

STATE OF MINNESOTA
COUNTY OF HENNEPIN

DISTRICT COURT
FOURTH JUDICIAL DISTRICT

Case Type: Discrimination

Maria [REDACTED]

Court File No.: _____

Judge: _____

Plaintiff,

vs.

**COMPLAINT AND
DEMAND FOR JURY TRIAL**

**Fairview Health Services dba Fairview
Lakes Regional Medical Center,**

Defendant.

Plaintiff Maria [REDACTED] (“Ms. [REDACTED] or “Plaintiff”), through her attorneys, Jess Braverman and Christy L. Hall of Gender Justice, 200 University Ave. West, Suite 200, St. Paul, Minnesota 55103, and Katherine S. Barrett Wiik of Best & Flanagan, LLP, 60 South 6th Street suite 2700, Minneapolis, Minnesota, 55402, for her Complaint against the above-named defendant, states and alleges as follows:

INTRODUCTION

Plaintiff Maria [REDACTED] resides in Anoka County, Minnesota with her husband and two young sons. She has Bachelor’s Degree in Psychology and a Master’s Degree in Marriage and Family Therapy. Ms. [REDACTED] has worked in the greater Twin Cities community as a licensed marriage and family therapist for over five years and has worked in the mental health field for more than ten years. Ms. [REDACTED] is also active in Minnesota’s Hmong-American community. She was born in Minnesota to Hmong immigrants who sought refuge from their native Laos.

In September of 2016, Ms. [REDACTED] gave birth to her first child. Both Ms. [REDACTED] and her husband felt strongly about feeding their son breastmilk for the first several months of his life, however she experienced painful mastitis and had difficulty producing enough milk. She sought help from a lactation specialist at Fairview Lakes Regional Medical Center in Wyoming, Minnesota, and together they decided the best course of action was to exclusively pump breastmilk to sustain her son's needs.

In addition to difficulty with breastfeeding, Ms. [REDACTED] experienced post-partum depression. Post-partum depression is a common, treatable condition affecting approximately one out of every nine women in the United States.¹ For Ms. [REDACTED] difficulty producing sufficient milk to sustain her son greatly exacerbated her post-partum stress and anxiety. In November, 2016, Ms. [REDACTED] symptoms worsened and she was unable to schedule an appointment with her regular OB/GYN. At the encouragement of a friend, Ms. [REDACTED] sought care at the Fairview Emergency Department at the Fairview Lakes Center. On this visit, a Fairview doctor placed her on an involuntary 72-hour mental health hold.

While forced to remain at Fairview, hospital staff held Ms. [REDACTED] in unclean, inhumane, and discriminatory conditions. For hours, Defendant prevented Ms. [REDACTED] from being able to safely express breastmilk to provide vital nourishment for her eight-week-old baby. She requested a breast pump from staff and despite being detained in a hospital, she was forced to wait hours to receive it. When she waited, her mastitis became incredibly painful.

¹ Centers for Disease Control and Prevention, Maternal Depression (2016), <https://www.cdc.gov/features/maternal-depression/index.html>.

Though breastfeeding mothers should remain hydrated and eat regularly to help maintain consistent milk production, while she was on the involuntary mental health hold, Ms. [REDACTED] was not given water for over 3 hours after requesting it and was made to wait 4-5 hours for food. She was forced to clean the pump parts in a public sink in the corridor because the sink in her room was locked and blocked off from use.

Fairview also refused her request for a safe storage place for the pumped milk. Ms. [REDACTED] ultimately asked a friend to bring ice to the hospital room to keep the milk chilled. A hospital manager eventually informed Ms. [REDACTED] that the public sink could have contaminated the milk. Ms. [REDACTED] was horrified because she had already fed some to her child. She had to dump out all the milk she had pumped. Ms. [REDACTED] was also denied any privacy to pump. There was a camera in her room that was broadcasting out in the hallway for any passerby to see. As she was roomed, Ms. [REDACTED] was also subjected to the humiliation and invasion of a strip-search.

