

**UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
CALIFORNIA**

Litvinova v. Kaiser Foundation Hospitals

No. 25-cv-06253-SI (N.D. Cal. Sept. 23, 2025) · No. 25-cv-06253-SI · Decided September 23, 2025

OPINION

Litvinova v. Kaiser Foundation Hospitals

PER CURIAM.

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3 UNITED STATES DISTRICT COURT

4 NORTHERN DISTRICT OF CALIFORNIA

5 6 TATYANA LITVINOVA, Case No. 25-cv-06253-SI 7 Plaintiff,

ORDER TO SHOW CAUSE

8 v.

9 KAISER FOUNDATION HOSPITALS, et

al., 10 Defendants. 11 12 Defendants' motion to dismiss the complaint is scheduled for a hearing on October 10, 2025. 13 In reviewing plaintiff's opposition brief, the Court has found that there are three instances in which 14 plaintiff's counsel has cited a case for a quotation but the quotation does not appear anywhere in the 15 case, as well as an instance in which plaintiff's counsel cited a case for a proposition that is not 16 contained in that case. 17 First, on page 6, lines 1-3, the opposition attributes the following quotation to Hernandez v. 18 Creative Concepts, Inc., 862 F. Supp. 2d 1073, 1085 (D. Nev. 2012): "Federal labor law does not 19 preempt a state cause of action for tortious or criminal conduct, even if such conduct is arguably 20 protected or prohibited by the NLRA." This quotation is not in Hernandez. 21 Second, on page 6, lines 10-12, the opposition cites Hayden v. Reickerd, 957 F.2d 1506 (9th

22 Cir. 1991), for the proposition that "the court found that claims involving abusive and tortious 23 conduct were not preempted by Garmon, noting the 'state's interest in protecting individuals from 24 personal injury and abuse.'" The quotation at the end of the sentence does not appear in Hayden. 25 Third, also on page 6, lines 19-20, the opposition cites "See Radcliffe, 254 F.3d at 787 ('State 26 court may award tort damages that the NLRB cannot.')." The quotation in the parenthetical does 27 not appear in Radcliffe v. Rainbow Const. Co., 254 F.3d 772 (9th Cir. 2001).

1 retaliation combined with emotional abuse may constitute 'outrageous' conduct" with a citation to 2 Fletcher v. Western Nat. Life. Ins. Co., 10 Cal. App. 3d 376, 397 (1970). Fletcher did not involve 3 workplace retaliation, but instead was a case brought by an insured against an insurance company 4 || for bad faith handling of an insurance claim. There is no discussion in Fletcher about workplace 5 retaliation or what constitutes outrageous behavior in a workplace. 6 Federal Rule of

Civil Procedure 11(b)(2) states, 7 (b) Representations to the Court. By presenting to the court a pleading, written motion, or other paper—whether by signing, filing, submitting, or later advocating 8 it—an attorney or unrepresented party certifies that to the best of the person’s knowledge, information, and belief, formed after an inquiry reasonable under the 9 circumstances: 10 Le 11 (2) the claims, defenses, and other legal contentions are warranted by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law or 12 for establishing new law; 13 Fed. R. Civ. Proc. 11(b)(2). Under Rule 11, a signature on a filing “certifies to the court that the v 14 signer has read the document, has conducted a reasonable inquiry into the facts and the law and is 15 satisfied that the document is well grounded in both, and is acting without any improper motive.” 16 Bus. Guides, Inc. vy. Chromatic Comme ns. Enters., Inc., 498 U.S. 533, 542 (1991). “[A]ny party = 17 || who signs a pleading, motion or paper” has “an affirmative duty to conduct a reasonable inquiry 18 || into the facts and the law before filing.” 7d. at 551. Plaintiff’s opposition brief was signed by 19 || plaintiffs counsel. 20 The Court hereby ORDERS plaintiff’s counsel to explain in writing no later than October 21 3, 2025, how the above-identified errors came to be included in the opposition brief, including 22 || whether counsel used artificial intelligence, who prepared the brief, and who, if anyone, reviewed 23 || the brief prior to filing. Plaintiffs counsel is also directed to show cause why sanctions should not 24 || be imposed pursuant to Rule 11. 25 IT IS SO ORDERED. 26 27 Dated: September 23, 2025

SUSAN ILLSTON

28 United States District Judge