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Superior Court of California
County of Stanislaus
Clerk of the Court
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This case has been assigned to Judge Sandhu, Sonny S.
Dept. 24
Department _____, for all purposes including Trial.

**IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF STANISLAUS**

SAMUEL CASTLE, individually,

Plaintiff,

v.

KAISER FOUNDATION HOSPITALS, a
California Corporation; THE PERMANENTE
MEDICAL GROUP, INC., a California
Corporation; and DOES 1 through 50, inclusive.

Defendants.

Case No. CV-24-005609

COMPLAINT FOR DAMAGES

1. Retaliation, Cal. Gov't Code §12940(h)
2. Retaliation, Labor Code §1102.5
3. Retaliation, Cal. Lab. C. § 98.6
4. Race/Color/Ethnicity/National Origin Discrimination, Cal. Gov. Code § 12940
5. Gender Discrimination, Cal. Gov't Code §12940
6. Hostile Work Environment Harassment, Cal. Gov. Code § 12940(j)
7. Failure to Prevent Discrimination and Harassment, Cal. Gov. Code § 12940
8. Intentional Infliction of Emotional Distress
9. Wrongful Constructive Termination in Violation of Public Policy
10. Failure to Provide Personnel Records, Cal. Labor Code § 1198.5
11. Failure to Provide Payroll Records, Cal. Labor Code § 226(b)

DEMAND FOR JURY TRIAL

1. Plaintiff SAMUEL CASTLE ("Castle") individually, brings this action against Defendants KAISER FOUNDATION HOSPITALS ("Kaiser"), a California Corporation, THE

PERMANENTE MEDICAL GROUP, INC. (“Permanente”), a California Corporation, and DOES 1 through 50, inclusive.

PARTIES

2. Plaintiff is, and at all times relevant to this action was, a resident of the City of Waterford, California. The events giving rise to this action arose in Modesto, California.

3. Plaintiff is informed and believes, and based thereon alleges, that Defendant Kaiser of Modesto is a private nonprofit medical center and is authorized to do business in California.

4. Plaintiff is informed and believes, and based thereon alleges, that Defendant Permanente is a private nonprofit health care organization and is authorized to do business in California.

5. Plaintiff does not know the true names of Defendants Does 1 through 50, inclusive, and therefore sues them by those fictitious names. The names, capacities, and relationships of Defendants Does 1 through 50, inclusive, will be alleged by amendment to this Complaint when the same are known to Plaintiff.

6. The true names and capacities, whether individual, corporate, associate or otherwise, of defendants Does 1 through 50 (“Does”), inclusive and each of them, are not known to Plaintiff at this time. Such Does are legally responsible for the events and happenings described herein and for the damages proximately caused thereby. Plaintiff will seek the leave of the Court to amend this complaint to set forth the true names and capacities of any such Does when they have been ascertained.

7. On information and belief, at all times mentioned herein, defendants, inclusive and each of them, including without limitation any Does, were acting in concert and participation with each other; were joint participants and collaborators in the acts complained of; and were the agents and/or employees of one another in doing the acts complained of herein, each acting within the course and scope of said agency and/or employment.

8. Kaiser, Permanente, and Does 1 through 50, inclusive, are collectively referred to hereafter as “Defendants”.

JURISDICTION AND VENUE

9. This Court has jurisdiction over Defendants because at all times relevant, they were authorized to transact, and are transacting business in California. Defendant KAISER FOUNDATION

1 HOSPITALS is registered to do business and has a designated agent for service of process in California.
2 It has an office located at 4601 Dale Road, Modesto, California 95356.

3 10. Defendant THE PERMANENTE MEDICAL GROUP, INC., is registered to do business
4 and has a designated agent for service of process in California. It has an office located at 4601 Dale
5 Road, Modesto, California 95356.

6 11. Venue is proper in this Court pursuant to Code of Civil Procedure § 395, because the acts,
7 events and omissions complained of herein occurred in Stanislaus County, California.

8 ***EXHAUSTION OF ADMINISTRATIVE REMEDIES***

9 12. On or about July 16, 2024, Plaintiff obtained a Right to Sue Letter from the California
10 Civil Rights Department attached hereto as Exhibit A.

11 ***GENERAL ALLEGATIONS***

12 13. Plaintiff Samuel Castle (“Castle”) is a 42-year-old Black transgender man who began
13 working for Kaiser Permanente (“Kaiser”) as a Psychiatric Technician at the Santa Clara location (3840
14 Homestead Road, Santa Clara, CA 95051) on July 15, 2015.

15 14. On June 25, 2016, Mr. Castle was transferred to the Modesto Clinic (4700 Enterprise
16 Way, Modesto, CA 95350). He worked in the Behavioral Health Department.