Ms. [REDACTED] sought compassionate care at Fairview for complications related to postpartum depression and challenges with breast-feeding. Instead, she was humiliated, violated, and mistreated. Ms. [REDACTED] brings this lawsuit to remedy illegal discrimination based on her sex in violation of the Minnesota Human Rights Act (“MHRA”), Minn. Stat §§ 363A.01, *et seq.*

PARTIES, JURISDICTION & VENUE

1. Plaintiff is a resident and citizen of the state of Minnesota.

2. During all relevant times, Defendant Fairview Health Services was “a place of public accommodation,” as defined by Minn. Stat. § 363A.03, subd. 34 and a business as defined by Minn. Stat. § 363A.03 subd. 4.
3. Defendant Fairview Health Services a nonprofit corporation under Minn. Stat. § 317A registered in the State of Minnesota. Its registered office is located at 2450 Riverside Ave, Minneapolis, MN 55454.
4. Defendant Fairview Health Services does business as Fairview Lakes Medical Center. The physical building and place of business of Fairview Lakes Medical Center is located at 5200 Fairview Blvd Wyoming, MN 55092.
5. The District Court in the county of Hennepin, State of Minnesota, has original jurisdiction over the parties and all claims set forth in this Complaint pursuant to Minn. Stat. § 484.01, subd. 1 and Minn. Stat. § 363A.33 subd. 6.
6. Venue in this Court is proper pursuant to Minn. Stat. § 542.09, because Defendant resides in Hennepin County.

FACTUAL ALLEGATIONS

7. Maria [REDACTED] lives in Anoka County with her husband and two children.
8. Ms. [REDACTED] received a bachelor’s degree from Northwestern College and a master’s degree from Bethel University. She has worked as a licensed marriage and family therapist for over five years and has worked in the mental health field for over ten years. She has significant professional experience helping individuals who are experiencing mental health crises and connecting them with mental health services.

9. Ms. [REDACTED] is active in the Hmong-American community in Minnesota. She was born in Minnesota to Hmong immigrants who sought refuge from their native Laos.
10. In September of 2016, Ms. [REDACTED] gave birth to her first child, a boy, at Fairview Lakes Regional Medical Center.
11. After the birth of her child, Ms. [REDACTED] experienced painful mastitis and struggled producing enough milk for her son. Mastitis is the painful inflammation of the mammary tissue that occurs in nearly 1 in 5 breastfeeding women.² In order to avoid painful reoccurrences of mastitis, new mothers must either nurse or express milk frequently and avoid long periods between feeds.³
12. In October of 2016, she worked with a lactation consultant at Fairview Lakes to address these issues she was experiencing. Mr. and Ms. [REDACTED] strongly desired to nourish their newborn son with only breastmilk for the first several months of his life.
13. Symptoms resulting from her mastitis made breastfeeding difficult for Ms. [REDACTED]. The lactation specialist, Ms. [REDACTED] and her husband decided that to fulfill their wishes for their son's diet, she would need to exclusively pump breastmilk. She began a consistent regimen of pumping in order to supply her son with adequate nourishment and to maintain as high a level of milk production as possible.

² Pregnancy, Birth, and Baby, *Mastitis*, (August 2020),
<https://www.pregnancybirthbaby.org.au/mastitis>.

³ Better Health Channel, *Breastfeeding – dealing with mastitis* (Feb. 2012),
<https://www.betterhealth.vic.gov.au/health/HealthyLiving/breastfeeding-dealing-with-mastitis>.

