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**FILED**  
ALAMEDA COUNTY

MAY 31 2017

CLERK OF THE SUPERIOR COURT  
By [Signature] Deputy

Attorneys for Plaintiff ROLAND WILSON

SUPERIOR COURT OF CALIFORNIA

IN AND FOR THE COUNTY OF ALAMEDA

ROLAND WILSON,

Plaintiff,

v.

KAISER FOUNDATION HEALTH PLAN,  
INC., a California corporation; and DOES 1-50  
inclusive,

Defendants.

Case No.: **RG 17862477**

COMPLAINT FOR DAMAGES FOR

1. RACIAL DISCRIMINATION
2. RETALIATION
3. FAILURE TO PREVENT DISCRIMINATION AND RETALIATION
4. WRONGFUL TERMINATION IN VIOLATION OF PUBLIC POLICY
5. VIOLATION OF CALIFORNIA EQUAL PAY ACT
6. RETALIATION (CALIFORNIA LABOR CODE SECTION § 1197.5)

JURY TRIAL DEMANDED

Plaintiff Roland Wilson sues Kaiser Foundation Health Plan, Inc., a corporation, and Does 1 through 50, for general, compensatory, punitive, and attorney's fees, costs, and interest, resulting from the defendants' unlawful and tortious conduct.

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1 **PARTIES**

2 1. Roland Wilson (“Wilson” or “Plaintiff”) was at all times relevant employed in  
3 California and was an “employee” as defined by California Government Code Section 12926 and  
4 California Labor Code. Plaintiff is an African American male.

5 2. Kaiser Foundation Health Plan, Inc. (“Kaiser” or “Defendant”) is a corporation  
6 headquartered in California. Kaiser is an “employer” as defined by California Government Code §  
7 12926(d) and California Labor Code.

8 3. Kaiser and Does 1-50 are collectively referred to as Defendants.

9 4. Plaintiff is not aware of the true names and capacities of the Defendants sued herein  
10 as Does 1 through 50, whether individual, corporate, associate, or otherwise, and therefore sues such  
11 Defendants by these fictitious names. Plaintiff will amend this complaint to allege their true names  
12 and capacities when ascertained. Plaintiff is informed and believes, and on that basis alleges, that  
13 each of the fictitiously named Defendants is responsible in some manner for the occurrences herein  
14 alleged and that Plaintiff’s injuries and damages herein alleged were legally caused by such  
15 Defendants. Unless otherwise indicated, each Defendant was acting within the course and scope of  
16 said agency and/or employment, with the knowledge and/or consent of said co-Defendants.

17 **VENUE AND JURY TRIAL DEMAND**

18 5. Venue is proper in this court because the discriminatory acts alleged herein took  
19 place in Alameda, California, and Plaintiff’s former place of employment with Kaiser was located  
20 within Alameda County. Plaintiff hereby demands a jury trial for all of his claims.

21 **GENERAL ALLEGATIONS**

22 6. Plaintiff was employed by Kaiser from approximately June 1999 to July 2016. His  
23 last position with Kaiser was Senior Director, Digital Operations & Implementation and Chief of  
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1 Staff, which he held from approximately September 2014 to June 2016. Plaintiff is an African-  
2 American man.

3 7. At all times relevant, Plaintiff was qualified for the position(s) he held with Kaiser.

4 8. In 2010, Plaintiff was an Executive Consultant II for Defendant. In his 2010  
5 performance review, Plaintiff received an overall rating of "Excellent Performance".  
6

7 9. On or about June 15, 2011, Plaintiff was promoted to the position of Director-ISG.  
8 With the promotion, Plaintiff received a salary of \$141,694.88. The salary range for the position  
9 was \$122,600 to \$220,400 with a mid-point of \$171,500. At that time, Plaintiff's salary was 26.2%  
10 of comparable employees.

11 10. In his performance review for 2011, Plaintiff received an overall rating of "Excellent  
12 Performance" and a numeric rating of 4.

