

COPY

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**ENDORSED
FILED**
Superior Court of California
County of San Francisco

SEP 27 2017

CLERK OF THE COURT
BY: HOSDALY DELAVERA
Deputy Clerk

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN FRANCISCO**

CGC-17-561572

ERNEST J. WALKER,

Plaintiff,

V.

**TERMINEX INTERNATIONAL COMPANY
L.P., a Delaware Limited Partnership;
SERVICEMASTER GLOBAL HOLDINGS,
INC., a Delaware corporation; and DOES 1-50,
Inclusive,**

Defendants.

Case No.:

COMPLAINT FOR DAMAGES:

- 1. Wrongful Termination in
Violation of Public Policy**
- 2. Age Discrimination
[GOVERNMENT CODE §12940(a)]**
- 3. Race Discrimination
[GOVERNMENT CODE §12940(a)]**
- 4. Failure to Prevent Discrimination
[GOVERNMENT CODE §12940(k)]**
- 5. Retaliation (FEHA)
[GOVERNMENT CODE §12940(h)]**
- 6. Intentional Infliction of
Emotional Distress**
- 7. Negligent Infliction of
Emotional Distress**
- 8. Statutory Unfair Competition
[Bus. & Professions Code §17200 et.
seq.]**

DEMAND FOR JURY TRIAL

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COMES NOW Plaintiff ERNEST J. WALKER ("E.J." or "Plaintiff") and alleges the following, upon information and belief.

PARTIES

1. Plaintiff is, and at all times relevant to this Complaint, was an individual employed by Defendant TERMINEX INTERNATIONAL COMPANY L.P., a subsidiary of Defendant SERVICEMASTER GLOBAL HOLDINGS, INC.

2. Defendant TERMINEX INTERNATIONAL COMPANY L.P. ("TERMINEX") is, and at all times herein mentioned was, a national limited partnership and subsidiary of Defendant SERVICEMASTER GLOBAL HOLDINGS, INC. doing business within the State of California with a principal place of business located at 6678 Owens Drive, Pleasanton, California 94588.

3. Defendant SERVICEMASTER GLOBAL HOLDINGS, INC. ("SERVICEMASTER") is, and at all times herein mentioned was, a national corporation incorporated in the State of Delaware and the parent company of TERMINEX, and jointly employed Plaintiff at its place of business located at 6678 Owens Drive, Pleasanton, California 94588.

4. Defendants TERMINEX and SERVICEMASTER employ more than 5 persons and collectively are an employer as defined in the California Fair Employment and Housing Act ("FEHA").

5. Plaintiff is informed and believes and thereon alleges that, at various times herein mentioned, each of the defendants was the agent, either direct, ostensible or otherwise, servant, representative of employee of each of the remaining defendants and, in engaging in certain acts hereinafter alleged, was acting within the course and scope of said agency, service, representation, or employment and materially assisted the other defendants. Plaintiff is further informed and believes and thereon alleges that each of the defendants ratified the acts of the remaining defendants.

6. Plaintiff is ignorant of the true names and capacities, whether individual, corporate, associate or otherwise, of defendants sued herein as Does 1 through 50,

1 inclusive, and therefore sues said defendants by such fictitious names. Plaintiff is informed
2 and believes and, upon such information and belief, alleges that each of the defendants
3 designated as a Doe is legally responsible in some manner for the events and happenings
4 referred to herein and caused the damages proximately thereby to Plaintiff as hereinafter
5 alleged. Plaintiff will seek leave of court to amend this complaint to show the true names
6 and capacities of said Doe defendants when same have been ascertained.

7 STATEMENT OF FACTS

8 7. On or about January 26, 2004, Plaintiff Ernest J. Walker ("E.J.") was hired
9 by TERMINEX, a subsidiary of SERVICEMASTER as Branch Manager, trained in
10 Burlingame, California and based in Hayward, California.

11 8. After over eight years of exemplary job performance, in or about July 2012,
12 E.J. was promoted to General Manager with responsibility for Alameda, Contra Costa, San
13 Francisco, San Mateo and Santa Clara Counties.

14 9. In or about September 2015, E.J.'s supervisor left the area for a new position.
15 E.J. informed his supervisor that he was interested in the supervisor position in the San
16 Francisco area.

17 10. His supervisor told E.J. that he would let his manager, Chris Algiene, know
18 that E.J. was interested in the position.