14. After her lactation consultation, Ms. [REDACTED] body continued to struggle to produce milk, causing her significant distress. On November 8, 2016, Ms. [REDACTED] met with her OB/GYN at Fairview Lakes to discuss her worsening stress and anxiety related to her body's milk production.
15. Ms. [REDACTED] recognized that she was experiencing escalating symptoms of postpartum depression⁴ and openly communicated her concerns to her doctor during this visit. Her difficulty producing milk exacerbated her stress and anxiety.
16. Her doctor decided that she did not need medication for postpartum depression at that time but advised her to return soon. Ms. [REDACTED] was nearing the end of her pregnancy leave, and they wanted to begin a medication regimen for her postpartum depression before she returned to work.
17. Less than a week later on November 13, 2016, Ms. [REDACTED] took a short break from caring for her son to meet up with a close friend. Over breakfast, they discussed the stressors Ms. [REDACTED] was experiencing as a new mother and her worsening mental health symptoms. After encouragement from her friend, Ms. [REDACTED] decided to seek additional treatment for her mental health symptoms.
18. Because there were no appointments available with the doctors at the Fairview Lakes OB/GYN clinic, Ms. [REDACTED] decided to seek immediate treatment from the ER

⁴ Postpartum depression is a common, treatable condition that affects approximately 1 in 9 women in the U.S. Centers for Disease Control and Prevention, *Maternal Depression*, (2016), <https://www.cdc.gov/features/maternal-depression/index.html>.

Department at Fairview Lakes. She and Ms. Sorenson left their breakfast meeting and drove to the ER. Records show she arrived at 11:04 on am to seek care.

19. Upon her arrival, she asked to speak with a lactation consultant to discuss her continuing mastitis issues. She was not connected with a lactation specialist at that time, even though the Fairview Lakes facility had a lactation center onsite.
20. She also asked to see a doctor about obtaining medication for her postpartum depression and anxiety, as her OB/Gyn had previously planned for. There were no psychiatrists or mental health practitioners available to see Ms. [REDACTED] at that time.
21. Because there were no mental health specialists able to assist her, she participated in a telemedicine psychological assessment with a Diagnostic Evaluation Center (“DEC”) assessor.
22. During this assessment, the Ms. [REDACTED] tried to be open and honest about fleeting thoughts she would never act upon. After listening, the assessor told her that such thoughts were “normal,” and ultimately felt “she could go either way” between sending Ms. [REDACTED] home or admitting her for treatment. The assessor made a safety plan for Ms. [REDACTED] to return home and gave the impression that she would receive the requested treatment and go home shortly.
23. Despite the DEC assessor’s determination, the ER doctor on staff that day, Dr. Kevin Chatwin, made the decision to place Ms. [REDACTED] on a 72-hour mental health hold after reviewing the notes of her assessment. Dr. Chatwin is not a mental health specialist; he is a medical acupuncturist and an emergency medicine doctor.

24. Ms. [REDACTED] was not informed of Dr. Chatwin's decision to place her on a hold. Instead, after the decision was made, two staff members brought her to a sparse room, and Fairview employees ultimately kept her there for over 27 hours.
25. When Ms. [REDACTED] entered the room, she observed it was cold with poor ventilation, had no windows, a non-working sink, and a dirty floor.
26. The two staff members handed her hospital issued clothing. It was at that moment that she realized she was being held for mental health observation, because she recognized the clothing as the style used for inpatient psychiatric patients. This was incredibly alarming, since she had not yet been informed of the hospital's intentions.
27. The two staff members were a female nursing assistant and a male security guard who told Ms. [REDACTED] to turn over all her clothing and personal items. They instructed her to strip down, completely naked, in front of both of them to change into the hospital clothes. Neither staff member asked for her consent or explained why a strip search was necessary.
28. Ms. [REDACTED] was alarmed and ashamed by the lack of privacy and their insistence that she be naked in the presence of the male guard, but her protests were ignored by the two employees.
29. In Hmong culture, privacy surrounding nudity is extremely important, particularly between men and women who are not married.
30. After pleading that she be allowed to keep her underwear on, the two employees finally agreed and the male security guard stepped out of the room.