13 11. On or about May 13, 2012, Plaintiff received a salary increase from \$146,652.48 to  
14 \$155,000. At that time, Plaintiff's salary was 88.62 % of comparable employees.  
15

16 12. For 2012, once again Plaintiff's supervisor rated Plaintiff's overall performance as  
17 excellent, stating the following:

18 Roland continues to provide core strength, impeccable judgement (sic) and  
19 wisdom in his role as Director of PMO and chief of staff. Increasingly, he is viewed  
20 as the "go to" person when conflicts arise in meetings and the work needs to move  
21 forward. Continuing to learn the business, have opportunities to interact with regions  
and clients and gain exposure outside of ISG will position Roland for growth. It is a  
pleasure to work with Roland, I always learn something from him.

22 13. From approximately February 2013 to the end of Plaintiff's employment, Plaintiff  
23 was subjected to discriminatory treatment because of his race by Senior Vice President Christine  
24 Paige ("Paige"). Paige is a European American female.

25 14. In approximately February 2013, Plaintiff was assigned as Acting/Interim Vice  
26 President of Online Services while an employee was on a medical leave of absence. While he  
27 served the interim role, Plaintiff simultaneously performed the regular duties of his position as  
28

1 Director of Program Management Office and Chief of Staff. In his new assignment, Plaintiff was  
2 responsible for managing a team of 150 plus employees that oversee the day-to-day operations of  
3 migrating and optimizing Kaiser's consumer products, capabilities, and features to web and mobile  
4 platforms. Plaintiff's other duties included but were not limited to strategy development, managing  
5 a \$40 million departmental budget, office management, and other special projects. Several Senior  
6 Directors also reported to Plaintiff.  
7

8 15. When Plaintiff was appointed to the role of Acting/Interim Vice President of Online  
9 Services, Plaintiff's salary was over \$20,000 below the lowest paid Senior Director and over  
10 \$25,000 below the highest paid Senior Director, even though they were both now reporting to him.  
11 Both of these Senior Directors were European Americans; one was male, the other female.  
12

13 16. In approximately July 2013, Paige informed Plaintiff that she would not refer to him  
14 as an Acting Vice President because people would resent Plaintiff. Instead, Paige referred to  
15 Plaintiff as a Coordinator.  
16

17 17. On or around July 31, 2013, Plaintiff expressed concerns about Paige via email to  
18 Senior Human Resource Manager Rebecca E. DeAnda ("DeAnda"). In the same email, Plaintiff  
19 also expressed concerns because his salary did not increase with the additional job responsibilities.  
20 Plaintiff requested a change in job title and a 15-20% pay increase to increase his salary to the level  
21 of others who served as an Interim Vice President or at a minimum a salary equitable to the Senior  
22 Directors that he was managing.

23 18. On or about August 1, 2013, Plaintiff received a spot award of \$15,000 in  
24 recognition of his contributions.

25 19. In August 2013, Defendants increased Plaintiff's salary from \$159,650 to \$175,614.  
26 This represented a pay increase of 10%. Despite his additional duties, even with the increase,  
27 Plaintiff's salary was only slightly above the mid-point of comparable employees. At the same  
28

1 time, to ensure that Plaintiff's salary remained lower than his two European American direct reports,  
2 Defendants increased the salary of the European American male senior director by \$10,786 to  
3 \$190,558.

4 20. For 2013, Plaintiff's supervisor rated Plaintiff's overall performance as "Excellent",  
5 stating the following:  
6

7 Roland did an extraordinary amount of work in 2013 to attend to his regular  
8 responsibilities and also step in to the gap left by the departing VP of Online  
9 Services. In that capacity he provided day-to-day coordination of DSG and DSW  
10 activities, flagged critical partnership issues and oversaw personnel and budget  
11 processes. Roland worked hard to make sure that everything moved forward as  
12 smoothly as possible.

13 Highlights of the year included redesign of kp.org Front Door, Profiles and  
14 Preferences, Doctor and locations search improvement, Spanish My Chart, New  
15 Member Center and non-member accounts.

16 Roland did a very good job navigating multiple challenging roles: acting  
17 leader to his senior director peers; chief liaison to his IT partners, governance  
18 overseer to HSGG and other groups, and chief of staff to me on DSG/DWG issues.

