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ALAMEDA COUNTY

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Attorney for: Plaintiff MELISSA GARCIA

SUPERIOR COURT OF CALIFORNIA  
IN AND FOR THE COUNTY OF ALAMEDA

MELISSA GARCIA

Plaintiff,

vs.

KAISER PERMANENTE, a business entity form  
unknown and DOES 1-50,

Defendants.

Case No. **PL 17859730**

COMPLAINT FOR DAMAGES FOR  
EMPLOYMENT DISCRIMINATION AND  
HARASSMENT (VIOLATION OF FAIR  
EMPLOYMENT AND HOUSING ACT); AND  
REQUEST FOR JURY TRIAL

PLAINTIFF, MELISSA GARCIA ALLEGES AS FOLLOWS:

**FIRST CAUSE OF ACTION**

**(Plaintiff MELISSA GARCIA'S First Cause of Action For Employment Discrimination On The Basis of Physical Disability and Mental Disability; Violation Of Fair Employment And Housing Act against defendant KAISER PERMANENTE and DOES 1-50)**

1. Plaintiff, MELISSA GARCIA (hereinafter "plaintiff") is a resident of the City of Crockett, County of Contra Costa. Plaintiff was employed by defendant KAISER PERMANENTE, a business entity form unknown. Plaintiff is a 33 year old Hispanic female.

2. The true names and/or capacities, whether individual, corporate or associate or otherwise, of a defendant named in this action as Does 1 through 50, inclusive are unknown to plaintiff at this time; therefore, plaintiff sues such defendants by said fictitious names, and plaintiff will amend this complaint to show their true names and capacities upon discovery of same. Plaintiff is informed and believes, and

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thereon alleges that each of these fictitiously named defendants is responsible in some manner for the occurrences herein alleged and that, plaintiff's injuries as herein alleged were proximately caused by the aforementioned defendants.

3. Plaintiff is informed and believes and thereon alleges that each of the defendants herein was, at all times relevant to this action, the agent, employer, employee, representing partner, joint venturer or successor in interest of the remaining defendants and was acting within the course and scope of that relationship. Plaintiff is further informed and believes and thereon alleges that each of the defendants herein, gave consent to, ratified, and authorized the acts alleged herein of each of the remaining defendants.

4. Plaintiff is informed and believes and thereon alleges that defendant KAISER PERMANENTE is, and at all times herein mentioned in this complaint, was a business entity form unknown, qualified to do business in the State of California, doing business in the State of California and as such was subject to the laws of the State of California. At all times material to this complaint, defendant KAISER PERMANENTE was a business entity form unknown, doing business in the County of Alameda. Plaintiff is informed and believes and thereon alleges that defendant KAISER PERMANENTE was, and at times herein mentioned in this complaint, was plaintiff's employer and was responsible in some manner for the acts and occurrences herein alleged.

5. Defendant, KAISER PERMANENTE is an "employer", employing five or more persons, and as such is subject to suit under the California Fair Employment and Housing Act pursuant to California Government Code Section 12926(d).

6. Plaintiff is informed and believes and thereon alleges that this court is the proper court because the principal place of business of defendant KAISER PERMANENTE is within its jurisdictional area and injury to plaintiff, MELISSA GARCIA occurred within its jurisdictional area.

7. Plaintiff commenced her employment with and was employed by defendant KAISER PERMANENTE continuing through approximately December 15, 2015.

8. From the beginning of plaintiff's employment through the cessation of her employment in or about December 18, 2015, plaintiff was the victim of numerous discriminatory and harassing actions and remarks  
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1 and conduct made by Defendants' employees and others on the basis of her race, age, disability and gender  
2 and subjected to a hostile work environment. These discriminatory and harassing actions and remarks and  
3 conduct made by Defendants' employees include but were not limited to the discriminatory and harassing  
4 actions and remarks and conduct alleged by plaintiff to have occurred during her employment at KAISER  
5 PERMANENTE, as reflected in her DFEH Complaint of Discrimination, wherein plaintiff reported that;

6 "Complainant alleges:

- 7 1. Respondent Kaiser Permanente is a Private Employer subject to suit under the California Fair  
8 Employment and Housing Act (FEHA) (Gov. Code, § 12900 et seq.). Complainant believes respondent is  
9 subject to the FEHA.
- 10 2. On or around December 18, 2015, complainant alleges that respondent took the following adverse actions  
11 against complainant: Discrimination, Harassment, Retaliation Denied a good faith interactive process,  
12 Denied a work environment free of discrimination and/or retaliation, Denied continuation of employer paid  
13 health care coverage while on pregnancy disability leave, Denied employment, Denied equal pay, Denied  
14 family care or medical leave, Denied reasonable accommodation, Forced to quit, Laidoff, Terminated,  
15 Complainant believes respondent committed these actions because of their: Disability, Family Care or  
16 Medical Leave, Medical Condition Including cancer or cancer related medical condition or genetic  
17 characteristics, Race, Sex, Gender.
- 18 3. Complainant Melissa Garcia resides in the City of Crockett, State of California. If complaint includes  
19 correspondents please see below.

