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FILED
ALAMEDA COUNTY

SEP 29 2014

CLERK OF THE SUPERIOR COURT
By [Signature] Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ALAMEDA

ROBERT LANE, an Individual,

Plaintiff,

vs.

KAISER PERMANENTE INSURANCE
COMPANY, a California corporation,
RICHARD GOLD, an Individual and DOES
1-200,

Defendants

Case No.:

RG14742314

**COMPLAINT FOR DAMAGES AND
DEMAND FOR JURY TRIAL**

1. **SEXUAL ORIENTATION
DISCRIMINATION** (Government
Code §§ 12900 *et seq.*)
2. **GENDER DISCRIMINATION**
(Government Code §§ 12900 *et seq.*)
3. **RELIGIOUS DISCRIMINATION**
(Government Code §§ 12900 *et seq.*)
4. **DISABILITY DISCRIMINATION**
(Government Code §§ 12900 *et seq.*)
5. **SEXUAL ORIENTATION
HARASSMENT** (Government
Code §§ 12900 *et seq.*)

COMPLAINT FOR DAMAGES AND DEMAND FOR JURY TRIAL

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6. **GENDER HARASSMENT**
(Government Code §§ 129000 *et seq.*)
7. **RELIGIOUS HARASSMENT**
(Government Code §§ 129000 *et seq.*)
8. **DISABILITY HARASSMENT**
(Government Code §§ 12900 *et seq.*)
9. **WRONGFUL TERMINATION IN VIOLATION OF PUBLIC POLICY**
10. **UNFAIR BUSINESS PRACTICES**
(Business & Professions Code §§ 17200 *et seq.*)

Plaintiff, ROBERT LANE, upon information and belief, alleges the following:

THE PARTIES

1. Plaintiff ROBERT LANE was employed as a Senior Contracting Manger for Defendant KAISER PERMANENTE INSURANCE COMPANY in Oakland, California, during the relevant time period.

2. Defendant KAISER PERMANENTE INSURANCE COMPANY (hereinafter "KAISER") is a California corporation with its principal place of business in Oakland, California, in the County of Alameda. KAISER is a "person" within the meaning of California Business and Professions Code § 17201 and an "employer" and/or "any person acting on behalf of the employer" within the meaning of Government Code § 12926, subdivision (d).

3. Defendant RICHARD GOLD (hereinafter “GOLD”) is an adult who, on information and belief, at all relevant times resided in Alameda County, California. GOLD is a “person” within the meaning of California Business and Professions Code § 17201 and an “employer” and/or “any person acting on behalf of the employer” within the meaning of Government Code § 12926, subdivision (d).

4. Defendants DOES 1 through 200, inclusive, are sued herein under fictitious names. Their true names and capacities are unknown to Plaintiff. When their true names and capacities are ascertained, Plaintiff will amend this complaint by inserting their true names and capacities herein. Plaintiff is informed and believes and thereon alleges that each of the fictitiously-named defendants is responsible in some manner for the occurrences herein alleged, and that the damages of Plaintiff herein alleged were proximately caused by such defendants. Plaintiff is informed, believes and thereon alleges that each of the Defendants herein gave consent to, ratified and authorized the acts alleged herein to the remaining Defendants.

JURISDICTION AND VENUE

5. This court has jurisdiction over all causes of action asserted herein pursuant to the California Constitution, Article VI, § 10, which grants the Superior Court original jurisdiction in all cases except those given to other trial courts. The Court also has jurisdiction over certain causes of action pursuant to Business and Professions Code §§ 17203 and 17204, which provide for exclusive jurisdiction for enforcement of this statute in any court of competent jurisdiction.

6. Venue in this proper under Business & Professions Code § 17203 and California Code of Civil Procedure § 395.5 because some of Defendants' unlawful conduct occurred in this County, Defendants conduct substantial business in this County, some of the transactions at issue took place in this County, and Defendants' liability arise in part in this County.

7. To the extent the conduct below was perpetrated by certain Defendants, the named Defendants or Defendant confirmed and ratified the same.

1 8. Plaintiff is informed and believes and, on that basis alleges, that at all times herein
2 mentioned, each Defendant was the agent, principal and/or employee of each other Defendant in
3 the acts and conduct alleged herein and therefore incurred liability to Plaintiff for the acts alleged
4 below. Plaintiff is further informed and believes and, on that basis, alleges that at all times
5 herein mentioned, all the Defendants were acting within the course and scope of their
6 employment and/or said agency.

