SUMMARY OF THE COMPLAINT

1. Dr. Aysha Khoury left her life-long home, family, and a stellar career in medicine for her dream job as a member of the faculty teaching the first class of students at the Kaiser Permanente Bernard J. Tyson School of Medicine (“KPSOM” or the “School”). Dr. Khoury soon learned that the school did not live up to its promise when she experienced devastating
discrimination that climaxed in her suspension for teaching students about bias in medicine and
ended with her discharge for mobilizing against race-gender bias in the workplace. KPSOM’s
discrimination and retaliation have caused severe harm to Dr. Khoury. This suit seeks to redress
those harms.

THE PARTIES

2. Dr. Aysha Khoury, MD, MPH. Plaintiff Dr. Khoury is a Black woman who resides
in Los Angeles County, California. She was employed by the Kaiser Permanente J. Bernard Tyson
School of Medicine, Inc., from July, 2019 to January 31, 2021.

3. Kaiser Permanente Bernard J. Tyson School of Medicine, Inc., Defendant. KPSOM
is a California non-profit public benefit corporation first formed in 2016. The declared purposes of
the School include “(ii) advancing diversity and inclusion in the medical workforce to better meet
the needs of underserved and disadvantaged populations.” [Amended and Restated Articles of
Incorporation, Article 2.B.].

JURISDICTION AND VENUE

4. The Court has jurisdiction over this matter because the Defendant is a California
Non-Profit Corporation with a principal place of business in Los Angeles County, California. The
amount in controversy exceeds $25,000.00.

5. Venue is proper because the acts and events in the complaint occurred within Los
Angeles County or were directed by the School from its site in Los Angeles County. The School
identified its address with the Secretary of State as 393 E. Walnut Street, Pasadena, California,
91188. Plaintiff worked at the School’s location at 98 S. Los Robles Avenue, Pasadena,
California, 91101.

ADMINISTRATIVE EXHAUSTION

6. On March 3, 2021, Dr. Khoury filed her charge of discrimination and retaliation
with the DFEH, naming the School as the Respondent. She received her right to sue that day.

FACTS

1. Dr. Khoury is an Accomplished Physician and Educator.

7. Dr. Khoury is an award-winning, Board Certified physician and Fellow of the

COMPLAINT
American College of Physicians. She completed two medical residencies and earned a master’s
degree in Public Health. She is an educator and advocate for equity in healthcare.

8. Dr. Khoury earned her Bachelor of Science in Biology at Georgia State University
in 2000. In 2005, Dr. Khoury earned her M.D. from the Morehouse School of Medicine in
Atlanta, Georgia. She completed a one-year internship in Internal Medicine at the Medical
College of Georgia in 2006.

9. Dr. Khoury completed two residencies, an internal medicine residency in 2008 at
the Medical College of Georgia and General Preventative Medicine and Public Health residency in
2011 at the Morehouse School of Medicine (“Morehouse”). During the second residency, she
earned a Master’s in Public Health at Morehouse, with a major in Health Administration, Policy
and Management.

10. From 2012 to 2019, Dr. Khoury worked for The Southeast Permanente Medical
Group in Georgia (“TSPMG”) in a dual role as employee physician and Supplemental Physician in
the Emergency Care Management Hub. At TSPMG Dr. Khoury was the first doctor to serve as a
Clinical Decision Unit Internist developing admission, management, and discharge processes to
improve patient care; establishing treatment protocols and order sets to improve patient
management; developing a physician feedback tool for a stress testing initiative; identifying areas
for improvement in quality of care; preparing and presenting educational materials to team
physicians; developing and teaching an educational series to the nursing staff; completing chart
reviews on 90-day treatment outcomes; developing interdepartmental work flows to improve
efficiency; and onboarding newly hired physicians and midlevel providers. When working with
the Emergency Care Management Hub, Dr. Khoury facilitated patient care transfers and provided
patient information to non-Kaiser physicians treating Kaiser patients.

11. Additionally, while with TSPMG Dr. Khoury worked in academia as an admissions
committee member and Adjunct Clinical Assistant Professor at Morehouse. As an Alumni-
interviewer, Dr. Khoury interviewed and evaluated medical school applicants. As an adjunct
professor, she designed classroom and clinic-based curriculum, taught small groups and led
didactic sessions for the entire clerkship cohort, and evaluated and advised third year medical
12. Dr. Khoury’s awards include the Joseph E. Johnson Grant Award for the American College of Physicians, a Chapter award from the American College of Physicians for outstanding volunteerism and advocacy, and induction into Morehouse’s White Coat Society for demonstrating compassionate care and community service in the practice of medicine.

13. Dr. Khoury is a tireless community educator focused on young people and women. While in Atlanta, she spoke at churches, schools and community organizations on public health and health care related topics, volunteered at Georgia emergency response service (“SERVGA”) and provided medical services in state-wide emergencies. Dr. Khoury’s civic engagement continued when she moved to Los Angeles County. In 2020, Dr. Khoury served as a Planning Committee Member for the Young African American Women’s Conference, and for the Los Angeles First United Methodist Church, she developed and presented a COVID-19 pandemic safety video series.

II. The Kaiser Permanente Bernard J. Tyson School of Medicine was Founded on a Stated Commitment to Equity, Inclusion and Diversity.

14. In December 2015, Kaiser Permanente announced its plan to open a medical school in Southern California. Kaiser’s announcement promised that:

[T]he school will redesign physician education around strategic pillars that include providing high-quality care beyond traditional medical settings, acknowledging the central importance of collaboration and teamwork to inform treatment decisions, and addressing disparities in health.

15. In 2017, Dr. Mark Schuster was named the Founding Dean and CEO of the School. He continues to hold these positions. Dr. Schuster’s “Office of the Dean” page includes the promise that graduates will “be excellent clinicians in every field of medicine . . . [and] will practice person-centered care, appreciate the many social factors that influence health, and seek to understand and meet the needs of people from diverse backgrounds.”

16. In November of 2019, the School was renamed the Kaiser Permanente Bernard J.
Tyson School of Medicine, in honor of the recently deceased Kaiser Permanente Chairman and
CEO, the first Black person to hold these positions. Mr. Tyson, on the announcement of the
School in 2015, was quoted by Kaiser:

Opening a medical school and influencing physician education is
based on our belief that the new models of care mean we must
reimagine how physicians are trained. . . . Training a new generation
of physicians to deliver on the promise of health and health care
demonstrates our belief that our model of care is best for the current
and future diverse populations in this country.¹

17. In renaming the School after Mr. Tyson, Kaiser explained that “Bernard Tyson’s
passion for this medical school was a driving force in its creation and will be a daily reminder of
his own lived commitment to equity, diversity, and courageous leadership.” [Press Release dated
12/17/15 (quoting Holly J. Humphrey, MD, Kaiser Permanente Bernard J. Tyson School of
Medicine Board Chair).]

18. The School also prominently advertises its diversity. For example, the School’s
homepage proudly features the photo of a singular Black woman in a doctor’s coat next to the
topic “Our Educators” and promises:

You’ll learn from a diverse community of physicians, other
clinicians, and scientists whose experience, guidance, and expertise
as educators will help you join the next generation of leaders in
medicine.²

Similarly, the School’s “Mission, Vision, Values” page describes the School’s primary values to
include “[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.”³

III. **Dr. Khoury is Recruited and Offered KPSOM Employment.**

19. Dr. Khoury applied to join the faculty at the School in the fall of 2018. During the three-round application process, Dr. Khoury emphasized her commitment to active learning and told the interviewers that she was an educator who wanted to use her teaching to reduce inequality in medicine.

20. Shortly after her interviews, Dr. Khoury received a phone call from Dr. Jose Barral, the Recruitment Chair. Dr. Barral enthusiastically told her that she was the first person to receive an offer of a faculty position. Dr. Barral told Dr. Khoury the decision to make the offer was unanimous and was made before the School had finished interviewing all the applicants.

21. On or around July 16, 2019, the School delivered a letter to Dr. Khoury offering her a non-tenured, initial faculty appointment as “MEMBER OF THE FACULTY” effective July 1, 2019 to November 15, 2020. Dr. Khoury was provided an addendum which she signed that described her role as a “Small Group Facilitator” appointed to the Department of Clinical Science.

22. The offer letter describes the School’s expectations:

   Your primary duties will be in the Department of Clinical Science. . . .[Y]ou will be expected to participate in departmental and committee activities as assigned and appropriate to your allocated time at KPSOM [Kaiser Permanente School of Medicine.]

   The appointment is subject to the terms and conditions set forth in the KPSOM Handbook and Bylaws, as well as to all policies and procedures applicable to your affiliation with Kaiser Permanente and to the Kaiser Permanente School of Medicine.