17 15. Upon his employment, Medical Social Worker, Dolores Covarrubias (“Covarrubias”),
18 who was Mr. Castle’s primary supervisor and a heterosexual Hispanic woman, began to discriminate and
19 harass Mr. Castle based on his identity as a Black lesbian woman. Behavioral Health Supervisors,
20 Barbara Mendez (“Mendez”), and Amber Wilson (“Wilson”), were also Mr. Castle’s supervisors at the
21 Modesto location.

22 16. On or about October 1, 2016, Ms. Covarrubias accused Mr. Castle of telling an applicant,
23 Christina Soares (“Soares”), that Kaiser’s Modesto location was not hiring, which he did not. An
24 investigation occurred and no disciplinary action was taken against Complainant.

25 17. In January 2017, Mr. Castle requested to work on Martin Luther King, Jr. Day pursuant to
26 his union contract. Ms. Covarrubias denied his request to work without reason. Complainant contacted
27 his union representative and after they contacted her, Ms. Covarrubias reversed her decision and allowed
28 Mr. Castle to work the holiday.

1 18. On or about January 30, 2017, Mr. Castle called a patient who did not answer so he
2 documented that he was going to follow up the next morning. The next morning, Ms. Covarrubias
3 viewed Mr. Castle's documentation on the patient's chart. She did not consult with him on the progress,
4 nor give him the opportunity to follow up with the patient before accusing Mr. Castle of not following
5 protocol and accused him of not following up with the patient. An investigation was conducted, and no
6 disciplinary action was taken.

7 19. In April 2017, Ms. Covarrubias reported Mr. Castle for making a minor, correctable error
8 when booking a patient's appointment. She did not allow Mr. Castle to correct the mistake. An
9 investigation occurred and no disciplinary action was taken.

10 20. In response, Mr. Castle filed a complaint with Navix, Kaiser's third-party complaint
11 system, against Ms. Covarrubias. He requested Kaiser investigate the ongoing discrimination,
12 harassment, and retaliation that he continued to experience. He also filed a complaint with the United
13 States of America National Labor Relations Board and spoke to a representative in the Oakland office.

14 21. On or around August 1, 2018, Mr. Castle began his gender transition, undergoing top
15 surgery, also known as male chest reconstruction. He disclosed the surgery to Ms. Covarrubias to request
16 leave for the surgery. She probed Mr. Castle, asking about the types of surgery he was undergoing.

17 22. On or around October 1, 2018, Ms. Covarrubias transferred to another department.

18 23. On or about November 13, 2019, around approximately 4:00 PM, Dr. Mariza Garcia, a
19 Filipino Heterosexual Psychiatrist, asked Mr. Castle to take a patient's blood pressure. The patient's
20 blood pressure was elevated so Mr. Castle followed the standard response process. Mr. Castle notified
21 Dr. Garcia about the patient's elevated blood pressure reading immediately after her session with another
22 patient ended. Dr. Garcia became upset and questioned Mr. Castle's decision to not notify her right away.
23 She questioned why he didn't knock on her door. She stated that he was "a smart woman" and "should
24 have known better." An investigation began and Mr. Castle was placed on administrative leave.

25 24. On or around January 5, 2020, Kaiser offered Complainant a one-year "last chance"
26 agreement. This agreement stated Mr. Castle could not make any mistakes whatsoever or he would be
27 immediately terminated and unable to grieve the termination. The following day they shortened the
28 offering of this agreement to six months. Complainant did not accept this agreement.

1 25. On or around January 15, 2020, Kaiser wrongfully terminated Mr. Castle after he was
2 accused of not following hospital protocol and refusing Kaiser's last chance agreement.

3 26. On or around January 17, 2020, Mr. Castle filed a grievance with the union for his
4 wrongful termination.

5 27. On or about January 31, 2020, Mr. Castle was notified by the union that he won the
6 grievance. He was able to return to work on February 3, 2020.

7 28. On or about February 10, 2020, Mr. Castle's colleague, Ms. Lowe, a heterosexual white
8 woman, had the exact same experience with a patient's high blood pressure reading. However, Ms. Lowe
9 was not reprimanded for the incident.

10 29. On or about March 4, 2020, Mr. Castle was called into another investigatory meeting
11 regarding allegations made by Dr. Arman Deol, Chief Psychiatrist. She accused Mr. Castle of not
12 following up with a patient. Dr. Deol unfairly criticized Mr. Castle after failing to provide him with clear
13 expectations on tasks. The investigation concluded with Kaiser not taking any disciplinary action against
14 Mr. Castle.

15 30. On or about May 11, 2020, Mr. Castle received an email from Ms. Mendez because he
16 submitted his timecard late. He responded back to Ms. Mendez stating that he felt that Ms. Mendez's
17 email was retaliatory and that another co-worker didn't submit her timecard on time and did not receive
18 an email.