31. Ms. [REDACTED] was not patted down or given any reason for this procedure, and neither employee offered any justification for why she was required to be visually examined in her underwear.
32. Much later, Ms. [REDACTED] learned that there was a camera filming the room in which she was held. The video feed from the camera was broadcast to a monitor mounted in the hallway outside the room. The strip search, and everything else that would happen in the room, was being shown to the male guard and to anyone who happened through that hallway, including medical staff, patients, and visitors.
33. After the humiliation of the strip search and the horror of realizing it had all been filmed, Ms. [REDACTED] was incredibly upset. Despite this, she was also afraid that any failure to comply with the staff's requests would result in even further maltreatment.
34. Throughout her time at Fairview, Ms. [REDACTED] made simple requests for her basic biological needs as a lactating mother.
35. Ms. [REDACTED] was hungry and thirsty. She also knew it was important for breastfeeding mothers to receive adequate hydration and nutrition. Ms. [REDACTED] requested a drink of water and did not receive any for 3 hours. The hospital also refused to provide her with any food for 4-5 hours after she requested it.
36. A lactating mother's inability to express breastmilk on schedule can lead to discomfort, pain, fever, infection, and reduced milk supply. Regular pumping is also required to alleviate symptoms of mastitis. Ms. [REDACTED] requested a breast pump from the hospital, which she did not receive for two hours. She was not able to use the pump for an additional hour due to being moved by the hospital and being strip

- searched. By the time she was able to pump, it had been 5 hours since her last expression of breastmilk. Her body was used to pumping every 2-3 hours, and this delay to provide her immediately with a breast pump left her in tremendous pain.
37. Ms. [REDACTED] felt very concerned that the denial of the breast pump for an extended period of time would affect her milk production and therefore the endanger the health of her newborn son. Failure to express breastmilk regularly can result in lower production of breastmilk.
38. As her mastitis became more painful as she awaited the breast pump, she requested lanolin to help alleviate pain related to her mastitis. The staff informed her that they would not provide her with lanolin and she would need to send her friend to go purchase it for her. Much later, the staff changed their mind and told her they would retrieve it for her.
39. When Ms. [REDACTED] was finally given the breast pump, she requested a screen to cover the door so she could use the pump in private. At that time, she was not yet aware that each time she exposed her breasts to use the pump, her image was broadcast on the outside monitor.
40. At a later point during her detention, she spoke with a female security guard outside the room to discuss her concerns about her treatment. It was then she saw the monitor displaying her room. The camera angle pointed to the area of the room in which she had been using the pump and the entirety of the room could be seen on the monitor.

41. After she realized she was exposing herself to anyone in the corridor each time she pumped, she did her best to try to turn her back to the camera, but at such an angle, the security guards would still see her exposed breasts. As a result, she felt ashamed and humiliated each time she pumped.
42. She was afraid that further complaints would garner more mistreatment by the staff, but she needed to continue to express breastmilk for her son and avoid the extreme pain of engorged breasts by continuing to pump. She decided to remain calm and compliant despite her ongoing humiliation and stress.
43. Despite knowing that Ms. [REDACTED] was a breastfeeding mother, Fairview Lakes also failed to provide her with a place to safely express and store her milk
44. Because the sink in her room was locked and inaccessible, Ms. [REDACTED] was forced to wash the breast pump parts in a public sink in a hospital corridor.
45. She requested a clean, refrigerated place to store the milk she had pumped, but Fairview denied her request. Instead, Ms. [REDACTED] friend had to fill cups with ice to try to store the milk until Ms. [REDACTED] husband was able to supply her with a cooler.
46. Ms. [REDACTED] ultimately had to dump out all the milk she had pumped – enough for ten feedings for her son. She did so after learning from the security guard on duty that the sink she used to clean her pump between feedings was unsanitary. Fairview's ER Manager Margo Binsfield confirmed this information.
47. Ms. [REDACTED] was horrified by this news. By the time anyone had told her about the potential for the sink to contaminate her breast milk, she had already used some of the milk to feed her son.

