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**FILED**  
**ALAMEDA COUNTY**

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Attorney for: Plaintiff MICHELE SCOTT

SUPERIOR COURT OF CALIFORNIA  
IN AND FOR THE COUNTY OF ALAMEDA

MICHELE SCOTT

Plaintiff,

vs.

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

Defendants.

Case No.

**RG14747241**

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

PLAINTIFF, MICHELE SCOTT ALLEGES AS FOLLOWS:

**FIRST CAUSE OF ACTION**

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

1. Plaintiff, MICHELE SCOTT, (hereinafter "plaintiff") is a resident of the City of Oakland, County of Alameda. Plaintiff was employed by defendant KAISER PERMANENTE, a business entity form unknown. Plaintiff is a 48 year old African American female.

2. The true names and/or capacities, whether individual, corporate or associate or otherwise, of a defendant named in this action as Does 1 through 50, inclusive are unknown to plaintiff at this time; therefore, plaintiff sues such defendants by said fictitious names, and plaintiff will amend this complaint to show their true names and capacities upon discovery of same. Plaintiff is informed and believes, and COMPLAINT FOR DAMAGES FOR EMPLOYMENT DISCRIMINATION AND HARASSMENT (VIOLATION OF FAIR EMPLOYMENT AND HOUSING ACT); AND REQUEST FOR JURY TRIAL

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

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

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

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

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

23 7. Plaintiff commenced her employment with and was employed by defendant KAISER  
24 PERMANENTE continuing through September 16, 2013.

25 8. At all material times, various employees, whose identities are currently unknown, were supervisory  
26 employees of defendant KAISER PERMANENTE and plaintiff's supervisors and in doing the things  
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hereinafter alleged said employees were acting as the agents of KAISER PERMANENTE and were acting within the course and scope of that relationship.

9. Throughout the period that plaintiff was employed by KAISER PERMANENTE, KAISER PERMANENTE acting through its agents and plaintiff's managers, supervisors and others engaged in intentional acts with the intent of discriminating against and harassing plaintiff on account of her physical disability and mental disability in violation of the provisions of the California Fair Employment and Housing Act (FEHA) (Govt. C. §§12900- 12996). During the course of her employment, plaintiff came under the supervision of defendant's managers and supervisors who subjected plaintiff to differential terms and conditions of employment because of her physical disability and mental disability. These differential terms and conditions of employment included but were not limited to harassment not experienced by employees who were not disabled, as well as excessive criticism not otherwise directed to employees who were not disabled. Such discrimination and harassment consisted of, but was not limited to, unfounded complaints made against plaintiff concerning plaintiff's work, retaliation against plaintiff, denial of advancement, promotions, severance package, retirement package and other benefits, and repeated acts of harassment and discrimination directed at plaintiff which for her created a hostile work environment and which resulted in her termination on or about September 16, 2013.

10. During her employment, plaintiff suffered a serious injury and learned that she had the following physical disability and mental disability (a medical disability of the Body, Limbs and Head). At that time KAISER PERMANENTE was aware of Plaintiff's physical disabilities and mental disability set forth above because Plaintiff informed KAISER PERMANENTE of her physical disabilities and mental disability, and KAISER PERMANENTE was aware that Plaintiff was treating for her physical disabilities and mental disability.

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

12. At all times mentioned herein, Plaintiff was willing and able to perform the duties and functions of her employment if such reasonable accommodation had been made by KAISER PERMANENTE. At no

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1 time would the performance of the functions of the employment position, with a reasonable accommodation  
2 for Plaintiff's physical disabilities and mental disability have been a danger to Plaintiff's, or any other  
3 person's health or safety, nor would it have created an undue hardship to the operation of KAISER  
4 PERMANENTE's business.

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

8 14. KAISER PERMANENTE was aware of plaintiff's physical disabilities and mental disability set  
9 forth above because plaintiff informed KAISER PERMANENTE of her physical disabilities and mental  
10 disability, and KAISER PERMANENTE was aware that plaintiff was limited by her physical disabilities  
11 and mental disability.

12 15. On or about September 16, 2013, KAISER PERMANENTE terminated plaintiff's employment with  
13 KAISER PERMANENTE allegedly due to her disability.

