

ENTERED ON RUMS

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MIN AMY GUO

Plaintiff,

v.

NOVARTIS PHARAMCEUTICALS  
CORPORATION, JOHN DOES 1-10 (fictitiously  
named), and XYZ CORPORATIONS 1-10  
(fictitiously named)

Defendants.  
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SUPERIOR COURT OF NEW JERSEY  
MORRIS COUNTY: LAW DIVISION

DOCKET NO. *MJL 1486-14*

RECEIVED & FILED  
SUPERIOR COURT  
MORRIS COUNTY  
CIVIL DIVISION  
2014 JUN 13 P 12:01  
COMPLAINT

Plaintiff Min Amy Guo ("Plaintiff"), a resident of the County of Morris, residing at 6 Woodshire Terrace, Towaco, New Jersey 07082, by way of Complaint against Defendants Novartis Pharmaceuticals Corporation ("Novartis"), John Does 1-10 (fictitiously named), and XYZ Corporations 1-10 (fictitiously named) (collectively "Defendants") says:

THE PARTIES

1. Plaintiff is a former employee of Novartis.
2. Novartis is a corporation organized under the laws of the State of Delaware, and has as its principal place of business a facility located at One Health Plaza, East Hanover, New Jersey, 07936-1080.

*Eric A. Webb*  
*Novartis*  
*Er Han*  
*Crystal*  
*CS*

3. John Does 1-10 (fictitiously named) are individuals who committed or aided and abetted the illegal and/or actionable conduct described herein.

4. XYZ Corporations 1-10 (fictitiously named) are corporations that committed or aided and abetted the illegal and/or actionable conduct described herein.

### **VENUE**

5. Venue is appropriate pursuant to R. 4:3-2(a) because the causes of action arose in Morris County, New Jersey, among other reasons.

### **FACTS**

6. Plaintiff possesses a Bachelor of Science in Biomedical Engineering, a Master's of Science in Economics, and a Ph.D. in Economics.

7. Plaintiff has worked in the field of health economics and outcomes research for 18 years, four as a researcher in not-for-profit organizations and 14 in the pharmaceutical industry. Throughout her career, Plaintiff has developed an excellent track record of success and integrity that earned her promotions to technical and management leadership positions.

8. Plaintiff began her employment with Novartis in September 2008 as the Senior Director and Head of the Health Economics and Outcomes Research Group ("HEOR").

9. The purpose of HEOR is to perform research on patient health outcomes and the cost of various products, including Novartis products.

10. Plaintiff was tasked with the job of building HEOR by hiring experts to demonstrate the value of Novartis products through research and publications.

11. Plaintiff did so, and performed her job well.

12. Plaintiff received the President's Tribute Award from Novartis and a Novartis all-pharma award for Collaboration, Innovation, and Business Impact in 2011, and a Vision Award from Novartis in 2013.

13. In addition, Novartis consistently gave Plaintiff positive annual performance reviews and recognitions at town-hall meetings.

14. As further evidence of Plaintiff's success at Novartis, in March 2012, Plaintiff received a promotion to Executive Director of HEOR.

15. In 2010, Novartis entered into a Corporate Integrity Agreement ("CIA") with the United States Department of Health and Human Services Office of Inspector General to settle several lawsuits arising out of alleged kickbacks Novartis was giving doctors and pharmacies in violation of the Anti-Kickback Statute, 42 U.S.C. § 1320(a)-7b(b) ("AKS").

16. The CIA set out a rigorous compliance program that required Novartis to adopt certain procedures that would govern the company's activities when it paid third parties to perform research on its behalf.

17. In June 2012, Steven Stein, Senior Vice President and head of Novartis's Oncology U.S. Clinical Development and Medical Affairs, presented Plaintiff with a proposed study.

18. The proposed study was to be performed by McKesson Corporation ("McKesson"), a pharmaceutical distribution company, on the then-off-label use of Affinitor, a Novartis product, to treat breast cancer.

19. The proposed study would be overseen by another group within Novartis, Oncology Scientific Operations – Managed Markets ("OSO-MM"), not HEOR, which was a clear violation of the process in place that governs such third-party studies.

20. OSO-MM was chiefly focused on client interaction, not health outcomes research, and its oversight of a research project presented a conflict of interest and an appearance of kick-back under the guise of research.

21. The proposed study would take one month to complete, at a cost of over \$400,000.

22. Plaintiff objected to the proposed study because it would have violated the review and approval process by which Novartis must undertake such studies to comply with certain regulatory and legal requirements, including the CIA.

23. Further, permitting OSO-MM to lead the research without HEOR's involvement was also a clear violation of existing regulatory and legal compliance processes.

24. Plaintiff also believed the price of the study was exorbitant.

25. Those flaws led Plaintiff to believe that going forward with the study as it was originally proposed by Mr. Stein and Greg Grabvoy, Director of OSO-MM, would violate the AKS and the CIA.

26. Plaintiff expressed her reservations about the proposed study to Mr. Stein and Mr. Grabvoy.

27. Plaintiff told Mr. Grabvoy that HEOR should oversee the study and that the proposal should go through Novartis's regular channels for such proposed third-party studies.

