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SUPERIOR COURT OF CALIFORNIA
COUNTY OF ALAMEDA
UNLIMITED CIVIL JURISDICTION

BRENT BATTER,

CASE NO.

Plaintiff,

RG19010107

vs.

THE PERMANENTE MEDICAL
GROUP, INC., a California corporation;
and DOES 1 through 20, inclusive,

Defendants.

**COMPLAINT FOR DAMAGES
AND OTHER APPROPRIATE RELIEF
(JURY TRIAL DEMANDED)**

1. Disability Discrimination in Violation of the CFEHA
2. Failure to Accommodate Disability in Violation of the CFEHA
3. Failure to Engage in the Interactive Process in Violation of the CFEHA
4. Promissory Fraud
5. Intentional Infliction of Emotional Distress
6. Wrongful Termination in Violation of Public Policy

1 Plaintiff BRENT BATTER ("BATTER") complains of defendants and for causes of action
2 alleges as follows:

3 1. Plaintiff BATTER is a competent adult male who is a citizen of the United States and,
4 at all times material herein, has been a resident of the County of Solano, California.

5 2. The matter in controversy exceeds, exclusive of interest and costs, Twenty-Five
6 Thousand Dollars (\$25,000.00).

7 3. Defendant THE PERMANENTE MEDICAL GROUP, INC. ("KAISER") is and, at
8 all times material herein, has been, a California corporation registered to do business in the State of
9 California.

10 4. Jurisdiction and venue are proper in this court because Alameda County is where
11 defendant KAISER's principal place of business is located and it is the county in which the records
12 relevant to the alleged unlawful practices are maintained.

13 5. Defendant KAISER is a corporation which acts through its employees and agents.

14 6. The true names and capacities of defendants sued as DOES 1 through 20 are unknown
15 to plaintiff. Plaintiff prays leave to amend to allege their true names and capacities when ascertained.

16 7. Plaintiff is informed and believes and thereon alleges that each and every fictitious
17 defendant is responsible in some manner for the conduct alleged herein, and that plaintiff's injuries
18 were proximately caused thereby.

19 8. Plaintiff is informed and believes and thereon alleges that, at all times material herein,
20 the conduct alleged herein was taken by agents or employees of defendant KAISER, each of whom
21 was acting within the course and scope of his or her agency or employment and each act was
22 authorized and ratified by defendant KAISER.

23 9. Plaintiff BATTER has satisfied the statutory jurisdictional prerequisites for filing the
24 instant lawsuit and such suit is timely filed.

25 a. On December 5, 2017, plaintiff timely filed discrimination complaint no. 555-
26 2018-00319 with the U.S. Equal Employment Opportunity Commission ("EEOC") against respondent
27 (and defendant herein) KAISER. A true and correct copy of said EEOC complaint is attached hereto
28

1 i. In or about mid-December 2016, a KAISER recruiter contacted plaintiff
2 BATTER, conducted a telephone interview and requested that he provide additional information for
3 transmittal to KAISER's Clinical Director of the CDRP, Karen L. Spedowski, Ph.D.

4 ii. An interview was scheduled for plaintiff with Dr. Spedowski, Clinical
5 Manager Jeremy Taubman, Clinical Manager Randi Hepner, and Clinician Andrinee Wilson-Tucker.

6 iii. Within an hour after the conclusion of the interview, Ms. Hepner
7 contacted plaintiff BATTER to schedule a final interview. That interview was also conducted by Dr.
8 Spedowski, Mr. Taubman and Ms. Hepner on or about January 21, 2017.

9 iv. At the conclusion of the January 21, 2017 interview, plaintiff BATTER
10 was offered the position of Licensed Marriage and Family Therapist ("LMFT") by Dr. Spedowski.

11 v. Plaintiff BATTER declined this job offer, advising that he "loved Solano
12 County" and his current position there and that he was highly valued by his colleagues and superiors.
13 Plaintiff BATTER also expressed that he feared entering a stressful environment and was concerned
14 that an inflexible schedule would hamper him from seeing his son as often as he wished. Plaintiff
15 BATTER also advised that he did not work well in a "hostile" environment where people "act like
16 they are still in junior high school."

17 vi. In response, Dr. Spedowski, on behalf of KAISER, made inducements
18 to plaintiff BATTER to accept the defendant's employment offer. Dr. Spedowski stated the KAISER
19 CRDP was an "empathetic," "constructive" work environment which had had "no major problems."
20 Dr. Spedowski also stated that the CDRP would provide structure, training, teamwork and guidance
21 to integrate plaintiff BATTER into the KAISER workplace. Dr. Spedowski also made specific
22 promises to plaintiff BATTER, most notably the promise that plaintiff BATTER would have a
23 flexible schedule.

24 vii. Plaintiff BATTER was led to believe that he would be appropriately
25 trained, and that he would be provided orientation to develop the necessary tools and a flexible
26 schedule.

27 c. Based upon the foregoing promises of defendant KAISER, plaintiff BATTER
28 was induced to accept employment and did so by the conclusion of the interview on or about January

1 21, 2017. By email of February 27, 2017, Dr. Spedowski and plaintiff BATTER agreed that he
2 would begin work on April 17, 2017.

3 i. Before plaintiff BATTER learned of his schedule, he notified Dr.
4 Spedowski that he had given Solano County notice of his resignation.

5 ii. Plaintiff BATTER then became concerned that KAISER was avoiding
6 a discussion of a schedule with him before he began to work. But he continued to rely upon the
7 assurances of Dr. Spedowski. He did not learn his schedule at CDRP until he began to work there.

8 d. At the time of his hire, plaintiff BATTER had a preexisting disability of
9 Hidradenitis Suppurativa, a rare, long-term skin condition.

10 i. This disability causes multiple symptoms, including pervasive pain of
11 unpredictable severity throughout multiple sites on the body, intense swelling in multiple locations,
12 and wounds which frequently drain. It results in sleeplessness and sleep deficiency, fatigue,
13 weakness, depression and anxiety. This condition is exacerbated by stress.

14 ii. During plaintiff BATTER's tenure with Solano County, the County had
15 reasonably accommodated his disability, which minimized the stress and permitted him to manage his
16 symptoms and work productively on its behalf.

17 e. Plaintiff BATTER started work at defendant on April 17, 2017. Shortly after
18 plaintiff BATTER's first day of work, he suspected that the KAISER workplace would be
19 problematic.

20 i. Plaintiff BATTER immediately observed that the work environment was
21 chaotic and disorganized, that tremendous dissension was present between the supervisors and the
22 clinical staff, with supervisors being generally unavailable for clinical training or even guidance, and
23 that the staff complement was fractured into several cliques which were in conflict with one another.

24 ii. Plaintiff also discovered that the work schedule to which he was assigned
25 was inflexible. Plaintiff BATTER's initial schedule was as follows: Monday, 9:00 a.m. to 8:30 p.m.;
26 Tuesday, 9:00 a.m. to 5:30 p.m.; Wednesday, 9:00 a.m. to 5:30 p.m.; Friday, 9:00 a.m. to 8:30
27 p.m.; and every other Saturday, 9:00 a.m. to 1:00 p.m.

