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THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR LOS ANGELES COUNTY
STANLEY MOSK COURTHOUSE

20STCV09934

KYLE CAMPBELL

Case No. BC

COMPLAINT FOR DAMAGES

Plaintiff,

vs.

KAISER PERMANENTE
INTERNATIONAL, KAISER PERMANENTE
INSURANCE COMPANY, LORRAINE
HAINES, RUSSELL BREEDING, FRANK
FARAGO AND DOES 1-10, INCLUSIVE

1. Employment Discrimination (Race)-
Hostile Environment;
2. Employment Discrimination (Race)-
Disparate Treatment;
3. Employment Discrimination (Age)- Hostile
Environment;
4. Employment Discrimination (Age)-
Disparate Treatment;
5. Employment Discrimination (Retaliation);
6. Employment Discrimination (Unlawful
Harassment);
7. Whistleblower

Defendants.

Request for Jury Trial

COMES NOW, Plaintiff, KYLE CAMPBELL (sometimes referred to herein as “Plaintiff”), now alleging upon information and belief and filing this Complaint, as follows:

PARTIES, JURISDICTION AND VENUE

1. (a) Plaintiff is an African-American male who is over the age of forty (40) years and currently works for Defendants. Accordingly said Plaintiff is a member of one (1) or more “protected classes” of persons under FEHA.

(b) Plaintiff further alleges that:

i) Plaintiff was subject to discrimination, harassment, retaliation and other unlawful conduct under FEHA by Defendants, including the corporation(s)/employers named herein (the “Corporate Defendants), Plaintiff’s Supervisors (as “Supervisors” are defined hereinbelow) and each of them as a result of Plaintiff’s protected status (race and age).

ii) Plaintiff further alleges that each of the Defendants did intentionally and recklessly create, maintain, condone and knowingly permit a hostile and toxic work environment to exist for African-American and older (over 40) employees in violation of FEHA, other laws and in a manner contrary to the public policy of the State of California. In this environment, Plaintiff was treated in a disparate, unfair and hostile manner as more fully described hereinbelow because of Plaintiff’s race and age. Plaintiff was also harassed and retaliated against for making lawful, legitimate complaints of such conduct and/or seeking protections offered to them pursuant to FEHA and California law.

iii) Plaintiff further alleges that the Corporate Defendants’ senior management has further ratified and condoned the unfair and discriminatory treatment alleged herein by imposing, promulgating, endorsing and intentionally turning a blind-eye toward such conduct and a culture of discrimination which runs rampant throughout the workplace. In this

1 regard, Defendants and the Supervisors (as defined herein) have consistently and intentionally
2 failed and refused to encourage, take reasonable steps toward and/or require other managers and
3 supervisors to comply with the applicable provisions of FEHA. Similarly, such conduct violates
4 other laws, the public policy of the State of California and the Corporate Defendants' own
5 written policies against unlawful discrimination, harassment and retaliation in the workplace.

6 (c) The Defendants employ various managers and supervisors who are (and were
7 at all relevant times) "supervisors" as defined by FEHA because each of them have and/or had
8 the authority to hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward, or
9 discipline Plaintiff. Each such person is also a "supervisor" under FEHA because they had the
10 responsibility to direct Plaintiff and to address Plaintiff's grievances effectively and to
11 recommend the foregoing and other related actions to the Corporate Defendant.

12 (i) These managers and supervisors (the "Supervisors") engaged in
13 unlawful harassment under FEHA and is individually and personally liable to Plaintiff therefor
14 pursuant to Government Code Section 12940(j)(3) and otherwise pursuant to FEHA. Each such
15 Supervisor also separately caused the Corporate Defendant to be vicariously and/or strictly liable
16 for the other discriminatory and retaliatory conduct alleged herein.

17 (ii) Each such Supervisor not only engaged in the harassing,
18 discriminatory and retaliatory conduct described herein; but was also personally aware of the
19 foregoing (and the conduct described herein) taking place. Each such Supervisor had a duty
20 under FEHA and pursuant to the Corporate Defendant's stated policies on discrimination to stop
21 (and take reasonable measures to stop), yet failed to stop (and/or take reasonable steps to stop),
22 the harassing, discriminatory and retaliatory conduct described herein. In fact, as part of the
23 discriminatory, harassing and retaliatory culture of the Defendants, each such Supervisor was not
24 only encouraged and required to do so by Defendants; but they each aided and abetted each of
25 the Defendants in continuing such unlawful harassment, discrimination and retaliation.
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1 (iii) Plaintiff alleges that the Supervisors have created, maintained,
2 condoned and knowingly permitted retaliation to occur against complaining employees who are
3 African-American and Older (over age 40) (including Plaintiff) who make formal and/or
4 informal complaints about the unlawful and discriminatory treatment alleged herein. Such
5 employees are treated more harshly after such complaints are made and efforts are made by their
6 Supervisors to force them to voluntarily resign (i.e., constructive termination) or otherwise cease,
7 drop and/or refrain from making legitimate complaints of discrimination, harassment and
8 retaliation against Defendants. Furthermore, those complaining employees are falsely and
9 summarily informed by Defendants that their complaints have no merit, without any reasonable
10 investigation into such claims. More specifically, when Plaintiff complained about the conduct
11 alleged herein; they were threatened, unfairly criticized, falsely accused of poor performance and
12 other conduct designed to have a chilling effect on the complaint process. Again, Plaintiff further
13 alleges that the Defendants have further ratified and condoned the retaliatory treatment alleged
14 herein by failing and refusing to take reasonable steps to minimize retaliation for complainants of
15 unlawful discrimination (including Plaintiff) in the workplace, violating the prohibition of
16 retaliation by FEHA and the Corporate Defendant's stated policies against discrimination and
17 retaliation.

18 (iv) Each Supervisor also instructed other employees of the Corporate
19 Defendant to further harass, intimidate, mistreat, retaliate against and disrupt Plaintiff's work
20 environment in an effort to discourage and institute fear, worry and emotional distress for
21 Plaintiff due to their complaining about the discrimination alleged herein. Such conduct and
22 harassment was specifically designed to force Plaintiff to abandon Plaintiff's complaints and to
23 quit their jobs. Each Defendant was aware of such conduct and took no efforts to avoid it. In fact,
24 each Defendant approved, condoned, consented to and supported the conduct and engaged in a
25 consistent and ever-escalating pattern of retaliation (including intensifying the Retaliatory
26 Conduct alleged herein) against Plaintiff.

1 (d) Plaintiff asserts and alleges that the discriminatory conduct alleged herein is
2 systemic and applied by Defendants on a regular and ongoing basis as it relates to the protected
3 groups referenced herein. Specifically, that the Defendants systemically discriminate against
4 African-American and Older (over age 40) employees (including Plaintiff) and retaliate against
5 those African-American and Older (over age 40) employees (including Plaintiff) who complain
6 as well as employees who resist, disclose and/or complaint regarding such treatment. This
7 conduct is particularly prevalent and the Supervisors engage(d) in such conduct as a matter of
8 course and policy as it relates to all such employees.

9 2. At all relevant times mentioned herein, the following is alleged about the named
10 Defendants in this action:

11 (a) Each of the following entities jointly and severally (and as otherwise alleged
12 herein), employed Plaintiff and accordingly, each of the following is sometimes referred herein
13 as the "Corporate Defendant" and/or "Employer"):

14 (i) HD Supply Management, Inc. is a corporation organized and existing
15 under the laws of the State of Florida with a principal place of business within the County of Los
16 Angeles, State of California where Plaintiff was employed.

17 (ii) HD Supply, Inc. is a corporation organized and existing under the
18 laws of the State of Delaware with a principal place of business within the County of Los
19 Angeles, State of California, where Plaintiff was employed.

20 (iii) HD Holdings, Inc. is a corporation organized and existing under the
21 laws of the State of Delaware with a principal place of business within the County of Los
22 Angeles, State of California, where Plaintiff was employed.

23 (b) Each such Corporate Defendant and Employer was, at all relevant times:
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1 (i) an “employer” pursuant to FEHA regularly employing five (5) or
2 more persons (including Plaintiff), bringing each within the provisions of Section 12900 et seq.
3 of the Government Code prohibiting employers and/or their agents from harassing and
4 discriminating against employees on the basis of race, gender, disability, etc.;

5 (ii) subject to California Government Code Section 12940 and the balance
6 of FEHA which, among other things, provides:

7 *It is an unlawful employment practice, unless based upon a bona fide*
8 *occupational qualification, or, except where based upon applicable security*
9 *regulations established by the United States or the State of California:*

10 (a) *For an employer, because of the race, religious creed, color,*
11 *national origin, ancestry, physical disability, mental disability, medical*
12 *condition, genetic information, marital status, sex, gender, gender identity,*
13 *gender expression, age, sexual orientation, or military and veteran status of*
14 *any person, to refuse to hire or employ the person or to refuse to select the*
15 *person for a training program leading to employment, or to bar or to*
16 *discharge the person from employment or from a training program leading*
17 *to employment, or to discriminate against the person in compensation or in*
18 *terms, conditions, or privileges of employment.*

19 ...

20 (h) *For any employer, labor organization, employment agency, or*
21 *person to discharge, expel, or otherwise discriminate against any person*
22 *because the person has opposed any practices forbidden under this part or*
23 *because the person has filed a complaint, testified, or assisted in any*
24 *proceeding under this part.*

25 (i) *For any person to aid, abet, incite, compel, or coerce the doing of*
26 *any of the acts forbidden under this part, or to attempt to do so.*

27 (j) (1) *For an employer... or any other person, because of race, ... age,*
28 *[etc.] to harass an employee... or a person providing services pursuant to a*
contract. Harassment of an employee ..., or a person providing services
pursuant to a contract by an employee, other than an agent or supervisor,
shall be unlawful if the entity, or its agents or supervisors, knows or should
have known of this conduct and fails to take immediate and appropriate
corrective action. ... An entity shall take all reasonable steps to prevent
harassment from occurring

(k) For an employer... to fail to take all reasonable steps necessary to prevent discrimination and harassment from occurring.

(iv) strictly liable for Supervisors (as defined and identified herein) who discriminate against and harass employees under their supervision (including Plaintiff) pursuant to California Gov't Code §12940(j)(1).

(d) More specifically: Defendants LORRAINE HAINES (“Haines”), RUSSELL BREEDING (“Breeding”) and FRANK FARAGO (“Farago”) are each individual who has been authorized by the Corporate Defendant as the person who has (and had) full authority to manage,

1 oversee, supervise, make decisions and bind the Corporate Defendant as it relates to the matters
2 alleged herein and, in that capacity, was given supervisory authority by the Corporate Defendant
3 over Plaintiff. Accordingly, Haines, Breeding and Farago were each a "Supervisor" as that term
4 is used herein and are referenced to herein as "Supervisors".

5 (e) In addition, Plaintiff is ignorant of the true names and capacities of
6 defendants sued herein as DOES 1 through 10, inclusive, and therefore sues these defendants by
7 such fictitious names. Plaintiff will amend this complaint to allege their true names and
8 capacities when ascertained. Plaintiff are informed and believe and thereon allege that each of
9 the fictitiously named defendants is actually responsible in some manner for the occurrences
10 herein alleged, and each of Plaintiff's injuries as herein alleged were actually and proximately
11 caused by Defendants' actions and/or omissions.

12 (f) At all times mentioned in this Complaint, the Corporate Defendant employed
13 persons (including the Supervisors) whom were given supervisory and other authority over
14 Plaintiff and Plaintiff's internal complaints against each Defendant. Defendants Supervisors each
15 received complaints of discrimination and harassment from Plaintiff and acted as the voice of the
16 company and the main company officers in addressing (and ultimately disrupting, terminating,
17 disposing of and causing the imposition of retaliatory punishment toward Plaintiff for making)
18 those complaints. The Corporate Defendant knew about the complaints of discrimination and
19 harassment by Plaintiff. Defendants and their officers and directors expressly and impliedly
20 directed the Supervisors to comply with the Corporate Defendant's culture of discrimination and
21 retaliation and refrain from taking corrective action to take the allegations seriously, investigate
22 the allegations, use reasonable steps to minimize the risk of discrimination, harassment and
23 retaliation, etc. as required by FEHA. Instead, the Defendants engaged in, instructed the
24 Supervisors and managers to engage in and implement a retaliatory strategy which was designed
25 to dissuade Plaintiff from pursuing their claims. In fact, Defendants each disrupted and
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1 terminated the complaint process for Plaintiff in furtherance of the Defendants' joint objectives
2 to avoid responsibility and liability for correcting the hostile, discriminatory, retaliatory and
3 harassing environment described herein and to discourage employees (including each of the
4 Plaintiff) from making such complaints.

5 (g) Plaintiff is informed and believes and thereon alleges that in connection with
6 the acts and omissions alleged herein, each and all of the Defendants named herein, together with
7 those unknown to Plaintiff, entered into a partnership, employment, joint venture, and/or
8 principal-agent relationship to carry out all of the acts and omissions herein alleged. At all times
9 herein mentioned, each such Defendant has been and continues to be the employees, agents,
10 partners, employers, principals, and/or joint venturers of each of their Co-Defendants, and in
11 acting and omitting to act as alleged herein, acted and/or failed to dutifully act: (i) both on their
12 own behalf and on behalf of their employees, agents, partners, employers, principals, and/or joint
13 venturers; (ii) within the course and scope of and pursuant to Plaintiff's employment, agency,
14 joint venture and/or partnership; and (iii) with the authorization, direction, ratification, and
15 adoption of their employers, principals, joint venturers, partners, employees, and/or agents.
16 Accordingly, each of them is jointly and severally liable and/or vicariously liable for the conduct
17 of each of the others. Plaintiff may seek leave of court to allege the exact nature of such
18 interrelationships when the same are fully ascertained.