19 31. In December 2021, Mr. Castle legally changed his name from 'Samantha' to 'Samuel' and
20 gender from female to male at the Modesto Courthouse.

21 32. In the beginning of 2022, and upon Mr. Castle's return to work, Dr. Garcia came into Mr.
22 Castle's office. The team was engaged in small talk when Dr. Garcia made a comment about Mr. Castle's
23 weight. She said it appeared that Mr. Castle had gained weight. He disclosed he gained weight due to his
24 testosterone therapy. Dr. Garcia replied, "Why do you want to be on that stuff, you don't need that." He
25 explained it helped to improve his quality of life as a transgender man. Dr. Garcia proceeded to tell Mr.
26 Castle that he did not need testosterone therapy.

27 33. In January 2022, Mr. Castle met with his supervisors, Psychologist Jaspreet Rai ("Rai")
28 and Ms. Mendez to disclose that he was in the process of gender transition. Mr. Castle shared his new

1 name, gender, and pronouns with Ms. Rai and Ms. Mendez.

2 34. In February 2022, Dr. Sarabjit Gill, Psychiatrist, addressed Mr. Castle by the wrong
3 pronouns. He referred to Mr. Castle as “she” approximately three to five times in a secure message to
4 different patients. Mr. Castle corrected Dr. Gill each time. However, Dr. Gill continued to misgender Mr.
5 Castle. Mr. Castle shared his concerns about misgendering Ms. Rai.

6 35. On or about February 23, 2022, Dr. Garcia referred to Mr. Castle as “madam” during their
7 conversation three times. Mr. Castle corrected Dr. Garcia each time. However, she continued to refer to
8 Mr. Castle as “madam” or “she” in her office. Dr. Garcia chose to intentionally refer to Mr. Castle by the
9 wrong gender. Mr. Castle reported the constant Dr. Garcia’s misgendering to Ms. Rai. She advised Mr.
10 Castle to follow up with Assistant Chief of Psychiatry, Dr. Mohammed Daher.

11 36. On or about February 24, 2022, Mr. Castle emailed a friendly reminder to the entire
12 department requesting that they refer to him with the correct pronouns.

13 37. In March 2022, Psychiatrist Dr. Angela Lima referred to Mr. Castle as “she” in a message
14 to her patient when she referred the patient to Mr. Castle to assist with booking an appointment. Mr.
15 Castle corrected Ms. Lima at that moment. Mr. Castle reported Dr. Lima’s misgendering to Ms. Rai.

16 38. In May 2022, Dr. Garcia continued to refer to Mr. Castle as “madam” in conversation. He
17 corrected Dr. Garcia at that moment, and she blew it off each time. She continued to intentionally
18 misgender him. Mr. Castle reported Dr. Garcia to Ms. Rai for constant misgendering.

19 39. In November 2022, Dr. Gill used incorrect pronouns when messaging a patient instructing
20 him to contact Mr. Castle. Mr. Castle corrected him through Teams. Dr. Gill blew it off and said, “I do
21 that to all of my patients.” Mr. Castle then sent a screenshot of Dr. Gill’s response from Teams to his
22 supervisor as well as an email that included Dr. Gill.

23 40. Approximately a week later, Mr. Castle met with HR Representative, Gary Diamond, and
24 Ms. Rai about his ongoing concerns over persistent misgendering. Mr. Diamond claimed the providers
25 would complete gender inclusion training.

26 41. In November 2022, Mr. Castle had an appointment with the radiology department. He was
27 asked by staff to disrobe in the women’s changing room instead of the men’s changing area. Kaiser staff
28 failed to follow proper protocol with transgender patients. After his appointment was over, Mr. Castle

1 requested to speak with the supervisor about his experience.

2 42. In February 2023, Dr. Gill referred to Mr. Castle as “she” in a secure message to his
3 patient. Mr. Castle reported Dr. Gill’s misgendering to Ms. Rai. Following this incident, Mr. Castle sent
4 Dr. Gill a Team’s message reminding him of his pronouns. His response was, “I do this to all of my
5 patients, it is not done on purpose”.

6 43. On or about April 23, 2023, Psychiatrist, Dr. Teresita Amay (“Amay”), referred to Mr.
7 Castle as “Miss” twice when asking him to help her with patient care. Mr. Castle corrected her both
8 times. Dr. Amay ignored his corrections both times. Mr. Castle reported Dr. Amay’s misgendering to Ms.
9 Rai.

10 44. On or about May 8, 2023, Mr. Castle had a meeting with his supervisor, Ms. Rai,
11 regarding his attendance. Ms. Rai gave Mr. Castle a level one corrective action process. The warning
12 included an oral reminder and initial discussion meeting.