28 iii. Plaintiff BATTER was not advised that, because of several scheduling

1 practices, there would be insufficient time to take breaks and that it would be necessary for him to
2 arrive at work at least 15 minutes early or he would be deemed to be "late."

3 iii. Due to the lack of assistance and support plaintiff BATTER frequently
4 was unable to take a lunch shift, even during a nearly twelve-hour work day. It was extremely
5 difficult for plaintiff BATTER to complete the administrative components of his job, which included
6 drafting notes, completing paperwork, interoffice communications and other office duties, due to the
7 extremely tight schedule of back-to-back therapy, multi-group and assessment appointments per day.

8 f. Plaintiff BATTER received neither supervision nor any departmental training
9 from the three regular Clinical Managers and the Clinical Director until shortly before his termination.

10 i. From the outset, plaintiff BATTER's first immediate supervisor,
11 Clinical Manager Taubman, did not meet with him and remained distant.

12 ii. The second Clinical Manager, Ms. Hepner, did not meet with plaintiff
13 BATTER either.

14 iii. The third Clinical Manager, Helen Geller, was hired on or about the
15 same day as plaintiff BATTER, possessed neither information nor institutional knowledge of value
16 to his orientation and provided no guidance whatsoever.

17 iv. Plaintiff BATTER learned that prior to his arrival at CDRP, KAISER's
18 upper management directed the Service Unit Manager and the Department Supervisor to assume
19 certain of the administrative and supervisory authorities of Dr. Spedowski and Clinical Managers.
20 The former Director and former Managers were then given titles of Clinical Director and Clinical
21 Manager to reflect newly diminished responsibilities.

22 v. As a net result, for at least the first three months of employment,
23 plaintiff BATTER did not receive adequate departmental training or even regular supervision. During
24 this time period, no Clinical Manager scheduled a meeting with plaintiff for training, oversight, or
25 even constructive criticism.

26 g. From early in his employment with KAISER, plaintiff BATTER required and
27 was entitled to a reasonable accommodation of his disability. Until the date of plaintiff's termination,
28 no accommodation was provided and no interactive process was even initiated by KAISER despite

1 plaintiff's efforts. The most salient examples of KAISER's disregard of its statutory duties are as
2 follows.

3 i. On or about May 9, 2017, plaintiff BATTER was about one hour late
4 because his alarm clock had broken. He notified Ms. Hepner and apologized even though he did not
5 miss any patient contacts.

6 ii. By that day, plaintiff BATTER's disability symptoms were greatly
7 elevated; he was experiencing pain, severe inflammation and swelling from his wounds.

8 iii. During that week, plaintiff BATTER notified two Clinicians and then
9 the Clinical Manager Randi Hepner about these disabling symptoms and his need for reasonable
10 accommodation. He informed Ms. Hepner that he suffered from a skin disease which had severe but
11 unpredictable symptoms, including lack of sleep, extreme pain and swelling and, on occasion, acne-
12 like sores on his face and arms. The latter symptoms were readily observable. Plaintiff BATTER
13 again stated that he needed reasonable accommodations to prevent his symptoms from impairing him
14 from performing his duties. Ms. Hepner stated that she would follow up, but never did.

15 iv. During the next week, on or about May 16, 2017, plaintiff BATTER
16 again informed Clinical Manager Hepner that his disability symptoms were worsening. He urgently
17 requested reasonable accommodations so that his disability symptoms would not undermine his ability
18 to perform his work. Ms. Hepner stated that she would look into it but, to plaintiff BATTER's
19 knowledge, she did not. Again, no interactive process was initiated and no accommodations of any
20 kind were proposed by any manager at defendant KAISER.

21 v. During that week, on or about May 20, 2017, an incident occurred which
22 was later the subject of verbal accusations on August 2, 2017, and which was ultimately entered into
23 plaintiff BATTER's "Probationary Employee written feedback" of August 9, 2017. An LMFT and
24 plaintiff BATTER were working with a "family and friends group" which was particularly crowded
25 with 30 to 40 participants. As other Clinicians had called in sick, the facility was already understaffed
26 for that day. During the meeting, a baby was crying so loudly that it was impossible to conduct the
27 meeting. The LFMT asked if someone could step outside with the child. At that time, an "at risk"
28 patient in the back of the room was sobbing hysterically and attempting to leave. As this patient had

1 a history of mental issues and had several Penal Code §5150 or §5250 commitments, suicide attempts,
2 and other issues, plaintiff BATTER immediately followed her out of the group session to monitor her
3 for her safety and provided emergency therapeutic services. Plaintiff BATTER deescalated the
4 situation and returned to work.

5 vi. On or about May 24, 2017, plaintiff BATTER was summoned to a
6 meeting with Service Unit Manager Michael Little and Clinical Manager Taubman during which the
7 other LFMT was accused of mishandling the circumstances on or about May 20, 2017. By the
8 admission of Mr. Little and the explicit language of the clinical note in the KAISER records, plaintiff
9 BATTER had managed the “at risk” client, which was the proper action. No complaint was filed
10 against him by any family member, while a complaint was filed against the other LMFT. No
11 ascription of misconduct or error was made about plaintiff BATTER’s conduct during the events of
12 May 20, 2017, until the verbal accusations on August 2, 2017 and the written allegations of the
13 August 9, 2017 “Probationary Employee written feedback.”

14 vii. Plaintiff BATTER continued to work without any reasonable
15 accommodation as his disability symptoms continued to worsen because the stress of the work
16 environment exacerbated the symptoms of his skin disease. Plaintiff BATTER’s symptoms were
17 visible and obvious beginning in approximately mid-May 2017. By mid-June 2017, the symptoms
18 were very prominent and some were conspicuous. On or about June 14, 2017, plaintiff BATTER
19 again approached Clinical Manager Hepner to ascertain whether she had any knowledge about
20 KAISER’s position on the accommodations he had been seeking for his disability. She said that she
21 did not

22 viii. On June 19, 2017, plaintiff BATTER told a colleague, a psychologist
23 at the CDRP, that he was in “unbearable pain” and was unable to function at a level which would
24 allow him to provide quality patient care. She encouraged him to advise Clinical Manager Hepner
25 of the issue so that he could leave work to go home and manage his symptoms. Plaintiff BATTER
26 then informed Clinical Manager Hepner, who stated that his departure for the day would be an
27 encumbrance on the team and put the team in a “bad spot for the day.” Ms. Hepner also told plaintiff
28 BATTER that when he returned to work he must provide a doctor’s note describing his disability and

1 stating that it precluded him from completing his shift that day.

2 ix. When plaintiff BATTER returned to work on or about June 20, 2017,
3 the symptoms of pain, fatigue, depression and obvious skin conditions were pronounced. Ms.
4 Hepner, rather than initiating an interactive process, treated him like a pariah. On this date, Clinical
5 Manager Hepner retracted her prior statement that he should bring a note stating his disability
6 diagnosis and stated that he should instead "file the FMLA papers" due to a possible "occurrence."
7 She neither defined "occurrence" nor explained the reasoning for her direction at that time.