19 (h) Defendants, and each of them, engaged in a civil conspiracy to deprive
20 Plaintiff of Plaintiff's rights and to cause Plaintiff injury, harm and damages. Each Defendant
21 aided and abetted the other in furtherance of the civil conspiracy with actual, inquiry and
22 constructive knowledge of the commission of each of the unlawful acts alleged herein. At the
23 center of the conspiracy is a central team of decision-makers, officers, managers, members and
24 senior executives of each whom acted in concert with each of the Defendants and each other in
25 furtherance of the unlawful activity alleged herein.
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1 (i) Those Defendants who purport to have limited liability due to their status as a
2 partnership, corporation and/or limited liability company have lost such protection and should
3 have their so-called "corporate veil" pierced due to the fact that they did not comply with the
4 formal requirements necessary to maintain such veil of limited liability and acted as individuals
5 and with a unity of interest and ownership between the purported entity and its owner(s) such
6 that it would be unfair if the acts in question are treated as those of the purported entity alone.

7 3. Venue lies in the Los Angeles County Superior Court in that Defendant operate its
8 businesses in the County of Los Angeles, State of California and takes advantages of resources,
9 laws and benefits offered to companies who operate, conduct business and employ persons in the
10 County of Los Angeles, State of California. Defendants' culture of discrimination and its
11 systemic discrimination emanated from its offices in the County of Los Angeles, California.
12 Defendants committed many of their unlawful practices in the County of Los Angeles, State of
13 California and within this judicial district. Defendants maintained and continue to maintain
14 records relevant to such practices alleged herein in the County of Los Angeles, State of
15 California and within this judicial district. Defendants administered and continue to administer
16 records and practices relevant to the discriminatory practices alleged herein in the County of Los
17 Angeles, State of California. But for Defendants' discriminatory practices, Plaintiff would have
18 had promotion opportunities and access to projects, information and other benefits which were
19 based in the County of Los Angeles, California office and within this judicial district. Likewise,
20 some of the executives who are in charge of Plaintiff's work, duties, assignments and the websites
21 for which Plaintiff worked are located in this judicial district and maintain their offices and files
22 in those locations. As alleged hereinbelow, the discrimination suffered by Plaintiff is systemic
23 and arises out of the conduct (and lack thereof), corporate culture, decisions, staffing, human
24 resources approach and executive level decisions which are all made in the County of Los
25 Angeles.

1 4. Plaintiff filed a discrimination complaint against the Defendants with the California
2 Department of Fair Employment and Housing (“DFEH”). In connection with each claim
3 contained herein which is subject to the California Fair Employment and Housing Act
4 (“FEHA”), Plaintiff received a notice signifying that Plaintiff has exhausted Plaintiff’s
5 administrative remedies under FEHA. In addition, by filing such claims and by notifying the
6 Defendants through their attorneys and internal processes (in addition to filing such
7 administrative complaints); Plaintiff has fully complied with any notice requirements under
8 California Law.

10 **FACTS COMMON TO ALL CAUSES OF ACTION**

11 5. Defendants have a long history of operating their businesses in a discriminatory and
12 harassing manner as it relates to individuals protected by FEHA [more specifically, California
13 Government Code Sections 12940(a) and 12940(h)-(k)] and similar laws. Such practices include
14 harassment, disparate and the discriminatory treatment of their employees and the maintenance
15 of a hostile work environment for protected classes of employees, including Plaintiff, as alleged
16 herein and otherwise. This history has produced a culture of racism, sexism, discrimination,
17 harassment and retaliation which is so pervasive as it adversely affects the entire workplace
18 where Plaintiff was employed by the Corporate Defendant and supervised by the Supervisors.
19 Plaintiff suffered such conduct due to his race and age as an African-American and older (over
20 age 40) employee.

21 6. Defendants, and each of them, during Plaintiff’s employment, failed and refused to
22 properly train, screen, conduct background checks, supervise, reprimand, direct and instruct its
23 senior management personnel in a manner at or above the standard of care and in accordance
24 with Defendants’ stated policies and the laws of the State of California as all of same relate to
25 maintaining and promoting a work environment which is free of discrimination and harassment
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1 based upon gender, pregnancy, race, ethnicity, marital status, age and other protected classes.
2 Defendants failed and refused to properly address complaints of discrimination and/or to
3 undertake any effective measures to address, minimize and/or eliminate discriminatory practices
4 in the workplace. Moreover, Defendants had actual, constructive and inquiry knowledge that the
5 workplace was discriminatory and that a hostile environment for these protected classes of
6 persons existed. Notwithstanding such knowledge, Defendants (and their managing agents,
7 officers, directors, senior executives, etc.) took no action; and, in fact, participated in, supported
8 and condoned such discrimination.

9 7. During Plaintiff's entire employment; Defendants along with the Supervisors created,
10 encouraged, condoned, permitted, allowed and refused to take any reasonable steps to correct the
11 hostile and discriminatory work environment. African-American and Older (over age 40)
12 employees, including Plaintiff and other similarly-situated, (sometimes referred to as the
13 "Protected Employees") were treated in an inequitable, unfair, discriminatory and disparate
14 manner due to their protected status; while other, non-protected classes of employees were not
15 subjected to such conduct. These Protected Employees, including Plaintiff, were subject to
16 considerably less favorable working conditions and severe and blatant disparate treatment from
17 their non-protected counterparts. The workplace was permeated by disparate treatment and
18 harassment of these Protected Employees and more favorable treatment of employees who are
19 not members of any protected class. In this regard, Defendants engaged in the following and
20 similar conduct (the "Hostile Conduct") directed toward against Plaintiff and other Protected
21 Employees because of their race and age:

22 a) Protected Employees (including, without limitation, Plaintiff) were provided
23 with lesser resources, lesser support and lesser quality assignments than their non-protected
24 counterparts;
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1 b) Protected Employees (including, without limitation, Plaintiff) were not given
2 credit for their accomplishments and achievements as freely as their non-protected counterparts);

3 c) Protected Employees (including, without limitation, Plaintiff) were given more
4 menial assignments and multiple functions than their non-protected counterparts;

5 d) Protected Employees (including, without limitation, Plaintiff) were
6 compensated less favorably than their non-protected counterparts and received lesser job benefits
7 and “perks” than those non-protected counterparts;

8 e) Protected Employees (including, without limitation, Plaintiff) were more
9 harshly criticized, disciplined and received inaccurate and unfair performance reviews as
10 compared to their non-protected counterparts;

11 f) Protected Employees (including, without limitation, Plaintiff) were not
12 promoted as frequently as their non-protected counterparts who typically had the same and/or
13 lesser experience, background and performance;

14 g) Protected Employees (including, without limitation, Plaintiff) were overlooked
15 and their professional opinions ignored and flippantly dismissed as opposed to those of their
16 white counterparts;

17 h) Protected Employees (including, without limitation, Plaintiff) were subject to
18 rude, cruel, untrue, harsh, discriminatory, stereotypical, negative and derogatory comments being
19 made by non-protected employees in the workplace which severely disrupted the workplace and
20 severely interfered with the ability of Plaintiff and other Protected Employees to perform their
21 job duties;

22 i) Protected Employees (including, without limitation, Plaintiff) were forced to
23 quit, victims of attempted constructive termination, terminated, refused the opportunity to be re-
24 hired, given poor employment references, denied post-employment resources and benefits and
25 defamed, ridiculed and maligned after Plaintiff’s employment;

1 j) Protected Employees (including, without limitation, Plaintiff) were generally
2 treated in a discriminatory, unfair and inferior manner which severely disrupted the workplace
3 and severely interfered with the ability of Plaintiff and other Protected Employees to perform
4 their job duties;

5 k) Protected Employees (including, without limitation, Plaintiff) were unfairly
6 and disparately denied access to meetings, information, resources, correct information and other
7 assistance that was available to their non-protected counterparts;

8 l) attempts were made to limit, restrict and change the job functions and/or profile
9 of those job functions of Protected Employees (including Plaintiff) in an effort to make same
10 appear less important, lower-profile and more menial;

11 m) Protected Employees (including, without limitation, Plaintiff) were unfairly
12 denied and/or limited in connection with bonuses, promotions and key assignments;

13 n) Defendants obviated and refused to follow their practices and policies to the
14 detriment of Protected Employees (including, without limitation, Plaintiff);

15 o) making inappropriate racist, sexist, stereotypical and unprofessional comments
16 about Protected Employees in the workplace and to and about Plaintiff.

17 8. Plaintiffs and other employees complained about all of the foregoing as it related to
18 Plaintiffs and other protected classes of individuals in the workplace. Defendants engaged in
19 separate acts of the same conduct and other hurtful and harmful acts as alleged hereinabove in
20 Paragraph 7 (above) and the other unlawful conduct alleged hereinbelow in retaliation therefor.

21 9. All of the foregoing occurred by design and with the full knowledge of all Defendants.
22 When such conduct was brought to the attention of all Defendants, they failed and refused to
23 take any corrective action and continued in their course of discrimination. The reason for such
24 conduct was the status of Plaintiff being a member of the applicable protected class(es) alleged
25 herein. Accordingly, as a result of such status and membership, Plaintiff was subjected to the
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1 harassment, treatment, environment and discrimination described hereinabove, without
2 limitation. Plaintiff was also subjected to other similar and dissimilar disparate, discriminatory
3 and hostile treatment solely as a result of Plaintiff's membership in the protected class(es) alleged
4 hereinabove.

5 10. The foregoing harassment, discrimination, disparate treatment and unlawful conduct
6 along with the intentional, apathetic and unreasonable supporting and furthering conduct of the
7 Defendants (along with the Supervisors and the Corporate Defendant's senior executives and
8 decision-makers) have permitted such conduct to exist, occur and recur without any appropriate
9 action being taken which further violates the intent, spirit and specific provisions of FEHA.

10 11. After Plaintiff complained about the Hostile Conduct to Defendants and their
11 representatives, Defendants failed and refused to address such complaints and/or any the other
12 discriminatory conduct alleged hereinbelow in a serious, fair and/or reasonable manner designed
13 to prevent and/or minimize such discriminatory conduct and/or to hold the person(s) and policies
14 related thereto to any level of accountability or responsibility therefor.

15 12. In fact, upon receiving such complaints, Defendants intentionally harassed, mistreated
16 and created an even more hostile environment for these employees (including, without limitation,
17 Plaintiff) and retaliated against such employees by increasing the severity, frequency and
18 notorious nature of such Hostile Conduct and the other discriminatory conduct referenced
19 hereinbelow as a means of dissuading Plaintiff and others from objecting to and/or complaining
20 about such conduct. Furthermore, when these employees (including Plaintiff) complained about
21 the Hostile Conduct and/or the other discriminatory conduct alleged herein; they were retaliated
22 against as alleged hereinbelow. Defendants attempted to force said employees to quit their jobs
23 (sometimes successfully) and/or wrongfully terminated them rather than attempting to address
24 and/or rectify the aforementioned conduct. Defendants also instructed other employees of the
25 Corporate Defendant to further harass, intimidate, mistreat, retaliate against and disrupt
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1 Plaintiff's work environment in an effort to discourage and institute fear, worry and emotional
2 distress for Plaintiff due to their complaining about the discrimination alleged herein. Such
3 conduct and harassment was specifically designed to force Plaintiff to abandon Plaintiff's
4 complaints and to quit their jobs. Each Defendant was aware of such conduct and took no efforts
5 to avoid it. In fact, each Defendant approved, condoned, consented to and supported the conduct
6 and engaged in a consistent and ever-escalating pattern of retaliation (including intensifying the
7 Retaliatory Conduct alleged herein) against Plaintiff. In this regard, in addition to the
8 foregoing, Defendants would intentionally make the working environment and working
9 conditions of those who complained (including Plaintiff) and their protected counterparts so
10 much more harsh, discriminatory, unbearable and unreasonable that no reasonable person could
11 be expected to continue their employ under such conditions. This was followed-by the
12 Defendants generating false and defamatory allegations of misconduct by Plaintiff, baseless
13 disciplinary action and the unlawful and wrongful termination of Plaintiff's employment.

14 13. All of the foregoing conduct described in Paragraphs 11 - 14 (the "Retaliatory
15 Conduct") was part of a retaliatory scheme, implemented by the Defendants, designed to punish,
16 harm and cause injury to Plaintiff (and other protected classes of employees) for making
17 discrimination claims, opposing employment practices that discriminate, filing a discrimination
18 charge and for testifying or participating in any way in an investigation, proceeding, or litigation
19 under FEHA. Such conduct is expressly prohibited by California Government Code Sections
20 12940(a) and 12940(h)-(k).