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

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

20 18. Plaintiff is informed and believes and thereon alleges that KAISER PERMANENTE's articulated  
21 reason for terminating her employment was pretextual. In actuality KAISER PERMANENTE failed to  
22 reasonably accommodate plaintiff's needs based on her physical disabilities and mental disability, and  
23 KAISER PERMANENTE rather than accommodating plaintiff's needs based on her physical disabilities  
24 and mental disability terminated her employment.

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

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

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

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

20 23. As a proximate result of KAISER PERMANENTE's discriminatory and harassing actions against  
21 plaintiff as alleged above, plaintiff has been harmed in that plaintiff has sustained substantial compensable  
22 losses, including, but not limited to: losses in earnings, wages, salary, commissions, bonuses, deferred  
23 compensation and other employment benefits, injuries to plaintiff's protected property interests, general  
24 damage to plaintiff's reputation, loss due to stigma, injury to plaintiff's property, business, trade, profession  
25 and occupation, the expenses plaintiff has incurred mitigating the conduct of KAISER PERMANENTE,  
26 losses incurred seeking substitute employment and loss of earnings, deferred compensation and other

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1 employment benefits, the attorneys' fees and other litigation expenses plaintiff has incurred and will  
2 continue to incur in prosecuting this action, interest on the amount of losses incurred in earnings, deferred  
3 compensation and other employee benefits, the interest on borrowed money, the value of plaintiff's time in  
4 prosecuting this action, the travel expenses plaintiff has incurred and will continue to incur in prosecuting  
5 this action; other economic losses, other incidental expenses and other special and general damages.

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

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

13 25. In or about November 11, 2013, and within one year of the date of the last act in the continuing  
14 pattern and practice of discrimination herein alleged against defendants by plaintiff, plaintiff filed a charge  
15 of discrimination with the California Department of Fair Employment and Housing (hereafter, DFEH)  
16 against all named defendants.

17 26. On or about November 11, 2013 the DFEH issued to plaintiff a notice of right to bring a civil action  
18 against all named defendants based on the charges of discrimination filed with the DFEH.

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

## 20 **SECOND CAUSE OF ACTION**

21 **(Plaintiff MICHELE SCOTT'S Second Cause of Action for Employment Discrimination On The**  
22 **Basis of Age, Violation of Fair Employment and Housing Act against defendant KAISER**  
23 **PERMANENTE and DOES 1-50)**

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

26  
27 **COMPLAINT FOR DAMAGES FOR EMPLOYMENT DISCRIMINATION AND HARASSMENT**  
28 **(VIOLATION OF FAIR EMPLOYMENT AND HOUSING ACT); AND REQUEST FOR JURY TRIAL**

29. Throughout the period that plaintiff was employed by KAISER PERMANENTE, KAISER PERMANENTE, acting through its agents and plaintiff's managers, supervisors and others engaged in intentional acts with the intent of discriminating against and harassing plaintiff on account of her age in violation of the provisions of the California Fair Employment and Housing Act (FEHA) (Govt. C. §§12900-12996). During the course of her employment, plaintiff came under the supervision of defendant's managers and supervisors who subjected plaintiff to differential terms and conditions of employment because of her age. These differential terms and conditions of employment included but were not limited to harassment not experienced by employees who were younger than plaintiff, as well as excessive criticism not otherwise directed to employees who were younger than plaintiff. Such discrimination and harassment consisted of, but was not limited to, unfounded complaints made against plaintiff concerning plaintiff's work, retaliation against plaintiff, denial of advancement, promotions, severance package, retirement package and other benefits, and repeated acts of harassment and discrimination directed at plaintiff which for her created a hostile work environment and which resulted in her termination on or about September 16, 2013.

30. Plaintiff is informed and believes and thereon alleges that she was terminated from her position with KAISER PERMANENTE because of her age, at the time of her termination. (48). At the time plaintiff was terminated plaintiff was qualified for her position. Plaintiff is informed and believes and thereon alleges that subsequent to her termination KAISER PERMANENTE hired a substantially less qualified, substantially younger applicant to fill her position.

