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Kern County Superior Court
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9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **FOR THE COUNTY OF KERN**

11 SARAH COOGLE,
12
13 Plaintiff,

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15 v.

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17
18 CALIFORNIA DEPARTMENT OF
CORRECTIONS & REHABILITATION, a
19 division of the State of California; and DOES 1
through 100,
20
21 Defendants.

Case No.: **BCV-18-100866**

UNLIMITED CIVIL ACTION

COMPLAINT FOR DAMAGES

1. Disability Discrimination in Violation of the Fair Employment & Housing Act (FEHA), Gov. Code § 12940 *et seq.*
2. Failure to Accommodate in Violation of FEHA, Gov. Code § 12940(m)
3. Failure to Engage in the Interactive Process in Violation of FEHA Gov. Code § 12940(n)

Jury Trial Demanded

1 COMES NOW Sarah Coogle (“Plaintiff”), and for counts against California Department of
2 Corrections & Rehabilitation (“Defendant”) and DOES 1 through 100, alleges as follows:

3 **JURISDICTION AND VENUE**

4 **(Applicable to All Causes of Action)**

- 5 1. Personal and subject matter jurisdiction is proper in this Court because Defendant operates a
6 correctional facility and all of Defendant’s alleged wrongful acts, injury and transactions upon the
7 Plaintiff occurred in the County of Kern, State of California.
8 2. Venue is proper in this Court insofar as Defendant operates a correctional facility and all of the
9 wrongful acts, injury and transactions all occurred in the County of Kern, State of California.

10 **THE PARTIES**

- 11 3. Plaintiff is now and, at all times mentioned in this complaint, was individual employed in the
12 County of Kern, State of California.
13 4. Defendant is a division of the State of California and is an “employer” within the meaning of the
14 Fair Employment & Housing Act (“FEHA”), Gov. Code § 12940 *et seq.* Defendant operates a
15 correctional facility in Tehachapi, California.
16 5. At all times herein relevant, Plaintiff was employed by Defendant.
17 6. Plaintiff is ignorant of the true names and capacities of the Doe Defendants and therefore sue
18 them by fictitious names. Plaintiff will amend this complaint to allege the true names and
19 capacities of DOES 1-100 when ascertained. Plaintiff is informed and believes, and thereon
20 alleges, that each of these fictitiously named Defendants designated as DOES 1-100 is
21 responsible in some manner for the events and happenings alleged herein and thereby legally
22 caused injuries and damage to Plaintiff.
23 7. Plaintiff is informed and believes, and thereon alleges, that at all times herein mentioned, each of
24 Defendants herein was the agent and employee of each of the remaining Defendants and at all
25 times was acting within the purpose and scope of such agency and employment, and with the
26 permission and consent of her/her/its co-defendants with knowledge, authorization, permission,
27 consent and/or subsequent ratification and approval of each co-Defendants.
28 8. Plaintiff is informed and believe, and thereon alleges, that at all times herein mentioned, each
29 Defendant was acting in a supervisory or managerial capacity and in the course and scope of

1 such agency and/or employment with the permission and consent of said co-Defendants and
2 acted with the power to bind Defendants and each of them to the acts of said individuals, said
3 acts having thereafter been ratified by Defendants, and each of them.

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

5 9. As of December, 2016, Plaintiff was employed as a Correctional Officer when she became
6 pregnant. In mid-February 2017, Plaintiff asked Vicky Harp (“Harp”), Defendant’s Return to
7 Work Coordinator, for the reasonable accommodation of alternate work in a less strenuous
8 position due to her pregnancy. Plaintiff was concerned that, while pregnant, she may be forced to
9 use physical force in a confrontation or struggle, which creates an unsafe environment for her as
10 a pregnant female and her unborn child.

11 10. Harp advised Plaintiff that she had three (3) options:

- 12 A. Stay in her current position and work until five (5) weeks before her due date,
- 13 B. Accept a demotion which would mean a two-thirds cut in pay, loss of peace officer
14 status, loss of seniority, loss of benefits and loss of right to bid for shifts, or
- 15 C. Take leave as an accommodation.

16 11. In late February 2017, Plaintiff asked her union representative, to assist her in getting alternate
17 work. The union representative stated that unfortunately, prison officials view pregnancy as a
18 “planned illness” much the same as having elective surgery.

