

1 THE SHERIDAN LAW FIRM, P.S.
2 705 Second Avenue, Suite 1200
3 Seattle, WA 98104
4 Tel: 206-381-5949
5 Attorneys for Plaintiff

6
7 IN THE UNITED STATES DISTRICT COURT FOR THE
8 EASTERN DISTRICT OF WASHINGTON

9 ALETA BUSSELMAN,

10
11 Plaintiff,

12 vs.

13 BATTELLE MEMORIAL
14 INSTITUTE, an Ohio nonprofit
15 corporation

16 Defendant.
17

Case No.: 4:18-cv-05072-SMJ

COMPLAINT FOR DAMAGES,
INJUNCTIVE AND
DECLARATORY RELIEF AND
DEMAND FOR JURY TRIAL

18 **I. PARTIES AND JURISDICTION**

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20 1.1 Plaintiff Aleta Busselman (“Busselman” or “plaintiff”) is a
21 citizen of Washington State residing in Richland, Washington.

22 1.2 Defendant Battelle Memorial Institute is an Ohio nonprofit
23 corporation operating as a 501(c)(3) entity. In Richland, Washington,
24 Battelle’s primary purpose is to manage the Pacific Northwest National
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1 Laboratory (“PNNL”). Defendant will be referred to as “Battelle/PNNL”
2 or “defendant”.

3 1.3 Battelle/PNNL is a contractor with the Department of Energy
4 (“DOE”), and Ms. Busselman is an employee of Battelle/PNNL, both
5 within the meaning of 41 U.S.C. §4712, which is known as the National
6 Defense Authorization Act’s Enhancement of Contractor Protection from
7 Reprisal for Disclosure of Certain Information Act (the “Act”).
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10 1.4 Defendant’s contract with DOE, as modified and in effect at
11 the time of the protected activities and retaliation alleged herein, provided
12 in relevant part that, “This contract and employees working on this
13 contract will be subject to the whistleblower rights and remedies in the
14 pilot program on Contractor employee whistleblower protections
15 established at 41 U.S.C. 4712 by section 828 of the National Defense
16 Authorization Act for Fiscal Year 2013 (Pub. L. 112-239) and FAR
17 3.908.”
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21 1.5 On June 21, 2017, Ms. Busselman filed a whistleblower
22 retaliation complaint with the Office of the Inspector General (“OIG”)
23 under the Act. Over 210 days have passed since the filing of the
24 complaint and the OIG has not issued a report or final decision regarding
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1 the matter. The delay is not due to any bad faith of Ms. Busselman.

2 1.6 Ms. Busselman agreed to extend the time for OIG's
3 investigation through March 28, 2017. Not more than 30 days have
4 passed since the expiration of such extension of time.
5

6 1.7 Thus, under the Act, 41 U.S.C. § 4712(c)(2), the Federal
7 District Court now has jurisdiction over this matter.
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9 II. FACTS

10 A. Background

11 2.1 Battelle/PNNL is one of approximately seventeen national
12 laboratories operated by the U.S. Department of Energy ("DOE"). Of
13 those, Battelle Memorial Institute manages six DOE national labs.
14 Battelle/PNNL employs about 4500 staff, has an annual budget of nearly
15 \$1 billion, and has been managed for the U.S. Department of Energy by
16 the Ohio-based Battelle since the laboratories' inception in 1965.
17

