

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

ANTHONY FREEMAN,	)	
	)	
Plaintiff,	)	CIVIL ACTION FILE
	)	
v.	)	NO:
	)	
KAISER PERMANENTE INSURANCE	)	
COMPANY	)	
	)	
Defendant.		

**COMPLAINT**

COMES NOW ANTHONY FREEMAN (hereinafter “Mr. Freeman” or “Plaintiff”), Plaintiff, by and through his undersigned counsel, and sets for his complaint for damages against the above-named Defendant Kaiser Permanente Insurance Company (herein after “Kaiser”) a duly incorporated company within the State of Georgia as follows:

**JURISDICTION**

1.

This action is for discrimination based upon race arising under Title VII of the Civil Rights Act of 1964. Plaintiff seeks declaratory and injunctive relief, back pay, front pay, compensatory damages, punitive damages and attorney’s fees and

costs. The claims herein present a federal question thus jurisdiction is proper before this Court pursuant to 28 U.S.C. §1331 and U.S.C. 1343. Plaintiff further invokes pedant jurisdiction of this Court to hear and decide claims arising under the laws of the State of Georgia.

**VENUE**

2.

All parties to this action reside or are located within the boundaries of this judicial district, and venue is proper pursuant to, *inter alia*, 28 U.S.C. Section 1391 (b) and 42 U.S.C. Section 2000e-(f) (3). Moreover, all action alleged herein occurred within the Northern District of Georgia. Venue in this district is proper pursuant to 28 U.S.C. § 1391 (b) and (c).

**PARTIES**

3.

Plaintiff, Mr. Freeman, is a African American male resident of the Northern District of Georgia, and at all times relevant to this matter was employed by the Defendant Kaiser.

4.

This Court has personal jurisdiction over Kaiser, which at all times relevant to this action and currently is a duly incorporated company in the state of Georgia and within the Northern District of Georgia of the United States District Court.

**ALLEGATIONS**

5.

The Plaintiff incorporates by reference paragraphs 1 through 4 of this complaint as if fully set forth herein.

6.

On or about December 29, 2008 Plaintiff was hired as the IT Care delivery Portfolio Manager for Georgia Region for Kaiser, the Defendant. Plaintiff had supervisory duties during his tenure and was supervisor of 10-15 employees and was made the KPIT Project Leader for the CPAC Project based upon his performance before the adverse actions associated with this complaint occurred.

7.

On or about June 4, 2013, Mr. Freeman, received a performance improvement plan for errors in a presentation given to upper level management for the CPAC project which was staffed by Kaiser and external vendor subject matter experts. Mr. Freeman's role was of coordination and collaboration between the internal and external subject matter experts.

8.

Plaintiff's immediate supervisor during times relevant to the present claims while employed at Defendant Kaiser was Defendant's agent Patti Austin, Regional Application Delivery Director for the Georgia Region a Caucasian female. Plaintiff's second line supervisor was and Larry Panatera, Vice President Business Operations Manager

9.

All information shared during presentations for the CPAC project were gathered from several business units under the direction of Patti Austin and Larry Panatera. Moreover, Patti Austin reviewed the content of the presentation before it was delivered.

10.

Plaintiff was subjected to unlawful discrimination and retaliation based upon his race when he was placed on a performance improvement plan (PIP), on or about June 4, 2013 and subsequently terminated on September 30, 2013.

11.

Plaintiff filed a complaint with the Equal Employment Opportunity Commission based upon race, sex, and age discrimination on 7/10/2013. Upon receipt of notice of right to sue, Plaintiff decided not to pursue the matter further with hopes that the issues would cease and the unit could move forward without further incident

12.

Plaintiff's supervisors Patti Austin and Larry Panatera were both aware of the original charge of discrimination and upon the expiration of the ninety day period to pursue the law suit in Federal Court moved to terminate the Plaintiff for the same issues subject to the charge of discriminate filed in July 2013

13.

Plaintiff during the time period of his performance improvement plan made diligent efforts to comply with all elements of the plan. However, because his work is contingent upon his ability to get reliable information from other business units and external contractor which he has no supervisory control, he was reliant upon his supervisors, Patti Austin and Larry Panatera to ensure that cooperation and collaborations are reliable and consistent

14.

Despite the efforts of Plaintiff, to inform Patti Austin and Larry Panatera of his concerns with data received and to have data researched and resubmitted for distribution he was the only employee that received any reprimands for the content of the presentation.

15.

Comparable employee, Amin Tejani a Caucasian male, was a member of the team responsible for supplying need information. He was not terminated.

Comparable employee, Amin Tejani, Director Enterprise Customer Service (ECS) an Indian male, was a member of the team responsible for supplying need

information. He was not terminated.

16.

Comparable employee Joe Bange, ECS IT Supervisor, a Caucasian male was a member of the team responsible for supplying need information. He was not terminated. Comparable employee, Patti Austin, a Caucasian female, was a member of the team responsible for supplying need information. She was not terminated.

**FIRST CAUSE OF ACTION:**

**VIOLATION OF TITLE VII-DISPARATE TREATMENT RACE**

17.

Plaintiff incorporates by reference paragraphs 1-16 of the Complaint as if fully set forth herein.

18.

Plaintiff was discriminated against based on race when he was placed on a performance improvement plan and subsequently terminated for job performance.

19.

Plaintiff has the same level of education and more experience than other Caucasian employees doing the same or similar work.

20.

Comparable Caucasian employees has the same and similar responsibility for information reviewed and presented and made errors that Defendant uses as pretext for unlawful discrimination yet they were not reprimanded nor terminated.

