

1 Felicia Medina (SBN 255804)
fmedina@medinaorthwein.com
2 Jennifer Orthwein (SBN 255196)
jorthwein@medinaorthwein.com
3 Kevin Love Hubbard (SBN 290759)
khubbard@medinaorthwein.com
4 Shauna Madison (SBN 299585)
smadison@medinaorthwein.com
5 MEDINA ORTHWEIN LLP
6 230 Grand Avenue, Suite 201
Oakland, CA 94610
7 Telephone: (510) 823-2040
8 Facsimile: (510) 217-3580

9 Kelly M. Dermody (SBN 171716)
kdermody@lchb.com
10 Jallé Dafa (SBN 290637)
jdafa@lchb.com
11 LIEFF CABRASER HEIMANN & BERNSTEIN, LLP
12 275 Battery Street, 29th Floor
San Francisco, CA 94111
13 Telephone: (415) 956-1000
14 Facsimile: (415) 956-1008

15 *Attorneys for Plaintiffs and the Class*

16 **SUPERIOR COURT OF CALIFORNIA**
17 **COUNTY OF SAN FRANCISCO**
18 **UNLIMITED JURISDICTION**

FILED
SUPERIOR COURT
COUNTY OF SAN FRANCISCO

APR 22 2021

CLERK OF THE COURT

BY: 

ANGELICA SUNGA Deputy Clerk

19 SHELBY STEWART, CHARLETA
20 DABROWSKI, BENEDICT JOHNSON, and
21 KENYA MAYFIELD, on behalf of themselves
and all others similarly situated,

Plaintiffs,

v.

24 KAISER FOUNDATION HEALTH PLAN, INC.,
25 KAISER FOUNDATION HOSPITALS, THE
26 PERMANENTE MEDICAL GROUP, INC., and
SOUTHERN CALIFORNIA PERMANENTE
MEDICAL GROUP,

Defendants.

Case No. CGC-21-590966

CLASS ACTION

**COMPLAINT FOR DAMAGES,
PENALTIES, AND INJUNCTIVE RELIEF**

JURY TRIAL DEMANDED

COMPLAINT FOR DAMAGES, PENALTIES, AND INJUNCTIVE RELIEF

1 Plaintiffs Shelby Stewart, Charleta Dabrowski, Benedict Johnson, and Kenya Mayfield (together
2 “Plaintiffs”), by and through their attorneys, Medina Orthwein LLP and Lief Cabraser Heimann &
3 Bernstein LLP, bring this class and representative action against Kaiser Foundation Health Plan, Inc.
4 (“KFHP”), Kaiser Foundation Hospitals (“KFH”), The Permanente Medical Group, Inc. (“TPMG”), and
5 Southern California Permanente Medical Group (“SCPMG”) (collectively, “Kaiser,” “Defendants,” or the
6 “Kaiser-Related Entities”) for violations of California and federal anti-discrimination laws. Plaintiffs,
7 individually and on behalf of all others similarly situated, complain and allege as follows.

8 **I. INTRODUCTION**

9 1. Kaiser is one of the nation’s largest not-for-profit health plans, serving 12.4 million
10 members and employing over 200,000 individuals.

11 2. Plaintiffs Shelby Stewart, Charleta Dabrowski, Benedict Johnson, and Kenya Mayfield are
12 Black individuals employed by Kaiser. Collectively, they have worked at Kaiser for over 72 years.
13 Despite their years of dedicated service, Plaintiffs and other Black employees have been underpaid,
14 underpromoted, and undervalued.

15 3. Plaintiffs bring this action on a class and representative basis on behalf of themselves and
16 a California-only Class of Black or African-American individuals who meet the following parameters at
17 any time between January 1, 2015 and March 31, 2021 (the “Class”): (a) The following California
18 Regions: Northern California (NCAL); Southern California (SCAL); California locations of the Program
19 Offices Region; and California locations of the KP-IT Region; (b) The following California Entities:
20 KFHP, KFH, TPMG and SCPMG; (c) Exempt and non-exempt Employees; (d) Full-time, non-union,
21 Director-Level and below, and non-clinical jobs only; (e) The following two job families: Administrative
22 Support and Consulting Services. Approximately 2,225 Black employees currently fall under this class
23 definition. The Class does not include individuals in Intern or Student Temporary jobs.