18 2.2 Plaintiff Aleta Busselman has been a Battelle/PNNL
19 employee for over 30 years at the Richland, Washington campus. For the
20 last five years, Ms. Busselman has been a group manager.
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22 2.3 In 2014, Manager Cindy Doyle hired Ms. Busselman as a
23 Quality and Assurance Consultant, Principal Level (salary grade PL),
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1 which was to manage the assessment and issues management role in the
2 Quality and Assurance Directorate headed by the Quality and Assurance
3 Associate Lab Director Bryan Mohler. Her job duties included: Strategic
4 Laboratory Assessment activities (including Independent Oversight
5 Functions) and she was responsible for all occurrence reporting
6 requirements as outlined in DOE Order 232.2. She was also responsible
7 for overseeing all significant Laboratory level issues (categorized as low,
8 medium, and high significance) and tracked in the Battelle/PNNL Issues
9 Tracking System where the issues are reported and tracked to completion.
10 Examples of significant issues at Battelle/PNNL include weaknesses in
11 mishandling of radiological materials, chemical exposures, electrical
12 safety events, compensation/OFCCP breakdowns, network intrusion,
13 theft, and cyber security breaches.

18 2.4 As the Enforcement Coordinator for Battelle/PNNL, Ms.
19 Busselman was the single point of contact for enforcement coordination
20 and reporting into the DOE Noncompliance Tracking System (NTS),
21 which is the system used by all Laboratories for notifying DOE Office of
22 Enterprise Assessment (EA), Office of Enforcement (OE) of events that
23 exceed noncompliance risk limits and serves the purpose of
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1 communicating the contractor's compliance assurance processes such that
2 DOE/OE may elect to exercise regulatory discretion and/or mitigate the
3 possible sanctions associated with an enforcement proceeding.
4

5 2.5 In addition, Ms. Busselman interfaced and integrated the
6 Laboratory Issues Management processes with key staff in the Incidents
7 of Security Concerns (IOSC) Program for concerns that need to be
8 reported in to the Safeguards and Security Information Management
9 System (SSIMS).
10

11 2.6 Ms. Busselman had eight direct reports who were
12 responsible for various aspects of independent oversight, assessment and
13 issues management. They were referred to as the AIM Team, and
14 consisted of trained and qualified subject matter experts in the conduct of
15 assessments, critiques and root cause analysis. To become qualified cause
16 analysts, team members are required to go through formal training, get
17 vetted and approved by a Board of Management, and may spend one or
18 more years doing on-the-job training before they can be considered a
19 qualified cause analyst. Ms. Busselman has been approved by the Board
20 of Management as a qualified cause analyst for the Laboratory.
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25 2.7 The AIM team's focus is to investigate issues identified by

1 management that were categorized as “medium or high” level
2 significance. In 2014, there were ten such issues. In 2015, there were ten
3 such issues. In 2016, there were seventeen such issues.
4

5 2.8 The AIM team works with the issue owner (the manager who
6 is responsible for reporting and fixing the issue) to critique the issue
7 (document the facts surrounding the issue), to conduct a root cause
8 analysis, to create a formal corrective action plan, and to conduct a formal
9 effectiveness evaluation to determine whether the corrective actions have
10 fixed the underlying root and contributing causes.
11

12 2.9 When Ms. Busselman began her job, she interviewed her
13 direct reports and observed their work. She learned that there was
14 reluctance to participate in controversial root cause analysis activities
15 because there was pressure from management to change the results of the
16 cause analysis team’s final conclusions. Issue owners and/or their
17 management (unless they are part of the cause analysis team) are not
18 qualified or trained to make substantive changes to the root or
19 contributing causes of issues, but Ms. Busselman learned that such
20 changes were being ordered and supported by her management in varying
21 circumstances prior to Mr. LaFemina’s management change as the LPPM
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1 Associate Laboratory Director. Prior to Mr. LaFemina's arrival to the
2 organization, there were draft procedures and verbal communications
3 from management on how to handle root cause analysis disputes and it
4 was known by those conducting these analysis activities that such changes
5 were prohibited to preserve the independent analysis of the qualified
6 teams chartered to discover the root causes of the issue. However, there
7 were no formal written policies to prevent management from making such
8 changes if they did not agree with the conclusions.
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11 2.10 Once the cause analysis team identifies a root cause, the
12 issue owner is responsible for creating corrective actions to ensure that the
13 issue is not repeated. In her position, Ms. Busselman became aware that
14 issue owners would not necessarily propose or be amenable to meaningful
15 corrective actions based upon the cause analysis results, so in 2015, Ms.
16 Busselman organized a formal "Issue Team" chartered by John LaFemina
17 and Mike Schlender, which provided overview of proposed corrective
18 actions and ensured that the final corrective actions were meaningful and
19 fixed the identified root cause.
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23 2.11 In 2015, the Quality and Assurance Directorate was renamed
24 "Laboratory Planning and Performance Management" (LPPM). During
25