7 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

8 9. Plaintiff filed a complaint of discrimination regarding Defendant's actions with
9 the California Department of Fair Employment and Housing on October 22, 2013. Plaintiff
10 received a "right to sue" letter from the Department on October 22, 2013. Plaintiff filed the
11 instant supplemental complaint within one year from the issuance of the "right to sue" letter.

12 **GENERAL BACKGROUND FACTS**

13 10. Plaintiff incorporates by reference in this cause of action each allegation of
14 paragraph 1 through 9, inclusive, as though fully set forth herein.

15 11. Plaintiff worked for Defendant KAISER as a Senior Contracting Manager
16 in Kaiser Permanente's Oakland office for five years. Plaintiff is openly gay, and a
17 practicing Catholic, and was at all relevant times. Defendant GOLD, the Vice President
18 of National Provider Contractor, was his supervisor.

19 12. During the time he served as Plaintiff's boss, GOLD treated him with
20 hostility and abruptness, and openly ridiculed him for his religion and sexual orientation.
21 For example, he challenged Plaintiff's Catholic affiliation by publicly inquiring how he
22 could be associated with the church given the recent news about allegations of its
23 rampant child abuse, and the Church's view of gay marriage.

24 13. GOLD also made comments to Plaintiff that questioned and diminished his
25 male gender identity. For example, after Plaintiff had undergone a biopsy of a mass on

1 his right breast and was awaiting the results, GOLD announced to the office, "I see you
2 had a breast augmentation." This type of humiliation became commonplace for Plaintiff.

3 14. GOLD also berated Plaintiff about needing to take time off for bereavement
4 leave when his mother was terminally ill – time to which Plaintiff was clearly entitled
5 under Company policy.

6 15. Plaintiff complained to Kaiser about Defendant GOLD's harassment, and
7 was shortly thereafter placed on a performance improvement plan. After the PIP went
8 into effect, Defendant GOLD canceled his regular 1:1 meetings with Plaintiff, and
9 provided no feedback as to his progress regarding the PIP, even when asked, contrary to
10 KAISER's policies regarding the administration of progressive discipline for
11 unsatisfactory work performance.

12 16. Defendant GOLD suddenly informed Plaintiff that he did not successfully
13 complete the PIP in January and that his work was unsatisfactory, and terminated
14 Plaintiff on January 7, 2013.

15 **FIRST CAUSE OF ACTION**
16 **SEXUAL ORIENTATION DISCRIMINATION**
17 **(Government Code §§ 12900 *et seq.*)**

18 **[Against KAISER PERMANENTE INSURANCE COMPANY and DOES 1-200,**
19 **Inclusive]**

20 17. Plaintiff incorporates by reference in this cause of action each allegation of
21 paragraph 1 through 16, inclusive, as though fully set forth herein.

22 18. At all times mentioned herein, California Government Code §§ 12900 *et seq.* (The
23 Fair Employment and Housing Act, hereinafter "FEHA") was in full force and effect and binding
24 on Defendants KAISER PERMANENTE INSURANCE COMPANY and DOES 1-200,
25 including the prohibition against discriminating against an employee on the basis of sexual
orientation.

1 19. The acts of Defendants, including but not limited to: placing Plaintiff on a
2 performance improvement plan, canceling Plaintiff's regular one on one meetings with
3 Defendant GOLD, failing to follow KAISER policies and practices of progressive discipline for
4 unsatisfactory work performance and terminating Plaintiff constitute discrimination in violation
5 of the FEHA.

6 20. Each of the Defendants was aware of and participated in this discrimination.

7 21. Plaintiff is further informed and believes that, by their conduct, DOES 1-200
8 aided and abetted the discrimination he suffered.

9 22. As a proximate result of Defendants' willful, knowing and intentional acts of
10 discrimination against Plaintiff, he has suffered and continues to suffer substantial losses,
11 including lost earnings and other employment benefits in an amount unknown at this time, but
12 according to proof at trial.

13 23. As a further proximate result of Defendants' retaliatory conduct, Plaintiff has also
14 suffered and continues to suffer anxiety, embarrassment, humiliation, mental anguish and other
15 emotional distress, all to his damage in an amount to be proven at the time of trial.

16 24. In doing the things herein alleged, Defendants were guilty of oppression, fraud
17 and malice, and insofar as the things alleged were attributable to employees of Defendants, said
18 employees were employed by Defendants with advance knowledge of the unfitness of the
19 employees and they were employed with a conscious disregard for the rights of others; or
20 Defendants authorized or ratified the wrongful conduct; or there was advance knowledge,
21 conscious disregard, authorization, ratification or act of oppression, fraud or malice on the part of
22 an officer, director or managing agent of all entitling Plaintiff to the recovery of exemplary and
23 punitive damages.