13 45. On May 10, 2023, Dr. Deol addressed Mr. Castle by the wrong pronouns during a team
14 meeting. After the meeting was over, Mr. Castle sent Dr. Deol a Team's message reminding her of his
15 pronouns and Dr. Deol apologized for the misgendering. Mr. Castle spoke to Ms. Rai about his concerns
16 regarding the ongoing misuse of pronouns and misgendering. Ms. Rai minimized Mr. Castle’s reports
17 and replied that it would be easier for Dr. Deol to remember Mr. Castle’s pronouns if Dr Deol saw him in
18 person.

19 46. On or about May 26, 2023, Dr. Christian Ochonma, a psychiatrist, referred to Mr. Castle
20 as “she” when Dr. Ochonma referred his patient to Mr. Castle to schedule an appointment. He corrected
21 Dr. Ochonma at that moment and reported the incident to his supervisor.

22 47. On or about June 6, 2023, Mr. Castle met with Ms. Rai again about his concerns regarding
23 misgendering. Mr. Castle addressed the May 26, 2023, incident and continued misuse of pronouns by
24 various providers. Mr. Castle noted that Dr. Garcia, Dr. Deol, and Dr. Gill frequently and intentionally
25 misgendered him, and asked for a solution. Ms. Rai stated that she would follow up with Dr. Daher about
26 his concerns.

27 48. On or about June 16, 2023, Mr. Castle received a Team's message from Dr. Daher
28 requesting to meet about concerns regarding pronouns. Dr. Daher explained to Mr. Castle that all the

1 Psychiatrists were going to attend a training on inclusion and pronouns.

2 49. On or about June 26, 2023, Ms. Rai informed him that there was going to be a meeting the
3 next day because the providers had some complaints about his work performance.

4 50. On or about June 28, 2023, Mr. Castle was pulled into an investigatory meeting to address
5 the providers' complaint about his work performance. Mr. Castle was questioned by Ms. Rai and Mr.
6 Diamond on eight various complaints, which had never been discussed with him prior to this. Mr. Castle
7 was accused of many things including not taking vitals, having a tone over a Teams message, not
8 attending meetings. The complaints were either vague or rebuttable by evidence. Mr. Castle was told the
9 meeting was a verbal warning, to take two training classes, and understand the workflow of his position.

10 51. On or about June 29, 2023, Dr. Ochonma continued to refer to Mr. Castle as "she" and
11 "her." Mr. Castle corrected Dr. Ochonma in that moment and reported the issue to Ms. Rai.

12 52. Due to the intolerable working conditions that Defendants allowed to flourish, despite Mr.
13 Castle's complaints, Mr. Castle was constructively terminated on April 19, 2024.

14 53. For the seven years before filing this action Defendants harassed, marginalized, and
15 denigrated Plaintiff denying him the full opportunities and benefits that non-transgendered employees at
16 Kaiser received during the same time period. As a result of this hostile environment, Plaintiff suffered
17 extreme emotional distress and psychological injury.

18 54. In violation of Cal. Gov. Code §12940, Plaintiff was discriminated against based on
19 gender, sex and race. Plaintiff is informed and believes that other co-workers have been given
20 opportunities for promotion.
21

22 55. The discrimination Plaintiff experienced in the workplace caused Plaintiff extreme stress,
23 anxiety, worry, loss of sleep, changes in appetite, apprehension, and dismay. As a result of the emotional
24 toll on Plaintiff, he experiences feelings of paranoia, depression and is diagnosed with PTSD.

25 56. Kaiser knowingly permitted working conditions that a reasonable person in Plaintiff's
26 position would have found to be intolerable.
27
28

57. Defendants have discriminated and retaliated against Plaintiff based on gender, sex, and race in violation of Cal. Gov. Code § 12940. Defendant failed to investigate and prevent the foregoing discrimination and retaliation, despite Plaintiff's complaints, in violation of Cal. Gov. Code § 12940.

FIRST CAUSE OF ACTION

Retaliation

Cal. Gov. Code §12940(h)

(Against All Defendants)

58. Plaintiff re-pleads, re-alleges, and incorporates by reference each allegation set forth in this Complaint.

59. At all relevant times, the California Fair Employment & Housing Act, sections 12940, et seq., were in full force and effect, and binding on Defendants.

60. FEHA makes it an unlawful employment practice for an employer to retaliate against an employee who has opposed a forbidden practice or filed a complaint against an employer or supervisor. CGC §12940(h).

61. Plaintiff made multiple complaints to Defendants regarding discrimination he was experiencing from his supervisors and colleagues alike based on Plaintiff's sex, gender, and race.

62. Defendants retaliated against Plaintiff by constructively terminating Plaintiff's employment.

63. Plaintiff was harmed.

64. Defendants' conduct was a substantial factor in causing Plaintiff's harm.

65. As a result of Defendants' discriminatory and retaliatory treatment Plaintiff suffered emotional distress and felt humiliated, embarrassed, anxious, and depressed.