23. The School controlled the terms and conditions of Dr. Khoury’s employment. Dr. Khoury was required to coordinate “scheduling, including vacation and personal time, to ensure it coincides with the academic calendar and other needs” with her Department Chair.⁴

24. The School’s faculty handbook describes Dr. Khoury’s position as “core faculty.”

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⁴ Letter Kanter to Khoury dated July 16, 2019.
Core faculty include both direct and indirect employees of the School. Core faculty are appointed and progress along the same promotion series: Instructor, Assistant Professor, Associate Professor, and Professor. Similarly, all core faculty in the promotion series hold voting appointments regardless of status. Core faculty are expected to work for the School at least one day per week. Finally, all core faculty “may not hold a full-time academic appointment at another academic institution.”

Faculty “must comply with school policies, including the requirements for participation in faculty development programming and completion of annual reviews with one’s department chair or their designee” and “may not concurrently participate in a Training program (e.g., residency, fellowship) for the major portion of their time.”

Faculty are also required to request a leave of absence, limited to one year except in exceptional cases. Faculty leave “cannot be guaranteed except when required by law.”

The School also controlled the terms under which Dr. Khoury’s employment could be terminated, including due process protections for a for cause termination and the right to discipline faculty with written counseling or warnings, reprimands, or temporary suspensions with or without pay. Dr. Khoury’s appointment was “subject to the same review and reappointment process as all other faculty.”

Dr. Khoury’s compensation, while nominally from her medical group, was paid by the School through an agreement with the Kaiser Permanente medical group with which she was affiliated.

At the time Dr. Khoury accepted the position with the School, she was told she would need to apply for a position with the Southern California Permanente Medical Group (“SCPMG” or the “Medical Group”). Dr. Khoury, experienced in hospital medicine, was told there were no positions available in that field for someone working at the School. She was instead offered and encouraged to accept a position in primary care. Although primary care was not Dr.

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5 Faculty Handbook, Section 4.1.1, p. 12 (Version 1.0, dated June 2020).
6 Faculty Handbook, Section 4.1.1, p. 12 (Version 1.0, dated June 2020).
9 Faculty Handbook, Section 4.5, p, 16 (Version 1.0, dated June 2020).
Khoury’s preferred area of practice, she executed a contract with SCPMG on September 20, 2019 as an Employee Physician in the subspecialty of IM Internal Medicine General. The contract states that Dr. Khoury was to commence work on November 6, 2019 at the Sunset Radiation Therapy Center facility at 4950 Sunset Blvd., Los Angeles, CA, 90027 in the department of Internal Medicine. On February 5, 2020, Dr. Khoury and the Group later amended the contract to have her start work on February 10, 2020. This contract does not refer to Dr. Khoury’s obligations with the School.

30. Inspired by the school’s stated mission and the interview process, Dr. Khoury made the difficult decision to leave Georgia for California. In doing so, she sacrificed a vibrant career with TSPMG including her status as a TSPMG partner/shareholder, benefits, including vested pension rights, and she moved thousands of miles from her family, church, and community.

IV. From the Beginning of her Employment with the School, Dr. Khoury experienced Tokenism, Double Standards and Microaggressions.

a. First, Dr. Khoury was denied the appropriate academic rank.

31. In July 2019, Dr. Khoury signed and accepted the appointment. Based on her review of the faculty handbook the School provided, Dr. Khoury expected she would receive the rank of Assistant Professor. Nonetheless, shortly after accepting the appointment, she was told her rank would be Instructor, the lowest rank available to faculty in her category.

32. Dr. Khoury asked the School to reconsider assigning her the rank of Instructor. Between August 2019 and January 2020, Dr. Khoury tried to discuss the reasons she should have received the rank of Assistant Professor with the administration. The most important reason was that the faculty handbook established metrics for eligibility to the rank of Assistant Professor. Dr. Khoury, with teaching experience and clinical experience, met all those metrics. Furthermore, Board Certified physicians like Dr. Khoury typically hold a rank above Instructor. During this time, Dr. Barral had even commented that all of the Small Group Facilitators should be Assistant Professors. Dr. Khoury was told by the Senior Associate Dean for Academic and Community Affairs, Professor Maureen Connelly, MD, MPH, that she was “close” to qualifying for the rank of assistant professor.
33. Despite her efforts and qualifications, Dr. Khoury never received the Assistant Professor rank. She was told that the faculty handbook she was using was a “draft” and that she did not meet new, nontransparent, unpublished metrics that were not available to her at the time. Had Dr. Khoury known she was being measured against the new metrics, she would have explained that she also met those new metrics. Rather than explaining the School’s decision, Dr. Kanter instead told Dr. Khoury he did not understand why her rank was such a big deal to her.

b. Second, Dr. Khoury’s Curriculum Development Work for the Founding Class was Micromanaged and Unfairly Scrutinized.

34. Dr. Khoury began working to develop curriculum for the classroom before she left Georgia. In February, 2020, now relocated to Pasadena, Dr. Khoury was nominated by her Biomedical Science colleagues to be the Unit Lead responsible for developing the curriculum for the Genitourinary Reproduction Unit. This Unit was to be taught annually to all first year students at the School. Dr. Khoury was the only physician that was selected to be a Unit Lead. Dr. Khoury volunteered after a previous faculty member, a Black woman, resigned.

35. As the Unit Lead, Dr. Khoury organized subject matter, selected class assignments and pre-work and developed active learning activities for the classroom. She coordinated with other faculty authors, and was the singular author of six of the student sessions in the Unit and the primary author of a seventh student session. Dr. Khoury was also the sole author of one student session in the Cardiovascular Pulmonary Unit.

36. During the curriculum development process, Dr. Khoury’s work received scrutiny that her white male peers did not receive. For example, Dr. Khoury was held to intermediate deadlines, was required to post her work in public on MS Teams to be viewed by all, and was micro-managed throughout the process. Nonetheless, Dr. Khoury delivered the curriculum in a timely manner.

37. Ultimately, all of Dr. Khoury’s curriculum was reviewed and approved by the three Department Chairs, the Senior Associate Dean for Medical Education, and by Dean Schuster.

38. The curriculum developed by Dr. Khoury was taught to the first year students without substantial revision. In fact, Dr. Barral was heard to comment in pre-session curriculum
reviews that he was familiar with Dr. Khoury’s work and no substantial changes were necessary.

Notably, the School continues to teach Dr. Khoury’s curriculum today even after it cited purported problems with her curriculum work to justify refusing to renew her contract.

c. **Third, Dr. Khoury was subjected to tokenism and unfair scrutiny in her professional relationships.**

39. For example, most of the faculty identified on the School’s website had very minimal time commitments to the School. Although the School’s website identifies 200 faculty members, the students’ regular contacts were with only a dozen Small Group Facilitators. According to the Faculty handbook, only 25 hours of service per year is required to hold a faculty appointment.

40. Despite the diverse images represented on the School’s website, among the Small Group Facilitators working closely with the first year students, Dr. Khoury was the only Black American woman physician. Dr. Khoury asked that her photo not appear on the School’s website because she did not want to contribute to a false representation of diversity in the day-to-day teaching faculty.

41. Dr. Khoury was also excessively criticized for her social interactions with the faculty. In one example, she was criticized for not saying hello in an unanticipated encounter with Dr. Jose Barral, the Recruitment Chair and Chair of Biomedical Science. In another example, she was accused of bullying a faculty member who was actually a friend. In contrast to Dr. Khoury’s treatment, other faculty have engaged in name calling and ad hominem attacks with colleagues and been promoted, not disciplined.

42. Additionally, unlike colleagues that were not Black women, Dr. Khoury’s assessment of her workload and time commitments was subject to second guessing by supervisors. Despite counseling from supervisors not to “be a hero” or take on more work than could be accomplished, in February of 2020 Dr. Khoury was excessively criticized for not volunteering for work she did not think she could complete timely. The faculty member requesting assistance complained to her supervisor and as a result, Dr. Khoury was required to have a meeting with two supervisors. During this meeting Dr. Khoury was grilled about her workload and time
commitments and forced to justify why she could not complete the voluntary assignment. Dr. Khoury’s supervisors did not respond when Dr. Khoury pointed out that her colleagues were not subject to second guessing about their workloads and time commitments.

43. Also, Dr. Khoury was threatened with a chaperone attending her one-on-one meetings with her small group students. Dr. Khoury, working from home during the pandemic on a medical accommodation, asked to have her one-on-one meetings with students virtually. Rather than allowing this, the School added the condition that a white male colleague would sit in on any virtual one-on-ones. There was no sound pedagogical basis for requiring a chaperone for Dr. Khoury’s virtual one on one meetings. Dr. Khoury complained to her supervisors that the arrangement sent a bad message about diversity, equity and inclusion, to no avail. Ultimately, Dr. Khoury held the meetings in person after her accommodation expired.