20 Additional Complaint Details:

21 I believe I was terminated due to my race and disability because several other employees were given  
22 interactive process and not terminated while on the same type of leave as me. I was not treated or given the  
23 same accommodations as the rest of the Kaiser staff...."

24 9. Throughout the period that plaintiff was employed by KAISER PERMANENTE, KAISER  
25 PERMANENTE acting through its agents and plaintiff's managers, supervisors and others engaged in  
26 intentional acts with the intent of discriminating against and harassing plaintiff on account of her physical  
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1 disability and mental disability in violation of the provisions of the California Fair Employment and  
2 Housing Act (FEHA) (Govt. C. §§12900- 12996). During the course of her employment, plaintiff came  
3 under the supervision of defendant's managers and supervisors who subjected plaintiff to differential terms  
4 and conditions of employment because of her physical disability and mental disability. These differential  
5 terms and conditions of employment included but were not limited to harassment not experienced by  
6 employees who were not disabled, as well as excessive criticism not otherwise directed to employees who  
7 were not disabled. Such discrimination and harassment consisted of, but was not limited to, unfounded  
8 complaints made against plaintiff concerning plaintiff's work, retaliation against plaintiff, denial of  
9 advancement, promotions and other benefits, and repeated acts of harassment and discrimination directed at  
10 plaintiff which for her created a hostile work environment and which resulted in her termination on or about  
11 December 18, 2015.

12 10. During her employment, plaintiff suffered a serious injury and learned that she had the following  
13 physical disability and mental disability (a medical disability related to stress, depression and anxiety). At  
14 that time KAISER PERMANENTE was aware of Plaintiff's physical disabilities and mental disability set  
15 forth above because Plaintiff informed KAISER PERMANENTE of her physical disabilities and mental  
16 disability, and KAISER PERMANENTE was aware that Plaintiff was treating for her physical disabilities  
17 and mental disability.

18 11. KAISER PERMANENTE failed to reasonably accommodate Plaintiff's needs based on her physical  
19 disabilities and mental disability.

20 12. At all times mentioned herein, Plaintiff was willing and able to perform the duties and functions of  
21 her employment if such reasonable accommodation had been made by KAISER PERMANENTE. At no  
22 time would the performance of the functions of the employment position, with a reasonable accommodation  
23 for Plaintiff's physical disabilities and mental disability have been a danger to Plaintiff's, or any other  
24 person's health or safety, nor would it have created an undue hardship to the operation of KAISER  
25 PERMANENTE's business.

26 13. KAISER PERMANENTE's discriminatory actions against Plaintiff, as alleged above, constituted  
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1 unlawful discrimination in employment on account of physical disabilities and mental disability in violation  
2 of Government Code Section 12940(a).

3 14. KAISER PERMANENTE was aware of plaintiff's physical disabilities and mental disability set  
4 forth above because plaintiff informed KAISER PERMANENTE of her physical disabilities and mental  
5 disability, and KAISER PERMANENTE was aware that plaintiff was limited by her physical disabilities  
6 and mental disability.

7 15. On or about December 18, 2015, KAISER PERMANENTE terminated plaintiff's employment with  
8 KAISER PERMANENTE allegedly due to her disability.

9 16. At all times herein mentioned plaintiff was qualified for her position with KAISER PERMANENTE  
10 based upon her education, training and experience.

11 17. Plaintiff's termination by KAISER PERMANENTE constituted discrimination and disparate  
12 treatment. Plaintiff is informed and believes and thereon alleges that KAISER PERMANENTE's decision  
13 to terminate her employment was based upon plaintiff's physical disabilities and mental disability set forth  
14 above.

15 18. Plaintiff is informed and believes and thereon alleges that KAISER PERMANENTE's articulated  
16 reason for terminating her employment that Defendant could not approve plaintiff's request for leave  
17 indefinitely was pretextual. In actuality KAISER PERMANENTE failed to reasonably accommodate  
18 plaintiff's needs based on her physical disabilities and mental disability, and KAISER PERMANENTE  
19 rather than accommodating plaintiff's needs based on her physical disabilities and mental disability  
20 terminated her employment.

21 19. At all times mentioned herein, plaintiff was ready, willing and able to perform the duties and  
22 functions of her position, and other available positions, if such reasonable accommodation had been made  
23 by KAISER PERMANENTE. At no time would the performance of the functions of the employment  
24 positions, with a reasonable accommodation for plaintiff's physical disabilities and mental disability have  
25 been a danger to plaintiff's, or any other person's health or safety, nor would it have created an undue  
26 hardship to the operation of KAISER PERMANENTE's business.