19 Roland worked hard to serve the best interests of Kaiser Permanente in a time  
20 of transition and challenge.

21 Congratulations!

22 21. In approximately January 2014, Defendants hired Susan Moon ("Moon") as the new  
23 Vice President of the department. Susan Moon is an Asian American. Thereafter, the Senior  
24 Directors and Plaintiff reported to Moon.

25 22. In September 2014, Moon told Plaintiff that her goal was to promote Plaintiff and the  
26 European American male Senior Director to Executive Director positions with the same salary.  
27 Moon informed Plaintiff that she had gotten strong push back from Paige and that Paige did not  
28 want Plaintiff to be promoted. Paige refused to allow Plaintiff to earn the same salary as the  
European American Male Director.

1           23.     In September 2014, Plaintiff received a raise and a new job title of Senior Director,  
2 Digital Operations & Implementation and Chief of Staff. Plaintiff's new compensation was a salary  
3 of approximately \$190,541.65, or an increase of \$14,927.65. Plaintiff's new duties included  
4 providing vision, leading, and strategic direction of all digital operations, which included but are not  
5 limited to departmental human resource administration, budget management, and regulatory  
6 services in support of regional and business partners. At approximately the same time that Plaintiff  
7 was promoted, the European American male Senior Director received a \$19,072 increase to a new  
8 salary of \$209,613.

9  
10           24.     On or around October 28, 2014, Moon informed Plaintiff that she was removing  
11 Plaintiff's Chief of Staff duties. She told Plaintiff she planned to hire Lauren Pate, a white female,  
12 as a contractor to perform those duties. Moon informed Plaintiff that she wanted Plaintiff to focus  
13 on his new duties as a Senior Director. She promised to meet with him to discuss his new role, but  
14 the meeting never occurred.

15  
16           25.     After Pate was hired, Moon began to remove more of Plaintiff's duties and reassign  
17 the duties to Pate.

18           26.     After Plaintiff became a Senior Director, Plaintiff continued to have more duties and  
19 responsibilities than the European American Senior Directors. Approximately 48 employees and  
20 seven contractors reported to Plaintiff while approximately 19 employees and two contractors  
21 reported to the European American male Senior Director.

22  
23           27.     For his 2014 performance appraisal, Plaintiff received a rating of "Successful  
24 Performance-High." In this review, Plaintiff's supervisor made the following comments:

25                   Roland had a highly productive year. He has been instrumental in supporting  
26 me as my chief of staff. He met all of his goals this year, even while assuming  
27 additional duties of onboarding me as the new VP. As a result of his commitment  
28 and his contributions to the team, Roland was promoted to Senior Director,  
Operations & Implementations.

1 I look forward to working closely with Roland next year in his new role.

2 Congratulations on your promotion!

3 28. In 2015, Defendants demoted the European American female from Senior Director to  
4 a Director. Despite the demotion, she received a merit increase. Even after the demotion, the  
5 European American female's salary as a Director was higher than any salary Plaintiff received while  
6 he was a Director.

7  
8 29. In approximately February 2015, Moon hired a white male as a Senior Director at an  
9 annual salary of \$250,000 or approximately \$60,000 more than Plaintiff's approximate salary of  
10 \$190,541. When he was hired, the Senior Director had not previously served as a Senior Director  
11 for Defendants.

12 30. In approximately March 2015, Plaintiff received a raise and a new annual salary of  
13 approximately \$196,257. During that same time, the approximate salaries of the similarly situated  
14 male European American male Senior Directors in Plaintiff's department were: \$214,854 and  
15 \$250,000.

16  
17 31. From approximately February 26, 2015 to May 30, 2015, Moon constantly ignored  
18 Plaintiff's emails addressing his concerns about his tasks.

19 32. On or around May 26, 2015, Moon recommended the two European Male Senior  
20 Directors for executive coaching. Plaintiff was the only Senior Director who was not  
21 recommended for executive coaching. Although Plaintiff had made a request to Moon for  
22 executive coaching, Moon never responded.

23  
24 33. From approximately May 2015 to June 2015, Moon had several meetings where  
25 Plaintiff was the only Senior Director excluded from the meetings. In addition, Moon called  
26 meetings with Plaintiff's direct reports but failed to invite Plaintiff.

