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**FILED**  
Clerk of the Superior Court

MAR 10 2017 *GN*

By

*G. Lutz*

DEPUTY CLERK

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TIMOTHY PRUITT

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF SOLANO—UNLIMITED JURISDICTION

TIMOTHY PRUITT,

Plaintiff,

vs.

GENENTECH, INC.; & DOES 1  
THROUGH 10, INCLUSIVE,

Defendants.

Case No.: **FCS048528**

**COMPLAINT FOR DAMAGES**

- (1) Disability Discrimination in Violation of FEHA
- (2) Race Discrimination in Violation of FEHA
- (3) Retaliation in Violation of FEHA
- (4) Violation of Labor Code Section 1102.5
- (5) Interference in Violation of CRFA
- (6) Retaliation in Violation of CFRA
- (7) Interference in Violation of FMLA
- (8) Retaliation in Violation of FMLA
- (9) Wrongful Termination in Violation of Public Policy
- (10) Defamation

Jury Trial Demanded

ASSIGNED TO  
JUDGE SCOTT L. KAYS  
FOR ALL PURPOSES

By Fax

1 COMES NOW plaintiff TIMOTHY PRUITT for causes of action, and  
2 alleges as follows:

3 **I. ALLEGATIONS**

4 1. Plaintiff TIMOTHY PRUITT at all relevant times was an employee  
5 of Defendant Genentech.

6 2. Defendant GENENTECH, INC. is a Delaware Corporation with its  
7 principal place of business located in San Mateo County. Defendant operates  
8 a facility in Vacaville, California, in Solano County, where Plaintiff worked.  
9 At all relevant times, Genentech was Plaintiff's employer.

10 3. The true names and capacities, whether individual, corporate or  
11 otherwise, of DOES 1 through 10 are at this time unknown to plaintiff, who  
12 therefore sues said defendants by such fictitious names. Plaintiff will ask  
13 leave to amend this claim for damages to reflect their true names and  
14 capacities when the same have been ascertained. Plaintiff is informed and  
15 believes, and thereon alleges, that each of said defendants is responsible,  
16 jointly and severally, for the events and injuries described herein and  
17 caused damages thereby as alleged herein.

18 4. Plaintiff is informed and believes, and thereon alleges, that at all  
19 times mentioned herein each and every co-defendant was and is the  
20 predecessor-in-interest, successor-in-interest, agent, counselor, employee,  
21 servant, partner, franchisee and/or joint venturer of each of other co-  
22 defendant, and in doing the actions hereinafter mentioned, was and/or is  
23 acting within the scope of its authority within such agency, employment,  
24 counseling, service, partnership, franchise and/or joint venture or single  
25 enterprise, and with the permission and consent of each co-defendant.  
26 Plaintiff alleges that each of said defendants is responsible, jointly and  
27 severally, for the events and injuries described herein and caused damages  
28 thereby to plaintiff as alleged herein.



1           5. Mr. Pruitt is an experienced Information Technology (IT)  
2 technician. He has over 20 years' experience providing technical customer  
3 support in large and small enterprises. Mr. Pruitt is African-American.

4           6. Genentech is a biotechnology corporation that develops and  
5 manufactures medicines. Genentech is headquartered in South San  
6 Francisco with several manufacturing facilities throughout the West Coast.  
7 Genentech operates a facility in Vacaville, California, where it employs  
8 several hundred employees.

9           7. In 1994, Mr. Pruitt began working for Genentech as an IT  
10 contractor. In 1998, Genentech hired Mr. Pruitt as a full-time employee at  
11 its facility in Vacaville, California. Mr. Pruitt reported to IT Manager Dan  
12 Williams.