44. Additionally, Dr. Khoury was targeted by the School because of her advocacy and faculty leadership on advancing remote learning options during the pandemic. Several of her white male colleagues mobilized faculty on similar pandemic safety issues without incurring scrutiny or repercussions.

V. Despite Tokenism, Double Standards and Microaggressions, Dr. Khoury Earns the Offer of a Promotion.

45. Dr. Khoury’s strong work product and leadership exceeded the disparate, outsized benchmarks set by her supervisors and earned her accolades from her peer group. She was asked to join the Equity, Inclusion, and Diversity Workgroup and become a Diversity “Champion.” Dr. Khoury was the only Department of Clinical Science Small Group Facilitator on the Equity, Inclusion and Diversity Workgroup. The Workgroup provided feedback to the Office of Equity, Inclusion and Diversity regarding diversity in curriculum standards, helped create the anti-racism resources available on the School’s website, and moderated classes for the Equity, Inclusion and Diversity “thread” – curriculum woven through the students’ 4-year experience.

46. Additionally, Dr. Khoury served as one of four Small Group Facilitators for the “Early Immersive Experience” (“EIE”), a three-week introduction to the school’s values and an introduction to the medical school experience. In this role she co-created practice student sessions,
identified learning issues and participated in assessments. Dr. Khoury also contributed as the Clinical Science faculty member and contributor to the workgroup designing the Interprofessional Collaboration Curriculum (“IPC”).

47. Dr. Khoury also continued to expand her credentials as an academic and physician. From her start in July, 2019 through June, 2020, Dr. Khoury participated in faculty development programming offered by the school, completed seminars and courses with Harvard Medical School and Vanderbilt University and started courses with Yale University and Vanderbilt University.

48. Concurrent with her work for the School, Dr. Khoury kept a schedule of clinical work for SCPMG, typically working sixteen hours a week providing patient care.

49. On May 18, 2020, Dr. Khoury submitted the materials required for her Annual Faculty Appointment Renewal to her Department Chair Dr. Michael Kanter. This was the deadline to be considered for reappointment beginning on July 1, 2020.

50. On or about June 10, 2020, Dr. Khoury received an email from Dr. Kanter, announcing his intention to recommend Dr. Khoury for an increase in academic rank:

   After careful review of your accomplishments, I have decided to request an increase in academic rank to the Academic Appointments and Promotions Committee. The procedures for doing this are new so I apologize for the short notice, but if I can have you write 1-2 paragraphs on what you have done to contribute to the mission, vision, and values of the school by next week, this would help. I think the CV that I have justifies the promotion, but if you have additional items and/or an updated CV, that would help. Let me know. Ultimately, I am merely recommending and the Committee makes decisions based on my recommendations and their own review. There is an appeals process if you disagree with their conclusions.

   Thank you for the great work you do for the School.
51. On June 18, Dr. Khoury provided the requested materials to Dr. Kanter. In those materials, Dr. Khoury discussed her commitment to the mission and values of the school stating “I have used my voice to raise issues in curriculum design, wellness, and antiracism. This lived experience of the school’s vision is preparation to successfully guide students to become physicians.”

VI. **Dr. Khoury is Never Informed what Happened with her Promotion.**

52. Although Dr. Khoury expected to hear about her reappointment and promotion on or shortly after July 1, 2020, the School offered no information in July.

53. In early August, Dr. Khoury followed up with Dr. Kanter regarding the status of the promotion. On a call with Dr. Kanter, the six Clinical Science Small Group Facilitators and the Assistant Dean for Medical Education, Dr. Kanter stated that he was surprised to learn that Dr. Khoury had not already received notice of the promotion, that he did not know of any issues, and that he had no explanation for the delay.

VII. **The School asked Dr. Khoury to Teach Special Sessions on Equity, Inclusion and Diversity.**

54. The School’s first class of students began classes in July, 2020 in the midst of the Covid-19 pandemic and a renewed and urgent call to action to end police violence against people of color such as the murders of Breonna Taylor, George Floyd, and Elijah McClain. Dr. Khoury, as a Small Group Facilitator, was assigned to a group of eight students. She shared responsibilities for this small group with a male, non-Black Small Group Facilitator, Dr. Mostafa Belgashem, PHD. His teaching duties in the classroom were similar to Dr. Khoury’s.

55. During this moment of inflection and opportunity for social change, students and faculty expressed publicly, and privately to Dr. Khoury, a desire for the School to take action to support antiracism and the Black Lives Matter movement. The School, given its formal commitment to diversity, equity and inclusion, should have been a good venue for a discourse on antiracism.

56. On August 15, 2020, Anthony McClain was shot and killed by an officer with the
Pasadena Police Department during a traffic stop. This murder, just blocks away from the School, was an inflection point among many of the students and faculty, sharpening demands that the School act.

57. On August 25, 2020, the students were taught material on bias and racism in medicine in the Equity, Inclusion and Diversity thread and Health Systems Science session. At the Office of Equity Inclusion and Diversity’s request, Dr. Khoury moderated one of the Equity, Inclusion and Diversity thread conversations that day. Dr. Khoury took vacation time to prepare. Dr. Khoury received no complaints about that work.

58. On August 25, 2020, Dean Schuster released a statement on the School’s “updated” anti-racism, equity, inclusion and diversity plan. The Dean explained:

As educators of future physicians who will be advocates for patients and communities, we have a responsibility to work to embed anti-racism in the medical education curriculum and learning environment, and to challenge racism and inequality in sociality in every way we can.

[https://medschool.kp.org/about/offices-and-departments/office-of-the-dean (last accessed February 11, 2021).] The School’s plan promised universal unconscious bias training for faculty, staff and students; the development of anti-racism curriculum for students; and recruitment with the intentional goal to “hire and appoint individuals from a diversity of backgrounds and experiences.” [https://medschool.kp.org/content/dam/internet/kp/som/homepage/about/equity-inclusion-and-diversity/KPSOM%20Anti-Racism%20Action%20Plan.pdf, last accessed February 11, 2012).].

59. On August 26, 2020, Dr. Khoury met with two students who shared concerns with the School’s culture and dubious commitment to its stated values.

60. The same day, Dr. Schuster sent an email to the School described as a “comment” on the recent shootings. Dr. Schuster stated that “[w]e are committed to fostering a safe environment where you can share and express your pain, anger, frustration, and fear, and ideas about how we can move forward as a society, and as a medical school.”
61. Dr. Khoury discussed Dr. Schuster’s “comment” with other colleagues and concluded that more should be done. The next day, August 27, 2020, a colleague involved in those discussions sent an email to Dr. Schuster requesting a meeting to describe the toxic culture at the School.

62. Dr. Khoury’s small group was scheduled to meet on August 28, 2020. Providing additional guidance, the School emailed Small Group Facilitators and instructed them to discuss “legacies of power structures and institutionalized racism that result[] in gender bias and race bias in medicine today.”

63. On August 28, 2020, Dr. Khoury, with Dr. Belgashem attending, moderated the small group session. Dr. Khoury wore a T-shirt that said “I can’t breathe” (in reference to the police strangulation of Eric Garner) and an African print garment to represent her identity as a Black American, African, and a physician. Her clothing choices conveyed her identity and highlighted to the students how identity informs how one understands bias.

64. The discussion included a review of Dean Schuster’s statements on behalf of the School as they related to systemic bias. The class discussed how bias causes poor health outcomes – whether from police murders, during childbirth, in pain management or from Covid-19. Dr. Khoury and others shared their personal experiences that informed their understanding of bias in medicine.

65. The August 28, 2020 small group discussion was emotional at times. Students were challenged to examine their own experiences and implicit bias. Dr. Khoury referred her students to the books on the School’s cultural competence reading list including the book “White Fragility: Why It's So Hard For White People To Talk About Racism” by Robin DiAngelo.

66. Upon hearing the reference to White Fragility, Dr. Belgashem interrupted Dr. Khoury’s discussion with the students, raised his voice, and told the students that Dr. Khoury’s statements, although factually correct, were inappropriate. He stated he could not believe Dr. Khoury was talking about the concept of white fragility and overrepresentation in medicine, noting that he thought one white student was particularly upset. Dr. Belgashem’s outburst eliminated the safe space Dr. Khoury had cultivated and agitated the students. Ultimately, his
comments muted the rest of the substantive discussion.

67. When class ended, Dr. Belgashem abruptly left the room. In contrast, atypically, the majority of the class lingered, wanting to support one another and continue the discussion. Dr. Khoury eventually encouraged them to move on to their next scheduled activity.

68. After the students left, Dr. Khoury went to a colleague’s office for support. She was hyperventilating and in tears. After receiving support from two colleagues, she was walked to her car and went home.