24 4. Plaintiffs allege violations of the California Fair Employment and Housing Act, Cal. Gov’t
25 Code section 12940, et seq. (“FEHA”), the California Fair Pay Act, Cal. Lab. Code section 1197.5, et seq.,
26 (“CFPA”), the California Unfair Competition Law, Cal. Bus. & Prof. Code section 17200, et seq., the
27 California Private Attorneys General Act of 2004, Cal. Lab. Code section 2698, et seq. (“PAGA”), Title
28

1 VII, and 42 U.S.C. § 1981, seeking redress and programmatic change for Black employees who are
2 working, have worked, or will work for Kaiser.

3 5. Plaintiffs seek declaratory, injunctive, and monetary relief, disgorgement of profits,
4 restitution, penalties pursuant to the PAGA, and an award of costs and attorneys' fees for themselves and
5 on behalf of the Class.

6 **II. THE PARTIES**

7 6. **Plaintiff Shelby Stewart** is a Black woman who was employed by one or more Kaiser-
8 Related Entities since 2006 until her resignation effective September 4, 2020. During Ms. Stewart's
9 employment, she last held the title Senior Manager, Business Process Management.

10 7. **Plaintiff Charleta Dabrowski** is a Black woman who has been employed by one or more
11 Kaiser-Related Entities since 2006 and currently holds the title Operations Specialist II.

12 8. **Plaintiff Benedict Johnson** is a Black man who has been employed by one or more Kaiser-
13 Related Entities since 2007 and currently holds the title Operations Specialist II.

14 9. **Plaintiff Kenya Mayfield** is a Black woman who was employed by one or more Kaiser-
15 Related Entities from June 1989 until her resignation effective August 1, 2020. Ms. Mayfield last held
16 the title Contract Manager I.

17 10. **Defendants KFHP, KFH, TPMG, and SCPMG** are part of a group of entities that
18 provide health care services commonly known as Kaiser Permanente (a trade name, not a legal entity).
19 Kaiser Permanente's total operating revenue for 2020 was \$88.7 billion.¹ Kaiser Permanente is comprised
20 of several entities and subsidiaries, and in general is divided into four categories: KFHP (managed care);
21 KFH (hospital provider); Permanente Medical Groups (medical providers); and the Permanente
22 Federation, LLC (national leadership). KFHP and KFH are nonprofit corporations that are headquartered
23 in Oakland, California. TPMG and SCPMG are professional corporations under California law with
24 headquarters in Oakland, California and Pasadena, California, respectively. The Kaiser-Related Entities
25 have multiple offices in San Francisco County and regularly conduct business in the County. During all
26 relevant times, Plaintiffs were employed by Kaiser within the meaning of all applicable statutes.

27 ¹ *Fast facts*, KAISER PERMANENTE, <https://about.kaiserpermanente.org/who-we-are/fast-facts> (last visited
28 February 25, 2021 at 11:30 AM).

1 **III. JURISDICTION AND VENUE**

2 11. This Court has jurisdiction under Article VI, Section 10, of the California Constitution and
3 Code of Civil Procedure section 410.10 because the action involves issues of state law.

4 12. Venue is proper in this Court pursuant to Code of Civil Procedure sections 395(a) and
5 395.5 because one or more Kaiser-Related Entities maintain and administer records relevant to the
6 unlawful practices alleged here in San Francisco County, because Kaiser’s unlawful actions giving rise to
7 its liability were committed in part in San Francisco County, and because Ms. Stewart would have worked
8 in San Francisco County but for Kaiser’s alleged unlawful practice.

9 13. Furthermore, under the Private Attorneys General Act, venue is proper because Kaiser
10 committed violations against similarly aggrieved individuals who are or were employed in San Francisco
11 County.

12 14. Ms. Stewart duly filed a Class Complaint of Employment Discrimination with the
13 California Department of Fair Employment and Housing (“DFEH”) and the Equal Employment
14 Opportunity Commission (“EEOC”) on November 28, 2019 and received a Case Closure and Right to Sue
15 Notice from the DFEH the same day. The Parties in this action have also entered into a separate tolling
16 agreement, making this filing timely.