8 x. During the following week, on or about June 23, 2017, plaintiff
9 BATTER again approached Clinical Manager Hepner, inquired about accommodations and again
10 discussed his symptoms. On that same day, plaintiff BATTER handed Ms. Hepner the completed
11 paperwork seeking leave under the Family Medical Leave Act/California Family Rights Act
12 ("FMLA"/"CFRA"). Ms. Hepner directed him to submit his FMLA/CFRA request to the Medical
13 Secretary at KAISER's 975 Sereno Drive, Vallejo, California facility. He complied. Plaintiff's
14 submitted paperwork stated, *inter alia*, that "patient has a chronic condition requiring treatment,
15 periodic visits, may continue over time, or may cause episodic incapacity." Ms. Hepner neither
16 responded to plaintiff BATTER's prior advisements of his condition and need for accommodation nor
17 to the FMLA/CFRA request that he made on that date.

18 xi. On or about June 26, 2017, plaintiff BATTER was running late for work
19 and called Dr. Spedowski at about 9:30 a.m. to inform her. He also informed her that he was
20 suffering severe complications from his disability and that these complications were impairing both
21 his mental and physical health. As a consequence of the extreme and chronic pain, fatigue, lack of
22 sleep, depression, and anxiety, he had neglected to set his alarm clock the prior night. Dr.
23 Spedowski seemed to be upset and asked, "Is this a normal thing? Did you always do this at your
24 other job?" Plaintiff BATTER explained that due to severe lethargy he had simply fallen asleep
25 without setting the alarm. He then explained in greater detail the nature and effects of his disability,
26 that his then-existing symptoms were the worst since he was 20 years old, and that the stress at CDRP
27 had exacerbated the condition.

28 (a) Plaintiff BATTER again implored Dr. Spedowski to provide

1 accommodations to help him.

2 (b) KAISER continued to ignore plaintiff BATTER's requests,
3 neither proposing any reasonable accommodation for his disability nor even initiating the mandatory
4 interactive process.

5 xii. On or about July 12, 2017, plaintiff BATTER had his first Clinical
6 Supervision meeting. The term "Supervision" applies to a disciplinary meeting as opposed to
7 "Clinical Supervision" which solely concerns patient care issues. This is significant because a
8 "Clinical Supervision" meeting should only be used as a mechanism to discuss the treatment of clients.
9 Plaintiff's first Clinical Supervision meeting was conducted by his newly appointed supervisor,
10 Clinical Manager Helen Geller, because his previous supervisors, Clinical Manager Taubman and
11 Clinical Manager Hepner, had never bothered to conduct such a meeting with plaintiff. Ms. Geller
12 confessed that she had started her employment with KAISER on the same date as plaintiff BATTER
13 had, that she was learning the system, and that she could neither train him nor help him in his
14 orientation. Ms. Geller spent a significant portion of the meeting discussing the generalities of how
15 Clinical Supervision could be shaped to best support him and his client population.

16 (a) During this meeting, plaintiff BATTER again discussed that his
17 disability was worsening, and that the symptoms of pain and anxiety were greatly heightened, which,
18 in turn, led to fatigue, depressive symptoms and sleep deprivation. Plaintiff BATTER emphasized
19 that the absence of adequate training rendered the performance of his assigned duties extremely
20 difficult and stressful. He also expressed his concern that it would negatively impact his ability to
21 successfully complete probation. He even suggested that CDRP provide new employees with a single
22 binder in which pertinent information about CDRP practices would be readily accessible.

23 (b) After the meeting, none of plaintiff BATTER's expressed
24 concerns or his request for accommodation were addressed. To his knowledge, Ms. Geller reported
25 to Dr. Spedowski, who also took no affirmative steps to reduce the unnecessary stress in the
26 environment or to initiate an interactive process to explore appropriate accommodations.

27 h. Plaintiff BATTER also informed Clinical Manager Geller several times that his
28 disability significantly impacted his ability to perform duties in a normal fashion. In the several

1 conversations plaintiff BATTER had with Ms. Geller, he gave her a thorough explanation of his
2 disability, the multiple symptoms therefrom and the additional “challenges” imposed on him due to
3 the lack of training, supervision, and direction from management. Ms. Geller advised that she would
4 speak with Clinical Director Spedowski about accommodations. To plaintiff BATTER’s knowledge,
5 she did so at that time.

6 i. On or about August 2, 2017, plaintiff BATTER attended his second scheduled
7 Clinical Supervision meeting with Clinical Manager Geller. Service Unit Manager Little elected to
8 attend without even informing plaintiff BATTER. By the time of this meeting, none of plaintiff
9 BATTER’s several requests for training or for accommodation had been addressed by KAISER and
10 there was no indication in this meeting that it would comply with any requests. To the contrary, the
11 meeting was conducted as a disciplinary session during which plaintiff BATTER was chastised for
12 failing to deliver “KAISER excellence” to patients. (Upon receipt of the “Probationary Employee
13 written feedback” dated August 9, 2017, plaintiff BATTER observed that the points stated in that
14 memorandum were substantially the same as those made verbally by Mr. Little on August 2, 2017.)

15 i. Mr. Little, in support of his accusation that plaintiff BATTER had failed
16 to provide “excellence” to the patients, cited “occurrences” when plaintiff BATTER was either sick
17 with his disability or out caring for his son. Mr. Little even conceded that since some of the
18 “occurrences” were actually approved leaves they should not have been listed as “unprotected” or
19 unexcused absences. Nevertheless, Mr. Little threatened plaintiff BATTER that further occurrences
20 could result in an immediate termination of him since he was a probationary employee.

21 ii. When plaintiff BATTER stated that he had received no cooperation from
22 KAISER in accommodating his extensive and severe disabilities, Mr. Little responded, “Well, didn’t
23 you inform them that you had a disability in the interview prior to getting hired?”

24 iii. Plaintiff BATTER was shocked and responded that he did not believe
25 that KAISER was allowed to ask for that information in the interview. No statements were made by
26 Mr. Little or Ms. Geller that KAISER would now begin the interactive process in order to
27 accommodate plaintiff BATTER’s disabilities. To the contrary, both unjustifiably accused plaintiff
28 BATTER of some dereliction of his duties with respect to the group meeting of May 20, 2017.

1 j. On or about August 9, 2017, plaintiff BATTER attended his third ostensible
2 Clinical Supervision meeting, again with Clinical Manager Geller and Service Unit Manager Little.
3 Neither manager discussed any potential accommodations for plaintiff BATTER's now well-known
4 disability. Instead, the meeting was conducted as another quasi-disciplinary session. Plaintiff
5 BATTER was presented with KAISER's August 9, 2017 "Probationary Employee written feedback,"
6 wherein he was falsely accused of unacceptable "attendance and punctuality" issues.

7 i. The primary focus of the probationary feedback memorandum was the
8 absence of service as a result of attendance and punctuality incidents during the probationary period.
9 These incidents in each case either involved an absence, tardiness or a need to depart the workplace
10 due to his disability or, on one occasion, for the care of his son. Thus, but for the one event where
11 plaintiff BATTER was required to care for his son, all of cited "deficiencies" derived from his
12 disability.

13 ii. Defendant KAISER's written allegations were augmented by false
14 accusations that plaintiff BATTER was consistently late to patient groups, manager meetings, and
15 other activities. Both the written document and the verbal chastisement were rife with errors of fact.