VIII. The School Suspends Dr. Khoury For Facilitating the Discussion on Racism in Medicine.

69. On August 28, 2020, nine hours after the facilitated discussion on racism, Dr. Maureen Connelly, the School’s Senior Associate Dean for Academic and Community Affairs, called Dr. Khoury and told her she was suspended, immediately, because of what happened in her small group that day. Two of Dr. Khoury’s colleagues heard Dr. Connelly’s remarks. Dr. Connelly later told Dr. Khoury: “we don’t want to see you here.”

70. Dr. Connelly explained the purported reason for the suspension only after Dr. Khoury demanded more information. On September 1, 2020, Dr. Connelly wrote:

Dear Aysha,

As I mentioned when we spoke over the weekend, the removal from your faculty duties was prompted by a complaint about certain classroom activities that took place on Friday morning, August 28.

The decision was made by several school leaders. As I also previously indicated, you will be given an opportunity to provide your perspective on those activities.

The purpose of the review process is to determine whether any inappropriate conduct occurred in connection with your teaching duties/faculty role.

You will receive additional information as the process is conducted.

10 In the context of this serious, formal communication, Dr. Connelly’s decision to drop Dr. Khoury’s title was a belittling micro-aggression. When Dr. Khoury asked her use her title in future communications, Dr. Connelly refused to do so, instead choosing to omit any salutation to Dr. Khoury.
Thank you,
Maureen

[Emphasis added.]

71. SCPMG contemporaneously suspended Dr. Khoury from her clinical duties based solely on the reports from the School.

72. The students who attended the class, by contrast, unanimously commended Dr. Khoury’s classroom activities. Shortly after the class, students sent unsolicited testimonials of praise as follows:

I just want to thank you for sharing and being vulnerable with us. Being in medical school it is easy to shut everything else out and live in a bubble, but this should not be the case, especially right now. I agree that we were able to create a sacred space and I look forward to continue working with you. This was definitely a moment that I will reflect on now, and in my future as a physician.

Thanks for this, Dr. Khoury, and for class today. Your honesty and vulnerability was a gift to me, and I am grateful to be in your group.

Just wanted to send appreciation for the convo + vulnerability you inspired on Friday…I’ll do my best to speak authentically about the space I think our conversation deserved, and will encourage my classmates to do the same. Please know that most, if not all of us are wishing the best for you and are grateful for your bravery/truth.

I wanted to write to you to let you know how special our session on that Friday was for me. I needed that moment. I need more of those moments in the classroom. I need to learn from leaders like you who show up for themselves, and for me, and for people who look like us. The fire in you burns fearlessly, and I thank you for using it to light one in me, too. I also want you to know that we are doing everything we can to speak our truths.

Another student tweeted:
This class was the most important hour of my education thus far, and the suspension of Dr. Khoury is shocking, ugly, and detrimental to students and the school. It’s shameful. I miss her in the classroom everyday, and I would love nothing more than to be her student, again.

73. Dr. Khoury’s Small Group students subsequently submitted a joint letter to the School, published to Twitter, in support of Dr. Khoury:
We are the students of Dr. Aysha H. Khoury’s small group. We are the entirety of the students present during the classroom session she led . . . on August 28, 2020, and this is our perspective on the events of that day.

The conversation in class was, at times, emotional and deeply personal, both for Dr Khoury and for us. How could it not be? Our student group represents a wide range of perspectives and experiences, as did our facilitators, and Dr. Khoury created a space where we felt invited to share honestly. Everyone present had time and space to participate, and each of our voices were heard and received generously. By the end of the class, our small group was in a profoundly different interpersonal and learning space than we had been at the start, thanks to the gift of Dr. Khoury’s leadership and vulnerability.

Yes, our learning was adversely affected by Dr. Khoury’s significant absence, but that matters less than the point we’d most like you to hear: this class session was representative of why we chose to come to KPSOM. It was a crystallization of the mission, vision, and values of KPSOM to engage fully in the process of becoming physicians who treat not only the body, but also the systems of injustice which wound our communities and our souls.

Our group would like to make it clear:

1. No student felt unsafe or attacked during our class on August 28.
2. No student reported Dr. Khoury.
3. We are profoundly grateful for Dr. Khoury’s continued leadership, mentorship, and advocacy.
4. We want Dr. Khoury back.

Dr. Belgashem, who, in front of students, raised his voice toward Dr. Khoury, reprimanded her, and arbitrarily judged her teaching “inappropriate,” was not investigated, suspended, or discharged from duty for his activities in the classroom. In contrast to Dr. Khoury, Dr. Belgashem received favorable treatment from the administration for his classroom activities. He remains on the faculty today and has been promoted to sit on KPSOM’s Faculty Conduct Committee.

IX. Dr. Khoury is Not Alone in Experiencing Systemic Race and Gender Discrimination at the School.

Upon information and belief several other Black women doctors at KPSOM have either left or complained due to pervasive sexualized race bias in the School’s operations and practices.
76. Black faculty/staff were overrepresented in departures from the school, and were consistently replaced by non-minority faculty/staff. From 2017 on, out of at least eight faculty and staff involuntarily separated from the School, seven were people of color and four were Black, three of those four were Black women. Other Black faculty and staff voluntarily departed complaining of a toxic environment. At least, eleven of the thirteen voluntary departures were people of color, five of them Black, and four of those five were Black women.

77. One Black faculty member observed that women of color were adversely treated. She recounted that she and two other women of color were once accused of and reported on for creating an atmosphere of exclusion when they were socializing together.

78. The same faculty member observed that some departments took a checklist, token approach to diversity, equity and inclusion. Consistent with this quantitative approach, School leadership viewed diversity as a box to check, tallying the employees of color as proof of the School’s diversity, equity and inclusion.

79. Most recently, a Black woman faculty member emailed School leadership, including Dean Schuster, and wrote:

Hello Leadership,
Given the division, strife, trauma that has occurred in our community I am requesting that the process to address this be a restorative justice process. Only when we can approach it from this perspective will we be able to heal and begin to be a community. I have attached a video that explains the importance of this process and what it actually means. I implore you to watch it. You can start at 8:40 time and it will take only about 15 min of your time.

https://youtu.be/Um8mAo8lbyI

I am pleading with you all to understand the harm that has been caused to the entire community and to be honest about the harm and sincere in your attempts to correct the course. **We are a racist institution, we are upholding the system of white supremacy that is at the core of our nation, but we do not have to be.** We can choose to be different, we can choose to be actively anti-racist and not just “become a more anti-racist organization”. The prospect of working with individuals that are committed to doing the difficult work was what made me want to be a part of this institution. The lack of ownership for the harm that has been created and the...
repetitive trauma, the tokenization that I have experienced and that lack of want to understand the continued harm that causes has been unbearable at times.

This is not what I agreed to, these acts that are standard corporate and systemic oppression tactics are not why I agreed to be here. The students, the faculty and staff deserve better. My only intent with this email is to encourage you to do better. I cannot stay silent anymore. It is entirely too much to bear emotionally to continue the façade when I see the status quo occurring.

Please make the right choice. Please do right by those who have poured their heart, soul and professional reputations into the principles we proponent to be about. I understand that my individual voice matters not to you and that we as an institution have shown time and time again that individuals like myself are replaceable, but I will tell you in full disclosure, if we continue on our current course I will not be silent any longer. Silence is causing students to turn on students and faculty to turn on faculty and increasing distain, anger and discontentment and I will not continue to play a role in that. I cannot. I am happy to discuss further with any of the leadership that has questions, but not just as a means to silence or “appease” me to have a real conversation.

[Email January 7, 2021.]

X. The School's Discrimination against Dr. Khoury fits a Classic Pattern of Race and Gender Discrimination against Black women.

80. Black women are subject to stereotypes and assumptions shared neither by white women nor Black men. Discrimination against Black women in the workplace manifests uniquely as stereotypes that pigeonhole Black women as aggressive, angry, unapproachable, intimidating, inappropriate, thick-skinned, impervious to pain or just “too much.” As a result of gendered racism, qualities that may otherwise be seen as representational of leadership are seen as being disruptive or aggressive or assertive in a way that informs disparate treatment. ¹¹

81. Discrimination against individuals with overlapping identities causes unique disparate experiences and outcomes in the workplace. Although Black women are the most

educated demographic in terms of Associate and Bachelor’s degrees, they hold only 1.5 percent of leadership roles in the private sector.\textsuperscript{12} Gender wage gap data reveals higher barriers to pay equity for Black women compared to white women. Black women are paid 60 cents on the dollar compared to white males in comparable roles and it takes black women on average seven years to garner a wage that their comparable white male cohort receives as a starting salary.\textsuperscript{13}

Moreover, Black women are disproportionately victims of workplace sexual harassment, Black women make up seven percent of the workforce and account for 27 percent of the work-bases harassment claims.\textsuperscript{14}

Qualitative studies show that Black women are more likely to experience hostile work environments and everyday workplace discrimination. 40% of Black women say they need to provide more evidence of their competence, compared to 28% of white women and 14% of men; Black women are more likely than other women to hear people express surprise when they demonstrate strong language skills or other abilities (26% vs. 11% of white women and 8% of men); Black women are far more likely to have their judgment questioned in their area of expertise (41% have had this experience, compared to 29% of men); Black women are far less likely than women overall to feel they have an equal opportunity to advance (42% vs. 55%); Black women are more likely than white women to be treated unfairly in promotions and training, to be discriminated against in advancement opportunities, and to experience a far greater sense of frustration and disengagement.\textsuperscript{15} In the legal profession, for example, the American Bar Association found that Black women are often excluded from their firms’ internal networks, seldom offered opportunities for client contact, and infrequently receive challenging assignments.