17 **IV. FACTUAL ALLEGATIONS**

18 **A. Kaiser Fails to Pay Black Employees Equally Based on Common Policies, Practices,**
19 **and Procedures**

20 15. Kaiser’s common, centralized policies on compensation and performance management
21 discriminate against its Black employees.

22 16. All Class Members are subject to the same categories of compensation, awarded under a
23 well-established common policy for base pay, merit pay (base pay raises), incentive pay (bonuses), and
24 equity pay.

25 17. Kaiser has National Functions compensation guidelines and practices, which include salary
26 range utilization guidelines, setting salary ranges for each position and key factors to determine
27 employees’ position within that range, as well as detailed approval requirements for any given pay
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1 decision. Similarly, formulas for increasing pay are set by senior leaders and the Human Resources
2 Compensation Team and are then inputted into a centralized tool for pay-setting called TotalPay. Kaiser
3 managers then access this information through an internal compensation guidance website called MyHR.

4 18. Kaiser's regional branches in California have a uniform structure for setting base pay and
5 merit increases. All of Kaiser's compensation decisions are functionally aligned under the Shared Service
6 Leader for Compensation. Compensation consulting teams are responsible for making initial base pay
7 decisions and are instructed to follow a similar set of guidelines when determining base pay: an
8 employee's experience, education, internal peer alignment, and external market competitiveness.

9 19. Kaiser's controlling regional centers use a "midpoint" formula to inform their
10 compensation decisions. Employees' base pay is distributed along a normal curve, and at each position
11 along the curve, employees are classified into three zones or salary ranges: the "Entry Zone," where all
12 employees are paid below median base pay, the "Market Zone," where salaries are clustered slightly above
13 and below the median, and the "Premium Zone," where all salaries are above the median. Kaiser's
14 calculation of the midpoint is based on external market salary and internal relationships to other jobs.

15 20. Kaiser's regional branches also apply a consistent formula when determining annual merit
16 pay. Merit increases across all regions are determined based on an employee's position in their salary
17 range and their performance rating. All regional centers share the same performance rating system and
18 apply similar merit increase guidelines for corresponding performance ratings and salary ranges. While
19 these percentage ranges differ slightly across regions, each region is instructed to follow a similar set of
20 guidelines to calculate merit increase ranges: salary increases are based on an employee's salary range
21 and performance relative to their peers, with merit dollars concentrated towards "high performance
22 employees who are critical to business."

23 21. Kaiser's policy of determining merit increases based on salary ranges locks in existing pay
24 disparities and prevents the Company from correcting existing pay disparities.

25 22. Kaiser's incentive pay program is designed to "reward eligible employees who contribute
26 to the success of Kaiser Permanente through team and individual performance." It is a one-time lump
27 sum annual payment thought to be based on individual performance and annually specified organizational
28

1 goals. In every region, the total incentive award an employee receives is supposed to be tied to
2 performance and calculated using a common formula. Employees who did not receive a year-end
3 performance rating of “Successful” or higher during the previous year are not eligible for an incentive
4 award.

5 23. Kaiser also awards spot bonuses to non-union employees in a common manner that is
6 subjective.

7 24. Black employees, including Plaintiffs, are adversely impacted by Kaiser’s compensation
8 system and Class Members earn less than white employees for performing substantially similar work.

9 **B. Kaiser Fails to Promote Black Employees Based on Common Policies, Practices, and**
10 **Procedures**

11 25. Kaiser’s promotion policies are also common to the class.

12 26. Kaiser’s promotion policies are collectively developed and revised during a monthly “HR
13 Roundtable,” involving representatives across regions and job functions. Kaiser defines a promotion as
14 “a move to a job with greater responsibility and complexity and/or a different kind of work.” The
15 Company’s definition of a promotion is also dependent on whether an employee receives a pay
16 increase. When determining the salary increase an employee will receive as a result of their promotion,
17 Kaiser considers the employee’s salary level in their new pay band, “hard to recruit skills” the employee
18 may have, and the employee’s experience and qualifications, among other factors.