48. Throughout her detention, Ms. [REDACTED] repeatedly requested to meet with Dr. Chatwin because she had questions about her treatment and concerns about her detention. According to medical records, Dr. Chatwin was informed about of the request on more than one occasion. He never went to meet with Ms. [REDACTED]
49. On several occasions Ms. [REDACTED] requested a second opinion from her OB/GYN, who was on call that night a few floors above where Ms. [REDACTED] was detained. This doctor would better knowledge and understanding about Ms. [REDACTED] and her medical and mental health needs. Fairview did not fulfill this request.
50. Ms. [REDACTED] also repeatedly requested that her husband and son be allowed to be in her room with her because she was anxious about being separated from him, given the newborn was dependent on her for milk. Ms. [REDACTED] medical records indicate that allowing her husband and child to visit “was discussed with security and this is not an option.”
51. Ms. [REDACTED] husband was eventually allowed in that day, but not her son. In the evening, the staff told Ms. [REDACTED] that her husband and friend had to leave due to the end of visiting hours for the day. Later, she learned from both a nurse and the ER Director that there were no restrictions on visiting hours.
52. While Ms. [REDACTED] was still being held at Fairview Lakes, she had a second DEC consultation and a follow up evaluation with Dr. Drage, ER Manager Margo Binsfield, Fairview’s patient relations manager Ruth Schaffan, and the charge nurse on duty.

53. According to Dr. Drage's notes, the DEC assessor did not believe Ms. [REDACTED] was homicidal or suicidal. Dr. Drage consulted again with Dr. Chatwin, who wanted Ms. [REDACTED] to obtain a psychiatric evaluation prior to release.
54. Dr. Drage stated in her evaluative notes that Ms. [REDACTED] was not suicidal and that she had not been evaluated in significant depth by the previous physician.
55. Twenty-seven hours after her initial detention, Ms. [REDACTED] was transferred to Fairview Riverside. At Fairview Riverside, she was seen by Dr. Simon. This was the first time during her involuntary hold that she was evaluated by a mental health care professional. After a brief conversation with [REDACTED] during which the doctor told Ms. [REDACTED] that the Fairview Lakes should have released her rather than transferring her, the doctor lifted her hold and discharged her.
56. Ms. [REDACTED] a breastfeeding mother, was denied compassionate medical care by Fairview. Fairview withheld a breast pump, food, and beverages for hours while her mastitis symptoms worsened. She was denied a safe and sanitary means to pump and store milk for her child. She was denied any privacy to pump breast milk, and her naked body was displayed, without her knowledge or consent, on a video camera for any passerby to see. Fairview's treatment of Ms. [REDACTED] exacerbated, rather than alleviated her stress and anxiety. Ms. [REDACTED] felt humiliated, violated, scared, and anxious due to Fairview's mistreatment.

COUNT I
Sex Discrimination in Public Accommodations
Minnesota Human Rights Act

Plaintiff realleges the above allegations of this Complaint and alleges as follows:

57. It is an unfair discriminatory practice to deny a person the goods or services of a place of public accommodation because of their sex. Minn. Stat. § 363A.11.
58. Sex is defined to include pregnancy, childbirth, and related conditions. Minn. Stat. § 363A.03, subd. 42.
59. Defendant discriminated against Plaintiff by delaying her access to a breast pump, food, and water for hours, by failing to provide her with a sanitary breast pump and a clean and cold place to store breastmilk to feed her child, by depriving her of competent medical care related to breastfeeding and post-partum depression, by strip-searching her in view of others, and by projecting a video of her pumping out into the hospital hallway for any passerby to see.
60. The unlawful discrimination complained of above was intentional and performed by Defendant with malice and/or reckless indifference to Plaintiff's rights.
61. As a result of Defendant's illegal conduct, Plaintiff suffered significant emotional distress and has incurred attorneys' fees, costs, and expenses.

COUNT III
Sex Discrimination in Business
Minnesota Human Rights Act

Plaintiff realleges the above allegations of this Complaint and alleges as follows:

62. It is an unfair discriminatory practice for a business to discriminate in the basic terms, conditions, or performance of a contract because of a person's sex. § 363A.17.
63. Sex is defined to include pregnancy, childbirth, and related conditions. Minn. Stat. § 363A.03, subd. 42.