\textsuperscript{12} https://www.independent.co.uk/news/world/americas/black-women-become-most-educated-group-us-a7063361.html
\textsuperscript{13} https://www.cnbc.com/2019/08/22/heres-how-the-gender-wage-gap-affects-this-minority-group.html
\textsuperscript{14} https://thecrimereport.org/2018/12/21/black-women-victimized-by-workplace-sex-harassment-study/
Indeed, 66 percent of Black women were found to have been excluded from both formal and informal networking opportunities, but only six percent of white women had been.

Additionally, because of overlapping gendered and racialized identities and their contiguous stereotypes, Black women and girls face the unique harm of presumed guilt and excessive punishment for perceived marginal transgressions. Black girls don’t misbehave more or commit more serious infractions, experts say, yet they receive more severe penalties for the same behavior as white peers. Black girls are six times more likely to get out-of-school suspension than their white cohort, a report from the African American Policy Forum and Columbia Law School’s Center for Intersectionality and Social Policy Studies found, and more likely to be suspended multiple times than any other gender or race of students. This racialized presumption of guilt norm informs due process inequities for black girls and women.

In medicine, the racial empathy gap manifests distinctly for Black women as well, leading to uniquely perverse outcomes. Half of white medical trainees wrongly believe Black people have thicker skin or less sensitive nerve endings than white people. According to a study published in the Proceedings of the National Academies of Science, 40% of first- and second-year medical students endorsed the belief that “Black people’s skin is thicker than white people’s.” Black women are three to four times more likely to die during childbirth or shortly afterwards than white women, statistics have shown. While socioeconomic status is an important determinant of access to quality health care, research demonstrates that race significantly impacts maternity-related mortality independent of socioeconomic status. Indeed, infant mortality rates for Black women with a college degree are higher than those for white women with just a high school education. Black women are 40% more likely to die from breast cancer than white women, and

17 https://metro.co.uk/2021/02/07/rochelle-humes-confirms-doc-on-death-rate-of-black-women-in-childbirth-14036812/?ito=cbshare
are usually diagnosed later.\textsuperscript{19} According to researchers at the Berkeley School of Public Policy, Black women are some of the most vulnerable patients in health care, because of both their race and gender in a field that has historically been riddled with white supremacy and sexism.\textsuperscript{20}

86. Black women account for less than 3\% of U.S. doctors.\textsuperscript{21} The intersectional identity engenders distinct perceptions, treatment and outcomes and mediates the experience of discrimination and oppression for Black women doctors.

XI. The School Retaliates against Dr. Khoury for Mobilizing Students, Colleagues and the Public around Anti-Racism and Discrimination against Her.


87. The investigation that followed the suspension was a thinly disguised effort to silence Dr. Khoury, deny her the due process rights in her contract, and attempt to create an excuse for the School’s discriminatory suspension.

88. For example, the investigation was unreasonably delayed. There were only ten witnesses to the incident. Dr. Khoury participated freely in interviews with the School’s chosen investigators on September 3 and September 23. The investigators indicated to Dr. Khoury that the investigation had concluded on September 23 and that a report would be submitted on September 25. Despite this, on November 30, 2020 the School told Dr. Khoury it needed even more time to conclude its investigation.

89. One result of this foot-dragging was to keep Dr. Khoury from returning to the classroom and her students. This was consistent with Dr. Connelly’s expression that the School did not want to see or hear from Dr. Khoury.

90. A second outcome from the investigation was that it permitted the school to avoid providing Dr. Khoury with contractual due process. A faculty member under threat of termination for cause is entitled to an attorney during the process. The Dean is required to clearly articulate the

\textsuperscript{19} https://www.nbcnews.com/news/nbcblk/why-black-women-face-disproportionate-rates-breast-cancer-n1242777
\textsuperscript{21} https://fortune.com/2020/08/09/health-care-racism-black-women-doctors/
cause. A faculty member can request a review by an ad hoc committee consisting of uninvolved faculty and administration. The ad hoc committee’s report is considered a peer-reviewed recommendation. Any deviation by the Dean from the committee’s recommendations must be stated in writing. After all this, the Dean must finally obtain approval from the Board of Directors to sanction or dismiss a faculty member.22

91. By contrast, delaying the outcome of the investigation until Dr. Khoury’s contract expired provided the School with an excuse to avoid due process and vetting of its discipline decisions. Because she had done nothing to justify terminating her contract, the School chose to push out Dr. Khoury by waiting out her contract. According to the Faculty handbook, although a faculty member may request reconsideration of the decision, “[t]he decision not to renew is final and without appeal.”23

92. Third, the investigation was used to create a post-facto list of excuses for terminating Dr. Khoury. Although Dr. Khoury had received nothing but positive feedback during her time at the School, the investigators did not focus on the August 28 events, but rather on minutiae such as whether she failed to greet a white male colleague, Dr. Barral, one day and whether she got along with various faculty members.

93. The investigators also made more nefarious baseless allegations, such as that Dr. Khoury had misrepresented her position with the Morehouse Medical School in her application materials. First, Dr. Khoury did correct her CV in 2019, over eight months before this investigation, at the request of Dr. Connelly, to change her position from “Adjunct Professor” to “Adjunct Clinical Assistant Professor.” This change, however, was known by the School months before the investigation and the School had never suggested it was grounds for discipline or investigation.

94. Additionally, the investigators questioned whether Dr. Khoury had served on an admissions committee at Morehouse. Dr. Khoury provided them with a letter confirming her

23 Faculty Handbook, Section 4.6 p. 17 (Version 1.0, dated June 2020).

95. In contrast to the School’s delays and efforts to justify its misconduct, on October 7, 2020, SCPMG, relying on output from the same investigation, told Dr. Khoury that it had completed its investigation and exonerated her from any wrongdoing. Indeed, she was told that SCPMG concluded that her conduct during the August 28, 2020 was courageous and that she had done nothing wrong. She was asked to return to work for SCPMG and did so on October 16, 2020. She has worked a full-time schedule for SCPMG since then.

b. Dr. Khoury Demands that the School Answer for its Conduct.

96. On October 20, 2020, Dr. Khoury formally demanded that the School investigate “whether they or their faculty and agents violated federal and state laws prohibiting race discrimination in employment, prohibiting retaliation for reporting race discrimination, and prohibiting adverse employment actions based on violations of public policy.” The letter also demanded all employment records from the School.

97. Other than a brief interview in November, the School has not contacted Dr. Khoury regarding this investigation or even confirmed that it was conducting an investigation into how she was treated. The School claims to have no employment records for Dr. Khoury.

98. On November 30, the School’s attorney told Dr. Khoury’s lawyer that Dr. Khoury would be required to accept a temporary 30-day contract renewal from December 31, 2020 to January 31, 2021 because the investigation into her matter was not yet complete. If Dr. Khoury would not accept the renewal, the School would send notice that her contract would not be renewed. Adding insult to injury, the School provided Dr. Khoury less than a complete business day to decide.

99. With no assurances about the length of the investigation or her suspension, and having been provided virtually no information about the process, Dr. Khoury, in a show of good faith, reluctantly agreed to the temporary extension. Still, the School did nothing regarding her charges.
c. Dr. Khoury Speaks out about the Discrimination and the School Retaliates by Attacking Her Character.