24 25. As a result of Defendants' discriminatory acts alleged herein, Plaintiff has had to
25 employ the services of attorneys to pursue his legal rights, to Plaintiff's damage in an amount

1 unknown at this time, but according to proof at trial. Plaintiff is entitled to reasonable attorney's
2 fees and costs of suit as provided by Government Code § 12965, subdivision (b) and other
3 applicable law, as well as costs of suit.

4 26. WHEREFORE, Plaintiff prays for relief as set forth below.

5
6 **SECOND CAUSE OF ACTION**
7 **GENDER DISCRIMINATION**
(Government Code §§ 12900 *et seq.*)

8 **[Against KAISER PERMANENTE INSURANCE COMPANY and DOES 1-200, Inclusive]**

9 27. Plaintiff incorporates by reference in this cause of action each allegation of
10 paragraph 1 through 26, inclusive, as though fully set forth herein.

11 28. At all times mentioned herein, California Government Code §§ 12900 *et seq.* (The
12 Fair Employment and Housing Act, hereinafter "FEHA") was in full force and effect and binding
13 on Defendants KAISER PERMANENTE INSURANCE COMPANY and DOES 1-200,
14 including the prohibition against discriminating against an employee on the basis of gender.

15 29. The acts of Defendants, including but not limited to: placing Plaintiff on a
16 performance improvement plan, canceling Plaintiff's regular one on one meetings with
17 Defendant GOLD, failing to follow KAISER policies and practices of progressive discipline for
18 unsatisfactory work performance and terminating Plaintiff constitute discrimination in violation
19 of the FEHA.

20 30. Each of the Defendants was aware of and participated in this discrimination.

21 31. Plaintiff is further informed and believes that, by their conduct, DOES 1-200
22 aided and abetted the discrimination he suffered.

23 32. As a proximate result of Defendants' willful, knowing and intentional acts of
24 discrimination against Plaintiff, he has suffered and continues to suffer substantial losses,
25 including lost earnings and other employment benefits in an amount unknown at this time, but
according to proof at trial.

1 33. As a further proximate result of Defendants' retaliatory conduct, Plaintiff has also
2 suffered and continues to suffer anxiety, embarrassment, humiliation, mental anguish and other
3 emotional distress, all to his damage in an amount to be proven at the time of trial.

4 34. In doing the things herein alleged, Defendants were guilty of oppression, fraud
5 and malice, and insofar as the things alleged were attributable to employees of Defendants, said
6 employees were employed by Defendants with advance knowledge of the unfitness of the
7 employees and they were employed with a conscious disregard for the rights of others; or
8 Defendants authorized or ratified the wrongful conduct; or there was advance knowledge,
9 conscious disregard, authorization, ratification or act of oppression, fraud or malice on the part of
10 an officer, director or managing agent of all entitling Plaintiff to the recovery of exemplary and
11 punitive damages.

12 35. As a result of Defendants' discriminatory acts alleged herein, Plaintiff has had to
13 employ the services of attorneys to pursue his legal rights, to Plaintiff's damage in an amount
14 unknown at this time, but according to proof at trial. Plaintiff is entitled to reasonable attorney's
15 fees and costs of suit as provided by Government Code § 12965, subdivision (b) and other
16 applicable law, as well as costs of suit.

17 36. WHEREFORE, Plaintiff prays for relief as set forth below.

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19 **THIRD CAUSE OF ACTION**
20 **RELIGIOUS DISCRIMINATION**
 (Government Code §§ 12900 *et seq.*)

21 **[Against KAISER PERMANENTE INSURANCE COMPANY and DOES 1-200, Inclusive]**

22 37. Plaintiff incorporates by reference in this cause of action each allegation of
23 paragraph 1 through 36, inclusive, as though fully set forth herein.

24 38. At all times mentioned herein, California Government Code §§ 12900 *et seq.* (The
25 Fair Employment and Housing Act, hereinafter "FEHA") was in full force and effect and binding

1 on Defendants KAISER PERMANENTE INSURANCE COMPANY and DOES 1-200,
2 including the prohibition against discriminating against an employee on the basis of religion.

3 39. The acts of Defendants, including but not limited to: placing Plaintiff on a
4 performance improvement plan, canceling Plaintiff's regular one on one meetings with
5 Defendant GOLD, failing to follow KAISER policies and practices of progressive discipline for
6 unsatisfactory work performance and terminating Plaintiff constitute discrimination in violation
7 of the FEHA.

8 40. Each of the Defendants was aware of and participated in this discrimination.

9 41. Plaintiff is further informed and believes that, by their conduct, DOES 1-200
10 aided and abetted the discrimination he suffered.

