result of the aforesaid harassment, Plaintiffs have sustained
23 injury in the form of severe emotional stress and economic damages in an amount to be established
24 at trial.

25 94. Defendants' conduct toward Plaintiff-Intervenors was wanton, willful, and intentional
26 with malicious and reckless disregard for the rights and sensibilities of Plaintiff-Intervenors,
27 entitling them to punitive damages.

28 95. Plaintiff-Intervenors request relief as hereinafter provided.

THIRD CAUSE OF ACTION

National Origin Discrimination

(CAL. GOV. CODE § 12900 *et seq.*)

(Plaintiff-Intervenors Against All Defendants)

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96. Plaintiff-Intervenors reallege and incorporate by reference every allegation contained in the preceding paragraphs as though set forth fully herein.

97. Plaintiff-Intervenors are and were, at all times material herein, of Filipino origin and therefore protected under the Fair Employment and Housing Act (FEHA).

98. Defendants, at all times material herein, are and were employers subject to the requirements of the FEHA and had a duty under the FEHA to not discriminate against Plaintiff-Intervenors based on their national origin.

99. In violation of the aforementioned duty, Defendants intentionally discriminated against Plaintiff-Intervenors because of their national origin and treated Plaintiff-Intervenors less favorably than similarly situated non-Filipino employees. Defendants' unlawful employment practices also had a disparate impact on Plaintiff-Intervenors and similarly situated individuals.

100. As a direct and proximate result of the aforesaid discrimination, Plaintiff-Intervenors have sustained injury in the form of severe emotional stress and economic damages in an amount to be established at trial.

101. Defendants' conduct toward Plaintiff-Intervenors was wanton, willful, and intentional with malicious and reckless disregard for the rights and sensibilities of Plaintiff-Intervenors, entitling them to punitive damages.

102. Plaintiff-Intervenors request relief as hereinafter provided.

FOURTH CAUSE OF ACTION

Unlawful Use of Workplace Language Policies

(CAL. GOV. CODE §12951)

(Plaintiff-Intervenors Against All Defendants)

103. Plaintiff-Intervenors reallege and incorporate by reference every allegation contained in the preceding paragraphs as though set forth fully herein.

1 104. Plaintiff-Intervenors are and were, at all times material herein, of Filipino origin and
2 therefore protected under the Fair Employment and Housing Act (FEHA).

3 105. Defendants, at all times material herein, are and were employers subject to the
4 requirements of the FEHA.

5 106. Defendants implemented and enforced a workplace language policy that requires
6 Plaintiff-Intervenors and Filipino employees to speak English at the workplace. Defendants'
7 workplace language restriction is not justified by any business necessity and there are alternative
8 practices to the language restriction that would accomplish any asserted business necessity equally
9 well and with a lesser discriminatory impact.

10 107. Defendants failed to notify all of its employees of the circumstances and the time
11 when the language restriction was required to be observed and of the consequences for violating the
12 language restriction. Plaintiff-Intervenors and similarly situated Filipino employees received
13 defective notice about the circumstances and the time when the language restriction applied and the
14 consequences for violating the restriction.

15 108. As a direct and proximate result of being subjected to Defendants' workplace
16 language policy, as described above, Plaintiff-Intervenors have sustained injury in the form of
17 severe emotional stress and economic damages in an amount to be established at trial.

18 109. Defendants' conduct toward Plaintiff-Intervenors was wanton, willful, and intentional
19 with malicious and reckless disregard for the rights and sensibilities of Plaintiff-Intervenors,
20 entitling them to punitive damages.

21 110. Plaintiff-Intervenors request relief as hereinafter provided.