1           34.     On or around May 27, 2015, Moon had a meeting with Senior Directors. During that  
2 meeting, they discussed promotion potential of employees. Of the employees discussed, Moon only  
3 questioned the promotion potential of two African American employees that Plaintiff recommended.  
4 Moon showed disbelief that the two employees should be labeled as high potential candidates.  
5 Given that the two employees had consistently received excellent reviews, Plaintiff is informed and  
6 believed Moon's perception was based on the employees' race.  
7

8           35.     On or around June 3, 2015, Plaintiff reported the racial discrimination he experienced  
9 to Senior Human Resource Manager DeAnda including the fact that non-African American Senior  
10 Directors received higher salaries than Plaintiff.

11           36.     On or around June 8, 2015, Plaintiff went out on medical leave for stress and anxiety  
12 relating to the discriminatory treatment he endured by Defendants.  
13

14           37.     On or around February 8, 2016, Plaintiff emailed DeAnda. In the email, Plaintiff  
15 stated he felt unsafe and willing to take an unpaid leave until Kaiser's investigation of his  
16 harassment and discrimination complaint was concluded. Plaintiff also attached a letter describing  
17 the racial discrimination that he endured.

18           38.     On or around February 9, 2016, DeAnda acknowledged receipt of Plaintiff's  
19 February 8<sup>th</sup> email and letter.  
20

21           39.     Plaintiff's doctor provided him with medical notes extending his leave from February  
22 10, 2016 to April 4, 2016 and April 4, 2016 to May 2, 2016. Defendants received Plaintiff's  
23 medical notes.

24           40.     On or around March 31, 2016, DeAnda emailed Plaintiff to apologize that  
25 Defendants had not contacted Plaintiff for the investigation. She informed Plaintiff that she  
26 requested the investigation be expedited.  
27  
28



1 41. On or around March 31, 2016, Kaiser Investigations Specialist II Jenny Squires  
2 (“Squires”) emailed Plaintiff to discuss the investigation.

3 42. On or around April 6, 2016, Squires interviewed Plaintiff as part of the investigation.

4 43. On or about May 5, 2016, Plaintiff’s advised Defendants that Plaintiff had been  
5 constructively discharged as a result of Defendants’ failure to conduct an investigation of his  
6 discrimination complaints.  
7

8 44. On or about May 6, 2016, Angela Smith, HR Leave & Disability Management  
9 Specialist for Defendants, sent Plaintiff a letter requested updated medical documentation by May  
10 11, 2016.

11 45. In June 2016, Plaintiff received a letter from Squires dated June 21, 2016. Squires  
12 stated in the letter that Defendants concluded that Plaintiff was not discriminated against based on  
13 his race in violation of Kaiser’s Equal Employment Opportunity and related policies.  
14

15 46. Although Plaintiff provided Squires with witnesses, Defendants failed to contact  
16 several of them.

17 47. On or around July 11, 2016, Defendants notified Plaintiff that it was terminating his  
18 employment for Plaintiff’s failure to provide supporting medical documentation for his absence and  
19 for failing to respond as to whether he would return to work.  
20

21 48. Plaintiff is informed and believes Defendant has a pattern and practice of  
22 discriminating against African Americans.

23 49. The list of misconducts by Defendants set forth above is a partial list only, and for  
24 example.  
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1           **Exhaustion of Department of Fair Employment & Housing Administrative Remedies**

2           50.     On or around November 9, 2016, Plaintiff submitted a complaint of racial  
3 discrimination, retaliation, and failure to prevent discrimination and retaliation against Defendant  
4 with the California Department of Fair Employment and Housing ("DFEH"), No.: 832225-259966.

5           51.     On or around November 9, 2016, Plaintiff received a Right to Sue Letter from the  
6 DFEH.  
7

8           52.     Plaintiff's claims against Defendants were equitably tolled while he pursued  
9 administrative remedies with Kaiser.

10                                   **FIRST CAUSE OF ACTION**  
11                                   **VIOLATION OF GOVERNMENT CODE SECTION 12940(a)**  
12                                   **(Racial Discrimination)**  
13                                   **Against Defendants**

14           53.     Plaintiff hereby realleges and incorporates by reference Paragraphs 1 through 52  
15 above as though fully set forth herein.