11 42. As a proximate result of Defendants' willful, knowing and intentional acts of
12 discrimination against Plaintiff, he has suffered and continues to suffer substantial losses,
13 including lost earnings and other employment benefits in an amount unknown at this time, but
14 according to proof at trial.

15 43. As a further proximate result of Defendants' retaliatory conduct, Plaintiff has also
16 suffered and continues to suffer anxiety, embarrassment, humiliation, mental anguish and other
17 emotional distress, all to his damage in an amount to be proven at the time of trial.

18 44. In doing the things herein alleged, Defendants were guilty of oppression, fraud
19 and malice, and insofar as the things alleged were attributable to employees of Defendants, said
20 employees were employed by Defendants with advance knowledge of the unfitness of the
21 employees and they were employed with a conscious disregard for the rights of others; or
22 Defendants authorized or ratified the wrongful conduct; or there was advance knowledge,
23 conscious disregard, authorization, ratification or act of oppression, fraud or malice on the part of
24 an officer, director or managing agent of all entitling Plaintiff to the recovery of exemplary and
25 punitive damages.

1 45. As a result of Defendants' discriminatory acts alleged herein, Plaintiff has had to
2 employ the services of attorneys to pursue his legal rights, to Plaintiff's damage in an amount
3 unknown at this time, but according to proof at trial. Plaintiff is entitled to reasonable attorney's
4 fees and costs of suit as provided by Government Code § 12965, subdivision (b) and other
5 applicable law, as well as costs of suit.

6 46. WHEREFORE, Plaintiff prays for relief as set forth below.

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8 **FOURTH CAUSE OF ACTION**
9 **DISABILITY DISCRIMINATION**
10 **(Government Code §§ 12900 *et seq.*)**
11 **[Against KAISER PERMANENTE INSURANCE COMPANY and DOES 1-200, Inclusive]**

12 47. Plaintiff incorporates by reference in this cause of action each allegation of
13 paragraph 1 through 46, inclusive, as though fully set forth herein.

14 48. At all times mentioned herein, California Government Code §§ 12900 *et seq.* (The
15 Fair Employment and Housing Act, hereinafter "FEHA") was in full force and effect and binding
16 on Defendants KAISER PERMANENTE INSURANCE COMPANY and DOES 1-200,
17 including the prohibition against discriminating against an employee on the basis of disability.

18 49. The acts of Defendants, including but not limited to: placing Plaintiff on a
19 performance improvement plan, canceling Plaintiff's regular one on one meetings with
20 Defendant GOLD, failing to follow KAISER policies and practices of progressive discipline for
21 unsatisfactory work performance and terminating Plaintiff constitute discrimination in violation
22 of the FEHA.

23 50. Each of the Defendants was aware of and participated in this discrimination.

24 51. Plaintiff is further informed and believes that, by their conduct, DOES 1-200
25 aided and abetted the discrimination he suffered.

52. As a proximate result of Defendants' willful, knowing and intentional acts of
discrimination against Plaintiff, he has suffered and continues to suffer substantial losses,

1 including lost earnings and other employment benefits in an amount unknown at this time, but
2 according to proof at trial.

3 53. As a further proximate result of Defendants' retaliatory conduct, Plaintiff has also
4 suffered and continues to suffer anxiety, embarrassment, humiliation, mental anguish and other
5 emotional distress, all to his damage in an amount to be proven at the time of trial.

6 54. In doing the things herein alleged, Defendants were guilty of oppression, fraud
7 and malice, and insofar as the things alleged were attributable to employees of Defendants, said
8 employees were employed by Defendants with advance knowledge of the unfitness of the
9 employees and they were employed with a conscious disregard for the rights of others; or
10 Defendants authorized or ratified the wrongful conduct; or there was advance knowledge,
11 conscious disregard, authorization, ratification or act of oppression, fraud or malice on the part of
12 an officer, director or managing agent of all entitling Plaintiff to the recovery of exemplary and
13 punitive damages.

14 55. As a result of Defendants' discriminatory acts alleged herein, Plaintiff has had to
15 employ the services of attorneys to pursue his legal rights, to Plaintiff's damage in an amount
16 unknown at this time, but according to proof at trial. Plaintiff is entitled to reasonable attorney's
17 fees and costs of suit as provided by Government Code § 12965, subdivision (b) and other
18 applicable law, as well as costs of suit.

19 56. WHEREFORE, Plaintiff prays for relief as set forth below.