13           8. Mr. Pruitt performed well at Genentech and earned positive  
14 performance evaluations and customer feedback over the next several  
15 years. For example: "Tim's customer service skills are very impressive. He  
16 is always courteous to users. He takes a personal approach to helping  
17 people. If the user is having a problem, Tim makes it his problem."; "Tim's  
18 always friendly and easy to approach. He doesn't seem to tire of people  
19 when they stop him anywhere and just start asking him questions. I  
20 personally can get very cranky when this happens to me, but he just kind of  
21 'rolls' with it."; "Tim is a good listener. Most times I have difficulty  
22 explaining to Tim what my problems are -- I'm not that technical and call  
23 alot [sic] of things 'thingies', but Tim has the patience to deal with me and  
24 he can always solve my problems I'm encountering."; "By performing the  
25 memory installation procedure into a new computer himself, Tim has saved  
26 Genentech \$8000 this year."; "Tim is patient, and shows empathy for the  
27 end user's problems/issues."; "Tim effectively listens to what the users are  
28 ///

1 telling him and he is able to see the big picture and prioritize accordingly.  
2 He's very good at explaining technical issues to non-technical people."

3 9. However, despite Mr. Pruitt's consistently excellent  
4 performance, Genentech did not promote him. In 2001, Mr. Pruitt raised  
5 this issue to the Senior Director Production Services, who shared Mr. Pruitt's  
6 belief that he should have been promoted, and told Mr. Williams to promote  
7 Mr. Pruitt. Mr. Williams, who is white, was unhappy about this, and insisted  
8 that Mr. Pruitt state in writing why he should be promoted to a Level E2,  
9 which Mr. Pruitt provided. Mr. Williams then promoted Mr. Pruitt as  
10 instructed.

11 10. Over the next 10 years, Mr. Pruitt continued to perform well in  
12 his position, as shown by his performance ratings and peer feedback.  
13 However, despite his performance, Genentech did not elevate Mr. Pruitt  
14 from Level E2 to Level E3.

15 11. On September 18, 2012, Mr. Williams unexpectedly presented  
16 Mr. Pruitt with a performance counseling document. It stated that Mr.  
17 Pruitt's customer service and technical skills were supposedly poor. Mr.  
18 Pruitt disputed this. Mr. Pruitt was providing the same high level of  
19 customer and technical service that he had been providing since Genentech  
20 hired him. In fact, during the same period, Mr. Pruitt received several merit  
21 certificates acknowledging his performance in customer service. Mr. Pruitt  
22 told Genentech's human resources representative that the criticism set forth  
23 in the counseling document was unjustified and unfair, and that he felt Mr.  
24 Williams was holding him to a different standard based on his race. Mr.  
25 Pruitt also pointed out that Mr. Williams had not promoted him after 10  
26 years of good performance.

27 12. On December 12, 2012, the company notified Mr. Pruitt that his  
28 discrimination complaint was supposedly unsubstantiated. However, on



1 March 6, 2013, another human resources employee directed Mr. Williams to  
2 amend the performance counseling document, which he did. Mr. Williams  
3 removed criticisms of Mr. Pruitt's technical skills on Apple products, because  
4 he had denied Mr. Pruitt's requests for training on those systems. Mr.  
5 Williams also removed his claim that he had counseled Mr. Pruitt on these  
6 issues "[o]ver the last seven months," which was untrue.

7 13. After Mr. Pruitt complained about race discrimination, Mr.  
8 Williams presented Mr. Pruitt with a negative performance evaluation. Mr.  
9 Williams rated Mr. Pruitt's performance as "partially meets," the lowest  
10 rating of his career at Genentech. The performance evaluation contained  
11 many of the same criticisms of Mr. Pruitt's communication skills as the  
12 counseling document, which Mr. Williams was told to revise. Mr. Williams'  
13 critique of Mr. Pruitt was again inconsistent with the fact that Mr. Pruitt was  
14 given several awards that same year, and had achieved high scores in  
15 customer satisfaction surveys. Mr. Williams' unfair rating of Mr. Pruitt's  
16 performance, in turn, adversely affected Mr. Pruitt's bonus calculation and  
17 stock option compensation for the year. Mr. Pruitt expressed his concern to  
18 human resources that the performance review was in retaliation for his prior  
19 discrimination complaint against Mr. Williams. However, as far as Mr. Pruitt  
20 was made aware, the company did not take any action in response to his  
21 complaint.