16           54.     The Fair Employment and Housing Act ("FEHA") explicitly prohibits an employer  
17 from refusing to hire or employ a person, discharging a person from employment, or discriminating  
18 against such person in compensation or in terms, conditions or privileges of employment on the  
19 basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability,  
20 medical condition, genetic information, marital status, sex, gender, gender identity, gender  
21 expression, age, sexual orientation or military and veteran status. Gov. Code § 12940(a). "Race,  
22 religious creed, color, national origin, ancestry, physical disability, mental disability, medical  
23 condition, marital status, sex, age, sexual orientation, or military and veteran status" includes a  
24 perception that the person has any of those characteristics or that the person is associated with a  
25 person who has, or is perceived to have, any of those characteristics. Gov. Code § 12926(n).  
26

27           55.     At all times relevant herein mentioned, Plaintiff was qualified for the position he held  
28 with Defendants:

1 56. Defendants were Plaintiff's employers under Government Code section 12926(d) and  
2 were therefore barred from discriminating in their employment decisions in violation of  
3 Government Code section 12940(a).

4 57. As set forth above, Defendants discriminated against Plaintiff based on his race and  
5 perceived race, in violation of Government Code section 12940(a).

6 58. The acts taken toward Plaintiff were carried out by and/or ratified by Defendants  
7 and/or managing agents/employees of Defendants acting in an oppressive, fraudulent and malicious  
8 manner in order to injure or damage Plaintiff, justifying an award of punitive damages.  
9

10 59. As a direct and proximate result of Defendants' conduct, Plaintiff has suffered  
11 damages and requests relief as hereafter provided.

12  
13 **SECOND CAUSE OF ACTION**  
14 **VIOLATION OF GOVERNMENT CODE SECTION 12940(h)**  
15 **(Retaliation)**  
16 **Against Defendants**

17 60. Plaintiff hereby realleges and incorporates by reference Paragraphs 1 through 52  
18 above as though fully set forth.

19 61. Plaintiff engaged in activity protected by the FEHA.

20 62. As set forth above, Defendants retaliated against Plaintiff including but not limited to  
21 terminating his employment.

22 63. The acts taken toward Plaintiff were carried out by and/or ratified by Defendants  
23 and/or managing agents/employees of Defendants acting in an oppressive, fraudulent and malicious  
24 manner to injure or damage Plaintiff, justifying an award of punitive damages.

25 64. As a direct and proximate result of Defendants' conduct, Plaintiff has suffered  
26 damages and requests relief as hereafter provided.

27 //

28 //

**THIRD CAUSE OF ACTION**  
**VIOLATION OF GOVERNMENT CODE SECTION 12940(k)**  
**(Failure to Prevent Discrimination and Retaliation)**  
**Against Defendants**

65. Plaintiff hereby realleges and incorporates by reference Paragraphs 1 through 52 above as though fully set forth.

66. The FEHA requires an employer to “take all reasonable steps necessary to prevent discrimination and harassment from occurring.” Gov. Code § 12940(k).

67. Defendants were Plaintiff’s employers pursuant to Government Code section 12926(d) and were therefore required to prevent discrimination as set forth in Government Code section 12940(k).

68. Defendants knew or should have known of the discrimination by their employees, supervisors, and managers.

69. As set forth above, Defendants did nothing to rectify or prevent said discrimination. Instead, Defendants consented to, encouraged, permitted and/or acquiesced to the discrimination.

70. The acts taken toward Plaintiff were carried out by and/or ratified by Defendants and/or managing agents/employees of Defendants acting in an oppressive, fraudulent and malicious manner to injure or damage Plaintiff, justifying an award of punitive damages.

71. As a direct and proximate result of Defendants’ conduct, Plaintiff has suffered damages and requests relief as hereafter provided.

**FOURTH CAUSE OF ACTION**  
**WRONGFUL TERMINATION IN VIOLATION OF PUBLIC POLICY**  
**Against Defendants**

72. Plaintiff hereby realleges and incorporates by reference Paragraphs 1 through 52 above as though fully set forth.

1 73. Jurisdiction is invoked by this court under the public policy and common law of the  
2 State of California, under the case of *Tameny v. Atlantic Richfield Company* (1980) 27 Cal.3d 167  
3 and *Rojo v. Kliger* (1990) 52 Cal.3d 65.