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1 20. KAISER PERMANENTE in violation of California Govt. Code § 12940(n), failed to make any offer  
2 of reasonable accommodation to plaintiff, failed to make any determination whether a vacant position  
3 existed within its organization for which the plaintiff was qualified and which the plaintiff was capable of  
4 performing with or without accommodation and failed to engage in a "timely, good faith, interactive  
5 process" to determine effective reasonable accommodations with plaintiff who had a known (to her  
6 employer) disability and who had requested accommodation.

7 21. KAISER PERMANENTE knew or should have known of these discriminatory actions because  
8 plaintiff's managers', supervisors', co-workers' and others' discriminatory behavior was brought directly to  
9 the attention of KAISER PERMANENTE. Despite KAISER PERMANENTE's actual and constructive  
10 knowledge of the aforementioned discrimination and the knowledge of its supervisors and agents, KAISER  
11 PERMANENTE failed to take immediate and appropriate corrective action to stop the discrimination from  
12 occurring. Furthermore, before the discrimination occurred, KAISER PERMANENTE failed to take all  
13 reasonable steps to prevent such discrimination from occurring.

14 22. During the entire period of plaintiff's employment, plaintiff's work was highly acceptable and  
15 satisfactory.

16 23. As a proximate result of KAISER PERMANENTE's discriminatory and harassing actions against  
17 plaintiff as alleged above, plaintiff has been harmed in that plaintiff has sustained substantial compensable  
18 losses, including, but not limited to: losses in earnings, wages, salary, commissions, bonuses, deferred  
19 compensation and other employment benefits, injuries to plaintiff's protected property interests, general  
20 damage to plaintiff's reputation, loss due to stigma, injury to plaintiff's property, business, trade, profession  
21 and occupation, the expenses plaintiff has incurred mitigating the conduct of KAISER PERMANENTE,  
22 losses incurred seeking substitute employment and loss of earnings, deferred compensation and other  
23 employment benefits, the attorneys' fees and other litigation expenses plaintiff has incurred and will  
24 continue to incur in prosecuting this action, interest on the amount of losses incurred in earnings, deferred  
25 compensation and other employee benefits, the interest on borrowed money, the value of plaintiff's time in  
26 prosecuting this action, the travel expenses plaintiff has incurred and will continue to incur in prosecuting

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1 this action; other economic losses, other incidental expenses and other special and general damages.

2 Plaintiff's substantial compensable losses are in amounts not fully ascertained.

3 24. As a further proximate result of KAISER PERMANENTE's discriminatory actions against plaintiff  
4 as alleged above, plaintiff has suffered, and continues to suffer, embarrassment, mortification, indignity,  
5 humiliation, severe physical, mental and emotional distress, discomfort and irreparable injury to her business  
6 reputation, all to her detriment and damage in amounts not fully ascertained, and for which plaintiff has been  
7 forced to seek personal, medical and related care and treatment and plaintiff has incurred and will continue  
8 to incur expenses therefore.

9 25. On or about May 27, 2016, and within one year of the date of the last act in the continuing pattern  
10 and practice of discrimination herein alleged against defendants by plaintiff, plaintiff filed a charge of  
11 discrimination with the California Department of Fair Employment and Housing (hereafter, DFEH) against  
12 all named defendants. (A copy of which is attached hereto as Exhibit A and incorporated by reference.)

13 26. On or about May 27, 2016 the DFEH issued to plaintiff a notice of right to bring a civil action  
14 against all named defendants based on the charges of discrimination filed with the DFEH.

15 27. The unlawful employment practices complained of above were intentional.

16 **SECOND CAUSE OF ACTION**

17 **(Plaintiff MELISSA GARCIA'S Second Cause of Action for Employment Discrimination On The**  
18 **Basis of Race, Violation of Fair Employment and Housing Act against defendant KAISER**  
19 **PERMANENTE and DOES 1-50)**

20 28. Plaintiff refers to, realleges, and incorporates by reference, as though fully set forth herein, the  
21 allegations, and each of them, contained in paragraphs 1 through 27.

22 29. Throughout the period that plaintiff was employed by KAISER PERMANENTE, KAISER  
23 PERMANENTE acting through its agents and plaintiff's managers, supervisors and others engaged in  
24 intentional acts with the intent of discriminating against and harassing plaintiff on account of her race  
25 (HISPANIC) in violation of the provisions of the California Fair Employment and Housing Act (FEHA)  
26 (Govt. C. §§12900- 12996). During the course of her employment, plaintiff came under the supervision of

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1 defendant's managers and supervisors who subjected plaintiff to differential terms and conditions of  
2 employment because of her race. These differential terms and conditions of employment included but were  
3 not limited to harassment not experienced by employees who were of a different race or national origin than  
4 plaintiff, as well as excessive criticism not otherwise directed to employees who were of a different race or  
5 national origin than plaintiff. Such discrimination and harassment consisted of, but was not limited to, un-  
6 founded complaints made against plaintiff concerning plaintiff's work, retaliation against plaintiff, denial of  
7 advancement, promotions and other benefits, and repeated acts of harassment and discrimination directed at  
8 plaintiff which for her created a hostile work environment and which resulted in her termination on or about  
9 December 18, 2015.