16 iii. Plaintiff BATTER was not given the opportunity to present a written
17 rebuttal to this "written feedback." He did, however, to the extent permitted, verbally dispute the
18 accusations in the meeting, opining that Mr. Little and KAISER management were trying to fabricate
19 a case to terminate him. Plaintiff BATTER also advised that KAISER continued to maintain a hostile
20 work environment despite his numerous requests for accommodation and that this environment caused
21 stress, Post-Traumatic Stress Disorder ("PTSD") symptoms, and an obvious worsening of the
22 symptoms of his disease, including increasing depression and hopelessness. Mr. Little's sole response
23 was the inquiry as to whether plaintiff BATTER was wearing a cologne because that would be a
24 "problem." Plaintiff BATTER explained that the scent was that of a topical medication for his skin
25 conditions.

26 iv. After this meeting, KAISER did not initiate an investigation or an
27 interactive process and made no accommodation whatsoever.

28 k. On August 16, 2017, another supervision meeting was held, in this case with

1 Clinical Manager Geller alone. Plaintiff BATTER again expressed his dismay at the continued high
2 level of stress at work caused by KAISER's lack of training and support and its dogged refusal to
3 afford any accommodations for his disabilities. Ms. Geller responded by asking him if he was
4 "looking for other jobs now."

5 l. Later in the day on August 16, 2017, at approximately 4:00 p.m., plaintiff
6 BATTER attempted to speak with Clinical Director Spedowski concerning what reasonable
7 accommodations KAISER might be willing to undertake. As she was unavailable, he sent her an
8 email requesting an appointment. The appointment was set for August 21, 2017 at 4:00 p.m.

9 m. On August 21, 2017, plaintiff BATTER went to Clinical Director Spedowski's
10 office for the meeting at that scheduled time, but, as she was busy, he was rebuffed. He returned at
11 4:15 p.m., but again she did not meet with him because she was busy. He returned again at 4:20 p.m.
12 only to be rebuffed again. She called for a meeting at 4:25 p.m. which lasted about five to ten
13 minutes. In the limited time available, plaintiff BATTER presented his now familiar refrain that he
14 was suffering from a harassing work environment and that his disability required accommodation
15 which KAISER was continuing to resist.

16 n. Because the August 21, 2017 meeting was so short, plaintiff BATTER and
17 Clinical Director Spedowski reconvened on August 22, 2017. Plaintiff BATTER presented Dr.
18 Spedowski with a list of items which KAISER could consider as reasonable accommodations for his
19 disability. He explained to Clinical Director Spedowski the details of his several requests for these
20 accommodations in the past. In response to her question of whether any accommodations were made,
21 plaintiff BATTER plainly stated, "no." Dr. Spedowski then asked if he would advise her about his
22 disability. In response, he fully disclosed the disability diagnosis, informed her of the precise
23 symptoms, including extreme pain, fatigue, depressive symptoms, lack of sleep, physical wounds,
24 stomach issues and his vulnerability to other potential opportunistic diseases. Plaintiff BATTER also
25 explained those conditions and circumstances which exacerbated these symptoms, including stress,
26 smoking, hot weather and lack of sleep. Finally, he candidly discussed with her the medication he
27 was taking for this condition. Plaintiff BATTER then requested of Ms. Spedowski specific
28 accommodations from a list in which he had enumerated each for the purposes of the meeting with

1 her. He also presented the list in writing to Dr. Spedowski. She disputed each of them.

2 o. Plaintiff BATTER requested the following reasonable accommodations:
3 departmental training; a change out of the Day Treatment Team (replacement by a newly hired
4 transferred MFT); a schedule change to reduce the level of stress and fatigue by exchanging the 11.5-
5 hour Friday for a Wednesday or shorter days on Monday or Friday, both of which were then 11.5
6 hours; rescheduling a portion of his IPC time so that he did not have to continue missing lunch; and
7 an eventual schedule change requiring one weekend day per month instead of bi-weekly.

8 p. Dr. Spedowski did not agree to any of the accommodations that plaintiff
9 BATTER requested. She did not propose any alternatives and did not begin an interactive process
10 to evaluate which accommodations KAISER could offer. (She did change some of plaintiff's IPC time
11 because the change was approved for all staff.) Again, despite its knowledge, KAISER failed to
12 initiate the mandatory interactive process leading to its duty to undertake appropriate reasonable
13 accommodations. By the date of this meeting with Clinical Director Spedowski, plaintiff BATTER
14 had been advocating several modest accommodations to his work schedule which had been ignored
15 by KAISER up to the date of that meeting. As will be shown below, he did so thereafter as well.

16 q. On or about August 23, 2017, plaintiff BATTER attended a Clinical
17 Supervision meeting with Clinical Manager Geller and Service Unit Manager Little. No discussion
18 was had concerning plaintiff BATTER's preexisting requests for accommodation. To the contrary,
19 KAISER's managers focused upon ostensible errors by plaintiff BATTER in his prior interactions with
20 two patients. Each accusation was without merit for reasons that he explained at that time. Plaintiff
21 BATTER expressed the opinion to Ms. Geller in particular that KAISER was seeking to either find
22 or fabricate errors to create a basis to terminate him rather than exercise its duty to provide him with
23 reasonable accommodation of his well-known disabilities.

24 r. On August 25, 2017, Service Unit Manager Little approached plaintiff
25 BATTER. They discussed plaintiff BATTER's view that he was in compliance with all of the terms
26 of the "Probationary Employee written feedback" of August 9, 2017. Mr. Little then gave plaintiff
27 BATTER a second "Probationary Employee written feedback," falsely claiming that the issues
28 contained in the document had been addressed in the August 23, 2017 meeting.

1 i. Upon examination of this second written feedback, plaintiff BATTER
2 discerned that it was rife with outright falsehoods and misleading statements, as well as gratuitous
3 attacks on his character and credibility.

4 ii. Significantly, KAISER's written feedback concludes with asserted
5 deficiencies in "timeliness" and "attendance." This canard is reiterated even though plaintiff
6 BATTER's Clinical Director, Clinical Manager and Service Unit Manager had long been aware that
7 the attendance "occurrences" previously cited were the product of plaintiff BATTER's disability and
8 that KAISER had taken no action to accommodate the multiple symptoms of that disability. In fact,
9 plaintiff BATTER had been on time and had had no attendance occurrences since July 28, 2017,
10 despite KAISER's refusal to make any accommodation whatsoever for the multiplicity of symptoms
11 from his disability. These grounds are tantamount to an admission that plaintiff BATTER was being
12 terminated for his disability and because KAISER refused to accommodate it.

13 s. On August 30, 2017, with no prior notice whatsoever, managers Little and
14 Geller summoned plaintiff BATTER into Ms. Geller's office. Mr. Little stated that plaintiff BATTER
15 had made no attempt to fix the issues raised with his performance despite being given ample
16 opportunity to do so. Plaintiff BATTER then was provided with a performance evaluation dated
17 August 30, 2017, a memorandum regarding "Termination" on the ground of "unsatisfactory job
18 performance during your introductory, probationary period" and his final paycheck.

19 i. Plaintiff BATTER was neither permitted the opportunity to advise his
20 patients that he would be departing nor the opportunity to discuss his rights with his union
21 representative.