4 74. Under California law, a fundamental and well-established public policy prohibits  
5 discrimination against employees based on their race and/or perceived race. Said public policies are  
6 embodied in the Constitution of the State of California and in California statutes, particularly  
7 Government Code sections 12900 *et seq.*

8 75. Defendants discriminated against Plaintiff because of his race and/or perceived race.

9 76. The acts taken toward Plaintiff were carried out by and/or ratified by Defendants  
10 and/or managing agents/employees of Defendants acting in an oppressive, fraudulent and malicious  
11 manner to injure or damage Plaintiff, justifying an award of punitive damages.  
12

13 77. As a direct and proximate result of Defendants' conduct, Plaintiff has suffered  
14 damages and requests relief as provided.  
15

16 **FIFTH CAUSE OF ACTION**  
17 **VIOLATION OF CALIFORNIA EQUAL PAY ACT**  
18 **(California Equal Pay Act, California Labor Code § 1197.5)**  
19 **(Against Defendants)**

20 78. Plaintiff incorporates the allegations of Paragraphs 1 through 52 by reference.

21 79. During his employment with Defendants, Defendants paid Plaintiff a lower wage rate  
22 than that paid to other Directors and Senior Directors in his department.

23 80. Plaintiff and the other European American employees of Defendants who were paid  
24 more than Plaintiff: a) performed work that required equal skill, effort and responsibility; and b)  
25 performed their jobs under similar working conditions.

26 81. The difference between Plaintiff's wage rate and the higher paid European  
27 Americans was not based on: a) a seniority system; b) a merit system; c) a system that measures  
28

1 earning by quantity or quality of production; or d) a bona fide system other than race such as  
2 education, training, or experience.

3 82. Pursuant to the California Equal Pay Act ("CEPA"); Defendants owe Plaintiff that  
4 sum as back pay, a sum equal to that amount as and for liquidated damages, interest on the back pay  
5 amount, and attorney's fees and costs of suit.

6  
7 83. In doing the acts herein alleged, Defendants' violations of Plaintiff's rights under the  
8 CEPA were willful.

9  
10 **SIXTH CAUSE OF ACTION**  
11 **RETALIATION**  
12 **(California Equal Pay Act, California Labor Code § 1197.5**  
13 **(Against Defendants))**

14 84. Plaintiff hereby realleges and incorporates by reference Paragraphs 1 through 52  
15 above as though fully set forth.

16 85. Plaintiff engaged in activity protected by the California Equal Pay Act.

17 86. As set forth above, Defendants retaliated against Plaintiff including but not limited to  
18 terminating his employment.

19 87. As a direct and proximate result of Defendants' conduct, Plaintiff has suffered  
20 damages and requests relief as hereafter provided.

21 **PRAYER FOR RELIEF**

22 WHEREFORE, Plaintiff prays judgment against Defendants as follows:

- 23 1. Economic (special) and non-economic (general) damages;
- 24 2. For punitive and/or exemplary damages;
- 25 3. For reinstatement under Labor Code § 1197.5(k)(2);
- 26 4. For liquidated damages under Labor Code §§ 1197.5(c);
- 27 5. For statutory attorneys' fees and costs, including those available under Gov. Code §§  
28 12965(b), Labor Code §§1197.5 (h), (i);

- 1           6.     Prejudgment and post-judgment interest according to any applicable provision of law
- 2                     or as otherwise permitted by law, including that available under Civil Code §§
- 3                     3287(a) and 3289(b), Labor Code §§ 1197.5(c), (h), (k)(2);
- 4
- 5           7.     For equitable relief under Labor Code § 1197.5(k)(2); and
- 6
- 7
- 8           8.     All other and further relief as the Court deems just and proper.
- 9

10 **DATED:** May 26, 2017

**BURTON EMPLOYMENT LAW**

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13 By \_\_\_\_\_

SCOTT NAKAMA  
Attorneys for Plaintiff  
ROLAND WILSON