22 14. Around this time, Mr. Pruitt began suffering from a mental  
23 health condition that affected his ability to sleep and work, which led him to  
24 seek treatment from a mental healthcare provider.

25 15. In May 2013, Mr. Pruitt's doctor advised Mr. Pruitt to take a  
26 medical leave of absence. Mr. Pruitt requested and took an FMLA leave of  
27 absence from May 2013 to July 2013.

28 ///

1       16. On August 29, 2013, after Mr. Pruitt returned from medical  
2 leave, Mr. Williams provided Mr. Pruitt with a mid-year review that was  
3 critical of Mr. Pruitt's performance. Mr. Williams had never given Mr. Pruitt a  
4 mid-year review before, and the review included the period of time that Mr.  
5 Pruitt was on protected medical leave. Mr. Pruitt disagreed with Mr.  
6 Williams' comments and prepared a rebuttal, which he provided to human  
7 resources. However, Genentech took no action in response to this situation.  
8 Notwithstanding Mr. Williams' unfair evaluation of Mr. Pruitt and the  
9 company's failure to address it, Mr. Pruitt's performance continued to meet  
10 expectations, as shown by positive feedback he received in 2013 and in  
11 2014.

12       17. In about July 2015, the company promoted Mr. Williams to  
13 another department. The company hired Steve Graeff to replace Mr.  
14 Williams, based on Mr. Williams' recommendation. On information and  
15 belief, Mr. Williams and Mr. Graeff were friends and socialized together at  
16 work.

17       18. After July 2015, Mr. Graeff became Mr. Pruitt's direct  
18 supervisor. Almost immediately, Mr. Graeff began closely scrutinizing Mr.  
19 Pruitt's work. Mr. Graeff frequently came looking for Mr. Pruitt at his desk,  
20 followed him around the facility, examined his timecards, and scrutinized  
21 his meal and rest breaks.

22       19. Mr. Graeff he did not behave in a similar manner toward Mr.  
23 Pruitt's white coworkers. He allowed Mr. Pruitt's white coworker to come in  
24 late or not at all, due to various purported last minute "emergencies." Other  
25 employees besides Mr. Pruitt noticed Mr. Graeff's double standard. One  
26 contract employee told Mr. Pruitt that he believed that Mr. Graeff was a  
27 "racist." Mr. Pruitt was also concerned that Mr. Graeff's perspective of his  
28 ///



1 performance was tainted by Mr. Graeff's close relationship with Mr.  
2 Williams.

3 20. In about December 2015, Mr. Pruitt applied for an open position  
4 that he considered to be a promotion. However, Mr. Graeff promoted a less  
5 experienced person who is not African-American.

6 21. In 2015, Mr. Pruitt earned a positive rating in his annual  
7 performance evaluation. Mr. Pruitt exceeded objective measures of his  
8 performance, such as successfully resolving 95% of tickets in three business  
9 days and achieving a customer satisfaction rating of 4.5 or greater.  
10 However, Mr. Graeff's subjective feedback about Mr. Pruitt's performance  
11 was mostly negative. For example, Mr. Graeff told Mr. Pruitt to "[t]hink  
12 about if you still have the 'Drive' for this job and your role. If you are  
13 unhappy with your current role, look for other opportunities."

14 22. In 2016, Mr. Pruitt's mental health condition worsened. Mr.  
15 Pruitt began meeting with his doctor more frequently starting in February  
16 2016. When Mr. Pruitt told Mr. Graeff that he would need additional time off  
17 to attend these appointments, Mr. Graeff insisted on reviewing all of Mr.  
18 Pruitt's sick leave documentation, indicating that he did not trust Mr. Pruitt.