64. Defendant discriminated against Plaintiff by delaying her access to a breast pump, food, and water for hours, by failing to provide her with a sanitary breast pump and a clean and cold place to store breastmilk to feed her child, by depriving her of competent medical care related to breastfeeding and post-partum depression, by strip-searching her in view of others, and by projecting a video of her pumping out into the hospital hallway for any passerby to see.
65. The unlawful discrimination complained of above was intentional and performed by Defendant with malice and/or reckless indifference to Plaintiff's rights.
66. As a result of Defendant's illegal conduct, Plaintiff suffered significant emotional distress and has incurred attorneys' fees, costs, and expenses.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff requests the following:

- A. That the practices of the Defendant complained of herein be adjudged, decreed and declared to violate the rights secured to Plaintiff by the Minnesota Human Rights Act, Minn. Stat. § 363A.01 *et seq.*
- B. That a permanent mandatory injunction be issued requiring that Defendant adopt practices in conformity with the requirements of the Minnesota Human Rights Act, Minn. Stat. § 363A.01 *et seq.*
- C. That a permanent prohibitory injunction be issued prohibiting Defendant from engaging in the practices complained of herein.
- D. That the Court order Defendant to pay a civil penalty to the State of Minnesota pursuant to Minn. Stat. § 363A.29.

- E. That Plaintiff be awarded compensatory damages in an amount to be established at trial, and treble damages pursuant to Minn. Stat. § 363A.33, subd. 6, and § 363A.29, subd. 4.
- F. That Plaintiff be awarded punitive damages pursuant to Minn. Stat. § 363A.29, subd. 4 in an amount to be established at trial.
- G. That the Court issue an order enjoining Defendant and its officers, agents, and employees from any retaliation against Plaintiff for prior actions, or for bringing this action.
- H. That Plaintiff be awarded pre- and post-judgment interest on any monetary damages awarded, pursuant to Minn. Stat. § 549.09 (2013).
- I. Pursuant to Minn. R. Civ. P. 8.01, notice is provided that reasonable damages may be greater than \$50,000.
- J. That Plaintiff be awarded such other and further legal and equitable relief as may be found appropriate, just, and equitable.
- K. That the court retain jurisdiction until the Court is satisfied that the Defendant has remedied the practices complained of herein and are determined to be in full compliance with the law.
- L. That the Court order Defendant to pay counsel for Plaintiff her reasonable attorneys' fees and the costs, disbursements, and expenses of this action.

DEMAND FOR JURY TRIAL

Plaintiff demands a jury trial in this action.

Dated: February 12, 2021

GENDER JUSTICE

/s/ Christy L. Hall

Christy L. Hall, MN No. 392627
Jess Braverman, MN No. 397332
200 University Ave West, Suite 200
St. Paul, MN 55103
Tel. 651-789-2090
Fax 651-789-2093
christy.hall@genderjustice.us
jess.braverman@genderjustice.us

BEST & FLANAGAN LLP

/s/ Katherine S. Barrett Wiik

Katherine S. Barrett Wiik, MN No. 0351155
60 South Sixth Street, Suite 2700
Minneapolis, Minnesota 55402
Tel: (612) 339-7121
kbarrettwiik@bestlaw.com

ATTORNEYS FOR PLAINTIFF

ACKNOWLEDGMENT

The undersigned acknowledges that pursuant to Minn. Stat. § 549.211, subd. 2, that costs, disbursements, and reasonable attorney and witness fees may be awarded to the opposing party or parties in this litigation if the Court should find that the undersigned acted in bad faith, asserted a claim or defense that is frivolous and that is costly to the other party, asserted an unfounded position solely to delay the ordinary course of the proceedings or to harass, or committed a fraud upon the Court.

Dated: February 12, 2021

s/ Christy L. Hall