31. As a result of KAISER PERMANENTE's policies and practices plaintiff was unjustly and discriminatorily deprived of equal employment opportunities because of her age.

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

33. During the aforementioned dates, KAISER PERMANENTE also subjected the plaintiff to differential treatment. KAISER PERMANENTE made its employment decisions related to imposition of discipline and termination solely on the basis of improper consideration of the age of plaintiff, and

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completely subjective analysis in willful disregard of leadership qualities, merit, past record, qualification, reaction of other employees etc. No fair and objective standards were used for decisions related to the imposition of discipline and termination. KAISER PERMANENTE's decision making process related to rehiring, advancement, promotion, discipline, pay raises, entitlement to severance and retirement packages was a primary source of discrimination which resulted in an improper denial of advancement, retirement and severance opportunities to employees older than age 40, and in particular to plaintiff.

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

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

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

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1 expenses and other special and general damages. Plaintiff's substantial compensable losses are in amounts  
2 not fully ascertained.

3 37. In or about November 11, 2013, and within one year of the date of the last act in the continuing  
4 pattern and practice of discrimination herein alleged against defendants by plaintiff, plaintiff filed a charge  
5 of discrimination with the California Department of Fair Employment and Housing (hereafter, DFEH)  
6 against all named defendants.

7 38. On or about November 11, 2013 the DFEH issued to plaintiff a notice of right to bring a civil action  
8 against all named defendants based on the charges of discrimination filed with the DFEH.

9 **THIRD CAUSE OF ACTION**

10 **(Plaintiff MICHELE SCOTT'S Third Cause of Action for Employment Discrimination On The Basis**  
11 **of Race, Violation Of Fair Employment And Housing Act against defendant KAISER**  
12 **PERMANENTE and DOES 1-50)**

13 39. Plaintiff refers to, realleges, and incorporates by reference, as though fully set forth herein, the  
14 allegations, and each of them, contained in paragraphs 1 through 38.

15 40. Throughout the period that plaintiff was employed by KAISER PERMANENTE, KAISER  
16 PERMANENTE acting through its agents and plaintiff's managers, supervisors and others engaged in  
17 intentional acts with the intent of discriminating against and harassing plaintiff on account of her race  
18 (African-American) in violation of the provisions of the California Fair Employment and Housing Act  
19 (FEHA) (Govt. C. §§12900-12996). During the course of her employment, plaintiff came under the  
20 supervision of defendant's managers and supervisors who subjected plaintiff to differential terms and  
21 conditions of employment because of her race. These differential terms and conditions of employment  
22 included but were not limited to harassment not experienced by employees who were of a different race or  
23 national origin than plaintiff, as well as excessive criticism not otherwise directed to employees who were of  
24 a different race or national origin than plaintiff. Such discrimination and harassment consisted of, but was  
25 not limited to, unfounded complaints made against plaintiff concerning plaintiff's work, retaliation against  
26 plaintiff, denial of advancement, promotions, severance package, retirement package and other benefits, and

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1 repeated acts of harassment and discrimination directed at plaintiff which for her created a hostile work  
2 environment and which resulted in her termination on or about September 16, 2013.

3 41. KAISER PERMANENTE made its employment decisions related to discipline and termination  
4 solely on the basis of completely subjective analysis, in willful disregard of leadership qualities, merit, past  
5 record, qualification, reaction of other employees etc. No objective standards were used for recruitment,  
6 hiring, discipline and promotion. KAISER PERMANENTE's decision making process related to  
7 advancement, promotion, discipline and pay raises was a primary source of discrimination which resulted in  
8 an improper denial of advancement opportunities to African American employees and in particular to  
9 plaintiff.

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

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

20 44. On or about September 16, 2013 KAISER PERMANENTE discharged plaintiff allegedly due to  
21 staffing problems.

22 45. Plaintiff, as an African-American female employee, was treated in a disparate manner and subjected  
23 to KAISER PERMANENTE's unfair policies and practices in that plaintiff was treated unequal and unlike  
24 employees whose race and national origin were different than that of plaintiff. Said unfair policies and  
25 practices both limited plaintiff in her job classifications, job assignments and other benefits, because of  
26 plaintiff's race and further resulted in her discharge from employment on or about September 16, 2013.