1 that year, Mr. LaFemina replaced Mr. Mohler as Associate Lab Director
2 for this new organization. On information and belief, Quality and
3 Assurance Associate Lab Director Bryan Mohler retired because upper
4 management investigated and learned that he had been changing the
5 language of root cause analysis results and other subsequent deliverable
6 results (i.e., corrective action plans) associated with fixing Laboratory
7 Level issues.
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10 2.12 On October 1, 2015, Ms. Busselman was promoted to
11 Division Director, Level 2 manager (Manager Quality Assurance C Level,
12 salary grade PM). In that role, she received an annual salary of
13 approximately \$151,089. As a division director Level 2, she was
14 responsible for the same duties as before with the additional responsibility
15 of being the Core Business Process Steward (Assess Performance CBP).
16 She reported to Mr. LaFemina in that position.
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19 2.13 On October 1, 2016, Ms. Busselman (having successfully
20 acted in the capacity as the Enforcement Coordinator for the first year of
21 her new role) was also formally assigned the official role of the
22 Battelle/PNNL Enforcement Coordinator as outlined in the Office of
23 Enterprise Assessments document dated April 2015, titled, "Safety and
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1 Security Enforcement Coordinator Handbook.” She reported to Mr.
2 LaFemina in that position.

3 2.14 Upon assuming her new duties in October 2015, Ms.
4 Busselman immediately began to formalize and implement policies and
5 procedures to ensure that managers were held accountable for correcting
6 issues.
7

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9 2.15 In October 2015, Ms. Busselman formalized the “Issue Team
10 Charter,” which was a written procedure that brought in high-level
11 managers and subject matter experts to oversee the quality and
12 completeness of proposed corrective actions. The Issue Team’s purpose
13 was as follows:
14

15 Issue Teams are the approving body for corrective action
16 plans of medium significance or higher. Issue Teams provide
17 balanced and broad-based knowledge to the review and
18 approval of proposed corrective actions and then later they
19 review and confirm the results of effectiveness evaluations
20 prior to recommending issue closure. These reviews verify
21 that PNNL has effectively demonstrated appropriate action in
22 response to significant issues and that acceptable and
23 sustainable performance improvement has been achieved,
24 resulting in reasonable assurance that recurrence of the
25 unwanted condition is unlikely.

23 2.16 Ms. Busselman received positive feedback from management
24 and DOE on the effective work of the Issue Team and the improved
25

1 clarity around the Laboratories Issues Management Process.

2 2.17 In October 2016, Ms. Busselman created a formal written
3 procedure that prohibited managers from making substantive changes to
4 the root cause of the issue or the contributing causes of the issues in
5 reports generated by the chartered Lead Cause Analyst. The process in
6 the event of a dispute was as follows:
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9 In cases where the Issue Owner does not agree with the
10 results of the [root cause] analysis, the Laboratory Senior
11 Cause Analyst will work with the Lead Cause Analyst, line
12 management, the Lab-level Issue Team, and other
13 independent technical experts as necessary, to resolve the
14 issue(s). If the issue(s) cannot be resolved, the cause analysis
15 team's results will remain the final documented root cause
16 analysis, and the lack of consensus will be documented in the
17 Issue Tracking System (ITS).