20
21 **FIFTH CAUSE OF ACTION**
22 **SEXUAL ORIENTATION HARASSMENT**
23 **(Government Code §§ 12900 *et seq.*)**
24 **[Against KAISER PERMANENTE INSURANCE COMPANY, RICHARD GOLD and**
25 **DOES 1-200, Inclusive]**

57. Plaintiff incorporates by reference in this cause of action each allegation of
paragraph 1 through 56, inclusive, as though fully set forth herein.

1 58. At all times mentioned herein, California Government Code §§ 12900 *et seq.* (The
2 Fair Employment and Housing Act, hereinafter "FEHA") was in full force and effect and binding
3 on Defendants KAISER PERMANENTE INSURANCE COMPANY, RICHARD GOLD and
4 DOES 1-200, including the prohibition against harassing an employee on the basis of sexual
5 orientation.

6 59. The acts of Defendants, as described above, constitute harassment in violation of
7 the FEHA.

8 60. Each of the Defendants was aware of and participated in this discrimination.

9 61. Plaintiff is further informed and believes that, by their conduct, DOES 1-200
10 aided and abetted the discrimination he suffered.

11 62. As a proximate result of Defendants' willful, knowing and intentional acts of
12 retaliation against Plaintiff, he has suffered and continues to suffer substantial losses, including
13 lost earnings and other employment benefits in an amount unknown at this time, but according to
14 proof at trial.

15 63. As a further proximate result of Defendants' harassing conduct, Plaintiff has also
16 suffered and continues to suffer anxiety, embarrassment, humiliation, mental anguish and other
17 emotional distress, all to his damage in an amount to be proven at the time of trial.

18 64. In doing the things herein alleged, Defendants were guilty of oppression, fraud
19 and malice, and insofar as the things alleged were attributable to employees of Defendants, said
20 employees were employed by Defendants with advance knowledge of the unfitness of the
21 employees and they were employed with a conscious disregard for the rights of others; or
22 Defendants authorized or ratified the wrongful conduct; or there was advance knowledge,
23 conscious disregard, authorization, ratification or act of oppression, fraud or malice on the part of
24 an officer, director or managing agent of all entitling Plaintiff to the recovery of exemplary and
25 punitive damages.

1 65. As a result of Defendants' discriminatory acts alleged herein, Plaintiff has had to
2 employ the services of attorneys to pursue his legal rights, to Plaintiff's damage in an amount
3 unknown at this time, but according to proof at trial. Plaintiff is entitled to reasonable attorney's
4 fees and costs of suit as provided by Government Code § 12965, subdivision (b) and other
5 applicable law, as well as costs of suit.

6 66. WHEREFORE, Plaintiff prays for relief as set forth below.

7
8 **SIXTH CAUSE OF ACTION**
9 **GENDER HARASSMENT**
10 **(Government Code §§ 12900 *et seq.*)**
11 **[Against KAISER PERMANENTE INSURANCE COMPANY, RICHARD GOLD and**
12 **DOES 1-200, Inclusive]**

13 67. Plaintiff incorporates by reference in this cause of action each allegation of
14 paragraph 1 through 66, inclusive, as though fully set forth herein.

15 68. At all times mentioned herein, California Government Code §§ 12900 *et seq.* (The
16 Fair Employment and Housing Act, hereinafter "FEHA") was in full force and effect and binding
17 on Defendants KAISER PERMANENTE INSURANCE COMPANY, RICHARD GOLD and
18 DOES 1-200, including the prohibition against harassing an employee on the basis of gender.

19 69. The acts of Defendants, as described above, constitute harassment in violation of
20 the FEHA.

21 70. Each of the Defendants was aware of and participated in this discrimination.

22 71. Plaintiff is further informed and believes that, by their conduct, DOES 1-200
23 aided and abetted the discrimination he suffered.

24 72. As a proximate result of Defendants' willful, knowing and intentional acts of
25 retaliation against Plaintiff, he has suffered and continues to suffer substantial losses, including
lost earnings and other employment benefits in an amount unknown at this time, but according to
proof at trial.

1 73. As a further proximate result of Defendants' harassing conduct, Plaintiff has also
2 suffered and continues to suffer anxiety, embarrassment, humiliation, mental anguish and other
3 emotional distress, all to his damage in an amount to be proven at the time of trial.

4 74. In doing the things herein alleged, Defendants were guilty of oppression, fraud
5 and malice, and insofar as the things alleged were attributable to employees of Defendants, said
6 employees were employed by Defendants with advance knowledge of the unfitness of the
7 employees and they were employed with a conscious disregard for the rights of others; or
8 Defendants authorized or ratified the wrongful conduct; or there was advance knowledge,
9 conscious disregard, authorization, ratification or act of oppression, fraud or malice on the part of
10 an officer, director or managing agent of all entitling Plaintiff to the recovery of exemplary and
11 punitive damages.