21 14. Said Retaliatory Conduct was directed toward Plaintiff because of Plaintiff's race
22 and age and for having made complaints of discrimination and harassment against the
23 Defendants on such basis. The Retaliatory Conduct included, but was not limited to:

24 a) increasing the severity, frequency and notorious nature of the Hostile Conduct
25 and other discriminatory conduct alleged herein;
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1 b) eliminating such complainants (including, without limitation, Plaintiff) from
2 key meetings and denying them access to important and necessary information and resources;

3 c) stripping such complainants (including, without limitation, Plaintiff) of their
4 important job duties and the respect, responsibility, recognition, kudos, rewards and goodwill
5 that come along with such important duties;

6 d) sabotaging the work of such complainants (including, without limitation,
7 Plaintiff);

8 e) unfairly reprimanding, reviewing and compensating such complainants
9 (including, without limitation, Plaintiff);

10 f) denying such complainants (including, without limitation, Plaintiff) fair
11 treatment with respect to company perks, bonuses, credit and recognition;

12 g) scoffing, ignoring, ostracizing and other rude treatment of such complainants
13 (including, without limitation, Plaintiff) in an unprofessional, embarrassing and insulting
14 manner;

15 h) making false, slanderous statements about such complainants (including,
16 without limitation, Plaintiff) in their professional and personal lives;

17 i) transmitting false, libelous communications about such complainants
18 (including, without limitation, Plaintiff) in their professional and personal lives;

19 j) disclosure of confidential, private and sensitive information about such
20 complainants (including, without limitation, Plaintiff);

21 k) assigning more menial tasks to such complainants (including, without
22 limitation, Plaintiff);

23 l) adversely affecting, abridging, delaying and/or denying such complainants
24 (including, without limitation, Plaintiff) their other job entitlements and/or related legal rights as
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1 such relate to things such as employee benefits, bonuses, unemployment compensation, disability
2 rights, vacation pay, COBRA benefits, expense reimbursements, etc.;

3 m) soliciting other employees to undermine, deceive, betray, lie and make false
4 complaints and statements regarding such complainants (including, without limitation, Plaintiff);

5 n) failing and refusing to properly investigate the complaints of the Hostile
6 Conduct and the other discriminatory conduct alleged herein;

7 o) conducting an incomplete, arbitrary and fraudulent investigation into the
8 Hostile Conduct and the other discriminatory conduct alleged herein.

9 p) encouraging, making and pursuing false allegations of misconduct against the
10 complainants (including, without limitation, Plaintiff).

11 q) taking other steps to force the complainants (including, without limitation,
12 Plaintiff) to quit their job;

13 r) attempting to and/or successfully engaging in the constructive termination (and
14 in some instances actually firing) the complainants' employment (including, without limitation,
15 Plaintiff);

16 s) making false and harmful statements about the reasons why the complainants
17 (including, without limitation, Plaintiff) were no longer employed by Defendants;

18 t) denying leaves and other benefits secured by the Family and Medical Leave Act
19 of 1993 (FMLA) and, by extension, the California Family Rights Act (CFRA) and otherwise due
20 to the race and/or age of employees in a discriminatory manner;

21 u) adverse employment actions; including, with respect to Plaintiff, false and
22 defamatory allegations of misconduct, a bogus suspension and an unlawful and wrongful
23 termination of Plaintiff's employment.
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1 15. All Defendants intentionally (and in some instances in a grossly negligent capricious
2 and indifferent manner), wrongfully, maliciously, knowingly and willingly allowed all of the
3 foregoing to regularly occur and failed and refused to intervene, cease and desist and/or take any
4 reasonable efforts to eliminate or minimize such ongoing conditions or the damages that such
5 conditions caused.

6 16. Furthermore, each and all Defendants acted in concert, conspired, encouraged and
7 cooperated with each other, condoned, supported, implemented and furthered such conduct with
8 the intent to deprive Plaintiff of Plaintiff's rights, to cause Plaintiff injury and to force Plaintiff to
9 terminate Plaintiff's employment.

10 17. Said conduct was implemented by the managers and officers of the Defendants on
11 behalf and in furtherance of the directives, desires and benefit of the Defendants, and each of
12 them.

13 18. The foregoing is not an exhaustive list of the illegal and damaging conduct of
14 Defendants, but merely an overview of such conduct for purposes of describing the toxic
15 environment which Plaintiff were subjected to as alleged in this Complaint.

16 19. Defendants' conduct in intentionally creating a hostile work environment for
17 Plaintiff, harassing, abusing, embarrassing Plaintiff, sabotaging Plaintiff and Plaintiff's work,
18 denying Plaintiff access to benefits, staffing, resources and information and all similar conduct
19 alleged herein was motivated by race and/or gender and was otherwise unlawful, outrageous,
20 intentional, unprivileged and outside the normal risk of employment.

21 20. Moreover, the Hostile Conduct, the Retaliatory Conduct and all of the other unlawful
22 conduct alleged herein and throughout (the 'Unlawful Conduct') was not incidental to any
23 employment or lawful objective, but was maliciously undertaken only to cause injury and harm
24 to Plaintiff by Defendants and each of them, and such conduct was undertaken by their managers
25 and officers.

1 21. At all times mentioned herein, Plaintiff performed their respective job duties for each
2 Defendant and Supervisor in exemplary fashion. Plaintiff endured the Unlawful Conduct during
3 Plaintiff's employ and such Unlawful Conduct increased over time as Defendants' culture
4 became less and less tolerant of the presence of protected-class employees in the workplace.

5 22. The Supervisors were each a direct supervisor acting in the course and scope of
6 Plaintiff's employment when the discriminatory conduct and harassment alleged herein occurred.
7 Said Supervisors not only participated directly in such conduct, but also conspired with each
8 other and other Supervisors of Plaintiff to engage in the Discriminatory Conduct and the
9 Retaliatory Conduct alleged herein. In each event where the Supervisors engaged in the alleged
10 conduct herein, the Corporate Defendant knew and should have known of the discriminatory
11 conduct and harassment alleged, yet failed to take immediate and/or appropriate corrective action
12 as required by Cal. Gov't Code §12940 (j)(1).

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14 **I. FIRST CAUSE OF ACTION BY PLAINTIFF**
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16 **AGAINST DEFENDANT KAISER PERMANENTE, INTERNATIONAL AND KAISER**
17 **PERMANENTE INSURANCE COMPANY**
18 **FOR EMPLOYMENT DISCRIMINATION (HOSTILE ENVIORNMENT)**
19 **BASED UPON RACE**

20 23. Plaintiff re-alleges and incorporates herein by this reference Paragraphs 1-22 above as
21 if they were fully set forth here.

22 24. This action is brought pursuant to the California Fair Employment and Practices Act
23 and California Government Code Sections 12900 et seq. [including 12940(a) and 12940(h)-(k)]
24 which prohibits discrimination, such as: discrimination against a person in the terms, conditions,
25 or privileges of employment on the basis of the person's race.
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1 25. At all times mentioned in this Complaint, the Defendants regularly employed five (5)
2 or more persons, bringing them within the provisions of Section 12900 et seq. of the Government
3 Code prohibiting employers and/or their agents from discriminating against employees on the
4 basis of age, race, gender, disability and other similar reasons. At all times mentioned in this
5 Complaint, Defendants were otherwise obligated to comply with the provisions of the Acts.
6 Plaintiff filed the proper administrative and governmental complaints against Defendants with
7 regard to all applicable claims hereunder and exhausted any and all required administrative
8 remedies, as applicable, in connection therewith.

9 26. At all times, Plaintiff fully and faithfully performed Plaintiff's job duties in a manner
10 which was above the company's standard and above the level of performance exhibited by their
11 non-protected counterparts. Plaintiff performed each of Plaintiff's duties in a manner which was
12 consistently competent, timely and efficient to a greater extent than their non-protected co-
13 workers. As part of Defendants' disciplinary system, policies and practices of adverse
14 employment actions and merit system, Plaintiff was treated in an unfair, inequitable, disparate
15 and less-favorable manner than their non-African American and non-Older (over age 40)
16 counterparts by Defendants on nearly a daily basis during Plaintiff's employment. Such conduct
17 specifically is prohibited by FEHA [including sections 12940(a) and 12940(h)-(k) of the
18 California Government Code].

19 27. Plaintiff was subject to disparate treatment and a hostile working environment by the
20 Defendants as a result of Plaintiff's race (African American / Older (over age 40)). More
21 specifically, as a result of Plaintiff's race, Plaintiff was subjected to the Hostile Conduct, the
22 Retaliatory Conduct and other similar conduct which caused Plaintiff to be mistreated,
23 discriminated against, harassed and treated in a harmful, unfair, inequitable, less-favorable, and
24 disparate manner than Plaintiff's non-African American counterparts due to their race. Such
25 treatment was engaged in intentionally and with specific intent to be demeaning, derogatory and
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1 harmful to Plaintiff because of their race. The specific conduct which Plaintiff witnessed, was
2 subjected to and exposed to in the workplace included, but was not limited to, the following:

3 a) Plaintiff and other African American and/or Older (over age 40) employees
4 were subject to negative/disparaging comments about their personal appearance, work
5 performance, private lives and other matters as a result of their race while their non-protected
6 counterparts were not treated in this manner.

7 b) Plaintiff was falsely accused of poor performance and subjected to
8 disciplinary action and adverse employment actions solely due to Plaintiff's race.

9 c) Plaintiff and other African-American and/or Older (over age 40) employees
10 were routinely not properly trained for their positions and were left to figure out their job duties
11 on their own. Meanwhile, other employees were provided with training, mentorship and ongoing
12 assistance to insure success.

13 d) Plaintiff' Supervisors made false statements complaining about the work of
14 Plaintiff and other African-American and/or Older (over age 40) employees as a result of
15 Plaintiff' race. Plaintiff were routinely and falsely accused of poor performance, had false
16 allegations of poor performance made against them, demoted, unfairly and falsely criticized with
17 respect to Plaintiff's duties and denied access to opportunities for promotions and substantial pay
18 raises while these opportunities were readily offered to employees who were not African-
19 American and/or Older (over age 40).

20 e) Other similar conduct which occurred on a daily basis in the work environment
21 in such a regular, ongoing, open and notorious manner so as to create a culture of hostility, unfair
22 treatment, devaluing, disdain and contempt toward the African-American and Older (over age
23 40) employees, including Plaintiff. The totality of the foregoing circumstances creating an
24 environment which was objectively and subjectively offensive to any reasonable African-
25 American employee and/or to any reasonable person who was not racially prejudiced against
26 Protected Employees. As a result of the conduct described above (and below) the workplace was
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1 permeated with discriminatory intimidation, ridicule, and insult, that was sufficiently severe and
2 pervasive so as to alter the conditions of Plaintiff's employment and create an abusive working
3 environment. In this regard, Plaintiff was forced to continue working under such conditions and
4 to adjust their schedule, walking path, duties and efforts to avoid racist and discriminatory
5 interactions with the identified managers and Supervisors who perpetrated such conduct.
6 Plaintiff had to work longer hours (for which they were not paid), expend more energy and effort
7 (physical and emotional) and work with less support (resources, interaction with supervisors and
8 management), etc. to attempt to minimize the pervasiveness of the hostile and discriminatory
9 environment.

10 28. The foregoing conduct was targeted and uniquely applied to Plaintiff and other
11 African American employees of the Corporate Defendants. Other employees were not subject to
12 such Disparate Treatment. Plaintiff's race (African American) was a substantial and determining
13 factor in Defendants' decision to engage in the Unlawful Conduct and Disparate Treatment
14 described hereinabove which occurred on an ongoing and regular, daily basis. Such conduct
15 permeated the workplace in such a manner that it substantially affected Plaintiff's ability to
16 perform Plaintiff's job functions and caused injuries and damages to Plaintiff as alleged herein.
17 Such conduct specifically is prohibited by FEHA [including sections 12940(a) and 12940(h)-(k)
18 of the California Government Code].

19 29. Additionally, Plaintiff along with other African-American employees and contractors
20 were subjected to the following due to their race:

21 a) Each component of the Hostile Conduct and Retaliatory Conduct set forth
22 hereinabove;

23 b) Each component of the Unlawful Conduct set forth hereinabove;

24 c) The other disparate treatment and other discriminatory conduct alleged herein
25 and throughout which included:
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1 i. African-American employees and contractors being generally treated
2 less favorably than their non-African American counterparts. This includes:

- 3 A) less pay;
4 B) lesser quality assignments;
5 C) harassment;
6 D) rudeness, demeaning behavior and bad-mouthing;
7 E) unprofessional comments, jokes, etc.;
8 F) ignoring and failing to return telephone calls from the African-
9 American employees;
10 American employees;

11 ii. In addition, African-American employees were generally subject to
12 greater scrutiny in their work and received disparaging and untrue performance reviews which
13 were inaccurate and false. Also, African-American employees were more closely monitored,
14 micro-managed and more frequently written-up to the point where it adversely affected
15 productivity and created a hostile environment for Protected Employees. Policies were applied
16 toward Protected Employees in a more harsh and unfair manner as compared to non-Protected
17 Employees. Protected Employees were much more likely to get criticized, scrutinized and/or
18 written-up for minor infractions (or even non-infractions) than their non-African American
19 counterparts.
20 counterparts.

21 iii. African American employees were generally disfavored as compared
22 to non-African American employees who had lesser qualification, educational accomplishments
23 and performance. African-American candidates do not seem to be fairly considered for higher
24 quality assignments internally or externally.

25 iv. African American employees were more likely to get “grunt work”
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1 and/or over-worked as compared to their counterparts. Less favorable assignments were
2 routinely given to the Protected Employees than others. No reason appeared for this other than
3 their race.

4 v. Defendants did not illustrate a commitment to diversity, as is
5 consistently asserted by the Defendants, and/or to rectifying these issues. People who
6 complained were retaliated against and intimidated. The company did not engage in any effective
7 diversity training which was designed to remedy these problems.

8 vi. These problems are embedded in the culture of the Corporate
9 Defendant and systemic in nature. They result in Protected Employees being faced with a
10 discriminatory environment that is harassing, unfair and negatively impacts the performance of
11 Protected Employees and limits their ability to excel and advance within the company.