19 23. From March 27 to May 2, 2016, Mr. Pruitt's doctor placed Mr.  
20 Pruitt on a medical leave of absence. The company designated Mr. Pruitt's  
21 leave of absence as FMLA-protected leave. When Mr. Pruitt returned from  
22 his leave of absence, Mr. Graeff inexplicably changed Mr. Pruitt's schedule  
23 to 8am to 5pm, whereas it had been 7am to 4pm for the past 19 years. By  
24 doing so, Mr. Graeff made it more difficult for Mr. Pruitt to see his mental  
25 healthcare provider, who closed at 5pm. Mr. Graeff also continued to  
26 unfairly scrutinize Mr. Pruitt's work. When Mr. Pruitt pointed out that he was  
27 being held to a different standard than his white coworker, Mr. Graeff told  
28 Mr. Pruitt not to worry about his coworkers.



1        24. In early June 2016, Mr. Pruitt complained to human resources  
2 that he was being discriminated against. Mr. Pruitt told the Senior Manager  
3 of Employee Relations that Mr. Graeff subjected his work to more scrutiny  
4 and held him to a higher standard than his white coworkers. Although the  
5 Senior Manager of Employee Relations gathered some initial information, he  
6 did not conduct a follow up interview with Mr. Pruitt. As far as Mr. Pruitt is  
7 aware, the Senior Manager of Employee Relations did not interview other  
8 employees regarding his complaint.

9        25. Thereafter, on July 13, 2016, Mr. Graeff asked Mr. Pruitt to  
10 work at the company's facility in Dixon to cover for another employee. Mr.  
11 Pruitt agreed to do so, but needed to pick up his prescription in Vacaville on  
12 his lunch break and was late returning to work due to traffic. Mr. Pruitt also  
13 left work early that day because he felt ill. Mr. Pruitt inadvertently failed to  
14 account for this on his timecard after he had difficulty submitting his  
15 timecard and had to do so again. The company did not pay Mr. Pruitt for  
16 hours he did not work.

17        26. On July 26, 2016, Mr. Graeff met with Mr. Pruitt. Mr. Williams  
18 was also present, although he did not explain why. Mr. Graeff notified Mr.  
19 Pruitt that effective immediately Mr. Pruitt was suspended. Mr. Graeff told  
20 Mr. Pruitt that the reason for his suspension was that Mr. Pruitt had made  
21 an error on his timecard for July 13, when Mr. Pruitt had agreed to cover  
22 another employee's shift at Mr. Graeff's request and for which Mr. Pruitt  
23 experienced difficulty submitting his timecard. Mr. Graeff said that he had  
24 come to the Dixon facility that day, but that Mr. Pruitt was not there. Mr.  
25 Graeff also accused Mr. Pruitt of stealing a sandwich from the cafeteria. Mr.  
26 Pruitt denied this. In fact, a friend had purchased the sandwich for Mr.  
27 Pruitt. Mr. Graeff had Mr. Pruitt escorted from the premises.

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1        27. The following day, July 27, Mr. Graeff called Mr. Pruitt. He said  
2 that Mr. Williams was also in his office. He then notified Mr. Pruitt that his  
3 employment was terminated.

4        28. On the same day, the company provided Mr. Pruitt with a letter  
5 stating that his discrimination complaint against Mr. Graeff was  
6 unsubstantiated.

7        29. On information and belief, Genentech investigated Mr. Graeff's  
8 claim that Mr. Pruitt stole a sandwich and learned that it was untrue before  
9 it terminated Mr. Pruitt. On information and belief, Defendant told several of  
10 its employees that it terminated Mr. Pruitt for stealing, which is untrue.

11        30. Plaintiff timely exhausted his administrative remedies by filing a  
12 complaint of discrimination with the Department of Fair Employment and  
13 Housing and obtained the right to sue.

14        31. Defendant's actions were undertaken for improper purposes as  
15 alleged above and were willful, oppressive and in conscious disregard of  
16 plaintiff's rights, and were designed and intended to cause and did, in fact,  
17 cause plaintiff to suffer severe emotional distress, pain and suffering, and  
18 substantial economic damage and, therefore, justify the awarding of  
19 exemplary and punitive damages.