18
19 **B. Battelle/PNNL Makes A \$530,000 Payment To A Fraudulent
20 Payee Posing As A Battelle/PNNL Subcontractor**

21 2.18 Fowler General Construction, Inc. (Fowler) has been a
22 subcontractor at Battelle/PNNL since 2007, and has worked on numerous
23 construction projects on the Battelle/PNNL campus.

24 2.19 In May 2016, a contract was awarded to Fowler for the
25 construction of the Battelle/PNNL Collaboration Center. The first invoice
from Fowler for the Collaboration Center work was received on June 21,
2016, with payment occurring on July 20, 2016 via electronic payment

1 from the U.S. Treasury Department to their designated bank account.

2 2.20 On November 9, 2016, a request was made via email to the
3 Procurement Director to change the bank account for Fowler's electronic
4 payments. The email included the company logo and an email address of
5 accounts@fowlergpcgroup.com.
6

7 2.21 On December 16, 2016, a Fowler invoice for approximately
8 \$530,000.00 was authorized for payment by Battelle/PNNL personnel,
9 and was electronically paid to the new bank account by the U.S. Treasury
10 Department. Both points of contact listed in Fowler's vendor record (the
11 legitimate point of contact and the new fraudulent entity) were sent an
12 automatic notification of the payment. The fraudulent requestor withdrew
13 the funds from the new bank account within a few days and closed the
14 account.
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18 2.22 On January 12, 2017, Fowler's Controller contacted
19 Battelle/PNNL Accounts Payable by phone to inform Battelle/PNNL that
20 they had not received their invoiced payments.
21

22 2.23 The Battelle/PNNL Accounts Payable Administrator
23 reviewed the vendor record in Purchase and Expense System and
24 informed Fowler that the payment had been submitted to the new bank
25

1 account. Fowler responded that the requestor was not an employee of
2 Fowler and the bank change was not valid.

3 2.24 The Battelle/PNNL Accounts Payable Manager assessed the
4 situation, reviewed the vendor history, and examined pertinent emails,
5 then met with Finance and Contracts management to discuss immediate
6 actions to be taken. The U.S. Treasury Department also immediately
7 notified the bank of the fraudulent transactions.
8

9 2.25 Notification of the fraudulent payment was made to
10 Battelle/PNNL senior management, the Battelle/PNNL Office of Audit
11 Services, and the Battelle/PNNL Office of General Counsel.
12

13
14 **C. Under The Terms Of Its Contract With DOE, Battelle/PNNL
15 Management Is Responsible For Preventing Fraud And Has
16 Experienced External Fraud Attempts Since Early 2016**

17 2.26 The Battelle/PNNL operating contract with DOE requires
18 that it comply with various federal policies and guidelines for combatting
19 fraud—both internal and external. The Office of Management and
20 Budget (“OMB”) provides guidance on improving accountability and
21 effectiveness of program operations to combat fraud (see OMB Circular
22 A-123), as does the Government Accountability Office's (GAO)
23 Standards for Internal Control in the Federal Government (the “Green
24
25

1 Book”).

2 2.27 At Battelle/PNNL, management is responsible for
3 developing policies and procedures to combat fraud, both internal and
4 external, and for ensuring that those policies and procedures are
5 developed, implemented, and effective.
6

7 2.28 Efforts by other fraudulent external entities to defraud the
8 government through false invoices have been an ongoing issue at
9 Battelle/PNNL since at least 2015. Since then, on a monthly basis, those
10 other fraudulent external entities have been soliciting consumer
11 electronics using the Battelle/PNNL Procurement Director’s name. About
12 ten vendors shipped consumer goods to the fraudulent entities. On
13 information and belief, Battelle/PNNL management has had notice of this
14 external fraud effort since at least early 2016.
15
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17

18 **D. The AIM Team Investigation and the March Findings**

19 2.29 In January 2017, Financial Operations Manager Iris
20 Anderson requested assistance in conducting a root cause analysis to
21 better understand the issues surrounding the \$530,000 improper payment
22 to a fraudulent entity.
23