12 vii. African-American employees were terminated and constructively
13 terminated in an effort to reduce the number of African American employees in the workplace.

14 viii. African-American employees were routinely not provided the proper
15 training and on-boarding that was offered to other non-African American employees.

16 ix. African American employees that did have performance issues were
17 terminated or constructively terminated while non-African American employees with similar or
18 worse performance issues were offered additional training, mentors, assistance and the
19 opportunity to resign.

20 x) The company re-structured their administrative positions in a manner to
21 place the Protected Employees at a disadvantage and either force them to quit or set-up for their
22 positions to be easily eliminated.
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1 xi) African-American employees were placed into temporary roles where
2 they performed higher-level functions of higher-paying positions, but were never properly
3 compensated and/or considered for those higher-level positions.

4 xii) African-American employees were unfairly terminated without
5 company's compliance with their internal procedures and progressive disciplinary policies.

6 xiii) African-American employees were routinely ignored, not greeted by
7 their co-workers, not given return greetings by their co-workers, excluded from meetings and
8 conversations and intentionally made to feel unwelcome in the workplace.

9 xiv) African-American employees including Plaintiff) were generally
10 treated in a dismissive, insignificant, patronizing, rude and unprofessional manner by their
11 managers/supervisors and co-workers who made it clear that the African-American employees'
12 input, suggestions, efforts and observations were not valued, taken seriously and/or treated with
13 the same level of significance and professionalism as their non-African American counterparts.

14 xv) African-American employees (including Plaintiff) were routinely
15 passed-over for promotions by other, lesser-qualified employees (frequently not being notified
16 and/or even considered for such opportunities for which they were interested and qualified.

17 xvi) African-American employees (including Plaintiff) were required to
18 perform more menial, errand-based and insignificant tasks outside of the scope of Plaintiff's
19 employment to a much larger and more frequent degree than their non-African American
20 counterparts.

21 xvii) African-American employees (including Plaintiff) were not properly
22 paid their commissions and other compensation and had such compensation improperly
23 calculated, denied and scrutinized and were subjected to disciplinary action in connection
24 therewith when other, non-African American employees were not treated in such a manner.

25 xviii) In addition to the above, Defendants have engaged in other actions
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1 which are discriminatory in nature against Protected Employees. In fact, even some non-African
2 American employees who tried to balance this unfairness were treated poorly and retaliated
3 against (including having Plaintiff's employment terminated) for those efforts. Plaintiff
4 complained about the conduct on numerous occasions and were retaliated against for making
5 such reports.

6 30. Plaintiff notified Defendants of the Unlawful Conduct based upon the foregoing
7 which imposed an obligation on Defendants to conduct a fair and reasonable investigation into
8 those complaints, to notify the Plaintiff of the outcome of such investigation and to take
9 appropriate remedial measures based thereupon. Defendants failed and refused to do so and
10 instead elected to ratify, condone and deny the Unlawful Conduct when Defendants knew the
11 complaints of Plaintiff to be true. Plaintiff' multiple requests for further investigation and
12 protection from the Retaliatory Conduct, was not only ignored and refused, but such Retaliatory
13 Conduct was intensified. Plaintiff was not afforded access and/or the application of the
14 Defendant's stated policy(ies) of discipline, tolerance of the Unlawful Conduct. In addition to the
15 manifest discriminatory intentions of Defendants and their officers, directors, executives,
16 managing agents, etc.; Defendants' failures and refusals to engage in proper training,
17 supervision, hiring, background checking and other proper human resources functions
18 contributed to the hostile and discriminatory work environment that Plaintiff was subjected to
19 during Plaintiff' employ as well as the conduct alleged herein. The Defendants knew, were
20 informed and apprised and recklessly disregarded the fact that the conduct described herein and
21 other incidents of discrimination were occurring and had occurred and failed to take reasonable
22 steps to prevent and/or discontinue the discrimination and harassment from occurring. In fact,
23 Defendants allowed such conditions to persist and actually condoned, accepted, encouraged,
24 facilitated and furthered such conduct. The Defendants' conduct as alleged in this complaint
25 constitutes an unlawful employment practice in violation of the Fair Employment and Housing
26 Act and California Constitution Article I, Section 8. Such conduct was undertaken, condoned,
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1 approved and directed by the Defendants and their individual employees who were Plaintiff
2 supervisors. Accordingly, Plaintiff alleges that all Defendants are strictly liable for the conduct
3 of these individuals.

4 31. The Defendants knew, were informed and apprised and recklessly disregarded the
5 fact that the Discriminatory Conduct, the Retaliatory Conduct and other incidents of
6 discrimination were occurring and had occurred and failed to take reasonable steps to prevent
7 and/or discontinue the discrimination and harassment from occurring. In fact, Defendants
8 allowed such conditions to persist and actually condoned, accepted, encouraged, facilitated and
9 furthered such conduct. Defendants schemed to force Plaintiff and other Protected Employees to
10 quit Plaintiff's employment as part of the Discriminatory Conduct and the Retaliatory Conduct.
11 When the scheme failed; Defendants simply terminated, attempted to constructively terminate
12 and/or began trumping up performance issues to terminate the African American (and other
13 complaining) employees, including Plaintiff. Such conduct specifically is prohibited by FEHA
14 [including sections 12940(a) and 12940(h)-(k) of the California Government Code].

15 32. As a direct, foreseeable, legal, actual and proximate result of the Defendants'
16 discriminatory acts, the Unlawful Conduct and the Retaliatory Conduct; Plaintiff has suffered
17 and continues to suffer substantial losses in earnings, job benefits, quality of life, goodwill; and
18 has suffered and continues to suffer humiliation, ridicule, contempt, embarrassment, severe
19 mental and emotional distress, damage to Plaintiff's reputation, discomfort and other damages,
20 the precise amount of which will be proven at trial. In each instance, Defendants failed and
21 refused to: (a) take reasonable steps to prevent harassment, (b) utilize the procedures put in place
22 by Defendants to purportedly address allegations of discrimination, harassment and retaliation
23 and (3) allow Plaintiff to engage in the stated procedure(s) and policy(ies) of Defendants which
24 theoretically would have prevented some of the harassment, discrimination, retaliation and
25 (potentially) minimized Plaintiff's damages. Instead Defendants engaged in the retaliatory
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1 conduct alleged herein and disrupted and terminated the policies and processes stated by
2 Defendants which may have otherwise minimized same.

3 33. Defendants, their senior executives, managing agents, managers, directors and
4 officers committed the acts described in this cause of action intentionally, wilfully, oppressively,
5 fraudulently and maliciously for the purpose of injuring Plaintiff and depriving Plaintiff of
6 Plaintiff's rights. The Unlawful Conduct, the Retaliatory Conduct and other discriminatory acts of
7 these persons and Defendants was extremely reckless and capricious and subjected Plaintiff to
8 cruel and unjust hardships. The recklessness was despicable and done in conscious disregard of
9 Plaintiff's fundamental rights. Furthermore, such conduct on the part of Defendants and those
10 persons was intentional, oppressive, fraudulent, malicious and done in a wanton effort to deprive
11 Plaintiff of Plaintiff's fundamental rights. Defendants and those persons intended to cause injury
12 to Plaintiff and engaged in conduct with a willful and conscious disregard of Plaintiff's
13 fundamental rights. Defendants and these persons used their superior power and authority over
14 the Plaintiff along with threats and intimidation to subject Plaintiff to cruel and unjust hardships
15 in conscious disregard of Plaintiff's rights. All of the foregoing conduct was undertaken by the
16 Defendants and their owners, managing agents, senior executives, supervisors, directors and
17 officers. Accordingly, Plaintiff also seeks any allowable and/or appropriate punitive or
18 exemplary damages which may be or become available against Defendants in an amount
19 appropriate to punish and make an example of them in addition to the other damages sought
20 herein, subject to applicable law.

21 22 **II. SECOND CAUSE OF ACTION BY PLAINTIFF**

23 **AGAINST DEFENDANT KAISER PERMANENTE, INTERNATIONAL AND KAISER**
24 **PERMANENTE INSURANCE COMPANY FOR EMPLOYMENT DISCRIMINATION**
25 **(DISPARATE TREATMENT) BASED UPON RACE**
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1 34. Plaintiff realleges and incorporates herein by this reference Paragraphs 1-33 above as
2 though set forth fully here.

3 35. Plaintiff's race is Older (over age 40) and therefor Plaintiff is a member of a
4 "protected class" under FEHA. At all times, Plaintiff was employed by the Corporate Defendant
5 and supervised by the Supervisors. At all times, Plaintiff fully and faithfully performed
6 Plaintiff's job duties in a manner which was above the company's standard and above the level
7 of performance exhibited by their non-protected counterparts. Plaintiff performed each of
8 Plaintiff's duties in a manner which was consistently competent, timely and efficient to a greater
9 extent than their non-protected co-workers. As part of Defendants' disciplinary system, policies
10 and practices of adverse employment actions and merit system, Plaintiff was treated in an unfair,
11 inequitable, disparate and less-favorable manner than their counterparts under the age of forty
12 (40) by Defendants on nearly a daily basis during Plaintiff's employment. Such conduct
13 specifically is prohibited by FEHA [including sections 12940(a) and 12940(h)-(k) of the
14 California Government Code]. The treatment described herein and throughout had an adverse
15 impact on Plaintiff's ability to earn more compensation, be considered for promotions and
16 transfers, eligibility and notification of premium assignments and working conditions. Plaintiff
17 not only encountered racial discrimination directed toward them, but they each worked in an
18 environment where such discrimination was regularly, clearly, openly and notoriously directed
19 solely toward the African-American employees. As a result, Plaintiff directly experienced the
20 discriminatory, harassing and retaliatory treatment alleged herein and experienced, witnessed,
21 perceived and was adversely affected by such treatment of other African-American employees
22 due to race.

23 36. Plaintiff notified Defendants of the foregoing conduct (individually and collectively),
24 the Unlawful Conduct and other discriminatory conduct alleged herein. Defendants were aware
25 that Plaintiff was suffering from the alleged conduct through their direct experience and their
26 witnessing each other (and other African-American employees) being treated in the same
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1 unlawful, discriminatory and harassing manner due to their race. The conduct alleged and the
2 reporting of that conduct imposed an obligation on Defendants to conduct a fair and reasonable
3 investigation into those complaints, to notify the Plaintiff of the outcome of such investigation
4 and to take appropriate remedial measures based thereupon. Defendants failed and refused to do
5 so and instead elected to ratify, condone and falsely deny the existence Unlawful Conduct when
6 Defendants knew the complaints of Plaintiff to be true. Defendants also specifically knew that
7 such conduct occurred on a regular, daily basis in an open and notorious manner. Plaintiff
8 multiple requests for further investigation and protection from the Retaliatory Conduct, was not
9 only ignored and refused, but such Retaliatory Conduct was intensified. Plaintiff was not
10 afforded access to and/or the application of the Defendant's stated policy(ies) of progressive
11 discipline, discrimination, harassment, retaliation and/or tolerance of the Unlawful Conduct due
12 to their race.

13 37. In addition to the manifest discriminatory intentions of Defendants and their
14 officers, directors, executives, managing agents, etc.; Defendants' failures and refusals to engage
15 in proper training, supervision, hiring, background checking and other proper human resources
16 functions contributed to the hostile and discriminatory work environment that Plaintiff was
17 subjected to during Plaintiff's employ as well as the conduct alleged herein. The Defendants
18 knew, were informed and apprised and recklessly disregarded the fact that the conduct described
19 herein and other incidents of discrimination were occurring and had occurred and failed to take
20 reasonable steps to prevent and/or discontinue the discrimination and harassment from occurring.
21 In fact, Defendants allowed such conditions to persist and actually condoned, accepted,
22 encouraged, facilitated and furthered such conduct. The Defendants' conduct as alleged in this
23 complaint constitutes an unlawful employment practice in violation of the Fair Employment and
24 Housing Act and California Constitution Article I, Section 8. Such conduct was undertaken,
25 condoned, approved and directed by the Defendants and their individual employees who were
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1 Plaintiff supervisors. Accordingly, Plaintiff alleges that all Defendants are strictly liable for the
2 conduct of these individuals.

3 38. The Defendants knew, were informed and apprised and recklessly disregarded the
4 fact that the Discriminatory Conduct, the Retaliatory Conduct and other incidents of
5 discrimination were occurring and had occurred and failed to take reasonable steps to prevent
6 and/or discontinue the discrimination and harassment from occurring. In fact, Defendants
7 allowed such conditions to persist and actually condoned, accepted, encouraged, facilitated and
8 furthered such conduct. Defendants schemed to force Plaintiff and other Protected Employees to
9 quit Plaintiff's employment as part of the Discriminatory Conduct and the Retaliatory Conduct.
10 When the scheme failed; Defendants simply terminated, attempted to constructively terminate
11 and/or began trumping up performance issues to terminate the African American (and other
12 complaining) employees, including Plaintiff.