19 12. Plaintiff was capable of performing the essential functions of her job. However, she could not
20 afford to go on leave or lose benefits. Therefore, she was forced to stay in her current position.

21 13. When she was seven (7) months pregnant, Plaintiff was running to intervene in an inmate fight
22 and fell. She was taken by ambulance to the hospital for abdominal pain and directed by her
23 physician to not work for the duration of her pregnancy. However, a mere few days before her
24 due date, on September 13, 2017, Plaintiff lost her child from a placental rupture which is
25 commonly caused by trauma such as a fall. Further, Plaintiff almost lost her life and was on life
26 support for two days.

27 14. Defendant’s actions and failure to accommodate Plaintiff’s pregnancy were callous and
28 outrageous. No man has to make the choice offered to Plaintiff of choosing between family and
29 career. No man has to give up his pay to ensure the safety of his children. Working in a

1 correctional facility is an inherently dangerous job and no care or attention was given to protect
2 the life of her child.

3 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

4 15. On April 4, 2018, Plaintiff filed a complaint with the Department of Fair Employment and
5 Housing (“DFEH”). That same day Plaintiff received a Right to Sue Notice pursuant to Gov.
6 Code Section 12965 (b). A true and correct copy of the DFEH Right to Sue notice is attached
7 hereto as Exhibit A. Plaintiff has exhausted her pre-filing state law remedies by filing and serving
8 a complaint with the DFEH and receiving a Notice of Right to Sue for her claims.

9 **FIRST CAUSE OF ACTION**

10 **DISABILITY DISCRIMINATION IN VIOLATION OF THE FAIR EMPLOYMENT &**

11 **HOUSING ACT GOV. CODE §§ 12940 et seq.**

12 16. Plaintiff hereby re-alleges and incorporates by reference all previous paragraphs, inclusive, of this
13 Complaint as though set forth in full.

14 17. Plaintiff alleges discrimination in violation of the FEHA, as codified in Government Code §§
15 12940 et seq. against Defendant. Gov. Code § 12940(a) provides that it is an unlawful
16 employment practice for an employer to “discriminate against [a] person in compensation or in
17 terms, conditions, or privileges of employment.”

18 18. Plaintiff is capable of performing all essential duties of her job with reasonable restrictions and/or
19 accommodations.

20 19. Gov. Code § 12940(n) also provides that it is an unlawful employment practice “for an employer
21 or other entity covered by [the FEHA] to fail to engage in a timely, good faith, interactive process
22 with the employee or applicant to determine effective reasonable accommodations, if any, in
23 response to a request for reasonable accommodation by an employee or applicant with a known
24 physical or mental disability or known medical condition.”

25 20. As a proximate result of Defendant’s conduct, Plaintiff has suffered special damages in the form
26 of lost earnings, benefits and/or out of pocket expenses in an amount according to proof at the
27 time of trial. As a further direct and proximate result of Defendant’s conduct, Plaintiff will suffer
28 additional special damages in the form of lost future earnings, benefits and/or other prospective
29 damages in an amount according to proof at the time of trial.

1 21. By reason of the conduct of Defendant herein, Plaintiff has retained attorneys to prosecute her
2 claims under the FEHA. Plaintiff is therefore entitled to recover reasonable attorneys' fees and
3 costs pursuant to Govt. Code § 12965(b), in addition to other damages as provided by law and as
4 alleged herein.

5 **SECOND CAUSE OF ACTION**

6 **FAILURE TO ACCOMMODATE IN VIOLATION OF FEHA GOV. CODE 12940(m)**

7 22. Plaintiff hereby re-alleges and incorporates by reference all previous paragraphs, inclusive, of this
8 Complaint as though set forth in full.

9 23. California Government Code section 12940(m) makes it unlawful “[f]or an employer or other
10 entity... to fail to make reasonable accommodation for the known physical or mental disability of
11 an applicant or employee.”

12 24. At all times relevant to this lawsuit, Plaintiff suffered from a physical disability and medical
13 condition resulting from injuries that require ongoing treatment and limited her major life
14 activities. Plaintiff's condition falls under the definition of “disability” under California law.

15 25. Defendant was fully aware of Plaintiff's physical disabilities and medical conditions.