21.

Defendant Kaiser has a progressive disciplinary policy which Defendant used to single out the actions of Plaintiff without any disciplinary actions taken against other similarly situated employees who had equal input and responsibility for the information presented and became subject matter for the performance improvement plan and subsequent termination of Plaintiff.

22.

Plaintiff has a claim for disparate treatment discharge because (1) he is a member of a protected class; (2) his job performance was sufficient to meet employer's expectations; (3) he was reprimanded and ultimately terminated; and (4) upon information and belief Caucasian who had the same or similar performance issues as they were not reprimanded or terminated.

23.

Plaintiff suffered damages as a result of this discrimination.

24.

As a direct and proximate result of the Kaiser above mentioned discriminatory and retaliatory actions, Plaintiff has suffered lost wages and benefits, significantly diminished future employment opportunities, and emotional distress consisting of outrage, shock, and humiliation.

**SECOND CAUSE OF ACTION:**

**RETALIATION**

25.

Plaintiff incorporates by reference paragraphs 1-24 of the Complaint as if fully set forth herein.

26.

Plaintiff filed a claim of discrimination against Kaiser for discrimination based upon race and age. Plaintiff received a right to sue letter dated July 25, 2013 for performance improvement plan, which the subject matter is the basis for the termination which bring the Plaintiff to this current matter. Plaintiff suffered an adverse employment action, was retaliatorially terminated.

27.

Plaintiff suffered damages as a result of Kaiser retaliatory conduct.

28.

As a direct and proximate cause of Kaiser's abovementioned retaliatory actions, Plaintiff has suffered lost wages and benefits, significantly diminished

future employment opportunities, and emotional distress consisting of outrage, shock, and humiliation.

**THIRD CAUSE OF ACTION:**

**NEGILGENT RETENTION AS CONTEMPLATED UNDER**

**GEORGIA LAW**

29.

Plaintiff incorporates by reference paragraphs 1-28 of the Complaint as if fully set forth herein.

30.

On information and belief, Defendant Kaiser knew, or should have known, of Defendants' propensity for creating a hostile work environment and failed to take reasonable care in its retention of Patti Austin and Larry Panatera.

31.

Defendant Kaiser failed to take reasonable care in ascertaining and acting upon Plaintiff's allegation disparate treatment and age discrimination.

32.

Defendant Kaiser had actual and/or constructive knowledge of Patti Austin and Larry Panatera unlawful acts against the Plaintiff. Moreover, it was foreseeable to Defendant Kaiser that Patti Austin and Larry Panatera among others

would continue to engage in retaliatory acts and misconduct against Plaintiff.

33.

Defendant Kaiser has been negligent in retaining Patti Austin and Larry Panatera in their employment thereby breaching its duty to Plaintiff to provide a working environment free from the above-described retaliation and misconduct.

34.

As a direct result of said negligence, which has been gross and in reckless disregard for the Plaintiff's health and safety and has resulted in injury to the Plaintiff.

35.

Defendant Kaiser negligent supervision and retention of Patti Austin and Larry Panatera including its failure to condemn their actions and take meaningful remedial action against them directly resulted in injury to the Plaintiff for which Defendant Kaiser should be liable.

36.

Kaiser has a duty to both adequately supervise its employees ; and conduct a reasonable inquiry prior to hiring its employees.

37.

Kaiser actions in failing to adequately supervise Patti Austin and Larry Panatera, caused the Plaintiff to suffer damages.

38.

Kaiser failure to terminate Patti Austin and Larry Panatera provided the opportunity for Patti Austin and Larry Panatera to continue to harass, and retaliate against the Plaintiff, and thus constitutes negligence which proximately caused the damages and emotional harm of which Plaintiff complains of herein, for which Kaiser is liable to the Plaintiff for monetary damages, including punitive damages, in an amount to be determined at trial.

**WHEREFORE**, Plaintiff demands a **TRIAL BY JURY** and demands the following relief :

1. The Court adjudge the Defendant Kaiser to have engaged in unlawful employment practices under *inter alia*, Title VII of the Civil Rights Act of 1964;
2. The Court enjoin the Defendant Kaiser from engaging in unlawful employment practices under, *inter alia* under Title VII of the Civil Rights Act of 1964;
3. An award of compensatory damages against Defendant in an amount to be determined by the enlightened conscious of a jury, including, but not limited to, back pay, loss of benefits, emotional distress, pain and

- suffering, mental anguish, loss of enjoyment of life ;
4. An award of punitive damages in an amount to be proven at trial and sufficient to deter the malicious, willful, wanton and reckless conduct by the Defendant herein;
  5. Recovery of the necessary expenses of litigation including reasonable attorneys' fees under 42 U.S.C. 1988; and;
  6. Such other and further relief as this Court deems just and proper.

Respectfully submitted this 23rd day of February, 2015.

/s/Crystal M. James

CRYSTAL M. JAMES, ESQ.  
Attorney for the Plaintiff  
State Bar #515292

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KAISER PERMANENTE INSURANCE	)	
COMPANY	)	
	)	
Defendant.	)	

**CERTIFICATE OF SERVICE**

This is to certify that I have this 23<sup>rd</sup> of February served the Defendant Kaiser with a copy of this Complaint and acknowledgement of service by affixing appropriate postage and mailing to the following address:

Kaiser Permanente Insurance Company  
c/o Corporation Service Company  
40 Technology Pkwy South  
#300  
Norcross, GA 30092

Submitted this Day 23<sup>rd</sup> of February, 2015.

/s/Crystal M. James  
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