20        32. The above allegations are incorporated by reference in each and  
21 every cause of action stated below.

22                                    **II. CAUSES OF ACTION**

23                                    **FIRST CAUSE OF ACTION**

24                                    **(Disability Discrimination in Violation of FEHA)**

25        33. Defendant is an employer within the meaning of FEHA.

26        34. Plaintiff was an employee of Defendant.

27        35. Plaintiff has a disability that limits him in a major life activity,  
28 including working.



1 36. Defendant knew of Plaintiff's disability.

2 37. Plaintiff was able to perform the essential functions of his job  
3 with reasonable accommodations for his condition.

4 38. Defendant terminated and/or failed to promote Plaintiff.

5 39. Plaintiff's disability and need for reasonable accommodations  
6 was a substantial motivating reason for the termination and/or failure to  
7 promote.

8 40. Plaintiff was harmed.

9 41. Defendant's conduct was a substantial factor in causing  
10 Plaintiff's harm.

11 **SECOND CAUSE OF ACTION**

12 **(Race Discrimination in Violation of FEHA)**

13 42. Defendant is an employer within the meaning of FEHA.

14 43. Plaintiff was an employee of Defendant.

15 44. Defendant terminated and/or failed to promote Plaintiff.

16 45. Plaintiff's race was a substantial motivating reason for the  
17 termination and/or failure to promote.

18 46. Plaintiff was harmed.

19 47. Defendant's conduct was a substantial factor in causing  
20 Plaintiff's harm.

21 **THIRD CAUSE OF ACTION**

22 **(Retaliation in Violation of FEHA)**

23 48. Defendant is an employer within the meaning of FEHA.

24 49. Plaintiff was an employee of Defendant.

25 50. Plaintiff opposed discriminatory activity that he reasonably  
26 believed to be unlawful under FEHA and sought reasonable accommodations  
27 for his disability.

28 51. Defendant terminated Plaintiff.

1        52. Plaintiff's opposition to activity he reasonably believed to be  
2 discriminatory and/or Plaintiff's request for reasonable accommodations for  
3 his disability was the motivating reason for Defendant's decision to  
4 terminate Plaintiff.

5        53. Plaintiff was harmed.

6                                    **FOURTH CAUSE OF ACTION**

7                                    **(Violation of Labor Code §1102.5)**

8        54. Plaintiff was an employee of Defendant.

9        55. Plaintiff disclosed information that he had reasonable cause to  
10 believe disclosed a violation of, or noncompliance with, federal and state,  
11 statutes and regulations to a person with authority over him and/or an  
12 employee who has the authority to investigate, discover, or correct the  
13 violation or noncompliance.

14        56. Defendant terminated and/or failed to promote Plaintiff.

15        57. Plaintiff's disclosure of information that he had reasonable cause  
16 to believe disclosed a violation of, or noncompliance with, federal, and state  
17 statutes and regulations to a person with authority over him and/or an  
18 employee who has the authority to investigate, discover, or correct the  
19 violation or noncompliance was a motivating reason for the termination  
20 and/or other adverse actions.

21        58. Plaintiff was harmed.

22        59. Defendant's conduct was a substantial factor in causing  
23 Plaintiff's harm.

24                                    **FIFTH CAUSE OF ACTION**

25                                    **(Interference in Violation of CFRA)**

26        60. Defendant is an employer covered by CFRA.

27        61. Plaintiff suffers from a serious health condition that made him  
28 unable to perform the functions of his job.



1       62. Plaintiff was eligible for medical leave under CFRA.

2       63. Plaintiff notified Defendant of his serious health condition and  
3 his need for medical leave.

4       64. Defendant interfered with Plaintiff's CFRA rights.

5       65. Plaintiff was harmed.

6       66. Defendant's conduct was a substantial factor in causing  
7 Plaintiff's harm.