10 30. KAISER PERMANENTE made its employment decisions related to discipline and termination  
11 solely on the basis of completely subjective analysis, in willful disregard of leadership qualities, merit, past  
12 record, qualification, reaction of other employees etc. No objective standards were used for recruitment,  
13 hiring, discipline and promotion. KAISER PERMANENTE's decision making process related to  
14 advancement, promotion, discipline and pay raises was a primary source of discrimination which resulted in  
15 an improper denial of advancement opportunities to Hispanic employees and in particular to plaintiff.

16 31. KAISER PERMANENTE knew or should have known of these harassing and discriminatory actions  
17 because plaintiff's managers, supervisors and others' discriminatory behavior was brought directly to the  
18 attention of KAISER PERMANENTE. Despite KAISER PERMANENTE's actual and constructive  
19 knowledge of the above mentioned discrimination and the knowledge of its supervisors and agents, KAISER  
20 PERMANENTE failed to take immediate and appropriate corrective action to stop the discrimination.  
21 Furthermore, before the discrimination occurred, KAISER PERMANENTE failed to take all reasonable  
22 steps to prevent such discrimination from occurring.

23 32. During the entire period of plaintiff's employment, plaintiff's work was highly acceptable and  
24 satisfactory as repeatedly reported to plaintiff during numerous individual and supervisory meetings during  
25 the course of plaintiff's employment.

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33. On or about December 18, 2015, KAISER PERMANENTE discharged plaintiff allegedly due to Defendant's pretextual reason that Defendant could not approve plaintiff's request for leave indefinitely.

34. Plaintiff, as an Hispanic female employee, was treated in a disparate manner and subjected to KAISER PERMANENTE's unfair policies and practices in that plaintiff was treated unequal and unlike employees whose race and national origin were different than that of plaintiff. Said unfair policies and practices both limited plaintiff in her job classifications, job assignments and other benefits, because of plaintiff's race and further resulted in her discharge from employment on or about December 18, 2015.

35. KAISER PERMANENTE denied equal employment opportunities to plaintiff because of plaintiff's race, to wit:

A. The reason given for plaintiff's discharge was a mere pretext for unlawful discrimination in that plaintiff's discharge for the alleged reason that Defendant could not approve plaintiff's request for leave indefinitely.

B. KAISER PERMANENTE did not discharge or discipline similarly situated employees whose race and national origin were different than that of plaintiff.

36. As a result of KAISER PERMANENTE's policies and practices plaintiff was unjustly and discriminatorily deprived of equal employment opportunities because of her race. As a direct and proximate result of KAISER PERMANENTE's acts, plaintiff has suffered great and irreparable economic and other loss.

37. KAISER PERMANENTE's discriminatory actions against plaintiff, as alleged above, constituted unlawful discrimination in employment on account of race in violation of the Fair Employment and Housing Act (FEHA) (Govt. C. §§12900- 12996).

38. As a proximate result of KAISER PERMANENTE's discriminatory actions against plaintiff as alleged above, plaintiff has been harmed in that plaintiff has suffered the loss of the wages, salary, benefits, and additional amounts of money plaintiff would have received had she not been terminated. As a result of such discrimination and consequent harm, plaintiff has suffered such damages in an amount according to proof.

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39. As a further proximate result of KAISER PERMANENTE's discriminatory actions against plaintiff, as alleged above, plaintiff has been harmed in that plaintiff has suffered humiliation, mental anguish, and emotional and physical distress, and has been injured in mind and body. As a result of such discrimination and consequent harm plaintiff has suffered damages in an amount according to proof.

40. As a proximate result of KAISER PERMANENTE's discriminatory and harassing actions against plaintiff as alleged above, plaintiff has been harmed in that plaintiff has sustained substantial compensable losses, including, but not limited to: losses in earnings, wages, salary, commissions, bonuses, deferred compensation and other employment benefits, injuries to plaintiff's protected property interests, general damage to plaintiff's reputation, loss due to stigma, injury to plaintiff's property, business, trade, profession and occupation, the expenses plaintiff has incurred mitigating the conduct of KAISER PERMANENTE, losses incurred seeking substitute employment and loss of earnings, deferred compensation and other employment benefits, the attorneys' fees and other litigation expenses plaintiff has incurred and will continue to incur in prosecuting this action, interest on the amount of losses incurred in earnings, deferred compensation and other employee benefits, the interest on borrowed money, the value of plaintiff's time in prosecuting this action, the travel expenses plaintiff has incurred and will continue to incur in prosecuting this action; other economic losses, other incidental expenses and other special and general damages. Plaintiff's substantial compensable losses are in amounts not fully ascertained.

41. In or about May 27, 2016, and within one year of the date of the last act of the continuing pattern and practice of discrimination and harassment herein alleged against defendant by plaintiff, plaintiff filed a charge of discrimination with the California Department of Fair Employment and Housing (hereinafter, "DFEH").

