

Fax Transmission

To: NLRB Region 21 Charge Processing Officer

From: Brown Neri Smith and Khan LLP

Fax: 12138942778

Date: 2/25/2021 2:19:10 PM PST

RE: RE: NLRB 501 Charge Filing

Pages: 4

Comments:

To NLRB Region 21 Charge Processing Officer
Re: NLRB 501 Charge Filing

Please accept the attached NLRB form 501 charge and one-page attachment for filing this 25th day of February, 2021.

ADDENDUM TO NLRB CHARGE AGAINST EMPLOYER filed by Aysha Khoury, M.D., against:

KAISER PERMENENTE SCHOOL OF MEDICINE (KPSOM)

In the past six (6) months, the Employer, KPSOM by and through its leadership, including, but not limited to Founding Dean Mark A. Schuster, MD, PhD, Senior Associate Dean Maureen T. Connelly, MD, MPH, and Michael Kanter, MD, Chair of Clinical Science, have retaliated and discriminated against Dr. Khoury in violation of Section 7 of the NLRA by conduct including, but not limited to the following:

KPSOM has promulgated and maintained workplace rules that KPSOM employees are required to adhere to including: “[p]romoting inclusiveness and diversity in medical education and the health professions;” “[a]chieving health equity for all and the elimination of health disparities wherever they exist.” [<https://medschool.kp.org/about/mission-vision-and-values> (last accessed February 11, 2021).]

Based thereon, Kaiser faculty organized and coalesced around the elimination of bias in KPSOM’s processes, practices, operations, and product development that stymie academic freedom, diversity, inclusion and equity. Dr. Khoury visibly led and participated in this mobilization, including leveraging social media to establish a discursive space for addressing with her coworkers KPSOM’s gendered double standards in the assignment of academic freedom, lack of due process in discipline and promotions, and other biased processes that adversely impact black women physicians on the faculty. In response, KPSOM treated Dr. Khoury in an adverse and retaliatory manner which included suspending her from her teaching and clinical duties, investigating her, denying her a scheduled promotion and contract renewal, renegeing on an agreement to extend her contract, publicly disparaging her character and professionalism, and constructively terminating her contract by rejecting her request for contract renewal. KPSOM engaged in this unlawful conduct in order to discourage and chill employees from engaging in concerted protected activities concerning significant workplace concerns in violation of the National Labor Relations Act.

Please Review the Following
Important Information
Before Filling Out a Charge Form!

- Please call an Information Officer in the Regional Office nearest you for assistance in filing a charge. The Information Officer will be happy to answer your questions about the charge form or to draft the charge on your behalf. Seeking assistance from an Information Officer may help you to avoid having the processing of your charge delayed or your charge dismissed because of mistakes made in completing the form.
- Please be advised that not every workplace action that you may view as unfair constitutes an unfair labor practice within the jurisdiction of the National Labor Relations Act (NLRA). Please click on the Help Desk button for more information on matters covered by the NLRA.
- The section of the charge form called, "Basis of Charge," seeks only a brief description of the alleged unfair labor practice. You should **NOT** include a detailed recounting of the evidence in support of the charge or a list of the names and telephone numbers of witnesses.
- After completing the charge form, be sure to sign and date the charge and mail or deliver the completed form to the appropriate Regional Office.
- A charge should be filed with the Regional Office which has jurisdiction over the geographic area of the United States where the unfair labor practice occurred. For example, an unfair labor practice charge alleging that an employer unlawfully discharged an employee would usually be filed with the Regional Office having jurisdiction over the worksite where the employee was employed prior to his/her discharge. An Information Officer will be pleased to assist you in locating the appropriate Regional Office in which to file your charge.
- The NLRB's Rules and Regulations state that it is the responsibility of the individual, employer or union filing a charge to timely and properly serve a copy of the charge on the person, employer or union against whom such charge is made.
- By statute, only charges filed and served within **six (6) months** of the date of the event or conduct, which is the subject of that charge, will be processed by the NLRB.

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST EMPLOYER

DO NOT WRITE IN THIS SPACE	
Case	Date Filed

INSTRUCTIONS:

File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT

a. Name of Employer Kaiser Permanente Bernard J. Tyson School of Medicine		b. Tel. No. (510) 271-6674
		c. Cell No.
		f. Fax No. unknown
d. Address (Street, city, state, and ZIP code) 98 S. Los Robles Ave., Pasadena, CA 91101	e. Employer Representative Robert Spagat, Esq. Kaiser Foundation Hospitals/Health Plan One Kaiser Plaza, 19th Floor Oakland, CA 94612	g. e-mail robert.spagat@kp.org
		h. Number of workers employed 200
i. Type of Establishment (factory, mine, wholesaler, etc.) School of Medicine	j. Identify principal product or service medical education	


The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (list subsections) (2), (3), (4) and (5) of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.

2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)
Dr. Aysha Khoury spoke and published publicly in an effort to mobilize the faculty of the Kaiser Permanente Bernard J. Tyson School of Medicine ("KPSOM") to eliminate unfair processes, practices and operations that prevented academic freedom, inclusion and equity. Dr. Khoury spoke and wrote against KPSOM's gender and race double standards relating to academic freedom, academic advancement, discipline, due process and other biased processes that adversely impacted black women on the faculty. In response, KPSOM retaliated against Dr. Khoury by suspending her from teaching and clinical duties, investigating her, denying her a promotion, denying her due process, renegeing on her contract renewal, and constructively discharging her. The School did this to Dr. Khoury to discourage and chill employees from engaging in concerted activities protected by the NLRA. See also attached page.

3. Full name of party filing charge (if labor organization, give full name, including local name and number)
Dr. Aysha Khoury, MD, MPH

4a. Address (Street and number, city, state, and ZIP code) Contact through counsel: Nathan M. Smith Brown Neri Smith & Khan LLP 11601 Wilshire Blvd., Suite 2080 Los Angeles, CA 90025	4b. Tel. No. (310) 593-9890
	4c. Cell No.
	4d. Fax No. (310)593-9980
	4e. e-mail nate@bnkslaw.com

5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization)

6. DECLARATION I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.		Tel. No. 3105939890 (attorney)
		Office, if any, Cell No.
Aysha Khoury MD, MPH		Fax No.
(signature of representative or person making charge)		e-mail nate@bnkslaw.com
Address <u>contact attorney Nathan Smith at above address</u>		Date <u>2-24-21</u>

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001) PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information may cause the NLRB to decline to invoke its processes.