100. Finally, receiving no information or progress from the School, on December 10, 2020, Dr. Khoury spoke publicly to her colleagues about the School’s discrimination and lack of due process. Dr. Khoury tweeted:

My pastoral counselor reminded me that “people don’t know the weight of their own stories.” So here is part of mine. On August 28, I had the most profound moment in my career as an educator. It was the 57th anniversary of the #MarchonWashington and #EmmetTill’s death. (1)

I was asked by my Institution to incorporate the topics of bias and racial health disparities in my fundamentals of medicine class. I made the decision to show up fully as a Black woman in medicine. We had a candid discussion on racism in society, acknowledging what the day (2) Represented and how that shows up in medicine: under and conversely over representation, poor health outcomes (Black maternal health, extrajudicial murder by police) and ultimately (3) Hoping that my students understood that we carry the weight of medicine’s history of racism and bias with us regardless of their individual backgrounds. Medicine cannot be compartmentalized from what is happening in society. It was an incredible and emotional conversation. (4)

After class I felt at odds. I’ve never been so vulnerable and open with students and immediately had a #panicattack 2 of my colleagues helped me through it and I went home early to rest. Later that night after hearing of #chadwickboseman’s death, I was told that I was suspended (5)

Can you still call yourself an educator and a physician if you have no students or patients. I knew I’d be a doctor in 5th grade and by 11th grade that I’d teach. At 41, both were taken from me, but I learned that I am a physician and educator at heart. No one can take that. (6)

In October, my physician role was reestablished and in my naivete thought, I would be returning to the school. Their investigation is ongoing and tomorrow will make it 15 weeks. I wouldn’t change what I said in class. #Blackwomen have earned our voices and our stories! (7)

#MedTwitter you’re training in the midst of a pandemic and a new awakening of racism in America. Compartmentalization of what you and your patients experience in society cannot be separated from the clinical experience. Find mentors who will help you
realize all you want to be. (8)

There is so much that can be done outside of Medicine. Use your voices to augment the marginalized. Start an antiracism journey. End racism in medicine. (9)

Thank you for sharing my story. I moved from Atlanta for this position and it’s been a nightmare.

Please retweet and augment my voice. Thank you for sharing my story. (10)

101. Suddenly, after her tweets, the School took a renewed interest in hearing from Dr. Khoury. The School’s latest attorney contacted Dr. Khoury’s lawyer and told her that the School wanted her back and teaching.

102. This offer to return soon developed strings – Dr. Khoury would be required to “own” her issues in a forum that would permit the School’s Administration to save face. According to the School, Dr. Khoury was difficult and aggressive. These criticisms little more than old stereotypes and tropes used to discredit Black women and deny them due process. Dr. Khoury’s return quickly became conditioned on how contrite she was and how willing she was to submit to the School’s demands of her.

103. The timing of the offer further belied its disingenuousness. The School was intent on having a discussion with Dr. Khoury before January 4, 2021, the date the students returned from Winter break. This timeline for her return was prompted by the outpouring of student support for Dr. Khoury.

104. In the meantime, public support for Dr. Khoury was growing. Her tweets were retweeted by others. One follower started a petition to the School that ultimately contained close to nine thousand signatures. Another letter in support of Dr. Khoury that contained over seven hundred signatures was sent to the administration from the national organization, Physician Women SOAR. National media outlets also began to take an interest.

105. Feeling public pressure to respond to Dr. Khoury, the School went public with its deceit. Dean Schuster published a statement to Students, Faculty and Staff on December 20, 2020 continuing the School’s practice of denying the real reason Dr. Khoury was suspended. Instead, Dean Schuster stated:
I want to reiterate that Dr. Khoury was not placed on leave for bringing content related to anti-racism to the classroom or for sharing her experiences as a Black woman in medicine. Issues of equity, inclusion, and diversity are embedded throughout our curriculum, and our faculty have been and will continue to be encouraged to relate these issues to classroom topics.

Because of the privacy interest of students, faculty (including Dr. Khoury), staff, and patients, we are limited in what we can say about the reasons for Dr. Khoury’s placement on leave.

106. This statement contradicts Dr. Connelly’s September 1, 2020 admission that her suspension “was prompted by a complaint about certain classroom activities that took place on Friday morning, August 28.”

107. The statement also maligns Dr. Khoury by stating that patient privacy prevents the School from disclosing the true reasons for her suspension. Dr. Khoury’s suspension, as demonstrated by SCPMG’s reinstatement of her, had nothing to do with patient care.

108. Even after the December 20, 2020 statement, the School continued to refuse to return Dr. Khoury to her teaching position unless she showed her contrition in a meeting with Dean Schuster.

d. **The School Revokes its Offer of a One-Month Extension in Retaliation for Dr. Khoury Reporting Discrimination and Due Process Violations and Continues to Distort the Public Record about Dr. Khoury.**

109. Then, on December 29, 2020, the School asked again if Dr. Khoury would accept a temporary one-month contract renewal.

110. The next day, December 30, 2020, Dr. Khoury tweeted again about her mistreatment by the school:

    A week ago I sent an email to the Board asking if they condoned my suspension without due process.

    The next day I got my hand slapped for upsetting people.

    Then I received a mysterious message. In essence, you aren’t the first! We stand behind you. Fight for justice.

111. In direct response to Dr. Khoury’s report to the Board and tweets coalescing her coworkers around the issues of bias, the School reversed its offer of a one-month renewal and stated it would not renew her contract when it expired on January 31, 2021. Dr. Khoury had been
terminated.

112. On January 3, 2021, the day before the start of classes following the break, Dean Schuster again communicated with the Students, Faculty and Staff about Dr. Khoury. In that communication, Dean Schuster made further deceptive remarks about the decision not to renew Dr. Khoury’s contract, stating:

The timing of this notice was dictated by the terms of her appointment, which was already set to expire on January 31, 2021, and the fact that we were unable to complete our facilitated process and reach a resolution by the time the one-month notice was due.

113. This claim is, of course, false. The School had offered Dr. Khoury an additional one-month renewal of her contract. The offer was not rescinded because of an inability to complete a facilitated process, but rather because Dr. Khoury complained to the Board and then tweeted on December 30, 2020, angering the School’s decisionmakers.

114. Dr. Khoury has subsequently demanded that the School offer her a new contract. The School has not done so. Dr. Khoury’s contract with the School expired on January 31, 2021.

115. Furthermore, the School’s leadership continues to malign and defame Dr. Khoury by misrepresenting the facts. For example, Dr. Khoury is informed and believes and thereon alleges that at recent “listening sessions” held by Dr. Schuster, he discussed Dr. Khoury with students and alleged that Dr. Khoury had been counseled about her performance before August 28, 2021. Of course, Dr. Schuster did not mention that her Department Chair had recently recommended her for a promotion before she was suspended.

116. In another example, Dr. Khoury is informed and believes and thereon alleges that on February 15, 2021, Dr. Schuster told new faculty hires that Dr. Khoury was problematic from the beginning and was given multiple opportunities to remediate her performance. Dr. Schuster also stated a restorative justice process would never have worked. When one Black doctor asked for reassurance that this would not happen to her, Dr. Kanter stated that the people on the call had nothing to worry about because they are “the good ones.”

117. Then, on February 16, 2021, Dr. Schuster publicly stated at a department-wide meeting that the School had planned to investigate Dr. Khoury well before the August 28 class took place and he suggested that SCPMG had a separate set of independent reasons for suspending
Dr. Khoury. The mendacity of these statements is belied by the contemporaneous documentation that categorically establishes Dr. Khoury was investigated because of the August 28, 2020 classroom activity.

118. As a result of the School’s adverse employment actions and deceptive public statements, Dr. Khoury has incurred opportunity costs, suffered financial losses, reputational damage, and physical and emotional distress.

CAUSES OF ACTION

CAUSE OF ACTION 1:

Race Discrimination in Violation of California Government Code Section 12940(a)

119. Plaintiff realleges the preceding paragraphs as if set forth here.

120. The School acted at all material times as an employer of Dr. Khoury, including exercising control over Dr. Khoury’s schedule and duties, supervising Dr. Khoury, disciplining Dr. Khoury, and compensating Dr. Khoury by compensating the Southern California Permanente Medical Group for her services.

121. Dr. Khoury acted at all material times as an employee of the School and a member of the faculty. She took assignments from her supervisors at the School, worked the schedule required by the School, used teaching equipment supplied by the School, and understood that her compensation, although received through the Medical Group, was based in part on her employment with the School.

122. The School subjected Dr. Khoury to a series of adverse employment actions, including: denial of promotion, demotion, suspension, discharge, constructive termination and contract non-renewal.

123. Dr. Khoury’s race was a substantial motivating reason she was denied a promotion, demoted, suspended, discharged, constructively terminated, and her contract was not renewed.

124. Plaintiff was harmed by Defendants’ discrimination. As a result of Defendants’ discrimination against her, Plaintiff has incurred opportunity costs, reputational damage, and suffered financial losses and physical and emotional distress.

125. Defendants’ conduct was oppressive, malicious and fraudulent.
CAUSE OF ACTION 2:

Gender Discrimination in Violation of California Government Code Section 12940(a)

126. Plaintiff realleges the preceding paragraphs as if set forth here.

127. The School acted at all material times as an employer of Dr. Khoury, including exercising control over Dr. Khoury’s schedule and duties, supervising Dr. Khoury, disciplining Dr. Khoury, and compensating Dr. Khoury by compensating the Southern California Permanente Medical Group for her services.

128. Dr. Khoury acted at all material times as an employee of the School and a member of the faculty. She took assignments from her supervisors at the School, worked the schedule required by the School, used teaching equipment supplied by the School, and understood that her compensation, although received through the Medical Group, was based in part on her employment with the School.