42. On or about May 27, 2016, the DFEH issued to plaintiff a notice of right to bring a civil action against the defendant based on the charge of discrimination filed with the DFEH.

### **THIRD CAUSE OF ACTION**

**(Plaintiff MELISSA GARCIA'S Third Cause of Action for Employment Discrimination On The Basis of Gender, Violation of Fair Employment and Housing Act against defendant KAISER PERMANENTE and DOES 1-50)**

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1 43. Plaintiff refers to, realleges, and incorporates by reference, as though fully set forth herein, the  
2 allegations, and each of them, contained in paragraphs 1 through 42.

3 44. Throughout the period that plaintiff was employed by KAISER PERMANENTE, KAISER  
4 PERMANENTE acting through its agents and plaintiff's managers, supervisors and others engaged in  
5 intentional acts with the intent of discriminating against and harassed plaintiff on account of gender  
6 (African-American female) in violation of the provisions of the California Fair Employment and Housing  
7 Act (FEHA) (Govt. C. §§12900- 12996). During the course of her employment, plaintiff came under the  
8 supervision of defendant's managers and supervisors who subjected plaintiff to differential terms and  
9 conditions of employment because of her gender. These differential terms and conditions of employment  
10 included but were not limited to harassment not experienced by employees who were of a different gender  
11 than plaintiff, as well as excessive criticism not otherwise directed to employees who were of a different  
12 gender than plaintiff. Such discrimination and harassment consisted of, but was not limited to, unfounded  
13 complaints made against plaintiff concerning plaintiff's work, retaliation against plaintiff, denial of  
14 advancement, promotions and other benefits, and repeated acts of harassment and discrimination directed at  
15 plaintiff which for her created a hostile work environment and which resulted in her termination on or about  
16 December 18, 2015.

17 45. KAISER PERMANENTE made its employment decisions related to discipline and termination  
18 solely on the basis of completely subjective analysis, in willful disregard of leadership qualities, merit, past  
19 record, qualification, reaction of other employees etc. No objective standards were used for recruitment,  
20 hiring, discipline and promotion. KAISER PERMANENTE's decision making process related to  
21 advancement, promotion, discipline and pay raises was a primary source of discrimination which resulted in  
22 an improper denial of advancement opportunities to Hispanic female employees and in particular to plaintiff.

23 46. KAISER PERMANENTE knew or should have known of these harassing and discriminatory actions  
24 because plaintiff's managers, supervisors and others' discriminatory behavior was brought directly to the  
25 attention of KAISER PERMANENTE. Despite KAISER PERMANENTE's actual and constructive  
26 knowledge of the above mentioned discrimination and the knowledge of its supervisors and agents, KAISER  
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PERMANENTE failed to take immediate and appropriate corrective action to stop the discrimination. Furthermore, before the discrimination occurred, KAISER PERMANENTE failed to take all reasonable steps to prevent such discrimination from occurring.

47. During the entire period of plaintiff's employment, plaintiff's work was highly acceptable and satisfactory as repeatedly reported to plaintiff during numerous individual and supervisory meetings during the course of plaintiff's employment.

48. On or about December 18, 2015 KAISER PERMANENTE discharged plaintiff allegedly due to Defendant's pretextual reason that Defendant could not approve plaintiff's request for leave indefinitely.

49. Plaintiff, as an Hispanic female employee, was treated in a disparate manner and subjected to KAISER PERMANENTE's unfair policies and practices in that plaintiff was treated unequal and unlike employees whose race and national origin were different than that of plaintiff. Said unfair policies and practices both limited plaintiff in her job classifications, job assignments and other benefits, because of plaintiff's race and further resulted in her discharge from employment on or about December 18, 2015.

50. KAISER PERMANENTE denied equal employment opportunities to plaintiff because of plaintiff's gender, to wit:

A. The reason given for plaintiff's discharge was a mere pretext for unlawful discrimination in that plaintiff's discharge for the alleged reason that Defendant could not approve plaintiff's request for leave indefinitely.

B. KAISER PERMANENTE did not discharge or discipline similarly situated employees whose race and national origin and gender were different than that of plaintiff.

51. As a result of KAISER PERMANENTE's policies and practices plaintiff was unjustly and discriminatorily deprived of equal employment opportunities because of her gender and race. As a direct and proximate result of KAISER PERMANENTE's acts, plaintiff has suffered great and irreparable economic and other loss.

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52. KAISER PERMANENTE's discriminatory actions against plaintiff, as alleged above, constituted unlawful discrimination in employment on account of race in violation of the Fair Employment and Housing Act (FEHA) (Govt. C. §§12900- 12996).

53. As a proximate result of KAISER PERMANENTE's discriminatory actions against plaintiff as alleged above, plaintiff has been harmed in that plaintiff has suffered the loss of the wages, salary, benefits, and additional amounts of money plaintiff would have received had she not been terminated. As a result of such discrimination and consequent harm, plaintiff has suffered such damages in an amount according to proof.