19 11. E.J. sent an email to Mr. Algiene informing him that E.J. was interested in
20 the position, and Mr. Algiene responded that the position had already been filled.

21 12. Then, a few days later, Mr. Algiene called E.J. stating that he would not
22 consider E.J. for the position based on his performance.

23 13. It was not until three weeks later that the position was finally filled. Chris
24 VonPohle was promoted to the position.

25 14. Mr. VonPohle issued a written warning to E.J. for failure to visit a scene of
26 an accident. No one had ever been issued a warning before.

27 15. In 2015, despite being short staffed, E.J. was able to increase revenue 11%
28 and increase profit by 23%. This was the seventh consecutive year of improvement.

16. Despite the increase in revenue and profit, in January of 2016, Mr. VonPohle provided E.J. with a performance improvement plan claiming that E.J. was not meeting expectations.

17. When E.J. refused to sign the performance improvement plan because it was not accurate, Mr. VonPohle admitted that he did a poor job of drafting the performance improvement plan and said he would discuss it with human resources.

18. Human resources ultimately rejected the performance improvement plan because it was poorly written.

19. On or about March 15, 2016, the last day to present 2015 performance appraisals, Mr. VonPohle and Annette Snider, a human resources manager, gave E.J. his appraisal in person.

20. Again, despite E.J.'s contribution to the increase in revenue and profit in 2015, E.J. was given a score of 2 out of 5.

21. When E.J. asked why the issues with his performance were never brought to his attention during that year, neither Mr. VonPohle nor Ms. Snider had a response.

22. As a result of the review, he was ineligible for a merit increase and his annual bonus was reduced by 50%.

23. The following week E.J. challenged the review and filed an ethics complaint against Mr. Algiene and Mr. VonPohle.

24. Although ethics investigations are usually conducted by an employee of SERVICEMASTER, the ethics investigation was conducted by a peer of Mr. Algiene, Natasha Berry, a TERMINEX human resources manager.

25. Ms. Snider and Mr. VonPohle, the same people who gave E.J. his performance review, were tasked with investigating that review.

26. The result of the investigation was that the review would not change.

27. On or about April 28, 2016, Mr. VonPohle presented a second performance plan to E.J., which included eleven items that E.J. needed to improve upon.

28. When asked what success on these items would look like, Mr. VonPohle

1 refused to answer the question stating that he would let E.J. know.

2 29. The following three months, E.J. had weekly reviews of his branch
3 performance against the plan.

4 30. E.J. was never told what a successful completion of the plan would look like.

5 31. On or about August 9, 2016, E.J. was terminated for alleged "performance
6 deficiencies."

7 32. E.J.'s termination could not have been based on "performance deficiencies"
8 for the following reasons:

- 9 • E.J. had worked for over 12 years for defendants and never had a bad review
10 until 2016;
- 11 • As General Manager, E.J. increased revenue by 11% and profits by 23% in
12 2015;
- 13 • E.J. successfully led the largest branch in the western division to record
14 revenue and profits.

15 33. E.J. had **12 years of loyal and exemplary service** to TERMINEX and
16 SERVICEMASTER when he was terminated in August of 2016 for unjustified and legally
17 unsupportable reasons which had nothing to do with his performance.

18 34. On or about September 14, 2016, E.J. dual-filed a "Charge of
19 Discrimination" with Equal Employment Opportunity Commission against TERMINEX,
20 which was dual-filed with the California Department of Fair Employment and Housing
21 ("DFEH").

22 35. On or about October 14, 2016, E.J. received a Right to Sue letter from DFEH
23 as to Defendants, a true and correct copy of which is attached hereto as **Exhibit "1"** and
24 incorporated herein by reference.

25 36. On or about July 21, 2017, E.J. obtained an amended Right to Sue letter
26 directly from the DFEH as to Defendants, a true and correct copy of which is attached
27 hereto as **Exhibit "2"** and incorporated herein by reference.

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FIRST CAUSE OF ACTION**(For Wrongful Termination in Violation of Public Policy Against All Defendants)**

37. Plaintiff realleges and incorporates herein by reference all of the allegations set forth in paragraphs 1 through 37 as though fully set forth herein.

38. On August 9, 2016, Plaintiff was a 61-year old male of African-American descent.

39. At all times herein mentioned, there existed fundamental and established California public policies, as codified by case law and statute, including but not limited to *California Government Code* §12940 et seq. providing that an employer cannot terminate an employee on the basis of certain characteristics, including but not limited to race or age.