129. The School subjected Dr. Khoury to a series of adverse employment actions, including: denial of promotion, demotion, suspension, discharge, constructive termination and contract non-renewal.

130. Dr. Khoury’s gender was a substantial motivating reason she was denied a promotion, demoted, suspended, constructively terminated, and her contract was not renewed.

131. Plaintiff was harmed by Defendants’ discrimination. As a result of Defendants’ discrimination against her, Plaintiff has incurred opportunity costs, reputational damage, and suffered financial losses and physical and emotional distress.

132. Defendants’ conduct was oppressive, malicious and fraudulent.

CAUSE OF ACTION 3:

Racial Harassment in Violation of California Government Code Section 12940(j)

133. Plaintiff realleges the preceding paragraphs as if set forth here.

134. The School acted at all material times as an employer of Dr. Khoury, including exercising control over Dr. Khoury’s schedule and duties, supervising Dr. Khoury, disciplining Dr. Khoury, and compensating Dr. Khoury by compensating the Southern California Permanente Medical Group for her services.
135. Dr. Khoury acted at all material times as an employee of the School and a member of the faculty. She took assignments from her supervisors at the School, worked the schedule required by the School, used teaching equipment supplied by the School, and understood that her compensation, although received through the Medical Group, was based in part on her employment with the School.

136. Dr. Khoury was subjected to harassing conduct because of her race, Black.

137. The harassment of Dr. Khoury because of her race was both severe and pervasive.

138. A reasonable Black person in Dr. Khoury’s circumstances would have considered the work environment to be hostile, intimidating, offensive, oppressive, or abusive.

139. Dr. Khoury considered the work environment to be hostile, intimidating, offensive, oppressive, or abusive.

140. The harassment of Dr. Khoury was caused by her supervisors.

141. The harassment of Dr. Khoury was a substantial factor in causing her damages, including lost opportunity costs, reputational damage, and suffered financial losses and physical and emotional distress.

142. Defendants’ conduct was oppressive, malicious and fraudulent.

CAUSE OF ACTION 4:

Gender Harassment in Violation of California Government Code Section 12940(j)

143. Plaintiff realleges the preceding paragraphs as if set forth here.

144. The School acted at all material times as an employer of Dr. Khoury, including exercising control over Dr. Khoury’s schedule and duties, supervising Dr. Khoury, disciplining Dr. Khoury, and compensating Dr. Khoury by compensating the Southern California Permanente Medical Group for her services.

145. Dr. Khoury acted at all material times as an employee of the School and a member of the faculty. She took assignments from her supervisors at the School, worked the schedule required by the School, used teaching equipment supplied by the School, and understood that her compensation, although received through the Medical Group, was based in part on her employment with the School.
146. Dr. Khoury was subjected to harassing conduct because of her gender, a woman.
147. The harassment of Dr. Khoury because of her gender was both severe and pervasive.
148. A reasonable woman in Dr. Khoury’s circumstances would have considered the work environment to be hostile, intimidating, offensive, oppressive, or abusive.
149. Dr. Khoury considered the work environment to be hostile, intimidating, offensive, oppressive, or abusive.
150. The harassment of Dr. Khoury was caused by her supervisors.
151. The harassment of Dr. Khoury was a substantial factor in causing her damages, including lost opportunity costs, reputational damage, and suffered financial losses and physical and emotional distress.
152. Defendants’ conduct was oppressive, malicious and fraudulent.

**CAUSE OF ACTION 5:**
Retaliation in Violation of California Government Code Section 12940(h)

153. Plaintiff realleges the preceding paragraphs as if set forth here.
154. The School acted at all material times as an employer of Dr. Khoury, including exercising control over Dr. Khoury’s schedule and duties, supervising Dr. Khoury, disciplining Dr. Khoury, and compensating Dr. Khoury by compensating the Southern California Permanente Medical Group for her services.
155. Dr. Khoury acted at all material times as an employee of the School and a member of the faculty. She took assignments from her supervisors at the School, worked the schedule required by the School, used teaching equipment supplied by the School, and understood that her compensation, although received through the Medical Group, was based in part on her employment with the School.
156. Dr. Khoury reported race and gender discrimination against her to the School administration on October 20, 2020. Dr. Khoury also reported race and gender discrimination against her to the School’s Board of Directors in December, 2020.
157. Despite lip service to investigating Dr. Khoury’s complaints, she is informed and
believes that the School took no serious remedial action in response to her complaints.

Dr. Khoury’s reports of race and gender discrimination were a substantial motivating reason for the School’s adverse employment actions, including continuing her suspension, denying her an earned promotion, delaying the conclusion of its investigation so as to deny Dr. Khoury the due process rights the School affords contract employees like her, discharge, and refusing to renew her contract.

Plaintiff was harmed by the School’s retaliation. As a result of the School’s retaliation against Dr. Khoury, she has incurred opportunity costs, reputational damage, and suffered financial losses and physical and emotional distress.

Defendants’ conduct was oppressive, malicious and fraudulent.

**CAUSE OF ACTION 6:**

Wrongful Discharge in Violation of Public Policy

Plaintiff realleges the preceding paragraphs as if set forth here.

The School acted at all material times as an employer of Dr. Khoury, including exercising control over Dr. Khoury’s schedule and duties, supervising Dr. Khoury, disciplining Dr. Khoury, and compensating Dr. Khoury by compensating the Southern California Permanente Medical Group for her services.

Dr. Khoury acted at all material times as an employee of the School and a member of the faculty. She took assignments from her supervisors at the School, worked the schedule required by the School, used teaching equipment supplied by the School, and understood that her compensation, although received through the Medical Group, was based in part on her employment with the School.

Dr. Khoury was suspended, demoted, denied a promotion, discharged and her contract was not renewed in violation of several public policies.

First, Dr. Khoury was subjected to adverse employment actions because she taught about bias and discrimination in the medical profession.

The State of California has a strong public policy interest in protecting persons who engage in implicit bias training from retaliation. California Business and Professions Code section
2190.1(d) states that:

(d)(1) On and after January 1, 2022, all continuing medical education courses shall contain curriculum that includes the understanding of implicit bias.

(2) Notwithstanding the provisions of paragraph (1), a continuing medical education course dedicated solely to research or other issues that does not include a direct patient care component or a course offered by a continuing medical education provider that is not located in this state is not required to contain curriculum that includes implicit bias in the practice of medicine.

(3) Associations that accredit continuing medical education courses shall develop standards before January 1, 2022, for compliance with the requirements of paragraph (1). The associations may update these standards, as needed, in conjunction with an advisory group established by the association that has expertise in the understanding of implicit bias.

(e) In order to satisfy the requirements of subdivision (d), continuing medical education courses shall address at least one or a combination of the following:

(1) Examples of how implicit bias affects perceptions and treatment decisions of physicians and surgeons, leading to disparities in health outcomes.

(2) Strategies to address how unintended biases in decision making may contribute to health care disparities by shaping behavior and producing differences in medical treatment along lines of race, ethnicity, gender identity, sexual orientation, age, socioeconomic status, or other characteristics.

167. The preamble to the Assembly Bill states the substance of the problem that Dr. Khoury addressed in class on August 28, 2020:

(a) Implicit bias, meaning the attitudes or internalized stereotypes that affect our perceptions, actions, and decisions in an unconscious manner, exists, and often contributes to unequal treatment of people based on race, ethnicity, gender identity, sexual orientation, age, disability, and other characteristics.

(b) Implicit bias contributes to health disparities by affecting the behavior of physicians and surgeons, nurses, physician assistants, and other healing arts licensees.

(c) Evidence of racial and ethnic disparities in health care is remarkably consistent across a range of illnesses and health care services. Racial and ethnic disparities remain even after adjusting for socioeconomic differences, insurance status, and other factors influencing access to health care.

(d) African American women are three to four times more likely than white women to die from pregnancy-related causes nationwide. African American
patients often are prescribed less pain medication than white patients who present the same complaints, and African American patients with signs of heart problems are not referred for advanced cardiovascular procedures as often as white patients with the same symptoms.

(e) Implicit gender bias also impacts treatment decisions and outcomes. Women are less likely to survive a heart attack when they are treated by a male physician and surgeon. LGBTQ and gender-nonconforming patients are less likely to seek timely medical care because they experience disrespect and discrimination from health care staff, with one out of five transgender patients nationwide reporting that they were outright denied medical care due to bias.

[Assembly Bill 241, Section 1.]

168. Second, the School violated the public policies embodied by FEHA in preventing race discrimination in the workplace, sex discrimination in the workplace, and retaliation for reporting race and gender discrimination in the workplace.