8                   **SIXTH CAUSE OF ACTION**

9                   **(Retaliation in Violation of CFRA)**

10       67. Defendant is an employer covered by CFRA.

11       68. Plaintiff was eligible for medical leave under CFRA.

12       69. Plaintiff requested and took a medical leave.

13       70. Defendant discriminated against and terminated Plaintiff.

14       71. Plaintiff's request to take a medical leave and his taking of the  
15 medical leave motivated Defendant's decision to terminate and/or  
16 discriminate against Plaintiff.

17       72. Plaintiff was harmed.

18       73. Defendant's retaliatory conduct was a substantial factor in  
19 causing Plaintiff's harm.

20                   **SEVENTH CAUSE OF ACTION**

21                   **(Interference in Violation of FMLA)**

22       74. Defendant is an employer covered by FMLA.

23       75. Plaintiff suffers from a serious health condition that made him  
24 unable to perform the functions of his job.

25       76. Plaintiff was eligible for medical leave under the FMLA.

26       77. Plaintiff notified Defendant of his serious health condition and  
27 his need for medical leave.

28       78. Defendant interfered with Plaintiff's FMLA rights.

1 79. Plaintiff was harmed.

2 80. Defendant's conduct was a substantial factor in causing  
3 Plaintiff's harm.

4 **EIGHTH CAUSE OF ACTION**

5 **(Retaliation in Violation of FMLA)**

6 81. Plaintiff was eligible for medical leave under the FMLA.

7 82. Plaintiff requested and took a medical leave.

8 83. Defendant discriminated against and terminated Plaintiff.

9 84. Plaintiff's request to take a medical leave and his taking of the  
10 medical leave was a negative factor in Defendant's decision to terminate  
11 and/or discriminate against Plaintiff.

12 85. Plaintiff was harmed.

13 86. Defendant's retaliatory conduct was a substantial factor in  
14 causing Plaintiff's harm.

15 **NINTH CAUSE OF ACTION**

16 **(Wrongful Termination in Violation of Public Policy)**

17 87. Plaintiff was employed by Defendant.

18 88. Defendant terminated Plaintiff.

19 89. Defendant terminated Plaintiff in violation of FEHA, FMLA, CFRA,  
20 and California Labor Code Section 1102.5 which constitutes a termination in  
21 violation of public policy.

22 90. The termination caused Plaintiff harm.

23 **TENTH CAUSE OF ACTION**

24 **(Defamation)**

25 91. Defendant told its employees that Plaintiff stole from its  
26 cafeteria.

27 92. The people to whom this statement was made reasonably  
28 understood that this statement was about Plaintiff.



1 93. Further, these people reasonably understood the statement to  
2 mean Plaintiff committed a crime, lacked integrity, and showed  
3 reprehensible characteristics or behavior.

4 94. Defendant made this statement maliciously, out of hatred or ill  
5 will toward Plaintiff; alternatively, Defendant failed to use reasonable care  
6 to determine the truth or falsity of the statement.

7 95. This statement was a substantial factor in causing harm to  
8 Plaintiff's trade, profession, occupation, and/or reputation.

9 **III. PRAYER FOR RELIEF**

10 WHEREFORE, Plaintiff seeks relief as follows:

- 11 (1) Economic damages for lost wages, employment benefits, and  
12 other compensation as a result of defendant's wrongful conduct,  
13 plus interest;  
14 (2) Noneconomic damages for pain and suffering and emotional  
15 distress;  
16 (3) Statutory attorney's fees;  
17 (4) Injunctive relief;  
18 (5) Liquidated damages;  
19 (6) Civil penalties;  
20 (7) Assumed damages;  
21 (8) Exemplary damages;  
22 (9) Costs of suit; and  
23 (10) Such other relief as the court deems just.

24 DATED: March 9, 2017

MINNIS & SMALLETS LLP

25  
26 by: 

AARON P. MINNIS, ESQ.  
Attorneys for Plaintiff  
TIMOTHY PRUITT