54. As a further proximate result of KAISER PERMANENTE's discriminatory actions against plaintiff, as alleged above, plaintiff has been harmed in that plaintiff has suffered humiliation, mental anguish, and emotional and physical distress, and has been injured in mind and body. As a result of such discrimination and consequent harm plaintiff has suffered damages in an amount according to proof.

55. As a proximate result of KAISER PERMANENTE's discriminatory and harassing actions against plaintiff as alleged above, plaintiff has been harmed in that plaintiff has sustained substantial compensable losses, including, but not limited to: losses in earnings, wages, salary, commissions, bonuses, deferred compensation and other employment benefits, injuries to plaintiff's protected property interests, general damage to plaintiff's reputation, loss due to stigma, injury to plaintiff's property, business, trade, profession and occupation, the expenses plaintiff has incurred mitigating the conduct of KAISER PERMANENTE, losses incurred seeking substitute employment and loss of earnings, deferred compensation and other employment benefits, the attorneys' fees and other litigation expenses plaintiff has incurred and will continue to incur in prosecuting this action, interest on the amount of losses incurred in earnings, deferred compensation and other employee benefits, the interest on borrowed money, the value of plaintiff's time in prosecuting this action, the travel expenses plaintiff has incurred and will continue to incur in prosecuting this action; other economic losses, other incidental expenses and other special and general damages. Plaintiff's substantial compensable losses are in amounts not fully ascertained.

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1 56. On or about May 27, 2016, and within one year of the date of the last act of the continuing pattern  
2 and practice of discrimination and harassment herein alleged against defendant by plaintiff, plaintiff filed a  
3 charge of discrimination with the California Department of Fair Employment and Housing (hereinafter,  
4 "DFEH").

5 57. On or about May 27, 2016 the DFEH issued to plaintiff a notice of right to bring a civil action  
6 against the defendant based on the charge of discrimination filed with the DFEH.

#### 7 **FOURTH CAUSE OF ACTION**

#### 8 **(Plaintiff MELISSA GARCIA'S Fourth Cause of Action for Wrongful Discharge in Violation of 9 Public Policy against Defendant KAISER PERMANENTE and DOES 1-50)**

10 58. Plaintiff refers to, realleges, and incorporates by reference, as though fully set forth herein, the  
11 allegations, and each of them, contained in paragraphs 1 through 57.

12 59. Plaintiff entered employment with defendants and duly performed all of the conditions of her  
13 employment.

14 60. At all times mentioned in the complaint, California Constitution Article I Section 8 was in full force  
15 and effect and was binding on KAISER PERMANENTE. This section required KAISER PERMANENTE  
16 to refrain from discriminating against any employee on the basis of sex, race, creed, color or national or  
17 ethnic origin.

18 61. Plaintiff is informed and believes and thereon alleges that her sex, race, creed, color or national or  
19 ethnic origin was a factor in KAISER PERMANENTE's discriminatory and harassing treatment of her  
20 which consisted of, but was not limited to retaliation against plaintiff and KAISER PERMANENTE's  
21 decision to terminate her. Such discrimination is in violation of the public policy of the State of California  
22 as reflected in California Constitution Article I, Section 8, and has resulted in damages and injury to plaintiff  
23 as alleged herein.

24 62. KAISER PERMANENTE's actions violated the provisions of the Fair Employment and Housing  
25 Act (FEHA) (Government Code §§12900-12966).

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63. The actions alleged in Paragraphs 1- 62 above, specifically the fact that plaintiff was subjected to disability, race and gender discrimination and harassment by KAISER PERMANENTE caused plaintiff to be wrongfully discharged from her employment in violation of public policy. Plaintiff was in essence effectively discharged in retaliation for attempting to exercise her fundamental right to be free from disability, race and gender discrimination and harassment.

64. As a proximate result of the wrongful discharge of plaintiff, plaintiff has become so severely emotionally distressed and physically ill all to plaintiff's damage in an amount according to proof.

#### **FIFTH CAUSE OF ACTION**

**(Plaintiff MELISSA GARCIA'S Fifth Cause of Action for Retaliation, Violation of Fair Employment and Housing Act against defendant KAISER PERMANENTE and DOES 1-50)**

65. Plaintiff refers to, realleges, and incorporates by reference, as though fully set forth herein, the allegations, and each of them, contained in paragraphs 1 through 64.

66. During the course of plaintiff's employment with KAISER PERMANENTE, she complained to KAISER PERMANENTE about KAISER PERMANENTE's managers', supervisors', co-workers' and others' discriminatory and harassing behavior towards her and complained about KAISER PERMANENTE's hostile and offensive environment. On or about December 18, 2015 KAISER PERMANENTE retaliated against plaintiff for making these complaints by terminating her employment with KAISER PERMANENTE.

67. KAISER PERMANENTE's treatment of plaintiff was in violation of Government Code section 12940(h). Within the time provided by law, plaintiff filed a complaint with the California Department of Fair Employment and Housing (hereafter, DFEH) against all named defendants and received a right to sue letter.