19 27. Although Class members have generally received comparable performance evaluations as
20 non-Class members, Black employees, including Plaintiffs, have not been promoted in the same manner
21 as non-Black employees.

22 28. Black employees, including Plaintiffs, are adversely impacted by Kaiser’s promotion
23 system.

24 **C. Plaintiffs Were Subjected to Pay Discrimination**

25 (1) Shelby Stewart

26 29. Upon information and belief, Ms. Stewart was paid less than non-Black and male
27 employees with the same job code, job family, job function, manager level, EEO job group, and city in
28

1 2017. Upon information and belief, Ms. Stewart has also been significantly underpaid compared to non-
2 Black employees who performed similar work with respect to skill, effort, and responsibility with a higher-
3 paying title. For instance, Ms. Stewart performed Director-level work without Director-level pay as a
4 Business Consultant from May 2015 to October 2016 and as a Senior Manager from October 2016 to the
5 present. None of the approximately four Directors on Ms. Stewart's team during this time frame were
6 Black women.

7 (2) Charleta Dabrowski

8 30. Upon information and belief, Ms. Dabrowski was compensated less than non-Black and
9 male employees with the same job family, job function, manager level, EEO job group, and city in 2017
10 and 2018. Upon information and belief, Ms. Dabrowski has also been significantly underpaid compared
11 to non-Black employees who performed similar work with respect to skill, effort, and responsibility with
12 a higher-paying title. For instance, Ms. Dabrowski performed Analyst-level work without Analyst-level
13 pay as an Operations Specialist II from 2006 to the present. Upon information and belief, Analyst
14 positions at Kaiser are filled by predominately non-Black employees.

15 (3) Benedict Johnson

16 31. Upon information and belief, Mr. Johnson was compensated less than non-Black
17 employees with the same job family, job function, manager level, EEO job group, and city in 2017 and
18 2018. Upon information and belief, Mr. Johnson has also been significantly underpaid compared to non-
19 Black employees who performed similar work with respect to skill, effort, and responsibility with a higher-
20 paying title. For instance, Mr. Johnson performed Analyst-level work without Analyst-level pay as an
21 Operations Specialist II from 2006 to the present. Upon information and belief, Analysts at Kaiser are
22 predominately non-Black employees.

23 (4) Kenya Mayfield

24 32. Upon information and belief, Ms. Mayfield was paid less than non-Black employees with
25 the same job code, job family, job function, manager level, EEO job group, and city in 2015, 2016, and
26 2017.

27 33. Upon information and belief, Ms. Mayfield has also been significantly underpaid compared
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1 to non-Black employees who performed similar work with respect to skill, effort, and responsibility with
2 a higher-paying title. For instance, Ms. Mayfield performed Director-level work without Director-level
3 pay as a Senior Manager from June 2015 to June 2016. None of the approximately two Directors on Ms.
4 Mayfield's team during this time frame were Black.

5 **D. Plaintiffs Were Subjected to Promotion Discrimination**

6 (1) Shelby Stewart

7 34. Between July 2006 and November 2011, Ms. Stewart's supervisor, a white male Director,
8 promoted a white female Project Manager a year before promoting Ms. Stewart. He never promoted the
9 remaining two Project Managers on the team, both of whom are Black.

10 35. In 2012, Ms. Stewart's supervisor declined to promote Ms. Stewart to Manager or Director
11 during a department restructuring; rather, Ms. Stewart was forced to absorb retired Managers' and
12 Directors' job duties without the pay or title.

13 36. In May 2015, Ms. Stewart's supervisor, a white female Vice President, lowered Ms.
14 Stewart's title from Lead Consultant to Business Consultant. At the same time, she promoted a white
15 woman from Executive Assistant to Senior Manager. Less than six months later, that same white woman
16 was promoted again to Director.

17 37. Similarly, another white woman was promoted to Director in 2017 after only six months
18 as a Senior Manager.

19 38. Kaiser also denied Ms. Stewart several promotions in its San Francisco offices. For
20 example, in 2017, Ms. Stewart applied for a promotion to a Director position in Consulting Services in
21 San Francisco. Kaiser denied Ms. Stewart this promotion.