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

3 A. The reason given for plaintiff's discharge was a mere pretext for unlawful discrimination in that  
4 plaintiff's discharge for alleged violation of company policies resulted from an alleged staffing shortage.

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

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

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

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

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

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

10 52. In or about November 11, 2013, and within one year of the date of the last act of the continuing  
11 pattern and practice of discrimination and harassment herein alleged against defendant by plaintiff, plaintiff  
12 filed a charge of discrimination with the California Department of Fair Employment and Housing  
13 (hereinafter, "DFEH").

14 53. On or about November 11, 2013, the DFEH issued to plaintiff a notice of right to bring a civil action  
15 against the defendant based on the charge of discrimination filed with the DFEH.

#### 16 **FOURTH CAUSE OF ACTION**

#### 17 **(Plaintiff MICHELE SCOTT'S Fourth Cause of Action for Employment Discrimination On The** 18 **Basis of Gender, Violation of Fair Employment and Housing Act against defendant KAISER** 19 **PERMANENTE and DOES 1-50)**

20 54. Plaintiff refers to, realleges, and incorporates by reference, as though fully set forth herein, the  
21 allegations, and each of them, contained in paragraphs 1 through 53.

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

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1 supervision of defendant's managers and supervisors who subjected plaintiff to differential terms and  
2 conditions of employment because of her gender. These differential terms and conditions of employment  
3 included but were not limited to harassment not experienced by employees who were of a different gender  
4 than plaintiff, as well as excessive criticism not otherwise directed to employees who were of a different  
5 gender than plaintiff. Such discrimination and harassment consisted of, but was not limited to, unfounded  
6 complaints made against plaintiff concerning plaintiff's work, retaliation against plaintiff, denial of  
7 advancement, promotions, severance package, retirement package and other benefits, and repeated acts of  
8 harassment and discrimination directed at plaintiff which for her created a hostile work environment and  
9 which resulted in her termination on or about September 16, 2013.

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

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

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

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59. On or about September 16, 2013 KAISER PERMANENTE discharged plaintiff allegedly due to staffing problems.

60. Plaintiff, as an African-American female employee, was treated in a disparate manner and subjected to KAISER PERMANENTE's unfair policies and practices in that plaintiff was treated unequal and unlike employees whose race and national origin were different than that of plaintiff. Said unfair policies and practices both limited plaintiff in her job classifications, job assignments and other benefits, because of plaintiff's race and further resulted in her discharge from employment on or about September 16, 2013.

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

A. The reason given for plaintiff's discharge was a mere pretext for unlawful discrimination in that plaintiff's discharge for alleged violation of company policies resulted from an alleged staffing shortage.

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

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

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

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

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

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

67. On or about November 11, 2013, and within one year of the date of the last act of the continuing pattern and practice of discrimination and harassment herein alleged against defendant by plaintiff, plaintiff filed a charge of discrimination with the California Department of Fair Employment and Housing (hereinafter, "DFEH").

68. On or about November 11, 2013 the DFEH issued to plaintiff a notice of right to bring a civil action against the defendant based on the charge of discrimination filed with the DFEH.

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

**(Plaintiff MICHELE SCOTT's Fifth Cause of Action for Wrongful Discharge in Violation of Public Policy against Defendant KAISER PERMANENTE and DOES 1-50)**

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

69. Plaintiff refers to, realleges, and incorporates by reference, as though fully set forth herein, the allegations, and each of them, contained in paragraphs 1 through 68.

70. Plaintiff entered employment with defendants and duly performed all of the conditions of her employment.

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

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

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

74. The actions alleged in Paragraphs 1- 73 above, specifically the fact that plaintiff was subjected to disability, race, gender and age discrimination and harassment by KAISER PERMANENTE caused plaintiff to be wrongfully discharged from her employment in violation of public policy. Plaintiff was in essence effectively discharged in retaliation for attempting to exercise her fundamental right to be free from disability, race and age discrimination and harassment.