28. Mr. Grabvoy responded to Plaintiff that Christi Shaw, Executive Vice President of Novartis Oncology, North America, already had agreed to conduct the study as proposed by McKesson, and that the funding for it would come from Ms. Shaw's group directly without having to go through the regular processes.

29. Mr. Grabvoy also stated that Ms. Shaw had agreed to the study because McKesson had promised Ms. Shaw that McKesson would influence its distribution network to use Affinitor based on the proposed study.

30. Ms. Shaw, who was copied on the e-mail from Mr. Grabvoy to Plaintiff, confirmed Mr. Grabvoy's representations in that e-mail.

31. In another e-mail to Mr. Stein, Plaintiff objected to the proposed study for a second time, reiterating that the study was too costly and that HEOR should oversee it as per Novartis's established process.

32. Mr. Stein responded that OSO-MM would oversee the study.

33. Plaintiff then protested to Ling Wu, Plaintiff's immediate supervisor and Novartis's Vice President of Medical Services and Health Outcomes.

34. Ms. Wu advised Plaintiff not to pursue her objections to the study, advising Plaintiff that she should let the senior officers at Novartis do as they wanted.

35. Plaintiff learned that Carlos Garay, then the Executive Medical Director, would oversee the study, and that HEOR would be involved only on an "as needed" basis in an "advisory" capacity.

36. In August 2012, Mr. Garay held a telephone conference with Mr. Grabvoy, Peter Kwok, Director of Oncology Scientific Operations, Madhav Namijoshi, Plaintiff's subordinate, and Plaintiff to discuss a revised McKesson proposal.

37. In the revised version, the price of the study came down and the research methodology was significantly changed to be rigorous and unbiased without off-label data due to Plaintiff's strong objections.

38. During that call, Plaintiff nonetheless again reiterated her objection to the study being led by OSO-MM as inappropriate and a violation of compliance process.

39. Following the call, Mr. Kwok circulated an e-mail to the call's participants advocating going ahead with the study because of McKesson's heavy influence on the pharmaceutical market.

40. Plaintiff took her concerns about the study and Mr. Kwok's inappropriate and non-compliant e-mail to Ms. Wu, and eventually Charlie Lucas, the Director of Compliance, and Mr. Grabvoy.

41. Again, Mr. Grabvoy rejected Plaintiff's objections and this time chastised Plaintiff for involving Mr. Lucas.

42. In retaliation for Plaintiff raising such concerns, Ms. Wu created a hostile work environment for Plaintiff, which included Ms. Wu verbally abusing Plaintiff, unfairly evaluating her work, and decreasing resources for Plaintiff and her department to complete their assigned tasks.

43. Plaintiff ultimately was vindicated when in July 2013, Stephanie Petrone, Executive Director of Clinical Operations, refused to approve a contract on the proposed study for many of the same reasons Plaintiff had been citing.

44. Shortly after Ms. Petrone rejected the study, Novartis terminated Plaintiff's employment.

**COUNT ONE**

**(Retaliation in Violation of the Conscientious Employee Protection Act,  
N.J.S.A. 34:19-1 to -8)**

45. Plaintiff repeats and realleges the allegations in paragraphs 1 through 44 as if stated herein in full.

46. Plaintiff objected to an action that Plaintiff reasonably believed violated law and public policy as expressed in statute and the CIA.

47. In objecting to that action, Plaintiff engaged in protected activity under the Conscientious Employee Protection Act (“CEPA,”) N.J.S.A. 34:19-1 to - 8.

48. In violation of CEPA, Novartis retaliated against Plaintiff for Plaintiff’s undertaking of her protected activities by creating and permitting a hostile work environment and terminating Plaintiff’s employment.

49. As a result of Novartis’s actions, Plaintiff has suffered damages.

**COUNT TWO**

**(Common Law Wrongful Discharge)**

50. Plaintiff repeats and realleges the allegations in paragraphs 1 through 49 as if stated herein in full.

51. Plaintiff reasonably believed that the originally proposed McKesson study would have violated law and/or public policy.

52. Plaintiff objected to the study.

53. Novartis created a hostile work environment and terminated Plaintiff’s employment in retaliation for Plaintiff’s objecting to the study.

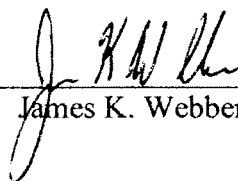
54. Novartis's actions constitute common law wrongful retaliation and discharge of Plaintiff and a violation of the public policy of the State of New Jersey.

55. As a result of Novartis's actions, Plaintiff has suffered damages.

**WHEREFORE**, Plaintiff demands judgment against defendants as follows:

- A. Awarding compensatory damages to Plaintiff for backpay, frontpay, and emotional distress;
- B. Awarding punitive damages to Plaintiff;
- C. Awarding attorneys' fees and legal costs to Plaintiff;
- D. Awarding prejudgment interest to Plaintiff; and
- E. Granting such other and further relief as the Court deems just and equitable.

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Attorneys for Plaintiff Min Amy Guo

By:   
James K. Webber

Dated: June 10, 2014