66. The conduct of Defendants and each of them as described above was malicious, fraudulent, or oppressive and done with a willful and conscious disregard for Plaintiff's rights. Defendants and each of them, and their agents/employees or supervisors, authorized, condoned, and

1 ratified the unlawful conduct of each other. Consequently, Plaintiff is entitled to punitive damages
2 against each of said Defendants.

3 ***SECOND CAUSE OF ACTION***

4 *Retaliation*

5 *Labor Code §1102.5*

6 *(Against All Defendants)*

7 67. Plaintiff re-pleads, re-alleges, and incorporates by reference each allegation set forth in
8 this Complaint.

9 68. At all relevant times, California Labor Code was in full force and effect, and binding on
10 Defendants.

11 69. Labor Code §1102.5 makes it an unlawful for an employer to retaliate against an
12 employee who has for disclosing information the employee reasonable believes discloses a violation of
13 state or federal statute, or a violation of or noncompliance with a local, state, or federal rule or regulation.

14 70. Plaintiff made multiple complaints to Defendants regarding discrimination, hostile work
15 environment, sexual harassment and intimidation he was experiencing from his superiors and colleagues
16 alike.

17 71. Defendants retaliated against Plaintiff by constructively terminating him.

18 72. Plaintiff was harmed.

19 73. Defendants' conduct was a substantial factor in causing Plaintiff's harm.

20 74. As a direct and proximate result of the above violations, Plaintiff has suffered damages in
21 the form of past and future wage losses, lost benefits, other pecuniary losses, and emotional distress in an
22 amount to be proven at trial.

23 75. The conduct of Defendants and each of them as described above was malicious,
24 fraudulent, or oppressive and done with a willful and conscious disregard for Plaintiff's rights.
25 Defendants and each of them, and their agents/employees or supervisors, authorized, condoned, and
26 ratified the unlawful conduct of each other. Consequently, Plaintiff is entitled to punitive damages
27 against each of said Defendants.
28

1 **THIRD CAUSE OF ACTION**

2 *Retaliation*

3 *Cal. Gov. Code § 98.6*

4 *(Against All Defendants)*

5 76. Plaintiff re-pleads, re-alleges, and incorporates by reference each and every allegation set
6 forth in this Complaint.

7 77. Cal. Lab. Code § 98.6 provides:

8 (a) A person shall not discharge an employee or in any manner discriminate,
9 retaliate, or take any adverse action against any employee . . . because the
10 employee . . . engaged in any conduct delineated in this chapter, including .
11 . . Chapter 5 (commencing with Section 1101) of Part 3 of Division 2, or
12 because the employee . . . or because of the exercise by the employee or
applicant for employment on behalf of himself, herself, or others of any
rights afforded him or her.

13 (b)(1) Any employee who is discharged, threatened with discharge,
14 demoted, suspended, retaliated against, subjected to an adverse action, or in
15 any other manner discriminated against in the terms and conditions of his or
16 her employment because the employee engaged in any conduct delineated in
this chapter, including . . . Chapter 5 (commencing with Section 1101) of
Part 3 of Division 2 . . . shall be entitled to reinstatement and reimbursement
for lost wages and work benefits caused by those acts of the employer.

17 78. Defendants were Plaintiff's employer, and Plaintiff was Defendants' employee.

18 79. Plaintiff made multiple complaints to Defendants regarding discrimination, hostile work
19 environment, and intimidation he was experiencing from his superiors and colleagues alike.

20 80. Defendants retaliated against Plaintiff by constructively terminating him.

21 81. Plaintiff was harmed.

22 82. Defendants' conduct was a substantial factor in causing Plaintiff's harm.

23 83. Pursuant to Cal. Lab. Code § 98.6(b)(3), Defendants are liable to Plaintiff for a civil
24 penalty of ten thousand dollars (\$10,000) for each violation.

25 84. The conduct of Defendants and each of them as described above was malicious,
26 fraudulent, or oppressive and done with a willful and conscious disregard for Plaintiff's rights.
27 Defendants and each of them, and their agents/employees or supervisors, authorized, condoned, and
28

1 ratified the unlawful conduct of each other. Consequently, Plaintiff is entitled to punitive damages
2 against each of said Defendants.

3 ***FOURTH CAUSE OF ACTION***

4 *Race/Color/Ethnicity/National Origin Discrimination*

5 *Cal. Gov. Code § 12940*

6 *(Against All Defendants)*

7 85. Plaintiff re-pleads, re-alleges, and incorporates by reference each and every allegation set
8 forth in this Complaint.

9 86. Government Code § 12940(a) provides in relevant part:

10 It is an unlawful employment practice. . . (a) [f]or an employer, because of
11 the race . . . of any person . . . to discharge the person from employment . . .
12 or to discriminate against the person in compensation or in terms,
conditions, or privileges of employment.