22 **FIFTH CAUSE OF ACTION**

23 **(Harassment)**

24 **(CAL. GOV. CODE § 12940(j))**

25 **(Plaintiff-Intervenors Against All Defendants)**

26 111. Plaintiff-Intervenors incorporate and reallege by reference all previous paragraphs of
27 this Complaint as if fully set forth herein.
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1 112. Defendants routinely subjected Plaintiff-Intervenors to a pattern of abusive words and
2 conduct because of their Filipino national origin. Defendants engaged in the harassment described
3 in preceding paragraphs with the intent of harassing Plaintiff-Intervenors on account of their
4 national origin. Defendants' harassment of Plaintiff-Intervenors and similarly situated Filipino
5 employees was sufficiently pervasive and severe to alter the conditions of their employment.

6 113. As a direct and proximate result of the aforesaid harassment, Plaintiff-Intervenors
7 have sustained injury in the form of severe emotional stress and economic damages in an amount to
8 be established at trial.

9 114. Defendants' conduct toward Plaintiff-Intervenors was wanton, willful, and intentional
10 with malicious and reckless disregard for the rights and sensibilities of Plaintiff-Intervenors,
11 entitling them to punitive damages.

12 115. Plaintiff-Intervenors request relief as hereinafter provided.

13 **SIXTH CAUSE OF ACTION**

14 **(Failure to Prevent Discrimination and Harassment)**

15 **(CAL. GOV. CODE § 12940(k))**

16 **(Plaintiff-Intervenors Against All Defendants)**

17 116. Plaintiff-Intervenors incorporate and reallege by reference all previous paragraphs of
18 this Complaint as if fully set forth herein.

19 117. Pursuant to FEHA, Government Code § 12940(k), Defendants owed Plaintiff-
20 Intervenors the legal duty to take all reasonable actions necessary to prevent and stop unlawful
21 discrimination and harassment.

22 118. Defendants breached their legal duty to Plaintiff-Intervenors to take all reasonable
23 action necessary to prevent and stop the discrimination and harassment described in preceding
24 paragraphs. Defendants and their agents, servants and/or employees, knew or should have known of
25 these harassing actions because Defendants participated in creating and maintaining a workplace
26 with pervasive harassment and Plaintiff-Intervenors submitted a petition to Defendants complaining
27 about discrimination and harassment.
28

1 119. Defendants failed to investigate, correct and/or prevent the incidents of
2 discrimination and harassment based on Plaintiff-Intervenors' Filipino national origin.

3 120. As a direct and proximate result of the aforesaid discrimination, Plaintiff-Intervenors
4 have sustained injury in the form of severe emotional stress and economic damages in an amount to
5 be established at trial.

6 121. Defendants' conduct toward Plaintiff-Intervenors was wanton, willful, and intentional
7 with malicious and reckless disregard for the rights and sensibilities of Plaintiff-Intervenors,
8 entitling them to punitive damages.

9 122. Plaintiff-Intervenors request relief as hereinafter provided.

10 **SEVENTH CAUSE OF ACTION**

11 **(Unlawful and Unfair Business Practices)**

12 **(California Business & Professions Code §§17200 *et seq.*)**

13 **(Plaintiff-Intervenors Against All Defendants)**

14 123. Plaintiff-Intervenors reallege and incorporate by reference all previous paragraphs of
15 this Complaint as if fully set forth herein.

16 124. California Business and Professions Code § 17200 *et seq.* prohibits unfair
17 competition in the form of any unlawful, unfair, deceptive, or fraudulent business practices.

18 125. Plaintiff-Intervenors bring this cause of action pursuant to California Business and
19 Professions Code §§17200 *et seq.* Defendants' conduct as alleged herein has been and continues to
20 be deleterious to Plaintiff-Intervenors and to the general public.

21 126. Plaintiff-Intervenors are "person[s]" within the meaning of Business and Professions
22 Code §17201, and therefore have standing to bring this suit for injunctive relief.

23 127. Beginning at an exact date unknown to Plaintiff-Intervenors, but at least since 2006,
24 Defendants committed unlawful acts as defined by California Business and Professions Code
25 §§17200 *et seq.* Defendants' unlawful and unfair business practices include, but are not necessarily
26 limited to, violations of the Fair Employment and Housing Act (FEHA) and Title VII.