22 ii. Plaintiff BATTER was directed to pack up and immediately leave the
23 building, with which order he complied.

24 FIRST CAUSE OF ACTION
25 (Disability Discrimination in Violation of the CFEHA)

26 12. Plaintiff incorporates by reference, as if fully set forth herein, each and every allegation
27 of paragraphs 1 through 11, inclusive, of this complaint.

28 13. Defendant KAISER was at all times relevant herein an "employer" within the meaning

1 of the CFEHA, Government Code §12900 *et seq.*

2 14. Plaintiff was an employee of defendant KAISER who was qualified to perform the
3 essential functions of his position with or without accommodation.

4 15. Plaintiff is an individual with Hidradenitis Suppurativa, a rare, long-term skin condition
5 and disease that is a physical disability within the meaning of Government Code §12926(m) (“physical
6 disability” defined as including physiological or anatomical conditions and diseases that affect, *inter*
7 *alia*, the skin) and 2 Cal. Code Regs. §11065(d)(2)(A). As a result of his Hidradenitis Suppurativa,
8 plaintiff suffers from additional physical and mental disabilities and conditions, including sleeplessness
9 and sleep deficiency, fatigue, weakness, depression and anxiety.

10 16. Defendant KAISER knew that plaintiff had physical and mental conditions that limited
11 plaintiff’s major life activities, including physical, mental and social activities and working.

12 a. As more fully alleged above, plaintiff BATTER notified his Clinical Managers,
13 his Clinical Director, defendant’s human resources officials, and others of his physical and mental
14 disabilities on numerous occasions beginning shortly after his hire on April 17, 2017.

15 b. By May 9, 2017, plaintiff BATTER’s symptoms were elevated and readily
16 observable and later that week he notified two Clinicians and his then Clinical Manager Randi Hepner
17 of his disabling symptoms.

18 c. As more fully alleged above, on or about May 16, 2017, plaintiff BATTER
19 again informed Clinical Manager Hepner of his worsening disability symptoms and urgently requested
20 accommodations. No interactive process was initiated and no accommodations of any kind were
21 conferred by defendant KAISER.

22 d. Thereafter on numerous occasions, as more fully alleged above, plaintiff
23 BATTER again notified his Clinical Managers, Clinical Director, and even his Service Unit Manager
24 of his disabilities and his need for accommodation.

25 e. On or about June 14, 2017, plaintiff BATTER again approached his Clinical
26 Manager, Ms. Hepner, to determine whether accommodations had been approved. Clinical Manager
27 Hepner merely advised she had no knowledge of whether any action was approved.

28 f. On our about June 19, 2017, plaintiff BATTER informed a colleague that he

1 was in "unbearable pain" to the point where he doubted his ability to perform the duties of his
2 position. The colleague urged him to advise his Clinical Manager so that he could leave work to
3 manage his symptoms. Plaintiff BATTER informed his Clinical Manager, Ms. Hepner, who then
4 chastised him for requesting to leave and directed that plaintiff provide a doctor's note both describing
5 his disability and stating that it precluded him from finishing his shift.

6 g. On or about June 23, 2017, plaintiff BATTER informed his Clinical Manager,
7 Ms. Hepner, of the symptoms of his skin disability and requested reasonable accommodations. At
8 the insistence of the Clinical Manager, plaintiff BATTER presented defendant KAISER with an
9 application for leave pursuant to the Family Medical Leave Act/California Family Rights Act
10 ("FMLA"/"CFRA") which stated, *inter alia*, as follows: "Patient has a chronic condition requiring
11 treatment, periodic visits, may continue over time or may cause episodic incapacity." Defendant
12 KAISER neither responded to plaintiff BATTER's prior advisements of his condition and need for
13 accommodation nor to his application for FMLA/CFRA leave.

14 h. On or about June 26, 2017, plaintiff BATTER called his Clinical Director, Dr.
15 Spedowfski, advising her of the severe complications of his disability and requested accommodations.
16 Plaintiff's request for accommodations was again denied.

17 i. On or about July 12, 2017, plaintiff BATTER, attended his first Clinical
18 Supervision meeting which was conducted by his newly-appointed Clinical Manager, Helen Geller.
19 Plaintiff BATTER advised Ms. Geller of his disability and that the symptoms were worsening, and
20 again requested accommodations. Again, defendant KAISER neither initiated an interactive process
21 nor took action to reasonably accommodate plaintiff's disability.

22 j. Thereafter, in meetings with Clinical Manager Geller on August 2 and August
23 9, 2017, plaintiff BATTER again discussed his physical disability and requested accommodation.
24 These requests for accommodation were again denied.

25 k. On or about August 22, 2017, plaintiff BATTER attended a meeting with
26 Clinical Director Dr. Spedowfski at which he explained the details of his prior requests for
27 accommodation, presented a list of specific items which he considered to be reasonable
28 accommodations for his disability, and advised that no prior accommodations have been made.

1 Plaintiff again requested specific accommodations. Each requested accommodation was denied.

2 17. Plaintiff was able to perform the essential job duties of his position with defendant
3 KAISER with or without reasonable accommodation.

4 18. As more fully alleged, above beginning shortly after plaintiff's hire and continuing
5 thereafter, defendant KAISER subjected plaintiff to adverse employment actions, culminating in his
6 termination, on the basis of his disabilities as follows.

7 a. As more fully alleged above, contrary to defendant KAISER's inducements to
8 plaintiff to accept employment, defendant presented plaintiff with an inflexible schedule which
9 frequently required him to forgo a lunch break and denied him both requisite training and supervision.

10 b. As more fully alleged above, from shortly after his hire with defendant
11 KAISER, plaintiff BATTER was denied reasonable accommodation of his known, and frequently
12 obvious, skin disability and its attendant symptoms and disabilities.

13 c. On June 19, 2017, when plaintiff was compelled to leave work by the
14 "unbearable pain" caused by his disability, Clinical Manager Hepner chastised plaintiff and ordered
15 him to provide a doctor's note upon his return to work that described his disability and stated that it
16 precluded him from completing his shift that day. Ms. Hepner's order violated the CFEHA as well
17 as defendant KAISER's policies and practices.

18 d. When plaintiff returned to work on June 20, 2017, Clinical Manager Hepner
19 treated him like a pariah and directed him to apply for leave pursuant to the FMLA/CFRA, implying
20 that plaintiff would be subject to discipline for an unexcused absence when, in fact, he had been
21 compelled by his disability to leave work on June 19, 2017.

22 e. On or about August 2, 2017, plaintiff BATTER attended what was scheduled
23 as his second Clinical Supervision meeting with his new Clinical Manager, Helen Geller. Service
24 Unit Manager Little was inexplicably present with no notice to plaintiff. By the time of this meeting,
25 none of plaintiff BATTER's several requests for training or for accommodation had been addressed
26 by KAISER and there was no indication in this meeting that it would comply with any requests. To
27 the contrary, the meeting was conducted as a disciplinary session during which plaintiff BATTER was
28 falsely accused of failing to deliver "KAISER excellence" to patients, of dereliction of his duties with

1 respect to the group meeting of May 20, 2017, and of unexcused absences when plaintiff BATTER
2 had either been out sick due to his disability or out caring for his son. Mr. Little even conceded that
3 since some of the ostensible "occurrences" were actually approved leaves, they should not have been
4 listed as "unprotected" or unexcused absences. Nevertheless, Mr. Little threatened plaintiff BATTER
5 that further occurrences could result in an immediate termination of him since he was a probationary
6 employee. Mr. Little also falsely contended that plaintiff had been required to inform KAISER of his
7 disability when he interviewed for his position.