13 87. Plaintiff was Defendant's employee and Defendants were Plaintiff's employer.

14 88. Defendant wrongfully constructively terminated Plaintiff based on his race.

15 89. Plaintiff is an African American and, as an employee of Defendant, faced discrimination
16 based on his race and a hostile work environment during his time as an employee of Defendant.

17 90. Defendant knew or should have known of the discriminatory treatment Plaintiff suffered.

18 91. Plaintiff believes and alleges that Plaintiff's race was a substantial and determining factor
19 in Defendant's decision to constructively terminate Plaintiff's employment and harass him on a regular
20 basis.

21 92. Defendant's constructive termination of Plaintiff as alleged in this complaint constitutes
22 an unlawful employment practice in violation of Cal. Gov. Code § 12940(a).

23 93. As a direct, foreseeable, and proximate result of Defendant's discriminatory acts, Plaintiff
24 has suffered substantial losses in earnings and job benefits, and has suffered and continues to suffer
25 humiliation, embarrassment, mental and emotional distress, and discomfort, all to Plaintiff's damage in
26 an amount to be proven at trial.

27 94. The conduct of Defendant and each of them as described above was malicious, fraudulent,
28 or oppressive and done with a willful and conscious disregard for Plaintiff's rights. Defendants and each

1 of them, and their agents/employees or supervisors, authorized, condoned, and ratified the unlawful
2 conduct of each other. Consequently, Plaintiff is entitled to punitive damages against each of said
3 Defendants.

4 ***FIFTH CAUSE OF ACTION***

5 *Gender Discrimination*

6 *Cal. Gov. Code § 12940*

7 *(Against All Defendants)*

8 95. Plaintiff re-pleads, re-alleges, and incorporates by reference each and every allegation set
9 forth in this Complaint.

10 96. Plaintiff is a transgender male.

11 97. Plaintiff was subjected to unwelcome gender discrimination.

12 98. Defendant was Plaintiff's employer, and Plaintiff was Defendants' employee.

13 99. Plaintiff was harassed by his supervisor and colleagues alike. This harassment included
14 making comments about Plaintiff's gender-affirming transition and calling Plaintiff a "she" or "ma'am"
15 when he identified as male.

16 100. Throughout their employment, Plaintiff made multiple complaints to Defendant about the
17 harassment and discrimination he received from his supervisors and colleagues. Despite Plaintiff's
18 complaints of the harassment, Defendants did not remedy the situation.

19 101. Plaintiff suffered harm when they were discriminated against by Defendants.

20 102. Defendants' conduct was a substantial factor in causing Plaintiff's harm.

21 103. Under Government Code § 12940, Plaintiff is entitled to recover economic and
22 noneconomic damages caused by Defendants' discriminatory practices based on Plaintiff's gender and
23 violation of the Fair Employment and Housing Act. Plaintiff is also entitled to reasonable attorney's fees
24 and costs pursuant to Government Code § 12965.

25 104. As a result of Defendants' discriminatory treatment Plaintiff suffered extreme emotional
26 distress, as indicated by the lingering anxiety, extreme stress, worry, loss of sleep, changes in appetite,
27 dramatic loss of weight, apprehension, paranoia, depression, panic attacks, and dismay that are the direct
28 and proximate results of Defendant's conduct.

105. The conduct of Defendants and each of them as described above was malicious, fraudulent, or oppressive and done with a willful and conscious disregard for Plaintiff's rights. Defendants and each of them, and their agents/employees or supervisors, authorized, condoned, and ratified the unlawful conduct of each other. Consequently, Plaintiff is entitled to punitive damages against each of said Defendants.

SIXTH CAUSE OF ACTION

Hosile Work Environment Harassment

Cal. Gov. Code § 12940(j)

(Against All Defendants)

106. Plaintiff re-pleads, re-alleges, and incorporates by reference each and every allegation set forth in this Complaint.

107. Defendants, and each of them, either individually and/or through their agents, engaged in the foregoing conduct, which constitutes a pattern and practice of hostile work environment harassment in violation of Government Code § 12940(j), which provides that harassment of employees is an unlawful employment practice.

108. Plaintiff endured harassing conduct by Defendants and/or Defendant's supervisors and colleagues that took place throughout Plaintiff's working environment.

109. Plaintiff considered the work environment to be hostile or abusive towards people identifying as Black and transgendered.

110. Plaintiff's supervisor engaged in the conduct.

111. Defendants knew or should have known of the conduct and failed to take any corrective action whatsoever, let alone immediate appropriate corrective action.

112. The above-described acts and conduct by Defendants proximately caused Plaintiff damages and injury in an amount to be proven at trial.

113. The conduct of Defendants and each of them as described above was malicious, fraudulent, or oppressive and done with a willful and conscious disregard for Plaintiff's rights.