16 26. At all relevant times during her employment, Plaintiff was otherwise qualified and able to do her
17 job. Plaintiff was able to perform the essential job duties required with reasonable restrictions
18 and/or accommodations for her physical disability and medical condition.

19 27. Defendant failed to reasonably accommodate Plaintiff.

20 28. As a proximate result of Defendant's conduct, Plaintiff has suffered special damages in the form
21 of lost earnings, benefits and/or out of pocket expenses in an amount according to proof at the
22 time of trial. As a further direct and proximate result of Defendant's conduct, Plaintiff will suffer
23 additional special damages in the form of lost future earnings, benefits and/or other prospective
24 damages in an amount according to proof at the time of trial.

25 29. By reason of the conduct of Defendant herein, Plaintiff has retained attorneys to prosecute her
26 claims under the FEHA. Plaintiff is therefore entitled to recover reasonable attorneys' fees and
27 costs pursuant to Gov. Code § 12965(b), in addition to other damages as provided by law and as
28 alleged herein.

THIRD CAUSE OF ACTION

FAILURE TO ENGAGE IN THE INTERACTIVE PROCESS

IN VIOLATION OF FEHA GOVT. CODE § 12940(n)

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4 30. Plaintiff hereby re-alleges and incorporates by reference all previous paragraphs, inclusive, of this
5 Complaint as though set forth in full.

6 31. California Government Code section 12940(n) makes it unlawful “[f]or an employer or other
7 entity covered by this part to fail to engage in a timely, good faith interactive process with the
8 employee or applicant to determine effective reasonable accommodations, if any, in response to a
9 request for reasonable accommodation by an employee or applicant with a known physical or
10 mental disability or known medical condition.”

11 32. At all times relevant to this lawsuit, Plaintiff suffered from a physical disability and medical
12 condition that requires ongoing treatment and limited major life activities. Plaintiff’s condition
13 falls under the definition of “disability” under California law. Defendant was aware of Plaintiff’s
14 disabilities and medical conditions.

15 33. Plaintiff was able to perform her essential job duties with reasonable accommodation for her
16 physical disability and medical condition. At all times during her employment, Plaintiff was
17 otherwise qualified to do her job.

18 34. Plaintiff was willing to participate in the interactive process to determine reasonable
19 accommodations.

20 35. Defendant failed to engage in a timely good-faith interactive process with Plaintiff to determine
21 an effective and reasonable accommodation.

22 36. As a proximate result of Defendant’s conduct, Plaintiff has suffered special damages in the form
23 of lost earnings, benefits and/or out of pocket expenses in an amount according to proof at the
24 time of trial. As a further direct and proximate result of Defendant’s conduct, Plaintiff will suffer
25 additional special damages in the form of lost future earnings, benefits and/or other prospective
26 damages in an amount according to proof at the time of trial.

27 37. By reason of the conduct of Defendant herein, Plaintiff has retained attorneys to prosecute her
28 claims under the FEHA. Plaintiff is therefore entitled to recover reasonable attorneys’ fees and

1 costs pursuant to Gov. Code § 12965(b), in addition to other damages as provided by law and as
2 alleged herein.

3 **PRAYER FOR RELIEF**

4 WHEREFORE, Plaintiff prays as follows:

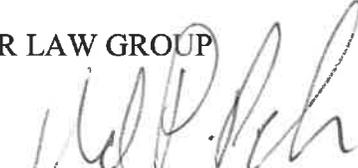
- 5 1. For damages in an amount to be proven, including lost wages and overtime wages, general
6 and compensatory damages and penalties in an amount in excess of the minimum jurisdictional
7 limits of this court;
- 8 2. For attorney fees as authorized by law;
- 9 3. For costs of suit incurred;
- 10 4. For prejudgment interest;
- 11 5. For such other and further relief as this court may deem just and proper; and
- 12 6. Damages in an amount of to be proven at trial.

13 **DEMAND FOR JURY TRIAL**

14 Plaintiff hereby demands trial by jury in this action of all claims asserted against all
15 Defendants as permitted by law.

16 Dated: April 16, 2018

PETER LAW GROUP

17 By: 

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19 Arnold P. Peter
20 Attorneys for Plaintiff
21 SARAH COOGLE
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