24 2.30 Under Ms. Busselman’s supervision, a cause analysis team
25

1 (made up of members of the AIM Team) was assigned to determine the
2 causes for the event that led to \$530,000 improper payment to a
3 fraudulent entity that was posing as a subcontractor to PNNL. The scope
4 of the AIM Team's work was defined in a Cause Analysis Charter, which
5 was approved by Ms. Anderson.
6

7 2.31 This issue was determined to be MEDIUM significance,
8 requiring a Level 2 root cause analysis.
9

10 2.32 The scope of the cause analysis was limited to
11 Battelle/PNNL's response to the ACH change request by the fraudulent
12 entity.
13

14 2.33 A separate investigation was conducted by the Office of the
15 Inspector General and the Department of Justice to determine how the
16 fraudulent entity obtained the relevant information to make the ACH
17 change request in the first place.
18

19 2.34 As part of the investigative process, the cause analysis team
20 reviewed more than 25 documents and interviewed nineteen witnesses.
21

22 2.35 In March 2017, the AIM Team finalized a Cause Analysis
23 Report ("March Cause Analysis Report"), which made findings regarding
24 the direct cause, the root cause, and identified certain relevant facts, which
25

1 led to the outcome.

2 2.36 In the March Cause Analysis Report, the AIM Team
3 determined that the **direct cause** was:

4
5 The Accounts Payable Vendor Coordinator verified the
6 information on the ACH request that was specifically
7 required by the Vendor Management Process Desk Guide
8 against the information in the Vendor Master File; the
9 Accounts Payable Vendor Coordinator unknowingly changed
10 the bank account to the one that belonged to the fraudulent
11 entity and the invoice was paid by ACH into that bank
12 account.

13 2.37 In the March Cause Analysis Report, the AIM Team
14 determined that the **root cause** was:

15 Business Systems Directorate (BSD) management did not
16 clearly define adequate controls regarding the identification,
17 detection and response to potential fraudulent activities by
18 external criminal entities in the Vendor Management
19 Process; primarily relying on individual staff members to
20 identify and respond to potential external threats.

21 2.38 In the March Cause Analysis Report, the AIM Team listed
22 relevant facts, some of which included the following facts:

23 2.38.1 There is no segregation of duties between the
24 Contracts Vendor Coordinator and the Accounts
25 Payable Vendor Coordinator; the same person
currently fills both roles.

 2.38.2 Transition of key staff out of both the AP and
Contracts organizations resulted in some staff
assuming additional responsibilities while maintaining

1 their normal work load.

2 2.38.3 In the Accounts Payable and Contracts organizations,
3 some staff indicated they felt that the work load was
4 impacting the completeness and accuracy of their
5 work.

6 2.38.4 The current Accounts Payable Manager has been in the
7 role for approximately 1.5 years; this manager is less
8 familiar with the identities of the vendors/POCs.

9 2.38.5 Battelle/PNNL relies on individual staff members to
10 identify and respond to potential fraudulent activity by
11 external sources; however, this is not a written
12 expectation.

13 2.38.6 The training was informal and included 'tribal
14 knowledge' of processes and expectations; it did not
15 include the personal best practice of confirming
16 changes with the listed vendor POCs.

1 2.39 Ms. Busselman learned that Battelle/PNNL management was
2 dissatisfied with the root cause finding, and sought to make changes. Ms.
3 Busselman opposed changes to the root cause.
4

5 2.40 Ms. Busselman left for a scheduled vacation. Upon her
6 return, she was removed from her position, placed in an office with no
7 windows and given no daily job duties.
8

9 2.41 Battelle/PNNL management pressured the cause analysis
10 team to change the language of the root cause analysis, which then
11 appeared in the April 2017 Cause Analysis Report as follows:
12

13 Business Systems Directorate management had a primary
14 focus on controls over internal fraud risks in response to
15 DOE's annual risk statements in the Accounts Payable area
16 (which did not specifically address external fraud risks) and
17 based on the majority of previous experience involving
18 internal fraud. Consequently, the controls for the
19 identification, detection and response to evolving fraudulent
20 activities by external criminal entities in the Vendor
21 Management Process were less than adequate.