22 39. Ms. Stewart continued to have a lower title and pay than white female Directors even
23 though she performed Director-level duties for years.

24 (2) Charleta Dabrowski

25 40. Ms. Dabrowski has been unable to advance from her Operations Specialist II title for over
26 12 years. Ms. Dabrowski pioneered KFHP's Vendor Authorization team and is responsible for creating
27 the team's blueprint that remains almost entirely unchanged to date. Despite her accomplishments,
28

1 dedication, and work ethic, Kaiser has consistently denied Ms. Dabrowski the promotion or pay level that
2 accurately reflects the managerial duties that she performs.

3 41. Since October 2018, Ms. Dabrowski has been discriminatorily denied at least eight higher-
4 level positions for which she applied.

5 42. Ms. Dabrowski has also been passed over for tap-on-the-shoulder promotions. When her
6 team's Manager role became vacant in 2010, 2011, and 2012, three non-Black men were appointed.
7 Similarly, a white counterpart was promoted to Analyst in 2014. More recently, Ms. Dabrowski's
8 supervisor, a white male Senior Manager, appointed two non-Black women to Supervisor and Interim
9 Manager in May 2018 and July 2018, respectively.

10 (3) Benedict Johnson

11 43. Mr. Johnson has held the same title for over ten years despite regularly performing Analyst
12 and Manager-level duties.

13 44. To date, Kaiser has denied Mr. Johnson over ten promotions for which he applied.

14 45. Kaiser also passed over Mr. Johnson for tap-on-the-shoulder promotions. When his team's
15 Manager role became vacant in 2010, 2011, and 2012, three non-Black men were appointed. Similarly, a
16 white counterpart was promoted to Analyst in 2014. More recently, Mr. Johnson's supervisor, a white
17 male Senior Manager, appointed two non-Black women to Supervisor and Interim Manager in May 2018
18 and July 2018, respectively.

19 (4) Kenya Mayfield

20 46. Ms. Mayfield has unsuccessfully applied for hundreds of positions during her long career
21 at Kaiser.

22 47. Like Ms. Stewart, Ms. Mayfield had to wait significantly longer than two white women to
23 be promoted to Senior Manager and was never promoted to Director like her two white women
24 counterparts were.

25 48. Ms. Mayfield accepted a demotion down to Managerial Consultant in June 2016 in order
26 to escape a department plagued by blatant racism. Ms. Mayfield never advanced back to Senior Manager
27 for the remaining four years of her employment at Kaiser-Related Entities.

1 **V. CLASS ACTION ALLEGATIONS**

2 49. Plaintiffs hereby incorporate by reference all preceding paragraphs as alleged above as if
3 fully set forth herein.

4 50. Plaintiffs bring this class action on behalf of a Class of Black employees who meet the
5 following parameters at any time between January 1, 2015 and March 31, 2021 (the "Class"): (a) The
6 following California Regions: Northern California (NCAL); Southern California (SCAL); California
7 locations of the Program Offices Region; and California locations of the KP-IT Region; (b) The following
8 California Entities: KFHP, KFH, TPMG and SCPMG; (c) Exempt and non-exempt Employees; (d) Full-
9 time, non-union, Director-Level and below, and non-clinical jobs only; (e) The following two job
10 families: Administrative Support and Consulting Services . The Class does not include individuals in
11 Intern or Student Temporary jobs.

12 51. Plaintiffs are members of the Class they seek to represent.

13 52. This action should proceed as a class action pursuant to Code of Civil Procedure Section
14 382 because the Class is ascertainable, there is a well-defined community of interest in the litigation, and
15 the Class is manageable. Class certification in this action would produce substantial benefits to the
16 litigants, the members of the Class, and the Court.

17 53. The approximately 2,225 Class Members are so numerous that joinder of all Class
18 Members is impracticable.