8 f. On or about August 9, 2017, in what was scheduled to be another Clinical
9 Supervision meeting, Clinical Manager Geller and Service Unit Manager Little subjected plaintiff to
10 another quasi-disciplinary session. They presented plaintiff with KAISER's August 9, 2017
11 "Probationary Employee written feedback," wherein he was falsely accused of unacceptable
12 "attendance and punctuality" issues. The ostensible cited "deficiencies" in each case either involved
13 an absence, tardiness or a need to depart the workplace due to his disability or, on one occasion, for
14 the care of his son. Ms. Geller and Mr. Little also verbally chastised plaintiff, falsely accusing him
15 of being consistently late to patient groups, manager meetings, and other activities. Both the written
16 document and the verbal chastisement were rife with errors of fact.

17 g. On or about August 23, 2017, Clinical Manager Geller and Service Unit
18 Manager Little subjected plaintiff BATTER to another quasi-disciplinary meeting again under the
19 guise of an ostensible Clinical Supervision meeting. Clinical Manager Geller and Service Unit
20 Manager Little falsely accused plaintiff of errors in his prior interactions with two patients.

21 h. On August 25, 2017, Service Unit Manager Little gave plaintiff BATTER a
22 second "Probationary Employee written feedback," falsely claiming that the issues contained in the
23 document had been addressed in the August 23, 2017 meeting. This second written feedback was rife
24 with outright falsehoods and misleading statements, as well as gratuitous attacks on plaintiff's
25 character and credibility. Significantly, this written feedback concluded with asserted deficiencies in
26 "timeliness" and "attendance" even though the prior "occurrences" had been the product of plaintiff's
27 disability which KAISER had refused to accommodate and plaintiff had been on time and with no
28 attendance occurrences since July 28, 2017.

1 i. On August 30, 2017, defendant KAISER terminated plaintiff on the false ground
2 of "unsatisfactory job performance."

3 19. Plaintiff BATTER's physical disability, Hidradenitis Suppurativa, was a substantial
4 motivating reason for defendant KAISER's termination of plaintiff and its other adverse employment
5 actions taken against plaintiff.

6 20. Plaintiff was harmed.

7 21. Defendant's conduct was a substantial factor in causing plaintiff's harm.

8 22. Defendant's conduct as alleged above constitutes intentional disability discrimination
9 in violation of the CFEHA, Government Code §12940(a).

10 23. As a direct and proximate result of defendant's conduct, plaintiff has suffered lost and
11 future wages, benefits and other valuable incidents to employment, and severe pain and suffering, all
12 to plaintiff's damage in an amount to be ascertained at trial. Plaintiff claims the aforesaid amounts
13 as damages together with prejudgment interest pursuant to Civil Code §3287 and/or any other
14 provision of law allowing for prejudgment interest.

15 24. Defendant committed the acts alleged herein maliciously, fraudulently and oppressively
16 with the wrongful intention of injuring plaintiff, and from an improper and evil motive amounting to
17 malice and conscious disregard for plaintiff's rights. Plaintiff is thus entitled to recover punitive
18 damages from defendant in an amount to be ascertained at trial.

19 SECOND CAUSE OF ACTION
20 (Failure to Accommodate Disability in Violation of the CFEHA)

21 25. Plaintiff incorporates by reference, as if fully set forth herein, each and every allegation
22 of paragraphs 1 through 11, and 13 through 18, inclusive, of this complaint.

23 26. Defendant KAISER was at all times relevant herein an "employer" within the meaning
24 of the CFEHA, Government Code §12900 *et seq.*

25 27. Plaintiff was an employee of defendant KAISER.

26 28. Plaintiff is an individual with Hidradenitis Suppurativa, a rare, long-term skin condition
27 and disease that is a physical disability within the meaning of Government Code §12926(m) ("physical
28 disability" defined as including physiological or anatomical conditions and diseases that affect, *inter*

1 *alia*, the skin) and 2 Cal. Code Regs. §11065(d)(2)(A). As a result of his Hidradenitis Suppurativa,
2 plaintiff suffers from additional physical and mental disabilities and conditions, including sleeplessness
3 and sleep deficiency, fatigue, weakness, depression and anxiety. Plaintiff's Hidradenitis Suppurativa
4 and the additional physical and mental disabilities and conditions resulting therefrom limited plaintiff's
5 major life activities, including physical, mental and social activities and working.

6 29. Defendant KAISER knew that plaintiff had physical and mental conditions that limited
7 plaintiff's major life activities, including physical, mental and social activities and working.

8 30. Plaintiff was able to perform the essential job duties of his position with defendant
9 KAISER with reasonable accommodation for his physical and mental conditions.

10 31. Defendant KAISER failed to provide reasonable accommodation for plaintiff's physical
11 and mental conditions.

12 32. Plaintiff was harmed.

13 33. Defendant's failure to provide reasonable accommodation was a substantial factor in
14 causing plaintiff's harm.

15 34. Defendant's conduct, as alleged more fully above, constitutes a failure to accommodate
16 plaintiff's physical and mental disabilities in violation of the CFEHA, Government Code §12940(m).

17 35. As a direct and proximate result of defendant's conduct, plaintiff has suffered lost and
18 future wages, benefits and other valuable incidents to employment, and severe pain and suffering, all
19 to plaintiff's damage in an amount to be ascertained at trial. Plaintiff claims the aforesaid amounts
20 as damages together with prejudgment interest pursuant to Civil Code §3287 and/or any other
21 provision of law allowing for prejudgment interest.

22 36. Defendant committed the acts alleged herein maliciously, fraudulently and oppressively
23 with the wrongful intention of injuring plaintiff, and from an improper and evil motive amounting to
24 malice and conscious disregard for plaintiff's rights. Plaintiff is thus entitled to recover punitive
25 damages from defendant in an amount to be ascertained at trial.

26 THIRD CAUSE OF ACTION

27 (Failure to Engage in the Interactive Process in Violation of the CFEHA)

28 37. Plaintiff incorporates by reference, as if fully set forth herein, each and every allegation

of paragraphs 1 through 11, 13 through 18, and 26 through 31, inclusive, of this complaint.

38. Defendant KAISER was at all times relevant herein an “employer” within the meaning of the CFEHA, Government Code §12900 *et seq.*

39. Plaintiff was an employee of defendant KAISER.

40. Plaintiff is an individual with Hidradenitis Suppurativa, a rare, long-term skin condition and disease that is a physical disability within the meaning of Government Code §12926(m) (“physical disability” defined as including physiological or anatomical conditions and diseases that affect, *inter alia*, the skin) and 2 Cal. Code Regs. §11065(d)(2)(A). As a result of his Hidradenitis Suppurativa, plaintiff suffers from additional physical and mental disabilities and conditions, including sleeplessness and sleep deficiency, fatigue, weakness, depression and anxiety. Plaintiff’s Hidradenitis Suppurativa and the additional physical and mental disabilities and conditions resulting therefrom were known to defendant KAISER.