22 2.42 Battelle/PNNL management lacked training and expertise to
23 change the language of the root cause.
24

25 2.43 It was a conflict of interest for Battelle/PNNL management
to change the root cause, because the Cause Analysis Team's root cause
found that Battelle/PNNL management "did not clearly define adequate

1 controls.”

2 2.44 Management’s actions to change the root cause language was
3 in violation of Battelle/PNNL policy.
4

5 2.45 On information and belief, without approval or consultation
6 with either Ms. Busselman or with the full awareness of Cause Analysis
7 Team members, Battelle/PNNL management deleted the following
8 relevant fact statements from the April 2017 Cause Analysis Report as
9 follows:
10

11 2.45.1 DELETED: There are no segregation of duties between
12 the Contracts Vendor Coordinator and the Accounts
13 Payable Vendor Coordinator; the same person currently
14 fills both roles.

15 2.45.2 [In the Accounts Payable and Contracts organizations,]
16 DELETED: some staff indicated they felt that the work
17 load was impacting the completeness and accuracy of
18 their work.

19 2.45.3 DELETED: The current Accounts Payable Manager has
20 been in the role for approximately 1.5 years; this
21 manager is less familiar with the identities of the
22 vendors/POCs.

23 2.45.4 [The training was informal and included ‘tribal
24 knowledge’ of processes and expectations;] DELETED:
25 it did not include the personal best practice of
confirming changes with the listed vendor POCs.

E. Protected Activity

1 2.46 On or about March 29, 2017, Battelle/PNNL Associate
2 Laboratory Director for Business Systems and Chief Financial Officer
3 Marty Conger became concerned over the language of the root cause
4 results, and began to exert pressure to change the language, because he
5 felt that the language made management look bad. He specifically told
6 Ms. Busselman that the way the root cause was written would not put the
7 Lab in a good light, and that the way it was written right now made them
8 look like they were asleep at the wheel, and that he wanted to propose
9 changes to the description.
10
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12
13 2.47 Over the days that followed, Ms. Busselman attended several
14 meetings and exchanged numerous emails with Battelle/PNNL
15 management seeking to protect her staff from being pressured to change
16 the language of the root cause finding.
17

18 2.48 On March 31, 2017, Ms. Busselman wrote to Director
19 LaFemina and opposed management's efforts to pressure her staff into
20 changing the root cause language. She wrote:
21

22 Per our HDI requirements and cause analyst qualification
23 process, this is not how we do cause analysis at our Lab. We
24 do not just let concerned stakeholders manipulate root causes
25 at the end of the process to make us sound better. Steve
Cooke looked at this report twice before it came to
Marty/Iris. Marty has yet to bring the team together to

1 discuss how they got to the end results. That (changing root
2 causes and results at the 11th hour) was the [Quality and
3 Assurance Associate Lab Director Bryan] Mohler-way. Not
4 doing it and I am not going to have this cause analysis team
5 think that we have returned to the ‘old’ way of doing
6 business. Otherwise, why bother.

5
6 I am not going to make this team sign a product they can’t
7 stand behind.

8 2.49 Later in the day on March 31, 2017, Mr. LaFemina wrote
9 back to Ms. Busselman as follows:

10 I understand your concerns and agree that we are not going
11 backwards. I just spoke to Marty and let him know that I am
12 reviewing the report and that after spring break I will bring
13 us together to discuss our path forward. I also asked him to
14 stop negotiating with Steve. Steve does not negotiate for us.
15 Steve is in a meeting but I am talking to him after his
16 meeting and I will tell him the same.