12 75. As a result of Defendants' discriminatory acts alleged herein, Plaintiff has had to
13 employ the services of attorneys to pursue his legal rights, to Plaintiff's damage in an amount
14 unknown at this time, but according to proof at trial. Plaintiff is entitled to reasonable attorney's
15 fees and costs of suit as provided by Government Code § 12965, subdivision (b) and other
16 applicable law, as well as costs of suit.

17 76. WHEREFORE, Plaintiff prays for relief as set forth below.

18
19 **SEVENTH CAUSE OF ACTION**
20 **RELIGIOUS HARASSMENT**
21 **(Government Code §§ 12900 *et seq.*)**
22 **[Against KAISER PERMANENTE INSURANCE COMPANY, RICHARD GOLD and**
23 **DOES 1-200, Inclusive]**

24 77. Plaintiff incorporates by reference in this cause of action each allegation of
25 paragraph 1 through 76, inclusive, as though fully set forth herein.

78. At all times mentioned herein, California Government Code §§ 12900 *et seq.* (The
Fair Employment and Housing Act, hereinafter "FEHA") was in full force and effect and binding

on Defendants KAISER PERMANENTE INSURANCE COMPANY, RICHARD GOLD and DOES 1-200, including the prohibition against harassing an employee on the basis of religion.

79. The acts of Defendants, as described above, constitute harassment in violation of the FEHA.

80. Each of the Defendants was aware of and participated in this discrimination.

81. Plaintiff is further informed and believes that, by their conduct, DOES 1-200 aided and abetted the discrimination he suffered.

82. As a proximate result of Defendants' willful, knowing and intentional acts of retaliation against Plaintiff, he has suffered and continues to suffer substantial losses, including lost earnings and other employment benefits in an amount unknown at this time, but according to proof at trial.

83. As a further proximate result of Defendants' harassing conduct, Plaintiff has also suffered and continues to suffer anxiety, embarrassment, humiliation, mental anguish and other emotional distress, all to his damage in an amount to be proven at the time of trial.

84. In doing the things herein alleged, Defendants were guilty of oppression, fraud and malice, and insofar as the things alleged were attributable to employees of Defendants, said employees were employed by Defendants with advance knowledge of the unfitness of the employees and they were employed with a conscious disregard for the rights of others; or Defendants authorized or ratified the wrongful conduct; or there was advance knowledge, conscious disregard, authorization, ratification or act of oppression, fraud or malice on the part of an officer, director or managing agent of all entitling Plaintiff to the recovery of exemplary and punitive damages.

85. As a result of Defendants' discriminatory acts alleged herein, Plaintiff has had to employ the services of attorneys to pursue his legal rights, to Plaintiff's damage in an amount unknown at this time, but according to proof at trial. Plaintiff is entitled to reasonable attorney's

1 fees and costs of suit as provided by Government Code § 12965, subdivision (b) and other
2 applicable law, as well as costs of suit.

3 86. WHEREFORE, Plaintiff prays for relief as set forth below.

4
5 **EIGHTH CAUSE OF ACTION**
6 **DISABILITY HARASSMENT**
7 **(Government Code §§ 12900 *et seq.*)**
8 **[Against KAISER PERMANENTE INSURANCE COMPANY, RICHARD GOLD and**
9 **DOES 1-200, Inclusive]**

10 87. Plaintiff incorporates by reference in this cause of action each allegation of
11 paragraph 1 through 86, inclusive, as though fully set forth herein.

12 88. At all times mentioned herein, California Government Code §§ 12900 *et seq.* (The
13 Fair Employment and Housing Act, hereinafter "FEHA") was in full force and effect and binding
14 on Defendants KAISER PERMANENTE INSURANCE COMPANY, RICHARD GOLD and
15 DOES 1-200, including the prohibition against harassing an employee on the basis of disability.

16 89. The acts of Defendants, as described above, constitute harassment in violation of
17 the FEHA.

18 90. Each of the Defendants was aware of and participated in this discrimination.

19 91. Plaintiff is further informed and believes that, by their conduct, DOES 1-200
20 aided and abetted the discrimination he suffered.

21 92. As a proximate result of Defendants' willful, knowing and intentional acts of
22 retaliation against Plaintiff, he has suffered and continues to suffer substantial losses, including
23 lost earnings and other employment benefits in an amount unknown at this time, but according to
24 proof at trial.

25 93. As a further proximate result of Defendants' harassing conduct, Plaintiff has also
suffered and continues to suffer anxiety, embarrassment, humiliation, mental anguish and other
emotional distress, all to his damage in an amount to be proven at the time of trial.