41. As alleged above more fully, plaintiff BATTER repeatedly requested that defendant KAISER make reasonable accommodation for his physical and mental conditions so that he would be able to perform the essential job requirements.

42. As alleged more fully above, plaintiff BATTER was willing to participate in an interactive process to determine whether reasonable accommodation could be made so that he would be able to perform the essential job requirements.

43. As alleged more fully above, defendant failed to participate in a timely, good faith interactive process with plaintiff to determine whether reasonable accommodation could be made.

44. Plaintiff was harmed.

45. Defendant KAISER’s failure to engage in a good faith interactive process was a substantial factor in causing plaintiff’s harm.

46. Defendant’s conduct as alleged above constitutes a failure to engage in a timely, good faith interactive process in violation of the CFEHA, Government Code §12940(n).

47. As a direct and proximate result of defendant’s conduct, plaintiff has suffered lost and future wages, benefits and other valuable incidents to employment, and severe pain and suffering, all to plaintiff’s damage in an amount to be ascertained at trial. Plaintiff claims the aforesaid amounts

1 as damages together with prejudgment interest pursuant to Civil Code §3287 and/or any other
2 provision of law allowing for prejudgment interest.

3 48. Defendant committed the acts alleged herein maliciously, fraudulently and oppressively
4 with the wrongful intention of injuring plaintiff, and from an improper and evil motive amounting to
5 malice and conscious disregard for plaintiff's rights. Plaintiff is thus entitled to recover punitive
6 damages from defendant in an amount to be ascertained at trial.

7 FOURTH CAUSE OF ACTION
8 (Promissory Fraud)

9 49. Plaintiff incorporates by reference, as if fully set forth herein, each and every allegation
10 of paragraphs 1 through 11, inclusive, of this complaint.

11 50. Defendant KAISER made promises and representations to plaintiff BATTER during
12 the hiring process in order to induce plaintiff to quit his secure employment with Solano County and
13 accept employment with defendant. Said promises included, but were not limited to, that KAISER
14 would give plaintiff a flexible work schedule that would match the flexible work schedule he then
15 enjoyed in his Solano County job. In addition, in response to plaintiff's expressed fear and concern
16 that the work environment at KAISER would be stressful and/or "hostile," KAISER intentionally
17 represented to plaintiff that the work environment at its CDRP facility was "empathetic" and
18 "constructive" with "no major problems."

19 51. Defendant KAISER did not intend to perform these promises when it made them and
20 the representations KAISER made to plaintiff were false.

21 52. Defendant intended that plaintiff rely on these promises and representations.

22 53. Plaintiff reasonably relied on defendant's promises and representations in leaving his
23 secure employment with Solano County and accepting employment with defendant KAISER.

24 54. Defendant did not perform the promised acts.

25 55. Plaintiff was harmed.

26 56. Plaintiff's reliance on defendant's promises and representations was a substantial factor
27 in plaintiff's harm.

28 57. As a direct and proximate result of defendant's conduct, plaintiff has suffered lost and

1 future wages, benefits and other valuable incidents to employment, and severe pain and suffering, all
2 to plaintiff's damage in an amount to be ascertained at trial. Plaintiff claims the aforesaid amounts
3 as damages together with prejudgment interest pursuant to Civil Code §3287 and/or any other
4 provision of law allowing for prejudgment interest.

5 58. Defendant committed the acts alleged herein maliciously, fraudulently and oppressively
6 with the wrongful intention of injuring plaintiff, and from an improper and evil motive amounting to
7 malice and conscious disregard for plaintiff's rights. Plaintiff is thus entitled to recover punitive
8 damages from defendant in an amount to be ascertained at trial.

9 FIFTH CAUSE OF ACTION AGAINST
10 (Intentional Infliction of Emotional Distress)

11 59. Plaintiff incorporates by reference, as if fully set forth herein, each and every allegation
12 of paragraphs 1 through 11, 13 through 18, 26 through 31, and 39 through 43, inclusive, of this
13 complaint.

14 60. As alleged more fully above, defendant KAISER engaged in extreme and outrageous
15 conduct.

16 61. Defendant KAISER intended to cause plaintiff emotional distress and/or acted with
17 reckless disregard of the probability that plaintiff would suffer emotional distress.

18 62. Plaintiff suffered severe emotional distress.

19 63. Defendant's conduct was a substantial factor in causing plaintiff's severe emotional
20 distress.

21 64. As a direct and proximate result of defendant's conduct, plaintiff has suffered lost and
22 future wages, benefits and other valuable incidents, pain and suffering all to plaintiff's damage in an
23 amount to be ascertained at trial. Plaintiff claims the aforesaid amounts as damages together with
24 prejudgment interest pursuant to Civil Code §3287 and/or any other provision of law allowing for
25 prejudgment interest.

26 65. Defendant committed the acts alleged herein maliciously, fraudulently and oppressively
27 with the wrongful intention of injuring plaintiff, and from an improper and evil motive amounting
28 to malice and conscious disregard for plaintiff's rights. Plaintiff is thus entitled to recover punitive

1 damages from defendants, and each of them, in an amount to be ascertained at trial.

2 SIXTH CAUSE OF ACTION
3 (Wrongful Termination in Violation of Public Policy)

4 66. Plaintiff incorporates by reference, as if fully set forth herein, each and every allegation
5 of paragraphs 1 through 11, 13 through 18, 26 through 31, 39 through 43, 50 through 54,, inclusive,
6 of this complaint.

7 67. Plaintiff BATTER was employed by defendant KAISER.

8 68. Defendant KAISER discharged plaintiff effective August 30, 2017.

9 69. Plaintiff's physical and mental disabilities, his requests to defendant for reasonable
10 accommodation of his disabilities, and his complaints of conduct in violation of defendant KAISER's
11 duties under the California Fair Employment and Housing Act were substantial motivating reasons
12 for defendant's discharge of plaintiff.

13 70. Defendant KAISER's discharge of plaintiff violated fundamental, substantial and well-
14 established public policies that are delineated or embodied in statutes of the United States and the state
15 of California and that benefit the public at large rather than private interests. Said public policies are
16 set forth in: (1) California Government Code §12940(a), proscribing discrimination in employment
17 on the basis of disability; (2) California Government Code §12940(m), requiring an employer to make
18 a reasonable accommodation for the known disability of an employee; (3) California Government
19 Code §12940(n), requiring an employer to engage in a timely, good faith interactive process with an
20 employee who has a disability to determine effective reasonable accommodations; (4) California
21 Government Code §12940(h), proscribing retaliation against an employee for opposing any practices
22 forbidden under the CFEHA; (5) Title I of the Americans with Disabilities Act, 42 U.S.C. §12112,
23 proscribing discrimination on the basis of disability; (6) Title I of the Americans with Disabilities Act,
24 42 U.S.C. §12112, requiring an employer to make a reasonable accommodation for the known
25 disability of an employee; (7) the Americans with Disabilities Act, 42 U.S.C. §12203, proscribing
26 retaliation against an employee for opposing any practices forbidden under the ADA; and (8)
27 California Business and Professions Code §17200 *et seq.*, proscribing fraudulent business activities.