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

#### **SIXTH CAUSE OF ACTION**

**(Plaintiff MICHELE SCOTT's Sixth Cause of Action for Retaliation, Violation of Fair Employment and Housing Act against defendant KAISER PERMANENTE and DOES 1-50)**

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



1 76. Plaintiff refers to, realleges, and incorporates by reference, as though fully set forth herein, the  
2 allegations, and each of them, contained in paragraphs 1 through 75.

3 77. During the course of plaintiff's employment with KAISER PERMANENTE, she complained to  
4 KAISER PERMANENTE about KAISER PERMANENTE's managers', supervisors', co-workers' and  
5 others' discriminatory and harassing behavior towards her and complained about KAISER  
6 PERMANENTE's hostile and offensive environment. On or about September 16, 2013 KAISER  
7 PERMANENTE retaliated against plaintiff for making these complaints by terminating her employment  
8 with KAISER PERMANENTE.

9 78. KAISER PERMANENTE's treatment of plaintiff was in violation of Government Code section  
10 12940(h). Within the time provided by law, plaintiff filed a complaint with the California Department of  
11 Fair Employment and Housing (hereafter, DFEH) against all named defendants and received a right to sue  
12 letter.

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

25 80. As a further proximate result of KAISER PERMANENTE's retaliatory actions against plaintiff as  
26 alleged above and the acts, omissions and conduct of KAISER PERMANENTE, plaintiff has suffered, and  
27 COMPLAINT FOR DAMAGES FOR EMPLOYMENT DISCRIMINATION AND HARASSMENT  
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continues to suffer, embarrassment, mortification, indignity and humiliation and severe physical, mental and emotional distress and discomfort and irreparable injury to her business reputation, all to her detriment and damage in amounts not fully ascertained, and for which plaintiff has been forced to seek personal, medical and related care and treatment and plaintiff has incurred and will continue to incur, expenses therefore.

81. On or about November 11, 2013 and within one year of the date of the last act of the continuing pattern and practice of discrimination and harassment herein alleged against defendant by plaintiff, plaintiff filed a charge of discrimination with the California Department of Fair Employment and Housing (hereinafter, "DFEH").

82. On or about November 11, 2013 the DFEH issued to plaintiff a notice of right to bring a civil action against the defendant based on the charge of discrimination filed with the DFEH.

#### **SEVENTH CAUSE OF ACTION**

**(Plaintiff MICHELE SCOTT's Seventh Cause of Action for Violation of FMLA [29 U.S.C. § 2617(a); 29CFR § 825.400(a)] against defendant KAISER PERMANENTE and DOES 1-50)**

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

84. Plaintiff is informed and believes and thereon alleges that plaintiff's various medical conditions, which necessitated plaintiff undergoing different medical treatment and plaintiff's concomitant need to take time off work to attend to these medical issues which should have been FMLA protected, were motivating reasons for KAISER PERMANENTE's decision to terminate her employment. Plaintiff is informed and believes and thereon alleges that KAISER PERMANENTE, having previously been notified by plaintiff of her FMLA protected medical conditions while plaintiff was still employed was substantially motivated to use plaintiff's FMLA protected medical conditions as a reason to terminate her rather than grant her lawful use of her FMLA protected rights, all in violation of the FMLA.

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

1 85. Plaintiff is informed and believes and thereon alleges that she was terminated because she had  
2 requested protected FMLA leave and because KAISER PERMANENTE feared plaintiff would take  
3 initial/additional protected leave.

4 86. At all times herein mentioned KAISER PERMANENTE failed to provide plaintiff with the required  
5 written notice of FMLA leave.

6 87. KAISER PERMANENTE also intentionally interfered with plaintiff's right to protected leave under  
7 the FMLA.

8 88. KAISER PERMANENTE's actions were willful violations of the FMLA.

9 89. Plaintiff believes that KAISER PERMANENTE's actions were consistent with KAISER  
10 PERMANENTE's policy of not allowing employees FMLA leave.

11 90. Plaintiff was able to perform her position with reasonable accommodations but was terminated  
12 because of her medical conditions.