1 94. In doing the things herein alleged, Defendants were guilty of oppression, fraud
2 and malice, and insofar as the things alleged were attributable to employees of Defendants, said
3 employees were employed by Defendants with advance knowledge of the unfitness of the
4 employees and they were employed with a conscious disregard for the rights of others; or
5 Defendants authorized or ratified the wrongful conduct; or there was advance knowledge,
6 conscious disregard, authorization, ratification or act of oppression, fraud or malice on the part of
7 an officer, director or managing agent of all entitling Plaintiff to the recovery of exemplary and
8 punitive damages.

9 95. As a result of Defendants' discriminatory acts alleged herein, Plaintiff has had to
10 employ the services of attorneys to pursue his legal rights, to Plaintiff's damage in an amount
11 unknown at this time, but according to proof at trial. Plaintiff is entitled to reasonable attorney's
12 fees and costs of suit as provided by Government Code § 12965, subdivision (b) and other
13 applicable law, as well as costs of suit.

14 96. WHEREFORE, Plaintiff prays for relief as set forth below.

15 **NINTH CAUSE OF ACTION**
16 **WRONGFUL TERMINATION IN VIOLATION OF PUBLIC POLICY**
17 **[Against KAISER PERMANENTE INSURANCE COMPANY and DOES 1-200, Inclusive]**

18 97. Plaintiff incorporates by reference in this cause of action each allegation of
19 paragraph 1 through 96, inclusive, as though fully set forth herein.

20 98. Under California law, no employee, whether they are an at-will employee, or an
21 employee under a written or other employment contract, can be terminated for a reason that is in
22 violation of a fundamental public policy.

23 99. Plaintiff is informed and believes, and based thereon alleges, that Defendants
24 terminated him employment for reasons that violated the public policy of the State of California.
25 Said actions violate the following statutes that affect society at large:

1 a. Government Code § 12920 states, in relevant part:

2
3 “It is hereby declared as the public policy of this state that it is necessary to protect
4 and safeguard the right and opportunity of all persons to seek, obtain, and hold
5 employment without discrimination or abridgment on account of race, religious creed,
6 color, national origin, ancestry, physical disability, mental disability, medical
7 condition, genetic information, marital status, sex, gender, gender identity, gender
8 expression, age, sexual orientation, or military and veteran status.
9

10 It is recognized that the practice of denying employment opportunity and
11 discriminating in the terms of employment for these reasons foments domestic strife
12 and unrest, deprives the state of the fullest utilization of its capacities for development
13 and advancement, and substantially and adversely affects the interests of employees,
14 employers, and the public in general.”

15 b. Government Code § 12945, subdivision (a) prohibits discrimination on the basis of
16 gender and/or age.

17 c. Government Code § 12945, subdivision (j) prohibits harassment on the basis of
18 gender and/or age.

19 d. California Constitution Article 1, § 8 provides, “A person may not be disqualified
20 from entering or pursuing a business, profession, vocation, or employment because of
21 sex, race, creed, color, or national or ethnic origin.”

22 e. California Business and Professions Code §§ 17200 *et seq.*, which prohibits any
23 unlawful, unfair or fraudulent business act or practice.

24 f. All other state and federal statutes and regulations that affect society at large and that
25 discovery will reveal were violated by Defendants.

100. Plaintiff alleges that Defendants violated articulated, fundamental public policies,
affecting society at large, by violating the statutes described above.

1 101. As a proximate result of Defendants' conduct, Plaintiff has suffered loss of
2 income, deferred income and other employment-related benefits in an amount unknown at this
3 time, but according to proof at trial.

4 102. As a direct, foreseeable, and proximate result of Defendants' acts, Plaintiff has
5 suffered and continues to suffer humiliation, embarrassment, mental and emotional distress, and
6 discomfort, all to Plaintiff's damage in an amount in excess of the minimum jurisdiction of this
7 court, the precise amount to be proven at trial.

8 103. As a further proximate result of Defendants' discriminatory conduct, Plaintiff has
9 suffered depression, anxiety, loss of self-esteem, illness and emotional distress; all to his damage
10 in an amount unknown at this time, but according to proof at trial.

11 104. In doing the things herein alleged, Defendants were guilty of oppression, fraud
12 and malice, and insofar as the things alleged were attributable to employees of Defendants, said
13 employees were employed by Defendants with advance knowledge of the unfitness of the
14 employees and they were employed with a conscious disregard for the rights of others; or
15 Defendants authorized or ratified the wrongful conduct; or there was advance knowledge,
16 conscious disregard, authorization, ratification or act of oppression, fraud or malice on the part of
17 an officer, director or managing agent of all entitling Plaintiff to the recovery of exemplary and
18 punitive damages.