19 54. There are questions of law and fact common to the Class, and these questions predominate
20 over any questions affecting only individual members. Common questions include, among others, (1)
21 whether Kaiser's compensation, promotion, and performance evaluation policies violate the FEHA and
22 the CFPA by discriminating against Black employees in pay and promotion; and (2) whether equitable
23 remedies, declaratory relief, injunctive relief, and compensatory damages for the Class are warranted.

24 55. Plaintiffs' claims are typical of the claims of the Class. Plaintiffs and Class Members have
25 been subjected to the Company's common policy and practice of discriminating against Black employees
26 with respect to compensation, promotions, and performance evaluations.

27 56. Plaintiffs will fairly and adequately represent and protect the interests of Class Members.
28

1 Plaintiffs' interests are aligned with those of Class Members and Plaintiffs have no conflict with Class
2 Members. Plaintiffs are committed to having Kaiser revise its policies and practices to ensure fair pay,
3 promotions, and performance evaluations, and a workplace that is free from discrimination, harassment,
4 and retaliation, as required by the FEHA, the CFPA, and the Labor Code.

5 57. Plaintiffs have retained counsel competent and experienced in employment discrimination
6 class actions.

7 58. A class action is superior to other available methods of the fair and efficient adjudication
8 of this litigation.

9 **VI. PAGA ALLEGATIONS**

10 59. Plaintiffs hereby incorporate by reference all preceding paragraphs as alleged above as if
11 fully set forth herein.

12 60. Kaiser has violated Plaintiffs' rights under the California Labor Code, including the CFPA.

13 61. Plaintiffs seek to represent and to recover civil penalties on behalf of other similarly
14 aggrieved individuals.

15 62. "Other similarly aggrieved individuals" means all Black employees who meet the
16 following parameters at any time between January 1, 2015 and March 31, 2021 (the "Class"): (a) The
17 following California Regions: Northern California (NCAL); Southern California (SCAL); California
18 locations of the Program Offices Region; and California locations of the KP-IT Region; (b) The following
19 California Entities: KFHP, KFH, TPMG and SCPMG; (c) Exempt and non-exempt Employees; (d) Full-
20 time, non-union, Director-Level and below, and non-clinical jobs only; (e) The following two job
21 families: Administrative Support and Consulting Services . Individuals who worked in Intern or Student
22 Temporary jobs are not similarly aggrieved individuals for these purposes.

23 **COUNT I**
24 **Race Discrimination**
25 **FEHA, Cal. Gov't Code section 12940, et seq., Title VII, 42 U.S.C. section 1981**
26 **(On Behalf of Plaintiffs and the Class)**

27 63. Plaintiffs hereby incorporate by reference all preceding paragraphs as alleged above as if
28 fully set forth herein.

64. At all times herein mentioned, the FEHA was in full force and effect and fully binding

1 upon Defendants. Plaintiffs and the Class were members of a group protected by the statute, in particular
2 Section 12940(a), prohibiting discrimination in employment based on race.

3 65. The unequal pay provided to Plaintiffs and the Class by Defendants constitutes
4 discrimination based on race and violated Government Code section 12940(a).

5 66. As a direct, foreseeable, and proximate result of Defendants' unlawful actions, Plaintiffs
6 and the Class have suffered and continue to suffer substantial losses in earnings, equity, and other
7 employment benefits and have incurred other economic losses.

8 67. As a further direct, foreseeable, and proximate result of Defendants' unlawful actions,
9 Plaintiffs and the Class have suffered emotional distress, humiliation, shame, and embarrassment all to
10 the Plaintiffs' and the Class' damage in an amount to be proven at the time of trial.

11 68. Defendants committed the acts herein despicably, maliciously, fraudulently, and
12 oppressively, with the wrongful intention of injuring Plaintiffs and the Class, from an improper and evil
13 motive amounting to malice, and in conscious disregard of the rights of Plaintiffs and the Class. Plaintiffs
14 and the Class are thus entitled to recover punitive damages from Defendants in an amount according to
15 proof.

16 **COUNT II**
17 **Unequal Pay**
18 **CFPA, Cal. Lab. Code section 1197.5, et seq.**
19 **(On Behalf of Plaintiffs and the Class)**

20 69. Plaintiffs hereby incorporate by reference all preceding paragraphs as alleged above as if
21 fully set forth herein.