13 39. As a direct, foreseeable, legal, actual and proximate result of the Defendants'
14 discriminatory acts, the Unlawful Conduct, the Retaliatory Conduct and other conduct alleged in
15 this cause of action, Plaintiff suffered a number of adverse employment actions; including,
16 without limitation, loss of pay, demotions, loss of opportunities for advancement and promotion,
17 loss of opportunities for other assignments, disciplinary action, etc. Plaintiff has suffered and
18 continues to suffer substantial losses in earnings, job benefits, quality of life, goodwill; and has
19 suffered and continues to suffer humiliation, ridicule, contempt, embarrassment, severe mental
20 and emotional distress, damage to Plaintiff's reputation, discomfort and other damages, the
21 precise amount of which will be proven at trial. In each instance, Defendants failed and refused
22 to: (a) take reasonable steps to prevent harassment, (b) utilize the procedures put in place by
23 Defendants to purportedly address allegations of discrimination, harassment and retaliation and
24 (3) allow Plaintiff to engage in the stated procedure(s) and policy(ies) of Defendants which
25 theoretically would have prevented some of the harassment, discrimination, retaliation and
26 (potentially) minimized Plaintiff's damages. Instead Defendants engaged in the retaliatory
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1 conduct alleged herein and disrupted and terminated the policies and processes stated by
2 Defendants which may have otherwise minimized same.

3 40. Defendants, their senior executives, managing agents, managers, directors and
4 officers committed the acts described in this cause of action intentionally, wilfully, oppressively,
5 fraudulently and maliciously for the purpose of injuring Plaintiff and depriving Plaintiff of
6 Plaintiff's rights. The Unlawful Conduct, the Retaliatory Conduct and other discriminatory acts of
7 these persons and Defendants was extremely reckless and capricious and subjected Plaintiff to
8 cruel and unjust hardships. The recklessness was despicable and done in conscious disregard of
9 Plaintiff's fundamental rights. Furthermore, such conduct on the part of Defendants and those
10 persons was intentional, oppressive, fraudulent, malicious and done in a wanton effort to deprive
11 Plaintiff of Plaintiff's fundamental rights. Defendants and those persons intended to cause injury
12 to Plaintiff and engaged in conduct with a willful and conscious disregard of Plaintiff's
13 fundamental rights. Defendants and these persons used their superior power and authority over
14 the Plaintiff along with threats and intimidation to subject Plaintiff to cruel and unjust hardships
15 in conscious disregard of Plaintiff's rights. All of the foregoing conduct was undertaken by the
16 Defendants and their owners, managing agents, senior executives, supervisors, directors and
17 officers. Accordingly, Plaintiff also seeks any allowable and/or appropriate punitive or
18 exemplary damages which may be or become available against Defendants in an amount
19 appropriate to punish and make an example of them in addition to the other damages sought
20 herein, subject to applicable law.

21 22 **III. THIRD CAUSE OF ACTION BY PLAINTIFF**

23 **AGAINST DEFENDANT KAISER PERMANENTE, INTERNATIONAL AND KAISER**
24 **PERMANENTE INSURANCE COMPANY FOR DISCRIMINATION BASED UPON**
25 **AGE (OVER AGE 40)**
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1 41. Each such Plaintiff re-alleges and incorporates herein by this reference Paragraphs 1-
2 40 above as if they were fully set forth here.

3 42. This action is brought pursuant to the California Fair Employment and Practices Act
4 and California Government Code Sections 12900 et seq. [including 12940(a) and 12940(h)-(k)]
5 which prohibits discrimination, such as: discrimination against a person in the terms, conditions,
6 or privileges of employment on the basis of the person's age.

7 43. At all times mentioned in this Complaint, the Defendants regularly employed five (5)
8 or more persons, bringing them within the provisions of Section 12900 et seq. of the Government
9 Code prohibiting employers and/or their agents from discriminating against employees on the
10 basis of age, race, gender, disability and other similar reasons. At all times mentioned in this
11 Complaint, Defendants were otherwise obligated to comply with the provisions of the Acts.
12 Plaintiff filed the proper administrative and governmental complaints against Defendants with
13 regard to all applicable claims hereunder and exhausted any and all required administrative
14 remedies, as applicable, in connection therewith.

15 44. At all times, Plaintiff fully and faithfully performed Plaintiff's job duties in a manner
16 which was above the company's standard and above the level of performance exhibited by their
17 non-protected counterparts. Plaintiff performed Plaintiff's duties in a manner which was
18 consistently competent, timely and efficient to a greater extent than their non-protected co-
19 workers. As part of Defendants' disciplinary system, policies and practices of adverse
20 employment actions and merit system, each female Plaintiff was treated in an unfair, inequitable,
21 disparate and less-favorable manner than Plaintiff's younger (under 40) counterparts by
22 Defendants on nearly a daily basis during Plaintiff's employment. Such conduct specifically is
23 prohibited by FEHA [including sections 12940(a) and 12940(h)-(k) of the California
24 Government Code].
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1 45. Plaintiff was subject to disparate treatment and a hostile working environment by the
2 Defendants as a result of Plaintiff's age (over age 40)). More specifically, as a result of each
3 such Plaintiff's age, Plaintiff was subjected to the Hostile Conduct, the Retaliatory Conduct and
4 other similar conduct which caused Plaintiff to be mistreated, discriminated against, harassed and
5 treated in a harmful, unfair, inequitable, less-favorable, and disparate manner than Plaintiff's
6 younger (under 40) counterparts due to age. Such treatment was engaged in intentionally and
7 with specific intent to be demeaning, derogatory and harmful to Plaintiff because of Plaintiff's
8 age. The specific conduct which Plaintiff witnessed, was a victim of, was subjected to and
9 exposed to in the workplace included, but was not limited to, the following, due to Plaintiff's
10 age:

11 a) Plaintiff was subject to negative/disparaging comments about Plaintiff's
12 personal appearance, work performance, private lives and other matters as a result of Plaintiff's
13 age.

14 b) Plaintiff was falsely accused of poor performance and subjected to unfair and
15 baseless disciplinary action and adverse employment actions.

16 c) Plaintiff was routinely not provided proper training for Plaintiff's positions and
17 was left to figure out Plaintiff's job duties without the training and assistance of other younger
18 (under 40) employees. Such other employees were provided with training, mentorship and
19 ongoing assistance to insure success.

20 d) Plaintiff's Supervisors made false statements complaining about the work of
21 Plaintiff and Plaintiff was falsely accused of poor performance and suffered adverse employment
22 actions based thereupon.

23 e) Other similar conduct which occurred on a daily basis in the work environment
24 in such a regular, ongoing, open and notorious manner so as to create a culture of hostility, unfair
25 treatment, devaluing, disdain and contempt toward Plaintiff due to Plaintiff's age. The totality of
26 the foregoing circumstances creating an environment which was objectively and subjectively
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1 offensive to any reasonable older (over 40) employee and/or to any reasonable person who was
2 not prejudiced against Protected Employees. As a result of the conduct described above (and
3 below) the workplace was permeated with discriminatory intimidation, ridicule, and insult, that
4 was sufficiently severe and pervasive so as to alter the conditions of Plaintiff's employment and
5 create an abusive working environment. In this regard, Plaintiff was forced to continue working
6 under such conditions and to adjust their schedule, walking path, duties and efforts to avoid
7 racist and discriminatory interactions with the identified managers and Supervisors who
8 perpetrated such conduct. Plaintiff had to work longer hours, expend more energy and effort
9 (physical and emotional) and work with less support (resources, interaction with supervisors and
10 management), etc. to attempt to minimize the pervasiveness of the hostile and discriminatory
11 environment.

12 46. The foregoing conduct was targeted and uniquely applied to Plaintiff because of
13 Plaintiff's age. Plaintiff's age was a substantial and determining factor in Defendants' decision
14 to engage in the Unlawful Conduct and Disparate Treatment described hereinabove which
15 occurred on an ongoing and regular, daily basis. Such conduct permeated the workplace in such
16 a manner that it substantially affected Plaintiff's ability to perform Plaintiff's job functions and
17 caused injuries and damages to Plaintiff as alleged herein. Such conduct specifically is
18 prohibited by FEHA [including sections 12940(a) and 12940(h)-(k) of the California
19 Government Code].

20 47. Additionally, Plaintiff was subjected to the following due to Plaintiff's age:

- 21 a) Each component of the Hostile Conduct and Retaliatory Conduct set forth
22 hereinabove;
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24 b) Each component of the Unlawful Conduct set forth hereinabove;
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26 c) The other disparate treatment and other discriminatory conduct alleged herein
27 and throughout suffered by Female employees (including each such Plaintiff) which included:
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1 i. Plaintiff was generally treated less favorably than Plaintiff's younger
2 (under 40) counterparts in areas of:

3 A) less pay;

4 B) lesser quality assignments;

5 C) harassment;

6 D) rudeness, demeaning behavior and bad-mouthing;

7 E) unprofessional comments, jokes, etc.

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9 ii. In addition, Plaintiff was generally subject to greater scrutiny in Plaintiff's
10 work and received disparaging and untrue performance reviews which were inaccurate and false
11 due to Plaintiff's age. Also, Plaintiff was more closely monitored, micro-managed and more
12 frequently written-up to the point where it adversely affected productivity and created a hostile
13 environment for Plaintiff due to his age and no legitimate or lawful motivation or factors.
14 Policies were applied toward Plaintiff in a more harsh and unfair manner as compared to other
15 employees.

16
17 iii. Plaintiff and other non-Protected employees were generally disfavored
18 as compared to other employees who had lesser qualification, educational
19 accomplishments and performance. Plaintiff was not fairly considered for higher quality
20 assignments due to Plaintiff's age.

21 iv. Plaintiff was more likely to get "grunt work"
22 and/or over-worked as compared to Plaintiff's non-protected counterparts.

23 v. Defendants did not illustrate a commitment to diversity, as is
24 consistently asserted by the Defendants, and/or to rectifying these issues. People who
25 complained were retaliated against and intimidated. The company did not engage in any effective
26 diversity training which was designed to remedy these problems.
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1 vi. These problems are embedded in the culture of the Corporate
2 Defendant and systemic in nature. They result in Protected Employees being faced with a
3 discriminatory environment that is harassing, unfair and negatively impacts the performance of
4 Protected Employees and limits their ability to excel and advance within the company.

5 vii. Female employees were terminated and constructively terminated in
6 an effort to reduce the number of female employees in the workplace.

7 viii. Female employees were routinely not provided the proper training
8 and on-boarding that was offered to other male employees.

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10 ix. Protected employees that did have performance issues were terminated
11 or constructively terminated while non-protected employees with similar or worse performance
12 issues were offered additional training, mentors, assistance and the opportunity to resign.

13 48. Plaintiff notified Defendants of the Unlawful Conduct based upon the foregoing
14 which imposed an obligation on Defendants to conduct a fair and reasonable investigation into
15 those complaints, to notify the Plaintiff of the outcome of such investigation and to take
16 appropriate remedial measures based thereupon. Defendants failed and refused to do so and
17 instead elected to ratify, condone and deny the Unlawful Conduct when Defendants knew the
18 complaints of Plaintiff to be true. Plaintiff's multiple requests for further investigation and
19 protection from the Retaliatory Conduct, was not only ignored and refused, but such Retaliatory
20 Conduct was intensified. Plaintiff was not afforded access and/or the application of the
21 Defendant's stated policy(ies) of discipline, tolerance of the Unlawful Conduct. In addition to the
22 manifest discriminatory intentions of Defendants and their officers, directors, executives,
23 managing agents, etc.; Defendants' failures and refusals to engage in proper training,
24 supervision, hiring, background checking and other proper human resources functions
25 contributed to the hostile and discriminatory work environment that Plaintiff was subjected to
26 during Plaintiff's employ as well as the conduct alleged herein. The Defendants knew, were
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1 informed and apprised and recklessly disregarded the fact that the conduct described herein and
2 other incidents of discrimination were occurring and had occurred and failed to take reasonable
3 steps to prevent and/or discontinue the discrimination and harassment from occurring. In fact,
4 Defendants allowed such conditions to persist and actually condoned, accepted, encouraged,
5 facilitated and furthered such conduct. The Defendants' conduct as alleged in this complaint
6 constitutes an unlawful employment practice in violation of the Fair Employment and Housing
7 Act and California Constitution Article I, Section 8. Such conduct was undertaken, condoned,
8 approved and directed by the Defendants and their individual employees who were Plaintiff
9 supervisors. Accordingly, Plaintiff alleges that all Defendants are strictly liable for the conduct
10 of these individuals.

11 49. The Defendants knew, were informed and apprised and recklessly disregarded the
12 fact that the Discriminatory Conduct, the Retaliatory Conduct and other incidents of
13 discrimination were occurring and had occurred and failed to take reasonable steps to prevent
14 and/or discontinue the discrimination and harassment from occurring. In fact, Defendants
15 allowed such conditions to persist and actually condoned, accepted, encouraged, facilitated and
16 furthered such conduct. Defendants schemed to force Plaintiff and other Protected Employees to
17 quit Plaintiff's employment as part of the Discriminatory Conduct and the Retaliatory Conduct.
18 When the scheme failed, Defendants simply terminated, attempted to constructively terminate
19 and/or began trumping up performance issues to terminate complaining, Protected Employees
20 (including Plaintiff). Such conduct specifically is prohibited by FEHA [including sections
21 12940(a) and 12940(h)-(k) of the California Government Code].

22 50. As a direct, foreseeable, legal, actual and proximate result of the Defendants'
23 discriminatory acts, the Unlawful Conduct and the Retaliatory Conduct; Plaintiff has suffered
24 and continues to suffer substantial losses in earnings, job benefits, quality of life, goodwill; and
25 has suffered and continues to suffer humiliation, ridicule, contempt, embarrassment, severe
26 mental and emotional distress, damage to Plaintiff's reputation, discomfort and other damages,
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1 the precise amount of which will be proven at trial. In each instance, Defendants failed and
2 refused to: (a) take reasonable steps to prevent harassment, (b) utilize the procedures put in place
3 by Defendants to purportedly address allegations of discrimination, harassment and retaliation
4 and (3) allow Plaintiff to engage in the stated procedure(s) and policy(ies) of Defendants which
5 theoretically would have prevented some of the harassment, discrimination, retaliation and
6 (potentially) minimized Plaintiff's damages. Instead Defendants engaged in the retaliatory
7 conduct alleged herein and disrupted and terminated the policies and processes stated by
8 Defendants which may have otherwise minimized same.