19 105. As a further proximate result of the aforementioned wrongful conduct, Plaintiff
20 has had to employ the services of attorneys to protect his legal rights, to him damage in an
21 amount unknown at this time, but according to proof at trial. Plaintiff will seek and is entitled to
22 recover attorney's fees and costs in connection with this cause of action under the private
23 attorney general doctrine (Code of Civil Procedure § 1021.5).

24 106. WEFORÉ, Plaintiff requests relief as hereinafter provided.
25

**TENTH CAUSE OF ACTION
UNFAIR BUSINESS PRACTICES**

(California Business & Professions Code §§ 17200 et seq.)

[Against KAISER PERMANENTE INSURANCE COMPANY and DOES 1-200, Inclusive]

107. Plaintiff incorporates by reference in this cause of action each allegation of paragraph 1 through 106, inclusive, as though fully set forth herein.

108. At all times mentioned herein, Defendants were and are subject to the requirements of the Unfair Competition Law (California Business & Professions Code §§ 17200 et seq.), which prohibits unlawful, unfair or fraudulent business practices.

109. Defendants' conduct as alleged above is fraudulent and unlawful and therefore amounts to a violation of the Unfair Competition Law as the unlawful practices occurred in connection with Defendants' conduct of trade and commerce in California.

110. Defendants' violations of the law, as alleged above, constitute business practices because they were done repeatedly over a substantial period of time. These practices were the result of policies that worked to Plaintiff's detriment as well as to the detriment of other persons and/or entities. Reasonable employees and consumers were likely to be deceived by Defendants' conduct.

111. Plaintiff is informed and believes that such unlawful, unfair and/or fraudulent conduct continues to this day and Defendants will continue such activity in the future unless they are enjoined from doing so.

112. Plaintiff is entitled to an injunction preventing Defendants from continuing to engage in such illegal practices described above, including but not limited to violations of the California Labor Code.

113. Plaintiff will also seek and is entitled to recover attorney's fees in connection with this cause of action under the private attorney general doctrine (Civil Code § 1021.5).

PRAYER FOR RELIEF

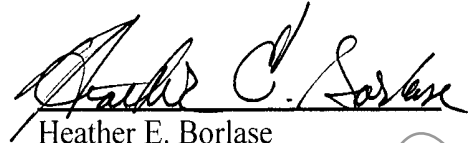
- 1 1. For money restitution pursuant to California Business & Professions Code §
2 17203;
- 3 2. For other injunctive relief, including requiring Defendants to adopt policies that
4 conform to Federal and California law, for a permanent injunction enjoining Defendants, their
5 agents, successors and employees from engaging in each unlawful practice set forth above, and
6 for such other injunctive relief as the Court may deem proper;
- 7 3. For economic and special damages in an amount unknown at this time, but
8 according to proof at trial;
- 9 4. For non-economic and general damages in an amount unknown at this time, but
10 according to proof at trial;
- 11 5. For punitive damages as allowed by law, including California Civil Code § 3294,
12 and according to proof at trial;
- 13 6. For an order requiring that the employer conduct training for all employees,
14 supervisors, and management on the requirements of this part, the rights and remedies of those
15 who allege a violation of Government Code § 12900 *et seq.*, and the employer's internal
16 grievance procedures, consistent with Government Code § 12965, subdivision (c).
- 17 7. For reasonable attorneys' fees and costs, pursuant to Code of Civil Procedure §
18 1021.5, Government Code § 12965, subdivision (b), and all other applicable statutes or
19 provisions of law;
- 20 8. For statutory interest pursuant to Code of Civil Procedure § 685.010;
- 21 //
- 22 //
- 23 //
- 24 //
- 25 //

1 9. For such other and further relief as this Court deems just and proper.

2
3 Dated this 26th day of September, 2014

BAYER & BORLASE

4
5
6 By:



Heather E. Borlase

Alan B. Bayer

Attorneys for Plaintiff

ROBERT LANE

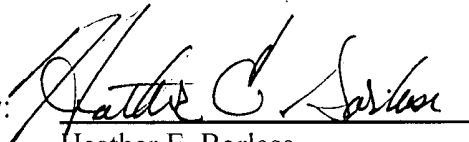
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8
9 **DEMAND FOR JURY TRIAL**

10 Plaintiff demands trial of all issues by jury.

11
12 Dated this 26th day of September, 2014

BAYER & BORLASE

13
14
15 By:



Heather E. Borlase

Alan B. Bayer

Attorneys for Plaintiff

ROBERT LANE