1 Defendants and each of them, and their agents/employees or supervisors, authorized, condoned, and
2 ratified the unlawful conduct of each other. Consequently, Plaintiff is entitled to punitive damages
3 against each of said Defendants.

4 ***SEVENTH CAUSE OF ACTION***

5 *Failure to Prevent Discrimination and Harassment*

6 *Cal. Gov. Code § 12940*

7 *(Against All Defendants)*

8 114. Plaintiff re-pleads, re-alleges, and incorporates by reference each and every allegation set
9 forth in this Complaint.

10 115. Government Code § 12940(m)(2) provides in relevant part:

11 It is an unlawful employment practice . . . (k) For an employer . . . to fail to
12 take all reasonable steps necessary to prevent discrimination and harassment
13 from occurring.

14 116. Defendants wrongfully failed to take all reasonable steps necessary to prevent harassment
15 and discrimination of Plaintiff based on Plaintiff's gender, sex and race.

16 117. Plaintiff suffered and continues to suffer harm as a result of Plaintiff's treatment by
17 Defendants.

18 118. Defendants' conduct was a substantial factor in causing Plaintiff's harm.

19 119. Under Government Code section 12940, Plaintiff is entitled to recover Plaintiff's
20 economic and noneconomic damages caused by Defendants' unlawful practices. Plaintiff is also entitled
21 to reasonable attorney's fees and costs pursuant to Government Code section 12965.

22 120. The conduct of Defendants and each of them as described above was malicious,
23 fraudulent, or oppressive and done with a willful and conscious disregard for Plaintiff's rights.
24 Defendants and each of them, and their agents/employees or supervisors, authorized, condoned, and
25 ratified the unlawful conduct of each other. Consequently, Plaintiff is entitled to punitive damages
26 against each of said Defendants.
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1 ***EIGHTH CAUSE OF ACTION***

2 *Intentional Infliction of Emotional Distress*

3 *(Hughes v. Pair (2009) 46 Cal.4th 1035)*

4 *(Against All Defendants)*

5 121. Plaintiff re-pleads, re-alleges, and incorporates by reference each and every allegation set
6 forth in this Complaint.

7 122. Defendant's treatment of Plaintiff as discussed supra, exceeds the bounds of decency, is
8 intolerable within our civilized community, and is therefore outrageous.

9 123. Defendant's actions, as discussed supra, were intended to cause Plaintiff to suffer the
10 resulting emotional distress.

11 124. Defendant caused Plaintiff to suffer extreme emotional distress, as indicated by the
12 lingering anxiety, extreme stress, worry, loss of sleep, changes in appetite, apprehension, paranoia,
13 depression, panic attacks, dismay, and PTSD that are the direct and proximate results of Defendant's
14 conduct.

15 125. Defendant's conduct was a substantial factor in causing Plaintiff's harm.

16 126. The conduct of Defendant as described above was malicious, fraudulent, or oppressive
17 and done with a willful and conscious disregard for Plaintiff's rights. Defendant and each of them, and
18 their agents/employees or supervisors, authorized, condoned and ratified the unlawful conduct of each
19 other. Consequently, Plaintiff is entitled to punitive damages against each of said Defendants.
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22 ***NINTH CAUSE OF ACTION***

23 *Wrongful Constructive Termination in Violation of Public Policy*

24 *(Against All Defendants)*

25 127. Plaintiff re-pleads, re-alleges, and incorporates by reference each and every allegation set
26 forth in this Complaint.

27 128. Art. I, § 8, of the California Constitution provides that a person may not be disqualified
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1 from pursuing a profession or employment because of gender, sex, or race.

2 129. At all times herein mentioned in this complaint, California Government Code Section 12940
3 (a), was in full force and effect and were binding on the Defendants and the Defendants were subject to
4 their terms, and therefore Defendant was required to refrain from violations of public policy, including
5 discrimination based on national origin in violation of FEHA and in retaliation for complaining of said
6 discrimination.

7 130. Defendants were Plaintiff's employer, and Plaintiff was Defendants' employee.

8 131. Defendant constructively terminated Plaintiff in violation of Plaintiff's rights and public
9 policy.

10 132. Plaintiff is informed and believes and thereon alleges that his protected status (gender, sex
11 and race) and/or his protestation against being discriminated against based on said protected status as
12 alleged above, were, in part, factors in Defendants' decision to constructively terminate Plaintiff's
13 employment.

14 133. Plaintiff was harmed.

15 134. Defendants' conduct was a substantial factor in causing Plaintiff's harm.

16 135. As a proximate result of Defendants' conduct, Plaintiff has suffered special damages in the
17 form of lost earnings, benefits and/or out of pocket expenses in an amount according to proof at the time
18 of trial. As a further direct and proximate result of Defendants' conduct, Plaintiff will suffer additional
19 special damages in the form of lost future earnings, benefits and/or other prospective damages in an amount
20 according to proof at the time of trial.