9 51. Defendants, their senior executives, managing agents, managers, directors and
10 officers committed the acts described in this cause of action intentionally, wilfully, oppressively,
11 fraudulently and maliciously for the purpose of injuring Plaintiff and depriving Plaintiff of
12 Plaintiff's rights. The Unlawful Conduct, the Retaliatory Conduct and other discriminatory acts of
13 these persons and Defendants was extremely reckless and capricious and subjected Plaintiff to
14 cruel and unjust hardships. The recklessness was despicable and done in conscious disregard of
15 Plaintiff's fundamental rights. Furthermore, such conduct on the part of Defendants and those
16 persons was intentional, oppressive, fraudulent, malicious and done in a wanton effort to deprive
17 Plaintiff of Plaintiff's fundamental rights. Defendants and those persons intended to cause injury
18 to Plaintiff and engaged in conduct with a willful and conscious disregard of Plaintiff's
19 fundamental rights. Defendants and these persons used their superior power and authority over
20 the Plaintiff along with threats and intimidation to subject Plaintiff to cruel and unjust hardships
21 in conscious disregard of Plaintiff's rights. All of the foregoing conduct was undertaken by the
22 Defendants and their owners, managing agents, senior executives, supervisors, directors and
23 officers. Accordingly, Plaintiff also seeks any allowable and/or appropriate punitive or
24 exemplary damages which may be or become available against Defendants in an amount
25 appropriate to punish and make an example of them in addition to the other damages sought
26 herein, subject to applicable law.

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IV. FOURTH CAUSE OF BY PLAINTIFF
AGAINST KAISER PERMANENTE, INTERNATIONAL AND KAISER
PERMANENTE INSURANCE COMPANY
FOR EMPLOYMENT DISCRIMINATION (DISPARATE TREATMENT)
BASED UPON AGE

52. Plaintiff realleges and incorporates herein by this reference Paragraphs 1-51 above as though set forth fully here.

53. Plaintiff is over the age of forty (40) years and is accordingly a member of a “protected class” under FEHA. At all times, Plaintiff was employed by the Corporate Defendant and supervised by the Supervisors. At all times, Plaintiff fully and faithfully performed Plaintiff’s job duties in a manner which was above the company’s standard and above the level of performance exhibited by their non-protected counterparts. Plaintiff performed Plaintiff’s duties in a manner which was consistently competent, timely and efficient to a greater extent than their non-protected co-workers. As part of Defendants’ disciplinary system, policies and practices of adverse employment actions and merit system, Plaintiff was treated in an unfair, inequitable, disparate and less-favorable manner than Plaintiff’s non-protected counterparts by Defendants on nearly a daily basis during Plaintiff’s employment. Such conduct specifically is prohibited by FEHA [including sections 12940(a) and 12940(h)-(k) of the California Government Code]. The treatment described herein and throughout had an adverse impact on Plaintiff’s ability to earn more compensation, be considered for promotions and transfers, eligibility and notification of premium assignments and working conditions. Plaintiff encountered such discrimination because of Plaintiff’s age and Plaintiff directly experienced the discriminatory, harassing and retaliatory treatment alleged herein. Plaintiff experienced, witnessed, perceived and was adversely affected by such treatment due to Plaintiff’s age.

1 54. Plaintiff notified Defendants of the foregoing conduct (individually and collectively),
2 the Unlawful Conduct and other discriminatory conduct alleged herein. Defendants were aware
3 that Plaintiff was suffering from the alleged conduct through their direct experience and their
4 witnessing of Plaintiff being treated in the same unlawful, discriminatory and harassing manner
5 due to Plaintiff's age. The conduct alleged and the reporting of that conduct imposed an
6 obligation on Defendants to conduct a fair and reasonable investigation into those complaints, to
7 notify the Plaintiff of the outcome of such investigation and to take appropriate remedial
8 measures based thereupon. Defendants failed and refused to do so and instead elected to ratify,
9 condone and falsely deny the existence Unlawful Conduct when Defendants knew the
10 complaints of Plaintiff to be true. Defendants also specifically knew that such conduct occurred
11 on a regular, daily basis in an open and notorious manner in the workplace. Plaintiff's multiple
12 requests for further investigation and protection from the Retaliatory Conduct, was not only
13 ignored and refused, but such Retaliatory Conduct was intensified. Plaintiff was not afforded
14 access to and/or the application of the Defendant's stated policy(ies) of progressive discipline,
15 discrimination, harassment, retaliation and/or tolerance of the Unlawful Conduct due to
16 Plaintiff's age.

17 55. In addition to the manifest discriminatory intentions of Defendants and their
18 officers, directors, executives, managing agents, etc.; Defendants' failures and refusals to engage
19 in proper training, supervision, hiring, background checking and other proper human resources
20 functions contributed to the hostile and discriminatory work environment that Plaintiff was
21 subjected to during Plaintiff's employ as well as the conduct alleged herein. The Defendants
22 knew, were informed and apprised and recklessly disregarded the fact that the conduct described
23 herein and other incidents of discrimination were occurring and had occurred and failed to take
24 reasonable steps to prevent and/or discontinue the discrimination and harassment from occurring.
25 In fact, Defendants allowed such conditions to persist and actually condoned, accepted,
26 encouraged, facilitated and furthered such conduct. The Defendants' conduct as alleged in this
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1 complaint constitutes an unlawful employment practice in violation of the Fair Employment and
2 Housing Act and California Constitution Article I, Section 8. Such conduct was undertaken,
3 condoned, approved and directed by the Defendants and their individual employees who were
4 Plaintiff's supervisors. Accordingly, Plaintiff alleges that all Defendants are strictly liable for the
5 conduct of these individuals.

6 56. The Defendants knew, were informed and apprised and recklessly disregarded the
7 fact that the Discriminatory Conduct, the Retaliatory Conduct and other incidents of
8 discrimination were occurring and had occurred and failed to take reasonable steps to prevent
9 and/or discontinue the discrimination and harassment from occurring. In fact, Defendants
10 allowed such conditions to persist and actually condoned, accepted, encouraged, facilitated and
11 furthered such conduct. Defendants schemed to force Plaintiff and other Protected Employees to
12 quit Plaintiff's employment as part of the Discriminatory Conduct and the Retaliatory Conduct.
13 When the scheme failed; Defendants simply terminated, attempted to constructively terminate
14 and/or began trumping up performance issues to terminate the complaining employees, including
15 Plaintiff.

16 57. As a direct, foreseeable, legal, actual and proximate result of the Defendants'
17 discriminatory acts, the Unlawful Conduct, the Retaliatory Conduct and other conduct alleged in
18 this cause of action, Plaintiff suffered a number of adverse employment actions; including,
19 without limitation, loss of pay, demotions, loss of opportunities for advancement and promotion,
20 loss of opportunities for other assignments, disciplinary action, etc. Plaintiff has suffered and
21 continues to suffer substantial losses in earnings, job benefits, quality of life, goodwill; and has
22 suffered and continues to suffer humiliation, ridicule, contempt, embarrassment, severe mental
23 and emotional distress, damage to Plaintiff's reputation, discomfort and other damages, the
24 precise amount of which will be proven at trial. In each instance, Defendants failed and refused
25 to: (a) take reasonable steps to prevent harassment, (b) utilize the procedures put in place by
26 Defendants to purportedly address allegations of discrimination, harassment and retaliation and
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1 (3) allow Plaintiff to engage in the stated procedure(s) and policy(ies) of Defendants which
2 theoretically would have prevented some of the harassment, discrimination, retaliation and
3 (potentially) minimized Plaintiff's damages. Instead Defendants engaged in the retaliatory
4 conduct alleged herein and disrupted and terminated the policies and processes stated by
5 Defendants which may have otherwise minimized same.

6 58. Defendants, their senior executives, managing agents, managers, directors and
7 officers committed the acts described in this cause of action intentionally, wilfully, oppressively,
8 fraudulently and maliciously for the purpose of injuring Plaintiff and depriving Plaintiff of
9 Plaintiff's rights. The Unlawful Conduct, the Retaliatory Conduct and other discriminatory acts of
10 these persons and Defendants was extremely reckless and capricious and subjected Plaintiff to
11 cruel and unjust hardships. The recklessness was despicable and done in conscious disregard of
12 Plaintiff's fundamental rights. Furthermore, such conduct on the part of Defendants and those
13 persons was intentional, oppressive, fraudulent, malicious and done in a wanton effort to deprive
14 Plaintiff of Plaintiff's fundamental rights. Defendants and those persons intended to cause injury
15 to Plaintiff and engaged in conduct with a willful and conscious disregard of Plaintiff's
16 fundamental rights. Defendants and these persons used their superior power and authority over
17 the Plaintiff along with threats and intimidation to subject Plaintiff to cruel and unjust hardships
18 in conscious disregard of Plaintiff's rights. All of the foregoing conduct was undertaken by the
19 Defendants and their owners, managing agents, senior executives, supervisors, directors and
20 officers. Accordingly, Plaintiff also seeks any allowable and/or appropriate punitive or
21 exemplary damages which may be or become available against Defendants in an amount
22 appropriate to punish and make an example of them in addition to the other damages sought
23 herein, subject to applicable law.

24 25 **V. FIFTH CAUSE OF ACTION** 26 27 28

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BY PLAINTIFF
AGAINST EACH DEFENDANT
FOR RETALIATION FOR FILING COMPLAINT(S) OF
EMPLOYMENT DISCRIMINATION AND UNLAWFUL HARASSMENT

59. Plaintiff re-alleges and incorporates herein by this reference Paragraphs 1-58 above as if they were fully set forth here.

60. This action is brought pursuant to the California Fair Employment and Practices Act and California Government Code Sections 12900 et seq. which prohibits retaliation against those who make complaints of discrimination, such as: discrimination against a person in the terms, conditions, or privileges of employment on the basis of the person's protected status under FEHA.

61. At all times mentioned in this Complaint, the Defendants regularly employed five (5) or more persons, bringing them within the provisions of Section 12900 et seq. of the Government Code prohibiting employers and/or their agents from discriminating against employees on the basis of age, race, gender, disability and other similar reasons. Defendants were required to comply with Government Code Section 12940(h) which prohibits (and declares it an unlawful employment practice) an employer from discharging, expelling, or otherwise discriminating against any person because the person has opposed any practices forbidden by FEHA [and, more specifically, under California Government Code Sections 12940(a) and (h)-(k)] or because the person has filed a complaint, testified, or assisted in any proceeding under the foregoing provisions.

62. Plaintiff filed the proper administrative and governmental complaints against Defendants with regard to all applicable claims hereunder and exhausted any and all required administrative remedies, as applicable, in connection therewith.

63. Plaintiff is a member of a “protected class” under FEHA. At all times, Plaintiff was employed by the Corporate Defendant and supervised by Defendants and other employees. At all times, Plaintiff fully and faithfully performed Plaintiff’s job duties in a manner which was above the company’s standard and above the level of performance exhibited by their non-protected counterparts. Plaintiff performed each of Plaintiff’s duties in a manner which was consistently competent, timely and efficient to a greater extent than their non-protected co-workers. As part of Defendants’ disciplinary system, policies and practices of adverse employment actions and merit system, Plaintiff was treated in an unfair, inequitable, disparate and less-favorable manner than their non-protected counterparts by Defendants on nearly a daily basis during Plaintiff’s employment. The treatment described herein and throughout had an adverse impact on Plaintiff’s ability to earn more compensation, be considered for promotions and transfers, eligibility and notification of premium assignments and working conditions. Plaintiff not only encountered the alleged discrimination directed toward Plaintiff and members of his protected class on a regular basis, but Plaintiff worked in an environment where such discrimination was regularly, clearly, openly and notoriously directed toward Plaintiff because of Plaintiff’s age. As a result, Plaintiff directly experienced the discriminatory, harassing and retaliatory treatment alleged herein and experienced, witnessed, perceived and was adversely affected by such treatment of other protected employees in the workplace due to Plaintiff’s protected status as previously alleged. Plaintiff was subject to disparate treatment and a hostile working environment by the Defendants as a result of Plaintiff’s protected status as alleged herein. More specifically, as a result of Plaintiff’s protected status, Plaintiff was subjected to the Hostile Conduct and Unlawful Conduct alleged hereinabove along with other discriminatory conduct alleged hereinabove.

64. Plaintiff notified Defendants of the Hostile Conduct and Unlawful Conduct alleged hereinabove along with other discriminatory conduct in a manner consisted with Defendants’ stated policies therefor. Such notifications occurred both verbally and writing by Plaintiff and

1 were received by the designated representatives and employees of Defendants. Similarly,
2 Plaintiff indicated that such conduct was systemic, systematic, pervasive and widespread. The
3 foregoing imposed an obligation on Defendants to conduct a fair and reasonable investigation
4 into those complaints, to notify the Plaintiff of the outcome of such investigation and to take
5 appropriate remedial measures based thereupon. Defendants failed and refused to do so and
6 instead elected to ratify, condone and deny the Unlawful Conduct when Defendants knew the
7 complaints of Plaintiff to be true. Plaintiff's multiple requests for further investigation and
8 protection from the Retaliatory Conduct, was not only ignored and refused, but such Retaliatory
9 Conduct was intensified. Plaintiff was not afforded access and/or the application of the
10 Defendant's stated policy(ies) of discipline, tolerance of the Unlawful Conduct. Such
11 notifications were all subsequently directed to Defendants human resources team who then
12 implemented the alleged Retaliatory Conduct and intensified the other Unlawful Conduct alleged
13 herein in direct response to Plaintiff's complaints and notification of harassment, discrimination
14 and retaliation.