68. As a proximate result of KAISER PERMANENTE's retaliatory actions against plaintiff as alleged above, plaintiff has been harmed in that plaintiff has sustained substantial compensable losses, including, but not limited to: losses in earnings, wages, salary, commissions, deferred compensation and other employment benefits; injuries to plaintiff's protected property interests; general damage to plaintiff's

**COMPLAINT FOR DAMAGES FOR EMPLOYMENT DISCRIMINATION AND HARASSMENT  
(VIOLATION OF FAIR EMPLOYMENT AND HOUSING ACT); AND REQUEST FOR JURY TRIAL**

1 reputation; loss due to stigma; injury to plaintiff's property, business, trade, profession and occupation; the  
2 expenses plaintiff has incurred mitigating the conduct of KAISER PERMANENTE; deferred compensation  
3 and other employment benefits; the attorneys' fees and other litigation expenses plaintiff has incurred and  
4 will continue to incur in prosecuting this action; interest on the amount of losses incurred in earnings,  
5 deferred compensation and other employee benefits; the interest on borrowed money; the value of plaintiff's  
6 time in prosecuting this action; the travel expenses plaintiff has incurred and will continue to incur in  
7 prosecuting this action; other economic losses; other incidental expenses; and other special and general  
8 damages. Plaintiff's substantial compensable losses are in amounts not fully ascertained.

9 69. As a further proximate result of KAISER PERMANENTE's retaliatory actions against plaintiff as  
10 alleged above and the acts, omissions and conduct of KAISER PERMANENTE, plaintiff has suffered, and  
11 continues to suffer, embarrassment, mortification, indignity and humiliation and severe physical, mental and  
12 emotional distress and discomfort and irreparable injury to her business reputation, all to her detriment and  
13 damage in amounts not fully ascertained, and for which plaintiff has been forced to seek personal, medical  
14 and related care and treatment and plaintiff has incurred and will continue to incur, expenses therefore.

15 70. On or about May 27, 2016 and within one year of the date of the last act of the continuing pattern  
16 and practice of discrimination and harassment herein alleged against defendant by plaintiff, plaintiff filed a  
17 charge of discrimination with the California Department of Fair Employment and Housing (hereinafter,  
18 "DFEH").

19 71. On or about May 27, 2016 the DFEH issued to plaintiff a notice of right to bring a civil action  
20 against the defendant based on the charge of discrimination filed with the DFEH.

#### 21 SIXTH CAUSE OF ACTION

22 **(Plaintiff MELISSA GARCIA'S Sixth Cause of Action for Violation of California Government Code  
23 Section 12940(k) against KAISER PERMANENTE and DOES 1-50)**

24 72. Plaintiff realleges and incorporates herein by reference each and every allegation contained in  
25 paragraphs 1 through the paragraph immediately preceding this paragraph, as though fully set forth  
26 herein.

27 COMPLAINT FOR DAMAGES FOR EMPLOYMENT DISCRIMINATION AND HARASSMENT  
28 (VIOLATION OF FAIR EMPLOYMENT AND HOUSING ACT); AND REQUEST FOR JURY TRIAL



73. At all times mentioned in this complaint, Government Code section 12940(k) was in full force and effect and was binding on defendants. This subsection requires defendants to take all reasonable steps necessary to prevent discrimination and harassment from occurring. As alleged above, defendants violated this subsection by failing to take all reasonable steps necessary to prevent discrimination and harassment from occurring. Within the time provided by law, plaintiff filed a Complaint with the California Department of Fair Employment and Housing and received a right-to-sue letter.

74. As a proximate result of defendants' conduct, plaintiff has suffered and continues to suffer humiliation, emotional distress, and mental and physical pain and anguish, all to her damage in a sum according to proof.

75. Defendants' conduct as described above was willful, despicable, knowing, and intentional; accordingly, plaintiff seeks an award of punitive and exemplary damages in an amount according to proof.

76. Plaintiff has incurred and continues to incur legal expenses and attorney fees. Plaintiff is presently unaware of the precise amount of these expenses and fees and prays leave of court to amend this complaint when the amounts are more fully known.

WHEREFORE, plaintiff prays for judgment as follows:

1. Compensatory damages for back pay, according to proof,
2. Compensatory damages for physical and emotional injuries and accompanying pain and suffering, according to proof,
3. For medical and related expenses according to proof,
4. For loss of earnings according to proof,
5. For compensatory damages for race, age and disability discrimination according to proof,
6. For reasonable attorney fees, and for costs of suit incurred
7. For exemplary damages; and
8. For such other and further relief as the Court may deem proper and just.