27 128. The victims of Defendants' unfair and/or unlawful business practices, include, but are
28 not limited to Plaintiff-Intervenors, other employees, competing businesses in the State of

1 California, and the general public. By means of its unfair and unlawful practices, Defendants have
2 gained an unfair competitive advantage over other medical facilities that act in compliance with
3 FEHA and Title VII.

4 129. Pursuant to Business and Professions Code §17203, injunctive relief is necessary to
5 prevent Defendants from continuing to engage in unfair and unlawful business practices as alleged
6 herein. Defendants have, are now doing, and will continue to do or cause to be done, the above-
7 described illegal and unfair acts unless restrained or enjoined by this Court. Unless the relief prayed
8 for below is granted, a multiplicity of actions will result. Plaintiff-Intervenors have no plain,
9 speedy, or adequate remedy at law, in that pecuniary compensation alone would not afford adequate
10 and complete relief. The above-described acts will continue to cause great and irreparable damage
11 to Plaintiff-Intervenors and the general public unless Defendants are restrained from committing
12 further illegal acts.

13 130. Monetary damages alone will not compel Defendants to cease from engaging in the
14 unfair and unlawful business practices described in this action. The benefit to the public good, as
15 well as to Plaintiff-Intervenors, far outweighs any inconvenience to Defendants of ceasing to engage
16 in these unfair and unlawful business practices.

17 131. Business and Professions Code section 17203 also provides that the Court may
18 restore to an aggrieved party any money or property acquired by means of unlawful or unfair
19 business practices. Therefore, Plaintiff-Intervenors request attorney's fees and costs pursuant to
20 Code of Civil Procedure § 1021.5 upon proof that Plaintiff-Intervenors seek to enforce important
21 rights affecting the public interest. All remedies are cumulative pursuant to Business and
22 Professions Code section 17205.

23 **PRAYER FOR RELIEF**

24 WHEREFORE, Plaintiff-Intervenors pray for relief as follows:

25 132. Economic damages and restitution according to proof;

26 133. Compensatory damages according to proof, including but not limited to emotional
27 distress, anxiety, and mental anguish;

1 134. Punitive damages in an amount appropriate to punish Defendants for their wrongful
2 conduct and set an example for others;

3 135. Injunctive relief as necessary to:

4 (a) Enjoin Defendants from engaging in discrimination against Plaintiff-
5 Intervenor and similarly situated employees, including harassment based on national origin,
6 and unlawful retaliation against Plaintiff-Intervenors;

7 (b) Order Defendants to institute and carry out policies, practices and
8 programs which provide equal employment opportunities for Plaintiff-Intervenors and similarly
9 situated employees, which eradicate the effects of its past and present unlawful employment
10 practices;

11 (c) Create an effective process for the investigation and resolution of
12 harassment and discrimination complaints;

13 (d) Create a monitoring and reporting system to ensure that injunctive relief
14 is fully implemented;

15 136. A declaratory judgment that the practices complained of in this complaint are
16 unlawful and violate Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000(e), *et seq.* and the
17 Fair Employment and Housing Act, Cal. Gov. Code §§12900 *et seq.*

18 137. Disbursements and reasonable attorneys' fees and costs, including litigation
19 expenses, on all causes of action, including pursuant to California Code of Civil Procedure section
20 1021.5;

21 138. Interest, including prejudgment interest, accrued on damages and penalties awarded
22 to the maximum extent permitted by law, including under California Civil Code section 3287;

23 139. Such other and further relief as the Court deems proper.

24 Respectfully submitted,

25
26 Dated: March 4, 2011

27 /s/
28 Carmina Ocampo
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Attorneys for Plaintiff-Intervenors

JURY DEMAND

Plaintiff-Intervenors hereby demand a trial by jury as to all issues for which they have a right to a jury trial.

Respectfully submitted,

Dated: March 4, 2011

/s/

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