169. Third, the School violated California public policy that protects an employee from retaliation for discussing the conditions of her workplace or reporting unlawful acts in the workplace or reporting unsafe conditions in a medical facility, including California Labor Code Section 1102.5 and California Labor Code Section 6310(b), California Health and Safety Code Section 1278.5 (b)(1)(A) & (B).

170. Dr. Khoury’s suspension, demotion, aborted promotion and discharge and contract non-renewal were substantially motivated by the School’s violations of the above public policies.

171. As a result of the School’s actions, Dr. Khoury has incurred opportunity costs, reputational damage, and suffered financial losses and physical and emotional distress.

172. Defendants’ conduct was oppressive, malicious and fraudulent.

CAUSE OF ACTION 7:

Breach of Employment Contract

173. Plaintiff realleges the preceding paragraphs as if set forth here.

174. The School acted at all material times as an employer of Dr. Khoury, including exercising control over Dr. Khoury’s schedule and duties, supervising Dr. Khoury, disciplining Dr. Khoury, and compensating Dr. Khoury by compensating the Southern California Permanente Medical Group for her services.
175. Dr. Khoury acted at all material times as an employee of the School and a member of the faculty. She took assignments from her supervisors at the School, worked the schedule required by the School, used teaching equipment supplied by the School, and understood that her compensation, although received through the Medical Group, was based in part on her employment with the School.

176. The School and Dr. Khoury entered an employment contract that incorporated the faculty handbook, which states that the School “may terminate a faculty appointment before its designated end date only for cause.” A faculty member may be placed on “administrative leave” during the period of investigation.

177. The School breached its contract with Dr. Khoury by keeping her on administrative leave after any reasonable investigation was concluded, constructively terminating her contract without cause, or in the alternative, failing to conduct and conclude a reasonable investigation into whether Dr. Khoury could be terminated for cause.

178. The School also breached its contract with Dr. Khoury by delaying disciplinary action against Dr. Khoury in order to take advantage of the expiration of her contract.

179. Dr. Khoury substantially performed her job duties.

180. Dr. Khoury would not have been discharged had she received the due process protections in her contract and the School’s faculty handbook.

181. As a result of these breaches of contract, Dr. Khoury has incurred opportunity costs, reputational damage, and suffered financial losses and physical and emotional distress.

**CAUSE OF ACTION 8:**

**Breach of the Implied Covenant of Good Faith and Fair Dealing**

182. Plaintiff realleges the preceding paragraphs as if set forth here.

183. The School acted at all material times as an employer of Dr. Khoury, including exercising control over Dr. Khoury’s schedule and duties, supervising Dr. Khoury, disciplining Dr. Khoury, and compensating Dr. Khoury by compensating the Southern California Permanente Medical Group for her services.

184. Dr. Khoury acted at all material times as an employee of the School and a member
of the faculty. She took assignments from her supervisors at the School, worked the schedule
required by the School, used teaching equipment supplied by the School, and understood that her
compensation, although received through the Medical Group, was based in part on her
employment with the School.

185. The School and Dr. Khoury entered an employment contract that contains an
implied covenant of good faith and fair dealing.

186. The School breached the implied covenant of good faith and fair dealing with Dr.
Khoury by keeping her on administrative leave after any reasonable investigation was concluded
or, in the alternative, failing to conduct and conclude a reasonable investigation into whether Dr.
Khoury could be terminated for cause.

187. The School also breached the implied covenant of good faith and fair dealing with
Dr. Khoury by delaying disciplinary action against Dr. Khoury in order to take advantage of the
expiration of her contract.

188. Dr. Khoury substantially performed her job duties.

189. But for the breach of the implied covenant of good faith and fair dealing, Dr.
Khoury would not have been discharged.

190. As a result of these breaches of contract, Dr. Khoury has incurred opportunity costs,
reputational damage, and suffered financial losses and physical and emotional distress.

CAUSE OF ACTION 9:
Retaliation in Violation of Labor Code 1102.5(b)

191. Plaintiff realleges the preceding paragraphs as if set forth here.

192. The School acted at all material times as an employer of Dr. Khoury, including
exercising control over Dr. Khoury’s schedule and duties, supervising Dr. Khoury, disciplining Dr.
Khoury, and compensating Dr. Khoury by compensating the Southern California Permanente
Medical Group for her services.

193. Dr. Khoury acted at all material times as an employee of the School and a member
of the faculty. She took assignments from her supervisors at the School, worked the schedule
required by the School, used teaching equipment supplied by the School, and understood that her
compensation, although received through the Medical Group, was based in part on her employment with the School.

194. Dr. Khoury reported violations of FEHA’s prohibitions on race and gender discrimination against her to the School administration on October 20, 2020. Dr. Khoury also reported violations of FEHA’s prohibitions on race and gender discrimination against her to the School’s Board of Directors in December of 2020.

195. Despite lip service to investigating Dr. Khoury’s complaints, she is informed and believes that the School took no serious remedial action in response to her complaints.

196. Dr. Khoury’s reports of race and gender discrimination were a substantial motivating reason for the School’s adverse employment actions, including continuing her suspension, denying her an earned promotion, delaying the conclusion of its investigation so as to deny Dr. Khoury the due process rights the School affords contract employees like her, discharging her and refusing to renew her contract.

197. Plaintiff was harmed by the School’s retaliation. As a result of the School’s retaliation against Dr. Khoury, she has incurred opportunity costs, reputational damage, and suffered financial losses and physical and emotional distress.

198. Defendants’ conduct was oppressive, malicious and fraudulent.

CAUSE OF ACTION 10:

Unfair Competition

199. Plaintiff realleges the preceding paragraphs as if set forth here.

200. Defendants’ conduct alleged above constitutes unlawful business acts and/or practices within the meaning of Business and Professions Code sections 17200, et seq. Defendants’ predicate acts include:

a. Discrimination based on race and gender;

b. Retaliation for opposing race and gender discrimination;

c. Violations, including retaliation, of 42 U.S.C. § 1981;

d. Violations, including retaliation, of 42 U.S.C. § 1982;

e. Wrongful discharge in violation of public policy;
f. Retaliation in violation of California Labor Code Section 1102.5(b).

201. As a direct and proximate result of Defendants’ conduct, Plaintiff incurred opportunity costs, reputational damage, and suffered financial losses and physical and emotional distress.

202. As a direct and proximate result of Defendants’ conduct, Plaintiff is entitled to restitution.

203. Defendants’ conduct was oppressive, malicious and fraudulent.

CAUSE OF ACTION 11:
Failure to Provide Personnel Files and Records

204. Plaintiff realleges the preceding paragraphs as if set forth here.

205. The School acted at all material times as an employer of Dr. Khoury, including exercising control over Dr. Khoury’s schedule and duties, supervising Dr. Khoury, disciplining Dr. Khoury, and compensating Dr. Khoury by compensating the Southern California Permanente Medical Group for her services.

206. Dr. Khoury acted at all material times as an employee of the School and a member of the faculty. She took assignments from her supervisors at the School, worked the schedule required by the School, used teaching equipment supplied by the School, and understood that her compensation, although received through the Medical Group, was based in part on her employment with the School.

207. Dr. Khoury properly demanded her personnel files and records pursuant to California Labor Code Section 1198.5

208. The School failed to provide Dr. Khoury with any personnel files and records despite follow-up requests. The School has since denied that it maintains any personnel files and records for Dr. Khoury subject to Labor Code Section 1198.5

209. Dr. Khoury has been injured by this violation of the law, is entitled to a $750.00 penalty for the School’s noncompliance with Labor Code Section 1198.5, and is entitled to injunctive relief requiring the production of her personnel files and records.
RELIEF REQUESTED

a. Plaintiff seeks money damages as permitted by law;

b. Plaintiff seeks penalties to the greatest extent allowed by law;

c. Plaintiff seeks punitive damages against the Defendants on all counts to which she is entitled to such relief;

d. Plaintiff seeks attorneys fees and costs to the maximum extent permitted by law and contract;

e. Plaintiff seeks injunctive relief to prevent continuing violations of the law;

f. Plaintiff seeks reinstatement;

g. Plaintiff seeks front pay in lieu of reinstatement;

h. Plaintiff seeks equitable relief, including restitution, to the full extent permitted;

i. Plaintiff seeks interest as allowed by law;

j. Plaintiff seeks any further relief the Court deems just and necessary.

RESPECTFULLY SUBMITTED THIS 3rd Day of March, 2021,

LAW OFFICES OF LISA HOLDER

_/s/Lisa Holder
LISA HOLDER

BROWN, NERI, SMITH & KHAN LLP

NATHAN M. SMITH
DEMAND FOR JURY TRIAL

Plaintiff demands a jury trial on all counts so triable.

RESPECTFULLY SUBMITTED THIS 3rd Day of March, 2021,

BROWN, NERI, SMITH & KHAN LLP

NATHAN M SMITH