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IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR LANE COUNTY

KATHERINE ELIZABETH WHALEY,

Plaintiff,

vs.

FRED MEYER STORES, INC., a foreign  
business corporation,

Defendant.

Case No.

COMPLAINT  
(Employment Discrimination)

Prayer: \$1,300,000  
Fee Authority: ORS 21.160(1)(d)

NOT SUBJECT TO MANDATORY  
ARBITRATION

Jury Trial Requested

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Plaintiff Katherine Elizabeth Whaley alleges as follows:

**CLAIM FOR RELIEF: VIOLATION OF THE  
OREGON FAMILY LEAVE ACT, ORS 659A.150, ET SEQ.**

1.

Plaintiff Katherine Elizabeth Whaley is a resident of the State of Oregon and was employed as a manager of the electronics department of the Fred Meyer Store in Santa Clara, Oregon.

2.

Defendant Fred Meyer Stores, Inc., is a foreign corporation registered to do business in the State of Oregon, and in the business of selling electronics and other home goods in Lane County, Oregon.

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3.

Katherine Whaley was an employee of Defendant Fred Meyer Corporation for 26 years, and a manager of its Santa Clara electronics department for 11 years.

4.

On the night of Friday, October 24, 2014, the Department of Human Services called Ms. Whaley to tell her that her granddaughter and her granddaughter’s three siblings needed emergency foster placement.

5.

The Department of Human Services required the children to be medically evaluated on Monday, October 27, 2014. Ms. Whaley was scheduled to work at Fred Meyer that day.

6.

Fred Meyer’s written policy, which each employee signs once a year, requires employees to “personally notify the PIC [person in charge] of an absence prior to the scheduled work shift.” In Ms. Whaley’s department, the PICs included the assistant managers, Patrick Turner and Will Carrol, and Russie Evans, the price-change clerk. Patrick Turner was the PIC with authority to change the schedule and make sure each shift was covered in Ms. Whaley’s absence. Henry Johnson, the store director, also told managers to let a Manager on Duty (MOD) know about any absence.

7.

In the morning, on Saturday, October 25, 2014, Ms. Whaley called Patrick Turner and personally notified him that she needed to stay home for the Monday shift because of the emergency foster placement.

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8.

During the day on Saturday, October 25, 2014, there was a windstorm that knocked out Ms. Whaley’s landline phone. Ms. Whaley does not have cell phone reception at her home, and so she and her husband moved the children to their daughter’s house. From there, Ms. Whaley called Will Carrol, the nighttime assistant manager, and confirmed that Patrick Turner had changed the schedule. Ms. Whaley also texted Russie Evans to tell her about the absence.

9.

On Sunday, October 26, 2014, Ms. Whaley confirmed with Patrick Turner that he had let Henry Johnson, the store manager and Ms. Whaley’s MOD, know that she needed to be absent on Monday, October 27, 2014. These were the same steps Ms. Whaley had taken in the past for unexpected absences.

10.

On October 28, 2014, when Ms. Whaley went to work, Henry Johnson took her into his office. Ms. Whaley explained that she was absent because she had received an emergency foster placement and the children needed medical evaluations. Henry Johnson told her she was being suspended for not personally notifying him of her absence.

11.

On November 1, 2014, Henry Johnson told her that her employment had been terminated.

12.

Katherine Whaley filed a verified complaint with the Oregon Bureau of Labor and Industries on July 2, 2015, and she received a 90-day notice of right to sue dated March 29, 2016. The Bureau of Labor & Industries found substantial evidence that she had been fired in violation of the law.

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13.

By the acts and omissions described above, Defendant Fred Meyer Corporation retaliated against Ms. Whaley for taking leave protected under ORS 659A.150 to 659A.186 by suspending her and terminating her employment, all in violation of ORS 659A.183.

14.

As a result of Defendant’s unlawful acts, Katherine Whaley has and will continue to incur lost income, benefits, and consequential damages, including the costs of going back to school for retraining in a new field of work. Those economic damages are to be proven to a jury at trial, but do not exceed \$800,000.

15.

As a further result of Defendant’s unlawful acts, Katherine Whaley has suffered emotional distress including shame, humiliation, anxiety, sleeplessness, depression, and loss of enjoyment of life. After devoting 26 years of her life to Defendant Fred Meyer Corporation, she suffered the degradation of being summarily discharged, and only because she agreed to take foster children to medical appointments, as she was required to do by the state. Despite active searches, Ms. Whaley has not been able to find employment, and has been forced to confront the idea that although she was a specialist in her work at Fred Meyer, she may need to go back to school in order to find work elsewhere. The degradation and humiliation of her discharge is something Ms. Whaley continues to face as she remains without employment. These damages are continuing and Katherine Whaley is entitled to compensation in an amount to be determined by the jury at the time of trial, not to exceed \$500,000.

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