21 136. As a further direct and proximate result of Defendants' conduct, Plaintiff has suffered loss
22 of financial stability, peace of mind and future security, and has suffered embarrassment, humiliation,
23 mental and emotional pain and distress and discomfort, all to his detriment and damage in amounts not
24 fully ascertained but within the jurisdiction of this court and subject to proof at the time of trial.

25 137. In violation of public policy, Defendants constructively terminated Plaintiff because he is a
26 transgendered male, who made multiple complaints regarding discrimination and harassment he received
27 from his managers, supervisors and colleagues alike, despite the fact that Defendants knew that Plaintiff
28 was experienced and able to perform the essential functions of his position and had done so since 2015, as

1 a Psychiatric Technician.

2 138. The conduct of Defendants as described above was malicious, fraudulent, or oppressive and
3 done with a willful and conscious disregard for Plaintiff's rights. Defendant and each of them, and their
4 agents/employees or supervisors, authorized, condoned and ratified the unlawful conduct of each other.
5 Consequently, Plaintiff is entitled to punitive damages against each of said Defendants.

6 ***TENTH CAUSE OF ACTION***

7 *Failure to Provide Personnel Records*

8 *Cal. Labor Code § 1198.5*

9 *(Against All Defendants)*

10 139. Plaintiff re-pleads, re-alleges, and incorporates by reference each and every allegation set
11 forth in this Complaint.

12 140. California Labor Code section 1198.5(a)(b) provides in relevant part:

13 (a) Every current and former employee, or his or her representative, has
14 the right to inspect and receive a copy of the personnel records that the
15 employer maintains relating to the employee's performance or to any
grievance concerning the employee.

16 (b) (1) The employer shall make the contents of those personnel records
17 available for inspection to the current or former employee, or his or her
18 representative, at reasonable intervals and at reasonable times, but not later
19 than 30 calendar days from the date the employer receives a written
20 request, unless the current or former employee, or his or her
representative, and the employer agree in writing to a date beyond 30
calendar days to inspect the records, and the agreed-upon date does not
exceed 35 calendar days from the employer's receipt of the written
request.

21 141. Defendants were Plaintiff's employer, and Plaintiff was Defendants' employee.

22 142. Plaintiff's representative delivered notice and a signed authorization to release records via
23 email and mail to Defendants in an effort to obtain Plaintiff's personnel file on March 12, 2024.

24 143. Plaintiff's representative have not received communication or personnel files from
25 Defendants within 30 calendar days from the delivery of the notice.

26 ***ELEVENTH CAUSE OF ACTION***

27 *Failure to Provide Payroll Records*

28 *Cal. Labor Code § 226(b)*

(Against All Defendants)

144. Plaintiff re-pleads, re-alleges, and incorporates by reference each and every allegation set forth in this Complaint.

145. California Labor Code section 226(b) provides in relevant part:

(b) An employer that is required by this code or any regulation adopted pursuant to this code to keep the information required by subdivision (a) shall afford current and former employees the right to inspect or receive a copy of records pertaining to their employment, upon reasonable request to the employer. The employer may take reasonable steps to ensure the identity of a current or former employee. If the employer provides copies of the records, the actual cost of reproduction may be charged to the current or former employee.

146. Defendants were Plaintiff's employer, and Plaintiff was Defendants' employee.

147. Plaintiff's representative delivered notice and a signed authorization to release records via email and mail to Defendants in an effort to obtain Plaintiff's personnel file on March 12, 2023.

148. Plaintiff's representative have not received communication or personnel files from Defendants within 30 calendar days from the delivery of the notice.

149. Under California Labor Code section 226(f), failure by an employer to permit a current or former employee to inspect or receive a copy of records within the time set forth entitles the employee to recover a seven hundred fifty dollar (\$750) penalty from the employer.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment against the Defendants, and each of them, as follows:

1. Compensatory damages including emotional distress damages and lost wages, benefits and interest in a sum according to proof;
2. Interest on judgment, including prejudgment interest, at the legal rate;
3. Punitive damages in a sum according to proof;
4. Attorney's fees and costs; and
5. For any further legal and equitable relief, the Court deems proper.

1 Dated: July 16, 2024.

RATNER MOLINEAUX, LLP

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3 _____
4 David S. Ratner
5 Shelley A. Molineaux
6 Attorneys for Plaintiff Samuel Castle

7 **DEMAND FOR JURY TRIAL**

8 Plaintiff hereby demands trial of his claims by jury to the extent authorized by law.

9 Respectfully submitted,

10 Dated: July 16, 2024.

RATNER MOLINEAUX, LLP

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12 _____
13 David S. Ratner
14 Shelley A. Molineaux
15 Attorneys for Plaintiff Samuel Castle
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