15 65. Defendants and each of them engaged in the retaliation (including the Retaliatory
16 Conduct and the intensification of the other Hostile Conduct and unlawful conduct alleged
17 herein) with the specific intent of forcing Plaintiff to drop complaint(s), refrain from pursuing
18 complaints, refrain from supporting other complainants and refrain from making additional
19 complaints. Defendants intent and conduct was to create a chilling effect on employees protected
20 by FEHA and to discourage those persons from making legitimate complaints of discrimination,
21 harassment and retaliation. Defendants undertook efforts to misinform Plaintiff regarding the
22 applicable law (e.g., telling Plaintiff that their complaints, as alleged herein, did not constitute
23 discrimination, harassment and/or retaliation and that Plaintiff could be terminated for making
24 and/or supporting such complaints). In addition to the manifest discriminatory intentions of
25 Defendants and their officers, directors, executives, managing agents, etc.; Defendants' failures
26 and refusals to engage in proper investigations, training, supervision, hiring, background
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1 checking and other proper human resources functions contributed to and fostered the hostile,
2 retaliatory and discriminatory work environment that Plaintiff were subjected to during Plaintiff
3 employ as well as the Retaliatory Conduct alleged herein. The Defendants knew, were informed
4 and apprised and recklessly disregarded the fact that the conduct described herein and other
5 incidents of discrimination, harassment and retaliation based upon race, gender and age were
6 occurring (and had occurred) and failed to take reasonable steps to prevent and/or discontinue the
7 discrimination, harassment and retaliation from occurring. In fact, Defendants allowed such
8 conditions to persist and actually condoned, accepted, encouraged, facilitated and furthered such
9 conduct. The Defendants' Retaliatory Conduct as alleged in this complaint constitutes an
10 unlawful employment practice in violation of the Fair Employment and Housing Act and
11 California Constitution Article I, Section 8. Such Retaliatory Conduct was undertaken,
12 condoned, approved and directed by the Defendants and their individual employees who were
13 Plaintiff supervisors. Accordingly, Plaintiff alleges that all Defendants are strictly liable for the
14 conduct of these individuals.

15 66. Defendants schemed to force Plaintiff to quit Plaintiff's employment as part of the
16 Retaliatory Conduct.

17 67. In each instance, Plaintiff notified Defendants of the foregoing conduct (individually
18 and collectively), the Unlawful Conduct and other discriminatory conduct alleged herein.
19 Defendants were aware that Plaintiff was suffering from the alleged conduct through direct
20 experience and witnessing other protected employees being treated in the same unlawful,
21 discriminatory and harassing manner due to their protected status. The conduct alleged and the
22 reporting of that conduct imposed an obligation on Defendants to conduct a fair and reasonable
23 investigation into those complaints, to notify the Plaintiff of the outcome of such investigation
24 and to take appropriate remedial measures based thereupon. Defendants failed and refused to do
25 so and instead elected to ratify, condone and falsely deny the existence Unlawful Conduct when
26 Defendants knew the complaints of Plaintiff to be true. Defendants also specifically knew that
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1 such conduct occurred on a regular, daily basis in an open and notorious manner. Plaintiff
2 multiple requests for further investigation and protection from the Retaliatory Conduct, was not
3 only ignored and refused, but such Retaliatory Conduct was intensified. Plaintiff was not
4 afforded access to and/or the application of the Defendant's stated policy(ies) of progressive
5 discipline, discrimination, harassment, retaliation and/or tolerance of the Unlawful Conduct due
6 to their race and gender. This was followed by further retaliation against the Plaintiff and other
7 complainants by terminating and/or forcing the termination of Plaintiff's employment, demoting
8 them and/or otherwise engaging in the Retaliatory Conduct alleged herein.

9 68. As a direct, foreseeable, legal, actual and proximate result of the Defendants'
10 discriminatory acts, the Unlawful Conduct and the Retaliatory Conduct; Plaintiff has suffered
11 and continues to suffer substantial losses in earnings, job benefits, quality of life, goodwill; and
12 has suffered and continues to suffer humiliation, ridicule, contempt, embarrassment, severe
13 mental and emotional distress, damage to Plaintiff's reputation, discomfort and other damages,
14 the precise amount of which will be proven at trial. In each instance, Defendants failed and
15 refused to: (a) take reasonable steps to prevent harassment, (b) utilize the procedures put in place
16 by Defendants to purportedly address allegations of discrimination, harassment and retaliation
17 and (3) allow Plaintiff to engage in the stated procedure(s) and policy(ies) of Defendants which
18 theoretically would have prevented some of the harassment, discrimination, retaliation and
19 (potentially) minimized Plaintiff's damages. Instead Defendants engaged in the retaliatory
20 conduct alleged herein and disrupted and terminated the policies and processes stated by
21 Defendants which may have otherwise minimized same.

22 69. Defendants, their senior executives, managing agents, managers, directors and
23 officers committed the acts described in this cause of action intentionally, wilfully, oppressively,
24 fraudulently and maliciously for the purpose of injuring Plaintiff and depriving Plaintiff of
25 Plaintiff's rights. The Unlawful Conduct, the Retaliatory Conduct and other discriminatory acts of
26 these persons and Defendants was extremely reckless and capricious and subjected Plaintiff to
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1 cruel and unjust hardships. The recklessness was despicable and done in conscious disregard of
2 Plaintiff's fundamental rights. Furthermore, such conduct on the part of Defendants and those
3 persons was intentional, oppressive, fraudulent, malicious and done in a wanton effort to deprive
4 Plaintiff of Plaintiff's fundamental rights. Defendants and those persons intended to cause injury
5 to Plaintiff and engaged in conduct with a willful and conscious disregard of Plaintiff's
6 fundamental rights. Defendants and these persons used their superior power and authority over
7 the Plaintiff along with threats and intimidation to subject Plaintiff to cruel and unjust hardships
8 in conscious disregard of Plaintiff's rights. All of the foregoing conduct was undertaken by the
9 Defendants and their owners, managing agents, senior executives, supervisors, directors and
10 officers. Accordingly, Plaintiff also seeks any allowable and/or appropriate punitive or
11 exemplary damages which may be or become available against Defendants in an amount
12 appropriate to punish and make an example of them in addition to the other damages sought
13 herein, subject to applicable law.

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15 **VI. SIXTH CAUSE OF ACTION BY PLAINTIFF**
16 **AGAINST EACH DEFENDANT**
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18 **FOR UNLAWFUL HARASSMENT UNDER THE CALIFORNIA FAIR EMPLOYMENT**
19 **AND HOUSING ACT ("FEHA")**

20 70. Plaintiff re-alleges and incorporates herein by this reference Paragraphs 1-69 above as
21 if they were fully set forth here.

22 71. This action is brought pursuant to the California Fair Employment and Practices Act
23 and California Government Code Sections 12940 et seq. which prohibits harassment against a
24 person based upon their protected status; including, such as the case in this claim, for
25 discrimination against a person in the terms, conditions, or privileges of employment on the basis
26 of the person's race and/or age
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1 72. At all times mentioned in this Complaint, the Defendants regularly employed five (5)
2 or more persons, bringing them within the provisions of Section 12900 et seq. of the Government
3 Code prohibiting employers and/or their agents from discriminating against employees on the
4 basis of age, race, gender, disability and other similar reasons.

5 73. At all times mentioned in this Complaint, Defendants were otherwise obligated to
6 comply with the provisions of the Acts. Plaintiff filed the proper administrative and
7 governmental complaints against Defendants with regard to all applicable claims hereunder and
8 exhausted any and all required administrative remedies, as applicable, in connection therewith.

9 75. Plaintiff is a member of a "protected class" under FEHA due to his race and age. At
10 all times, Plaintiff was employed by the Corporate Defendant and supervised by Defendants and
11 their Supervisors. At all times, Plaintiff fully and faithfully performed Plaintiff's job duties in a
12 manner which was above the company's standard and above the level of performance exhibited
13 by their non-protected counterparts. Plaintiff performed Plaintiff's duties in a manner which was
14 consistently competent, timely and efficient to a greater extent than their non-protected co-
15 workers. As part of Defendants' disciplinary system, policies and practices of adverse
16 employment actions and merit system, Plaintiff was treated in an unfair, inequitable, disparate
17 and less-favorable manner than their non-protected counterparts by Defendants on nearly a daily
18 basis during Plaintiff's employment. The treatment described herein and throughout had an
19 adverse impact on Plaintiff's ability to earn more compensation, be considered for promotions
20 and transfers, eligibility and notification of premium assignments and working conditions.
21 Plaintiff not only encountered discrimination directed toward them, but they each worked in an
22 environment where such discrimination was regularly, clearly, openly and notoriously directed
23 solely toward the protected classes of employees. As a result, Plaintiff directly experienced the
24 discriminatory, harassing and retaliatory treatment alleged herein and experienced, witnessed,
25 perceived and was adversely affected by such treatment of other similarly, protected employees
26 due to their protected status. Plaintiff was subject to disparate treatment and a hostile working
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1 environment by the Defendants as a result of that Plaintiff's race (African American) and age
2 (over age 40) as alleged herein. More specifically, as a result of Plaintiff's protected status,
3 Plaintiff was subjected to the Hostile Conduct, Unlawful Conduct and Retaliatory Conduct
4 alleged hereinabove along with other discriminatory conduct alleged hereinabove.

5 76. Plaintiff notified Defendant of the Hostile Conduct, Retaliatory Conduct and other
6 unlawful conduct alleged hereinabove along with other discriminatory conduct, which imposed
7 an obligation on Defendants to conduct a fair and reasonable investigation into those complaints,
8 to notify the Plaintiff of the outcome of such investigation and to take appropriate remedial
9 measures based thereupon. Defendants failed and refused to do so and instead elected to ratify,
10 condone and deny the Unlawful Conduct when Defendants knew the complaints of Plaintiff to be
11 true. Plaintiff' multiple requests for further investigation and protection from the Unlawful
12 Conduct, was not only ignored and refused, but such Unlawful Conduct was intensified.
13 Plaintiff was not afforded access and/or the application of the Defendant's stated policy(ies) of
14 discipline, tolerance of the Unlawful Conduct.

15 77. In addition to the manifest discriminatory intentions of Defendants and their
16 officers, directors, executives, managing agents, etc.; Defendants' failures and refusals to engage
17 in proper investigations, training, supervision, hiring, background checking and other proper
18 human resources functions contributed to the hostile, retaliatory and discriminatory work
19 environment that Plaintiff were subjected to during Plaintiff' employ as well as the Retaliatory
20 Conduct alleged herein. The Defendants knew, were informed and apprised and recklessly
21 disregarded the fact that the conduct described herein and other incidents of discrimination were
22 occurring and had occurred and failed to take reasonable steps to prevent and/or discontinue the
23 discrimination and harassment from occurring. In fact, Defendants allowed such conditions to
24 persist and actually condoned, accepted, encouraged, facilitated and furthered such conduct. The
25 Defendants' Unlawful Conduct as alleged in this complaint constitutes an unlawful employment
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1 practice in violation of the Fair Employment and Housing Act and California Constitution
2 Article I, Section 8. Such Retaliatory Conduct was undertaken, condoned, approved and directed
3 by the Defendants and their individual employees who were Plaintiff's supervisors. Accordingly,
4 Plaintiff alleges that all Defendants are strictly liable for the conduct of these individuals.

5 78. The Defendants knew, were informed and apprised and recklessly disregarded the
6 fact that the Retaliatory Conduct and other incidents of discrimination were occurring and had
7 occurred and failed to take reasonable steps to prevent and/or discontinue the discrimination and
8 harassment from occurring. In fact, Defendants allowed such conditions to persist and actually
9 condoned, accepted, encouraged, facilitated and furthered such Retaliatory Conduct. Defendants
10 schemed to force Plaintiff and other Protected Employees to quit Plaintiff's employment as part
11 of the Retaliatory Conduct.

12 79. This was followed by a pattern of harassment against Plaintiff which included:

- 13 a) Denial of promotions and raises;
- 14 b) Denial of benefits and coverage;
- 15 c) Falsely accusing Plaintiff of poor performance;
- 16 d) Denying Plaintiff's to key, necessary information in the performance of
17 Plaintiff's duties;
- 18 e) Ostracizing and intimidating Plaintiff
- 19 f) Suspension and termination of Plaintiff's employment
- 20 g) Other similar and similarly-motivated conduct and harassment specifically
21 designed to force Plaintiff to abandon their complaints and to quit their jobs.

22 80. As a direct, foreseeable, legal, actual and proximate result of the Defendants'
23 discriminatory acts, the Unlawful Conduct and the Retaliatory Conduct; Plaintiff has suffered
24 and continues to suffer substantial losses in earnings, job benefits, quality of life, goodwill; and
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1 has suffered and continues to suffer humiliation, ridicule, contempt, embarrassment, severe
2 mental and emotional distress, damage to Plaintiff's reputation, discomfort and other damages,
3 the precise amount of which will be proven at trial. In each instance, Defendants failed and
4 refused to: (a) take reasonable steps to prevent harassment, (b) utilize the procedures put in place
5 by Defendants to purportedly address allegations of discrimination, harassment and retaliation
6 and (3) allow Plaintiff to engage in the stated procedure(s) and policy(ies) of Defendants which
7 theoretically would have prevented some of the harassment, discrimination, retaliation and
8 (potentially) minimized Plaintiff's damages. Instead Defendants engaged in the retaliatory
9 conduct alleged herein and disrupted and terminated the policies and processes stated by
10 Defendants which may have otherwise minimized same.