16 2.50 On March 31, 2017, Ms. Busselman also reported to Mr.
17 LaFemina that she had learned of two LGBT women employees at
18 Battelle/PNNL who believed they were victims of discrimination. She
19 asked him for advice as to handling those complaints.
20

21 2.51 From April 1 to April 9, 2017, Ms. Busselman was on a
22 scheduled vacation.
23

24 **F. Retaliation**

25 2.52 On April 10, 2017, upon Ms. Busselman returning from her

1 vacation, Mr. LaFemina sent her a calendar appointment entry for April
2 12, which did not have a subject line. Ms. Busselman asked for an agenda
3 so she could prepare, and she received an e-mail from Mr. LaFemina that
4 he had made a decision to reorganize and that he had an opportunity for
5 her. Later that day, Mr. LaFemina notified Ms. Busselman that he wanted
6 to revisit the description on the Fraud causal results and work with Marty
7 [Conger] to rewrite it.
8
9

10 2.53 On April 11, 2017, at a meeting held in Mr. LaFemina's
11 office, Ms. Busselman was notified that she was relieved of management
12 responsibilities, and that she and her AIM Team would be under the
13 supervision of Cindy Doyle. Her other responsibilities would also be
14 assigned to Ms. Doyle. No reasonable explanation was given for the
15 decision.
16
17

18 2.54 On April 13, 2017, following e-mail exchanges with Mr.
19 LaFemina, Ms. Busselman was pressured to lie to her team: he and she
20 rehearsed a statement that was to be given to the team to the effect that
21 she had input into the decision to leave AIM and to pursue a "great
22 opportunity" that Mr. LaFemina had found for her. Ms. Busselman
23 recited the rehearsed speech to her Team on the promise that she would
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25

1 not be demoted and would not be placed under Ms. Doyle’s supervision.

2 Mr. LaFemina then used the announcement to justify moving the AIM
3 team under Ms. Doyle, claiming budget reasons as the motivation for the
4 reorganization. Mr. LaFemina stated to Ms. Busselman and her team that
5 “Aleta” would not be coming back and that she would need to find work
6 somewhere else by October, which is the beginning of the new fiscal year.
7
8

9 2.55 On Friday April 14, 2017, Ms. Busselman met the Manager
10 of the “special assignment” for the first time and was poised to fully
11 engage on the activity on Monday April 17, 2017. Ms. Busselman quickly
12 realized that the Manager of the special assignment was not amenable to
13 engaging her on the activity (following several failed attempts to get
14 engaged on the assignment). Also during this time, Ms. Busselman was
15 encouraged to work in an internally facing non-suitable white-walled
16 working space with no windows.
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19 2.56 On May 1, 2017, Ms. Busselman was notified that the
20 “special assignment” was not a legitimate opportunity. Also on May 1,
21 2017, Ms. Busselman was formally reorganized under Ms. Doyle.
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23

24 2.57 In the following weeks, Mr. LaFemina repeatedly stated to
25 Ms. Busselman that she will need to find work by October 1, 2017. On

1 information and belief, Mr. LaFemina was communicating to Ms.
2 Busselman that failure to find work by October 1 will lead to her
3 termination. Plaintiff has been looking for meaningful work at the
4 Laboratory, but has been met with constant barriers and rejections due to
5 her high charge out rate and the tense environment at the Laboratory. Ms.
6 Busselman has been humiliated over and over again on a daily basis as
7 her 30-year network of professional relationships at the Laboratory ask
8 her “What happened with your Division Director role?” and “Why are
9 you looking for work?” Ms. Busselman has been encouraged to
10 downgrade her Manager role to a specialist role in order to lower her cost
11 and thus aid in finding a new job.
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15 2.58 On or about May 10, 2017, Ms. Busselman filed an
16 employee concern on this subject matter with the DOE.
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18 2.59 On or about May 12, 2017, Ms. Busselman notified Mr.
19 LaFemina that she filed an employee concern, but did not give details of
20 the subject matter.
21