13 91. KAISER PERMANENTE treated those employees with medical conditions more harshly than  
14 similarly situated individuals outside those protected categories. KAISER PERMANENTE violated its  
15 obligations under the FMLA and is liable to plaintiff.

16 **EIGHTH CAUSE OF ACTION**

17 **(Plaintiff MICHELE SCOTT's Eighth Cause of Action for Violation of the California Family Rights**  
18 **Act CFRA against defendant KAISER PERMANENTE and DOES 1-50)**

19 92. Plaintiff realleges and incorporates herein by reference each and every allegation contained in  
20 paragraphs 1 through the paragraph immediately preceding this paragraph, as though fully set forth  
21 herein.

22 93. Plaintiff is informed and believes and thereon alleges that plaintiff's various medical conditions,  
23 which necessitated plaintiff undergoing different medical treatment and plaintiff's concomitant need to take  
24 time off work to attend to these medical issues which should have been CFRA protected, were motivating  
25 reasons for KAISER PERMANENTE's decision to terminate her employment. Plaintiff is informed and  
26 believes and thereon alleges that KAISER PERMANENTE, having previously been notified by plaintiff of

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

1 her CFRA protected medical conditions while plaintiff was still employed was substantially motivated to  
2 use plaintiff's CFRA protected medical conditions as a reason to terminate her rather than grant her lawful  
3 use of her CFRA protected rights, all in violation of the CFRA.

4 94. Plaintiff is informed and believes and thereon alleges that she was terminated because she had  
5 requested protected CFRA leave and because KAISER PERMANENTE feared plaintiff would take  
6 initial/additional protected leave.

7 95. At all times herein mentioned KAISER PERMANENTE failed to provide plaintiff with the required  
8 written notice of CFRA leave.

9 96. KAISER PERMANENTE also intentionally interfered with plaintiff's right to protected leave under  
10 the CFRA.

11 97. KAISER PERMANENTE's actions were willful violations of the CFRA.

12 98. Plaintiff believes that KAISER PERMANENTE's actions were consistent with KAISER  
13 PERMANENTE's policy of not allowing employees CFRA leave.

14 99. Plaintiff was able to perform her position with reasonable accommodations but was terminated  
15 because of her medical conditions.

16 100. KAISER PERMANENTE treated those employees with medical conditions more harshly than  
17 similarly situated individuals outside those protected categories. KAISER PERMANENTE violated its  
18 obligations under the CFRA and is liable to plaintiff.

19 101. Within the time provided by law, plaintiff filed a Complaint with the California Department of Fair  
20 Employment and Housing and received a right-to-sue letter.

21 **NINTH CAUSE OF ACTION**

22 **(Plaintiff MICHELE SCOTT's Ninth Cause of Action for Violation of California Government Code**  
23 **Section 12940(k) against KAISER PERMANENTE and DOES 1-50)**

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

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

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

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

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

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

15 WHEREFORE, plaintiff prays for judgment as follows:

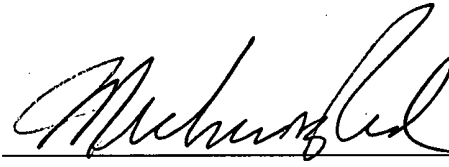
- 16 1. Compensatory damages for back pay, according to proof,
  - 17 2. Compensatory damages for physical and emotional injuries and accompanying pain and  
18 suffering, according to proof,
  - 19 3. For medical and related expenses according to proof,
  - 20 4. For loss of earnings according to proof,
  - 21 5. For compensatory damages for race, age and disability discrimination according to proof,
  - 22 6. For reasonable attorney fees, and for costs of suit incurred
  - 23 7. For exemplary damages; and
  - 24 8. For such other and further relief as the Court may deem proper and just.
- 25  
26

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

1 **REQUEST FOR JURY TRIAL**

2 Plaintiff MICHELE SCOTT requests a trial by jury on all causes of action.

3  
4 Dated: November 6, 2014



5  
6 (D397.001 ND)

Michael J. Reed  
Attorney for Plaintiff, MICHELE SCOTT

Courthouse News Service

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27 COMPLAINT FOR DAMAGES FOR EMPLOYMENT DISCRIMINATION AND HARASSMENT  
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