22 70. Kaiser has discriminated against Plaintiffs and the Class in violation of the CFPA by paying
23 Black employees at wage rates less than the wage rates paid to employees of other races for equal and
24 substantially similar work. Specifically, Kaiser has paid Black employees less than employees of other
25 races for equal work on jobs for which the performance required equal skill, effort, and responsibility, and
26 which were performed under similar working conditions. Kaiser has paid Black employees less than
27 employees of other races for substantially similar work, when viewed as a composite of skill, effort, and
28 responsibility, and performed under similar working conditions.

71. Kaiser willfully violated the CFPA by intentionally, knowingly, and deliberately paying

1 Black employees less than employees of other races for equal and substantially similar work.

2 72. As a result of Kaiser's conduct, violation of the CFPA, and/or Kaiser's willful, knowing,
3 and intentional discrimination, Plaintiffs and the Class have suffered and will continue to suffer harm,
4 including but not limited to lost earnings, lost benefits, and other financial loss, as well as non-economic
5 damages.

6 73. Plaintiffs and the Class are therefore entitled to all legal and equitable remedies available
7 under law, including wages, interest, and liquidated damages.

8 **COUNT III**
9 **Failure to Prevent Discrimination**
10 **FEHA, Cal. Gov't Code section 12940(k)**
11 **(On Behalf of Plaintiffs and the Class)**

12 74. Plaintiffs hereby incorporate by reference all preceding paragraphs as alleged above as if
13 fully set forth herein.

14 75. Under California Government Code § 12940(k), it is an unlawful employment practice for
15 an employer "to fail to take all reasonable steps necessary to prevent discrimination from occurring."

16 76. Through its above-described actions and omissions, Defendants failed in its affirmative
17 duty to take all reasonable steps necessary to prevent discrimination, harassment, and/or retaliation from
18 occurring in violation of the FEHA.

19 77. Among other failures, Defendants failed to pay and promote Plaintiffs and Class Members
20 equally compared to similarly situated, non-Black employees despite repeated complaints to management,
21 senior leadership, Human Resources, and the Legal Department.

22 78. As a direct and proximate result of Defendants' unlawful actions, Plaintiffs and the Class
23 have suffered lost wages, employment benefits, other compensation and benefits, and other economic
24 damages in amounts to be proven at trial.

25 79. As a direct and proximate result of Defendants' unlawful actions. Plaintiffs and Class
26 Members have suffered injury, including but not limited to emotional distress, entitling them to
27 compensatory damages in an amount to be proven at trial.

28 80. Plaintiffs and Class Members are entitled to reasonable attorneys' fees and costs pursuant
to California Government Code section 12965(b).

COUNT IV
Unfair Competition

California Unfair Competition Law, Cal. Bus. & Prof. Code sections 17200, et seq.
(On Behalf of Plaintiffs and the Class)

1
2
3 81. Plaintiffs hereby incorporate by reference all preceding paragraphs as alleged above as if
4 fully set forth herein.

5 82. Kaiser is a “person” as defined under California Business and Professions Code section
6 17021.

7 83. Kaiser, with its conduct alleged herein, has engaged and continues to engage in business
8 practices which violate California law, including, but not limited to, the FEHA and the CFPA. Kaiser’s
9 unlawful and unfair business practices include discriminatory pay and promotions in violation of
10 California law, and therefore constitute unlawful business practices prohibited by Business and
11 Professions Code section 17200 et seq.

12 84. Kaiser’s conduct alleged herein occurred, pursuant to its common policies or practices,
13 during the four years preceding the filing of this Complaint.

14 85. As a result of its unlawful acts, Kaiser has reaped and continues to reap unfair benefits and
15 illegal profits at the expense of Plaintiffs and Class Members. Accordingly, Kaiser should be required to
16 disgorge these unfair benefits and illegal profits in an amount according to proof at the time of trial.

17 86. Plaintiffs and Class Members also seek all injunctive and preventative relief authorized by
18 Business and Professions Code sections 17202–03.

