



4. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b)(2), as the judicial district in which a substantial part of the events or omissions giving rise to the claim occurred.

5. On August 20, 2020, Plaintiff filed Charge of Discrimination 531-2020-02552 with the Prince Georges County Human Rights Commission, dually filed with the EEOC, alleging that Defendant discriminated against her on the basis of disability and retaliation.

6. In or around October 2020, the Commission issued to Plaintiff a Right to Sue Letter.

7. This civil action was timely commenced within 90 days of receiving a Right to Sue, and all conditions precedent for this suit have been met and/or complied with by Plaintiff Rachel Fraser.

### **PARTIES**

8. Plaintiff Fraser is an adult resident of the state of Maryland. At all times relevant to this Complaint, Plaintiff had compression syndrome and right arm paresthesia, a disability affecting one or more major life activities, thus recognized under the Rehabilitation Act and Americans with Disabilities Act.

9. At all relevant times, Defendant Kaiser Permanente, Inc., a non-profit, integrated health care delivery organization, headquartered in Oakland, California, with operations in Maryland. At all relevant times, Defendant has continuously been an employer engaged in an industry affecting commerce under Sections 101(5) and 101(7) of the ADA, 42 U.S.C. § 12111(5), (7).

10. At all relevant times, Defendant has been a covered entity under Section 101(2) of the ADA, 42 U.S.C. § 12111(2).

**FACTS UNDERLYING ALL COUNTS**

11. Plaintiff began employment with Defendant Kaiser Permanente as an Ultrasound Technician in February 2009.

12. In or around October of 2014, Plaintiff experienced a workplace injury, which caused her to suffer from tingling in her arm and arm tremors, requiring physical therapy and acupuncture treatment.

13. Plaintiff filed a workman's compensation case which was settled out of court with a monetary settlement.

14. Around this time, Plaintiff began using approved FMLA leave for her disability. After she began using FMLA leave, her Supervisor, Artine Hollis began harassing her in the form of write-ups for alleged performance issues.

15. Upon her return to her department, her injury was worsened due to an unergonomic machine which was eventually removed once the ergonomic assessment deemed the machine unergonomic. She was provided an alternate assignment as a reasonable accommodation until the machine was removed and replaced.

16. In 2017, Plaintiff suffered another on the job injury while was bending down trying to retrieve a probe.

17. Plaintiff was diagnosed with right side sciatica and was unable to move. Sciatica presents Plaintiff with limited mobility, pain and spasms. Plaintiff filed a second worker's compensation claim.

18. From 2017 to 2020, Plaintiff had to take FMLA intermittent leave for acupuncture and physical therapy sessions to treat her disabilities.

19. Although Defendant accommodated Plaintiff during this period under FMLA, her supervisor and managers would often tell her that given her frequent absences for doctor's appointments she would have to find another position.

20. In retaliation for engaging in the protected processes of worker's compensation and medical accommodation, Defendant would constantly investigate client and issue her unwarranted corrective actions / write ups and suspensions under the pretext of poor performance.

21. For instance, Plaintiff received corrective action in 2015 for time and attendance, which was unfounded, given the time she was taking off was approved time under FMLA for medical treatment and appointments.

22. In 2020, Patient continued to routinely use FMLA leave to attend doctors' appointments related to her 2014 and 2017 workplace injuries. Upon information and belief, Defendant increased in its efforts to harass Plaintiff for use of the protected leave and threatened with termination for her taking FMLA Leave.

23. In March 2020, Plaintiff complained of the harassment by Ms. Hollins. In May 2020, Plaintiff was placed on administrative leave in retaliation for the harassment complaint. Plaintiff was subsequently discharged on June 22, 2020.

**COUNT I – DISABILITY DISCRIMINATION IN VIOLATION OF THE AMERICANS**

**WITH DISABILITIES ACT AND SECTION 504 of the REHABILITATION ACT**

**(42 U.S.C. §§ 12101, et seq., 29 U.S.C. §§ 794)**

24. Every paragraph falling outside this count is incorporated herein by reference.

25. The Americans with Disabilities Act and Section 504 expressly prohibit discrimination in employment on the basis of disability. *See* 42 U.S.C. §§ 12101, et seq., 29 U.S.C. §§ 794.

26. Specifically, the Americans with Disabilities Act, 42 U.S.C. § 12101, *et seq.*, prohibits employers from discriminating against qualified individuals because of a disability “in regard to job application procedures, the hiring, advancement, or discharge of employees, employee compensation, job training, and other terms, conditions, and privileges of employment.” 42 U.S.C. § 12112.

26. Because compression syndrome and sciatica substantially limit at least one of Plaintiff’s major life activities Plaintiff is an individual with a disability under the ADA.

27. Plaintiff was fully qualified to be an Ultrasound Technician and could perform all the essential functions of the position with a reasonable accommodation.

28. Defendant Kaiser Permanente terminated and disqualified Plaintiff because she engaged in the accommodation process.

29. Defendant Kaiser Permanente is a covered employer to which the ADA applies.

30. Kaiser Permanente’s harassment and termination of Plaintiff on the basis of his disability and retaliation violated the ADA and Section 504 of the Rehabilitation Act.

31. Defendant, Kaiser Permanente violated the ADA by subjecting Fraser to disability discrimination when in retaliation for filing a worker’s compensation action and requesting reasonable accommodations that to enabled her to return to an Ultrasound Technician position that she held successfully for five years prior to becoming disabled.

32. As a result, Defendant discriminatorily terminated Fraser’s employment.

33. The effect of the practices complained of in paragraphs 12 through 30 above has been to deprive Rachel Fraser of equal employment opportunities and otherwise adversely affect her status as an employee because of her disability.

34. The unlawful employment practices complained of in paragraphs 12 through 30 above were intentional.

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