28 71. Plaintiff was harmed.

72. Defendant's discharge of plaintiff was a substantial factor in causing plaintiff harm.

73. As a direct and proximate result of defendant's conduct, plaintiff has suffered lost and future wages, benefits and other valuable incidents to employment, and severe pain and suffering, all to plaintiff's damage in an amount to be ascertained at trial. Plaintiff claims the aforesaid amounts as damages together with prejudgment interest pursuant to Civil Code §3287 and/or any other provision of law allowing for prejudgment interest.

74. Defendant committed the acts alleged herein maliciously, fraudulently and oppressively with the wrongful intention of injuring plaintiff, and from an improper and evil motive amounting to malice and conscious disregard for plaintiff's rights. Plaintiff is thus entitled to recover punitive damages from defendant in an amount to be ascertained at trial.

REQUEST FOR JURY TRIAL

75. Plaintiff requests a trial by jury.

PRAAYER FOR RELIEF

WHEREFORE, plaintiff prays for judgment as follows:

1. For a permanent injunction restraining defendant from further unlawful conduct;
2. For damages for lost and future wages, benefits and other compensation in an amount exceeding \$25,000, such an amount to be proven at trial;
3. For special and consequential damages in an amount to be proven at trial;
6. For punitive damages against defendant KAISER on the First, Second, Third, Fourth, Fifth and Six Causes of Action;
7. For prejudgment interest according to law, including, but not limited to, Civil Code §3287;
8. For costs and reasonable attorney's fees; and
9. For such other and further relief as the court deems just and proper.

HOROWITZ & RUBINOFF

Dated: March 7, 2019

By MARTIN M. HOROWITZ
Attorneys for Plaintiff
BRENT BATTER

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CHARGE OF DISCRIMINATION This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.		Charge Presented To: <input type="checkbox"/> FEPA <input checked="" type="checkbox"/> EEOC	Agency(ies) Charge No(s): 555-2018-00319
California Department Of Fair Employment & Housing <i>State or local Agency, if any</i>			and EEOC
Name (Indicate Mr., Ms., Mrs.) Mr. Brent Batter		Home Phone 707-704-5278	Year of Birth
Street Address 161 Sunirse wy, VALLEJO, CA 94591		City, State and ZIP Code	
Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)			
Name KAISER CDRP		No. Employees, Members 15-100	Phone No. 707-651-1050
Street Address 800 Sereno dr, VALLEJO, CA 94589		City, State and ZIP Code	
Name		No. Employees, Members	Phone No.
Street Address		City, State and ZIP Code	
DISCRIMINATION BASED ON (Check appropriate box(es)) <input type="checkbox"/> RACE <input type="checkbox"/> COLOR <input type="checkbox"/> SEX <input type="checkbox"/> RELIGION <input type="checkbox"/> NATIONAL ORIGIN <input type="checkbox"/> RETALIATION <input type="checkbox"/> AGE <input checked="" type="checkbox"/> DISABILITY <input type="checkbox"/> GENETIC INFORMATION <input type="checkbox"/> OTHER (Specify)		DATE(S) DISCRIMINATION TOOK PLACE Earliest Latest 05-01-2017 08-30-2017 <input type="checkbox"/> CONTINUING ACTION	
THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)): <p>I was employed with the Kaiser Chemical Dependency Drug Program as a Marriage and Family Therapist (MFT) beginning around 4/2017 and was terminated on or about 8/30/17. I was informed that the job would allow for flexible scheduling, which induced me to take the position. During my term of employment, I made several requests for accommodations for my disability, including: 1) departmental training, 2) a change out of the Day Treatment program, and 3) a schedule change to reduce or redistribute my hours. None of my accommodation requests were granted to me, despite the training that other MFTs received the training I requested, and some had a more flexible schedule than I did.</p> <p>On or about 8/9/2017, I received a disciplinary write-up from Service Unit Manager Michael Little and supervisor Helen Geller. The write-up outlined attendance issues, one of which was factual and the others of which I was informed would be allowed by the director. On or about 8/28/17, I received a second disciplinary write-up which explained concern for "misrepresenting truth" about my schedule in order to "build more time" for non-direct patient care. This write-up also included several falsified and/or inaccurate statements about my behavior in the workplace and with management. Finally, on or about 8/30/17 I was terminated for not meeting work performance expectations.</p>			
I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.		NOTARY - When necessary for State and Local Agency Requirements	
I declare under penalty of perjury that the above is true and correct.		I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief. SIGNATURE OF COMPLAINANT	
Digitally signed by Brent Batter on 12-05-2017 03:35 PM EST		SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (month, day, year)	

CHARGE OF DISCRIMINATION

This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.

Charge Presented To:

☐

FEPA

☒

EEOC

Agency(ies) Charge No(s):

555-2018-00319**California Department Of Fair Employment & Housing**

and EEOC

State or local Agency, if any

I believe I have been discriminated against on the basis of my disability in violation of the Americans with Disabilities Act of 1990, as amended.

Courthouse News Service

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

I declare under penalty of perjury that the above is true and correct.

Digitally signed by Brent Batter on 12-05-2017 03:35 PM EST

NOTARY - When necessary for State and Local Agency Requirements

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

SIGNATURE OF COMPLAINANT

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE
(month, day, year)

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**DEPARTMENT OF FAIR EMPLOYMENT & HOUSING**

2218 Kausen Drive, Suite 100 | Elk Grove, CA | 95758
800-884-1684 | Videophone for the DEAF 916-226-5285
www.dfeh.ca.gov | e-mail: contact.center@dfeh.ca.gov

DIRECTOR KEVIN KISH

EEOC Number: 555-2018-00319C
Case Name: Brent Batter vs. KAISER PERMANENTE
Filing Date: March 9, 2018

NOTICE TO COMPLAINANT AND RESPONDENT

This is to advise you that the above-referenced complaint is being dual filed with the California Department of Fair Employment and Housing (DFEH), a state agency, and the United States Equal Employment Opportunity Commission (EEOC), a federal agency. The complaint will be filed in accordance with California Government Code section 12960. The notice constitutes service pursuant to Government Code section 12962.

The EEOC is responsible for the processing of this complaint and the DFEH will not be conducting an investigation into this matter. Please contact EEOC directly for any discussion of the complaint or the investigation.

NOTICE TO COMPLAINANT OF RIGHT TO SUE

This letter is also your state Right to Sue notice. This state Right to Sue Notice allows you to file a private lawsuit. According to Government Code section 12965, subdivision (b), you may bring a civil action 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 lawsuit may be filed in a State of California Superior Court.

Government Code section 12965, subdivision (b), provides that such a civil action must be brought within one year from the date of this notice or, pursuant to Government Code section 12965, subdivision (d)(2), 90 days from receipt of the federal right-to-sue letter from the EEOC, whichever is later. You should consult an attorney to determine with accuracy the date by which a civil action must be filed. This right to file a civil action may be waived in the event a settlement agreement is signed.

Be advised, the DFEH does not retain case records beyond three years after a complaint is filed.