COUNT V
Unfair Competition

PAGA, Cal. Lab. Code section 2698 et seq.
(On Behalf of Plaintiffs and the Aggrieved Employees)

19
20
21
22 87. Plaintiffs hereby incorporate by reference all preceding paragraphs as alleged above as if
23 fully set forth herein.

24 88. Plaintiffs bring this claim in their individual and representative capacities as aggrieved
25 employees on behalf of similarly aggrieved employees in the Class who are subjected to the violations
26 alleged herein.

1 89. The PAGA gives any employee aggrieved by an employer's violation of the Labor Code
2 the right to file an action on behalf of all aggrieved employees for the civil penalties established by Section
3 2698 and/or other Labor Code sections.

4 90. Plaintiffs are aggrieved employees who have been deprived of equal pay, in violation of
5 the CFPA.

6 91. Accordingly, Plaintiffs are entitled to collect civil penalties on behalf of themselves and
7 others similarly aggrieved against all Defendants as allowed under Cal. Lab. Code sections 2699(a) and
8 (f) and costs and attorneys' fees under Cal. Lab. Code Section 2699(g).

9 **PRAYER FOR RELIEF**

10 Wherefore, Plaintiffs and the Class request the following relief:

- 11 a. Certification of the class claims identified in this action as a class action under
12 California Code of Civil Procedure section 382 on behalf of the Class;
- 13 b. Designation of Plaintiffs as representatives of the Class;
- 14 c. Designation of Plaintiffs' counsel of record as Class Counsel;
- 15 d. A declaratory judgment that that Kaiser's policy and practice of discriminating against
16 Black employees in compensation and promotions violates the FEHA and California
17 Business and Professions Code section 17200, et seq.;
- 18 e. A preliminary and permanent injunction:
 - 19 i. Prohibiting Kaiser from engaging in any conduct violating the rights of Plaintiffs
20 and Class Members as secured by the FEHA and the CFPA and order such
21 injunctive relief as will prevent Defendants from continuing their discriminatory
22 practices and from engaging in any further unlawful practices, policies, customs,
23 usages, and race discrimination as set forth herein;
 - 24 ii. Requiring Kaiser to adjust the wages and benefits for the respective Plaintiffs and
25 Class Members to the level that they would be enjoying but for the Defendants'
26 discriminatory policies, practices and/or procedures;
 - 27 iii. Requiring Kaiser to develop, adopt, and apply written policies, to be approved by
28

- 1 the Court, which will ensure Kaiser's compliance with the FEHA and the CFPA;
- 2 iv. Requiring Kaiser to train its Human Resources and employees in supervisory roles
- 3 in the requirements and proper enforcement of the FEHA and the CFPA;
- 4 v. Requiring Kaiser to provide other injunctive relief as just and necessary to Plaintiffs
- 5 and Class Members who establish that they are entitled to such injunctive relief;
- 6 and
- 7 f. Wages, salary, employment benefits, and other compensation or benefits denied to or
- 8 lost by Plaintiffs and Class Members in an amount in accordance with proof presented
- 9 at trial;
- 10 g. Compensatory damages to Plaintiffs and Class Members in an amount in accordance
- 11 with proof presented at trial;
- 12 h. Restitution to Plaintiffs and Class Members who were deprived of wages, other
- 13 compensation, employment benefits, and other equitable monetary relief to disgorge
- 14 Kaiser's profits obtained in violation of the UCL;
- 15 i. Civil penalties as provided by PAGA and the Labor Code;
- 16 j. Exemplary and punitive damages (where available) in an amount commensurate with
- 17 Kaiser's ability to pay and to deter future conduct;
- 18 k. An award of litigation costs and expenses, including reasonable attorneys' fees;
- 19 l. Pre-judgment and post-judgment interest; and
- 20 m. Such other and further relief as the Court may deem just and proper.

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23 Dated: April 22, 2021

Respectfully Submitted,

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25 _____
Felicia Medina
26 Jennifer Orthwein
27 Kevin Love Hubbard
28 Shauna Madison
MEDINA ORTHWEIN LLP

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Kelly M. Dermody
Jallé Dafa
LIEFF CABRASER HEIMANN &
BERNSTEIN, LLP

Attorneys for Plaintiffs and the Class