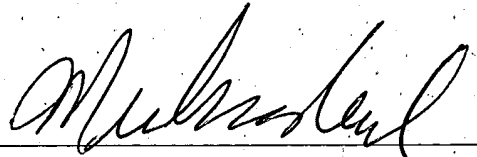
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COMPLAINT FOR DAMAGES FOR EMPLOYMENT DISCRIMINATION AND HARASSMENT  
(VIOLATION OF FAIR EMPLOYMENT AND HOUSING ACT); AND REQUEST FOR JURY TRIAL

1 **REQUEST FOR JURY TRIAL**

2 Plaintiff **MELISSA GARCIA** requests a trial by jury on all causes of action.

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6 Dated: May 9, 2017



7 Michael J. Reed

8 (D462.001 ND)

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COMPLAINT FOR DAMAGES FOR EMPLOYMENT DISCRIMINATION AND HARASSMENT  
(VIOLATION OF FAIR EMPLOYMENT AND HOUSING ACT); AND REQUEST FOR JURY TRIAL

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**EXHIBIT A**



## DEPARTMENT OF FAIR EMPLOYMENT & HOUSING

2218 Kausen Drive, Suite 100 | Elk Grove | CA | 95758  
800-884-1684 | TDD 800-700-2320  
www.dfeh.ca.gov | email: contact.center@dfeh.ca.gov

DIRECTOR KEVIN KISH

May 27, 2016

melissa garcia  
37 Atherton Ave  
Crockett, California 94525

RE: **Notice of Case Closure and Right to Sue**  
DFEH Matter Number: 773960-230524  
Right to Sue: garcia / Kaiser Permanente

Dear melissa garcia,

This letter informs you that the above-referenced complaint was filed with the Department of Fair Employment and Housing (DFEH) has been closed effective May 27, 2016 because an immediate Right to Sue notice was requested. DFEH will take no further action on the complaint.

This letter is also your Right to Sue notice. According to Government Code section 12965, subdivision (b), a civil action may be brought under the provisions of the Fair Employment and Housing Act against the person, employer, labor organization or employment agency named in the above-referenced complaint. The civil action must be filed within one year from the date of this letter.

To obtain a federal Right to Sue notice, you must visit the U.S. Equal Employment Opportunity Commission (EEOC) to file a complaint within 30 days of receipt of this DFEH Notice of Case Closure or within 300 days of the alleged discriminatory act, whichever is earlier.

Sincerely,

Department of Fair Employment and Housing



## DEPARTMENT OF FAIR EMPLOYMENT & HOUSING

DIRECTOR KEVIN KISH

2218 Kausen Drive, Suite 100 | Elk Grove | CA | 95758  
800-884-1684 | TDD 800-700-2320  
www.dfeh.ca.gov | email: contact.center@dfeh.ca.gov

Enclosures

cc:

Courthouse News Service

1                   **COMPLAINT OF EMPLOYMENT DISCRIMINATION**  
2                   **BEFORE THE STATE OF CALIFORNIA**  
3                   **DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING**  
4                   **Under the California Fair Employment and Housing Act**  
5                   **(Gov. Code, § 12900 et seq.)**

6 In the Matter of the Complaint of  
7 melissa garcia, Complainant.  
8 37 Atherton Ave  
9 Crockett, California 94525

DFEH No. 773960-230524

9 vs.

10 Kaiser Permanente, Respondent.  
11 3600 Broadway  
12 Oakland, California 94610

13  
14 Complainant alleges:

15 1. Respondent **Kaiser Permanente** is a **Private Employer** subject to suit under the California Fair  
16 Employment and Housing Act (FEHA) (Gov. Code, § 12900 et seq.). Complainant believes respondent is  
subject to the FEHA.

17 2. On or around **December 18, 2015**, complainant alleges that respondent took the following adverse actions  
18 against complainant: **Discrimination, Harassment, Retaliation Denied a good faith interactive process,**  
19 **Denied a work environment free of discrimination and/or retaliation, Denied continuation of employer-**  
20 **paid health care coverage while on pregnancy disability leave, Denied employment, Denied equal pay,**  
21 **Denied family care or medical leave, Denied reasonable accommodation, Forced to quit, Laid-off,**  
**Terminated.** Complainant believes respondent committed these actions because of their: **Disability, Family**  
**Care or Medical Leave, Medical Condition - Including cancer or cancer related medical condition or**  
**genetic characteristics, Race, Sex - Gender .**

22 3. Complainant **melissa garcia** resides in the City of **Crockett**, State of **California**. If complaint includes co-  
respondents please see below.

1  
2 **Additional Complaint Details:**

3 I believe i was terminated due to my race and disability because several other  
4 employees.were given interactive process and not terminated while on the same type of  
5 leave as me. i was not treated or given the same accommodations as the rest of the  
6 kaiser staff.  
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1 VERIFICATION

2 I, **Micheal Reed**, am the Attorney for Complainant in the above-entitled complaint. I have read the foregoing  
3 complaint and know the contents thereof. The same is true of my own knowledge, except as to those matters  
4 which are therein alleged on information and belief, and as to those matters, I believe it to be true.

5 On May 27, 2016, I declare under penalty of perjury under the laws of the State of California that the foregoing  
6 is true and correct.

7 **Walnut Creek Ca**  
8 **Micheal Reed**

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