22 2.60 On June 12, 2017, Ms. Busselman contacted Battelle/PNNL
23 management to notify them that she has been retaliated against for
24 opposing the improper efforts to change the root cause on the fraud case,
25

1 and gave management until June 16, 2017, to reinstate her to her position,
2 to ensure that in the future, she and her team would not be pressured to
3 make changes to the root cause of any investigation, and that the root
4 cause given on the April 2017 Cause Analysis Report (approved on
5 5/1/17), would be changed to reflect the root cause as written in the
6 Team's March 2017 Cause Analysis Report (prior to the 4/13/17 draft
7 report). When Battelle/PNNL management did not respond to the request,
8 Ms. Busselman filed the whistleblower retaliation complaint with the
9 Office of the Inspector General.

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11
12
13 2.61 Ms. Busselman has suffered loss of enjoyment of life, pain
14 and suffering, mental anguish, emotional distress, injury to reputation, and
15 humiliation owing to the wrongful actions of the defendants.

16 17 **III. CAUSE OF ACTION**

18 3.1 Plaintiff re-alleges the facts set forth in paragraphs 2.1-2.61
19 above and incorporates the same by reference.

20
21 3.2 The facts set forth above state a claim for whistleblower
22 retaliation under 41 U.S.C. § 4712.

23 24 **IV. PRAYER FOR RELIEF**

25 WHEREFORE, plaintiff prays for relief as follows:

1 4.1 Damages for back pay (if plaintiff is terminated or
2 constructively discharged after this filing), front pay (if plaintiff is
3 terminated or constructively discharged after this filing), lost benefits, and
4 medical expenses in an amount to be proven at trial;

6 4.2 Prejudgment interest in an amount to be determined;

7 4.3 Damages for emotional harm, including, but not limited to,
8 loss of enjoyment of life, pain and suffering, mental anguish, emotional
9 distress, injury to reputation, fear, and humiliation;

11 4.4 Reasonable attorney's fees and costs;

13 4.5 Reinstatement to her former position and job duties;

14 4.6 Expungement of any negative evaluations or comments from
15 her file and from the records of the defendant;

17 4.7 Injunctive relief requiring management training regarding the
18 need to allow the AIM Team to work without pressure to change core
19 findings;

21 4.8 Injunctive relief prohibiting the Defendant from directing or
22 pressuring the AIM Team to change findings;

23 4.9 Injunctive relief prohibiting the Defendant from further
24 retaliating against either Ms. Busselman or the AIM Team;
25

1 4.10 Publication to the Battelle/PNNL work force of any orders
2 issued by the IG/court regarding this case;

3 4.11 Declaratory relief;

4 4.12 Compensation for the tax penalty associated with any
5 recovery; and
6

7 4.13 Whatever further and additional relief the court shall deem
8 just and equitable.
9

10 **V. DEMAND FOR JURY**

11 5.1 Plaintiff hereby demands that this case be tried before a jury
12 of twelve.
13

14 DATED this 24th day of April, 2018.

15 THE SHERIDAN LAW FIRM, P.S.

16
17 By: s/John P. Sheridan

18 John P. Sheridan, WSBA # 21473
19 Hoge Building, Suite 1200
20 705 Second Avenue
21 Seattle, WA 98104
22 Phone: 206-381-5949
23 Fax: 206-447-9206
24 Email: jack@sheridanlawfirm.com

25 Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I certify that on April 24, 2018, I electronically filed the above and foregoing Complaint for Damages, Injunctive and Declaratory Relief and Jury Demand with the Clerk of the Court using the CM/ECF System.

s/Mark Rose
Sheridan Law Firm, PS
705 Second Avenue, Ste. 1200
Seattle, WA 98104
(206) 381-5949
mark@sheridanlawfirm.com