11 81. Defendants, their senior executives, managing agents, managers, directors and
12 officers committed the acts described in this cause of action intentionally, wilfully, oppressively,
13 fraudulently and maliciously for the purpose of injuring Plaintiff and depriving Plaintiff of
14 Plaintiff's rights. The Unlawful Conduct, the Retaliatory Conduct and other discriminatory acts of
15 these persons and Defendants was extremely reckless and capricious and subjected Plaintiff to
16 cruel and unjust hardships. The recklessness was despicable and done in conscious disregard of
17 Plaintiff's fundamental rights. Furthermore, such conduct on the part of Defendants and those
18 persons was intentional, oppressive, fraudulent, malicious and done in a wanton effort to deprive
19 Plaintiff of Plaintiff's fundamental rights. Defendants and those persons intended to cause injury
20 to Plaintiff and engaged in conduct with a willful and conscious disregard of Plaintiff's
21 fundamental rights. Defendants and these persons used their superior power and authority over
22 the Plaintiff along with threats and intimidation to subject Plaintiff to cruel and unjust hardships
23 in conscious disregard of Plaintiff's rights. All of the foregoing conduct was undertaken by the
24 Defendants and their owners, managing agents, senior executives, supervisors, directors and
25 officers. Accordingly, Plaintiff also seeks any allowable and/or appropriate punitive or
26 exemplary damages which may be or become available against Defendants in an amount
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1 appropriate to punish and make an example of them in addition to the other damages sought
2 herein, subject to applicable law.

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4 **VII. SEVENTH CAUSE OF ACTION BY PLAINTIFF**
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6 **AGAINST EACH DEFENDANT FOR**
7 **VIOLATION OF CALIFORNIA LABOR CODE SECTION 1102.5 ET SEQ**
8 **(WHISTLE BLOWER)**

9 82. Plaintiff realleges and incorporates herein by this reference Paragraphs 1-81 above as
10 though set forth fully here.

11 83. The Corporate Defendant is an employer and their co-Defendants are each “a person
12 acting on behalf of the employer” as defined in paragraph (1) of subdivision (a) of California
13 Labor Code Section 2810.3 and an employer listed in subdivision (b) of Labor Code Section
14 6400. In this regard, each Defendant acted individually on behalf of the Corporate Defendant in

15 a) adopting and enforcing a series of rules and *de facto* policies which prevented
16 Plaintiff from disclosing information to a person with authority over the employee and to another
17 employee who has authority to investigate, discover and/or correct the multiple violations
18 alleged herein of FEHA. More specifically:

19 i) Defendants violated the rules, policies and provisions of Government
20 Code Sections 12940(a) and 12940(h)-(k) as previously alleged herein by engaging in multiple
21 offenses described herein as the Hostile Conduct, Unlawful Conduct, Disparate Treatment,
22 Retaliatory Treatment, etc.;

23 ii) Defendants violated the rules, policies and provisions of FEHA, as
24 previously alleged herein, by retaliating against Plaintiff;
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1 iii) Defendants violated their internal, stated rules and policies of non-
2 discrimination and non-retaliation against employees who made complaints of discrimination,
3 harassment and retaliation under FEHA and otherwise);

4 iv) Plaintiff and others complained about the foregoing violations;

5 v) Defendants established a policy and undertook the Retaliatory Conduct
6 and other conduct alleged herein for purposes of preventing Plaintiff and other employees from
7 disclosing information to a person with authority over the employee or to another employee who
8 had authority to investigate, discover and/or correct these violations of FEHA and non-
9 compliance with the Corporate Defendant's policies prohibiting discrimination, harassment and
10 retaliation;

11 vi) Defendants established a policy and undertook the Retaliatory
12 Conduct and other conduct alleged herein for purposes of preventing Plaintiff and other
13 employees from testifying in Court, giving witness statements to the Department of Fair
14 Employment and Housing and/or Equal Employment Opportunity Commission.

15 vii) The policies referenced above included threats, intimidation and
16 retaliation against Plaintiff.

17 viii) The policies referenced herein as part of the Retaliatory Conduct
18 were designed to have a chilling effect on employees (including Plaintiff) of making complaints
19 of discrimination, harassment and retaliation in the workplace and to governmental agencies.

20 b) retaliating against Plaintiff and other employees making complaints of
21 discrimination, harassment and retaliation and disclosing information regarding same.

22 c) retaliating against Plaintiff and other employees who the Defendants believed
23 disclosed and/or may disclose the Unlawful Conduct, Hostile Conduct, Disparate Treatment and
24 Retaliatory Conduct alleged herein to government agencies (e.g., DFEH and EEOC) and internal
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1 employees with authority to investigate, address, discover, correct and/or take other legal and
2 appropriate action on complaints of discrimination, harassment and retaliation.

3 d) retaliating against Plaintiff for not dismissing or dropping their complaints of
4 discrimination, harassment and retaliation.

5 84. In connection with each of the foregoing acts, Defendants each retaliated against
6 Plaintiff for Plaintiff disclosing information and because Defendants believed that Plaintiff
7 disclosed information (as alleged herein) to a person with authority over the employee or another
8 employee who has the authority to investigate, discover, or correct the violation or
9 noncompliance, or for providing information to, or testifying before, any public body conducting
10 an investigation, hearing, or inquiry. Such conduct was in violation of California Labor Code
11 Sections 1102.5(a), (b), (c) and (d). The disclosed information consisted of the Unlawful
12 Conduct and Disparate Treatment alleged hereinabove along with other discriminatory conduct
13 alleged herein; all of which is unlawful under Government Code Sections 12940(a) and 12940
14 (h)-(k) and otherwise. Plaintiff had reasonable cause to believe that such information disclosed a
15 violation of state or federal statute, or a violation of or noncompliance with a local, state, or
16 federal rule or regulation, as set forth above. Plaintiff believed that attempting to correct the
17 conduct referenced in such information and, after Defendants refused to correct such conduct,
18 reporting such conduct; was part of Plaintiff's lawful rights and duties under FEHA; Defendants'
19 policies against discrimination, harassment and retaliation and otherwise.

20 85. As a result of Defendants' belief and knowledge that Plaintiff would and ultimately
21 did report such information referenced hereinabove, Defendants retaliated against Plaintiff by
22 engaging in the Retaliatory Conduct referenced hereinabove. Such retaliatory conduct by
23 Defendants was also due to Plaintiff refusing to participate in the described improper activities
24 (which resulted in a violation of state or federal statute, or a violation of or noncompliance with a
25 local, state, or federal rule or regulation; to with, the anti-discrimination, anti-harassment and
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1 anti-retaliation provisions of the Fair Employment and Housing Act). Furthermore, such
2 retaliatory conduct by Defendants was also due to Plaintiff having exercised Plaintiff's rights
3 under Labor Code Section 1102.5(a)-(c) in reporting the unlawful conduct alleged herein.

4 86. In addition to the manifest discriminatory intentions of Defendants and their
5 officers, directors, executives, managing agents, etc.; Defendants' failures and refusals to engage
6 in proper investigations, training, supervision, hiring, background checking and other proper
7 human resources functions contributed to the hostile, retaliatory and discriminatory work
8 environment that Plaintiff was subjected to during Plaintiff's employ as well as the Retaliatory
9 Conduct alleged herein. The Defendants knew, were informed and apprised and recklessly
10 disregarded the fact that the conduct described herein and other incidents of discrimination were
11 occurring and had occurred and failed to take reasonable steps to prevent and/or discontinue the
12 discrimination and harassment from occurring. In fact, Defendants allowed such conditions to
13 persist and actually condoned, accepted, encouraged, facilitated and furthered such conduct. The
14 Defendants' Unlawful Conduct as alleged in this complaint constitutes an unlawful employment
15 practice in violation of the Fair Employment and Housing Act and California Constitution
16 Article I, Section 8. Such Retaliatory Conduct was undertaken, condoned, approved and directed
17 by the Defendants and their individual employees who were Plaintiffs' supervisors. Accordingly,
18 Plaintiffs alleges that all Defendants are strictly liable for the conduct of these individuals.

19 87. The Defendants knew, were informed and apprised and recklessly disregarded the
20 fact that the Retaliatory Conduct and other incidents of discrimination were occurring and had
21 occurred and failed to take reasonable steps to prevent and/or discontinue the discrimination and
22 harassment from occurring. In fact, Defendants allowed such conditions to persist and actually
23 condoned, accepted, encouraged, facilitated and furthered such Retaliatory Conduct. Defendants
24 schemed to force Plaintiff and other women and Protected Employees to quit their employment
25 as part of the Retaliatory Conduct. Defendants also instructed other employees of the Corporate
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1 Defendant to further harass, intimidate, mistreat, retaliate against and disrupt Plaintiff's work
2 environment in an effort to discourage and institute fear, worry and emotional distress for
3 Plaintiff due to their complaining about the discrimination alleged herein. Such conduct and
4 harassment was specifically designed to force Plaintiff to abandon their complaints and to quit
5 their jobs. Each Defendant was aware of such conduct and took no efforts to avoid it. In fact,
6 each Defendant approved, condoned, consented to and supported the conduct and engaged in a
7 consistent and ever-escalating pattern of retaliation (including intensifying the Retaliatory
8 Conduct alleged herein) against Plaintiff.

9 88. As a direct, foreseeable, legal, actual and proximate result of the Defendants'
10 violations of Labor Code Section 1102.5 as alleged herein and otherwise (the "Whistleblower
11 Retaliation"); Plaintiff has suffered and continues to suffer substantial losses in earnings, job
12 benefits, quality of life, goodwill; and has suffered and continues to suffer humiliation, ridicule,
13 contempt, embarrassment, severe mental and emotional distress, damage to Plaintiff's
14 reputation, discomfort and other damages, the precise amount of which will be proven at trial. In
15 each instance, Defendants (and each of them) failed and refused to: (a) take reasonable steps to
16 prevent harassment, (b) utilize the procedures put in place by Defendants to purportedly address
17 allegations of discrimination, harassment and retaliation and (3) allow Plaintiff to engage in the
18 stated procedure(s) and policy(ies) of Defendants which theoretically would have prevented
19 some of the harassment, discrimination, retaliation and (potentially) minimized Plaintiff's
20 damages. Instead Defendants (and each of them) engaged in the retaliatory conduct alleged
21 herein and disrupted and terminated the policies and processes stated by Defendants which may
22 have otherwise minimized same.

23 89. In addition to the foregoing damages, as the Corporate Defendant is a corporation or
24 limited liability company, the Corporate Defendant is liable in connection with the
25 Whistleblower Retaliation, for additional civil penalties not exceeding ten thousand dollars
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1 (\$10,000) for each violation of Labor Code Section 1102.5. Collectively, Plaintiffs allege in
2 excess of twenty (20) such violations.

3 90. Defendants, their senior executives, managing agents, managers, directors and
4 officers committed the acts described in this cause of action intentionally, wilfully, oppressively,
5 fraudulently and maliciously for the purpose of injuring Plaintiffs and depriving Plaintiffs of
6 Plaintiffs' rights. The Unlawful Conduct, the Retaliatory Conduct and other discriminatory acts
7 of these persons and Defendants was extremely reckless and capricious and subjected Plaintiffs
8 to cruel and unjust hardships. The recklessness was despicable and done in conscious disregard
9 of Plaintiffs' fundamental rights. Furthermore, such conduct on the part of Defendants and those
10 persons was intentional, oppressive, fraudulent, malicious and done in a wanton effort to deprive
11 Plaintiffs of Plaintiffs' fundamental rights. Defendants and those persons intended to cause
12 injury to Plaintiffs and engaged in conduct with a willful and conscious disregard of Plaintiffs'
13 fundamental rights. Defendants and these persons used their superior power and authority over
14 the Plaintiffs along with threats and intimidation to subject Plaintiffs to cruel and unjust
15 hardships in conscious disregard of Plaintiffs' rights. All of the foregoing conduct was
16 undertaken by the Defendants and their owners, managing agents, senior executives, supervisors,
17 directors and officers. Accordingly, Plaintiffs also seeks any allowable and/or appropriate
18 punitive or exemplary damages which may be or become available against Defendants in an
19 amount appropriate to punish and make an example of them in addition to the other damages
20 sought herein, subject to applicable law.

21 **PRAYER FOR RELIEF**

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24 WHEREFORE , Plaintiff prays judgment against Defendants as follows:

- 25 1. For general and special damages according to proof;
- 26 2. For special damages according to proof;
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1 3. For interest, according to law, on the amount to be ascertained at trial from the
2 applicable date upon which that interest begins to accrue according to law and as proved at trial;

3 4. For any and all costs and attorneys' fees as provided by law;

4 5. For allowable and applicable punitive damages in an amount sufficient to deter
5 Defendants from engaging in such conduct again in the future; and

6 6. For any other and further relief according to proof, any applicable law and/or that the
7 Court considers proper.
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10 **DEMAND FOR JURY TRIAL**

11 Plaintiff hereby demand a trial by jury of the foregoing causes of action.
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17 DATED: March 11, 2020

18 Michael S. Traylor, Esq.
19 Michael S. Traylor, Esq.
20 Attorney for Plaintiff
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