40. On or about August 9, 2016, Defendants violated the aforesaid public policies by wrongfully terminating Plaintiff on the basis of his age and/or race.

41. As a proximate result of Defendant's wrongful termination in violation of public policy of the State of California, Plaintiff has sustained and continues to sustain substantial loss in past, present and future earnings, career opportunities, bonuses and other employment benefits in amounts to be proven at trial. Plaintiff's damages include all consequential, general and special economic damages in amounts to be proven at trial.

42. As a further proximate result of Defendant's wrongful conduct, Plaintiff has suffered and continues to suffer humiliation, severe emotional distress and mental and physical pain and anguish, all to his damage in a sum according to proof.

43. The foregoing acts of Defendant were oppressive, malicious, and despicable, and Plaintiff is, therefore, entitled to an award of punitive damages against Defendant in an amount to be proven at trial.

SECOND CAUSE OF ACTION**(For Age Discrimination Against all Defendants)**

44. Plaintiff realleges and incorporates herein by reference all of the allegations set forth in paragraphs 1 through 44 as though fully set forth herein.

45. This cause of action is brought pursuant to *Government Code* §12940(a)

1 which prohibits discrimination against a person in terms, conditions or privileges of
2 employment on the basis of age, and the corresponding regulations of the California Fair
3 Employment and Housing Commission, or its successor.

4 46. At all times relevant herein, Defendants regularly employed five or more
5 persons, bringing said Defendant employers within the provision of *California Government*
6 *Code* §12900 et seq., prohibiting employers or their agents from discriminating against
7 employees since age.

8 47. Plaintiff is a member of a protected class within the meaning of the
9 aforementioned *Government Code* sections. At all relevant times herein, Plaintiff
10 satisfactorily performed his duties and responsibilities as expected by Defendants and, in
11 fact, exceeded those expectations by his performance and generation of profitability for
12 Defendants.

13 48. Plaintiff alleges that his age was a factor in Defendants' wrongful actions
14 toward him, including but not limited to retaliation, discrimination and termination.

15 49. As a proximate result of Defendants' discriminatory conduct, Plaintiff has
16 sustained and continues to sustain substantial loss in past, present and future earnings,
17 career opportunities, bonuses and other employment benefits in amounts to be proven at
18 trial. Plaintiff's damages include all consequential, general and special economic damages
19 in amounts to be proven at trial.

20 50. As a further proximate result of Defendants' discriminatory conduct, Plaintiff
21 has suffered and continues to suffer humiliation, severe emotional distress and mental and
22 physical pain and anguish, all to his damage in a sum according to proof.

23 51. The foregoing acts of Defendants were oppressive, malicious, and
24 despicable, and Plaintiff is, therefore, entitled to an award of punitive damages against
25 Defendants in an amount to be proven at trial.

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THIRD CAUSE OF ACTION**(For Race Discrimination****Against All Defendants)**

52. Plaintiff realleges and incorporates herein by reference all of the allegations set forth in paragraphs 1 through 52 as though fully set forth herein.

53. This cause of action is brought pursuant to *Government Code* §12940(a) which prohibits discrimination against a person in terms, conditions or privileges of employment on the basis of race, and the corresponding regulations of the California Fair Employment and Housing Commission, or its successor.

54. At all times relevant herein, Defendants regularly employed five or more persons, bringing said employer Defendants within the provision of *California Government Code* §12900 et seq., prohibiting employers or their agents from discriminating against employees on the basis of race.

55. Plaintiff is a member of a protected class within the meaning of the aforementioned *Government Code* sections. At all relevant times herein, Plaintiff satisfactorily performed his duties and responsibilities as expected by Defendants and, in fact, exceeded those expectations by his performance and generation of profitability for employer Defendants.

56. Plaintiff alleges that his race was a factor in Defendants' wrongful actions toward him, including but not limited to retaliation, discrimination and termination.

57. As a proximate result of Defendants' discriminatory conduct, Plaintiff has sustained and continues to sustain substantial loss in past, present and future earnings, career opportunities, bonuses and other employment benefits in amounts to be proven at trial. Plaintiff's damages include all consequential, general and special economic damages in amounts to be proven at trial.

58. As a further proximate result of Defendants' discriminatory conduct, Plaintiff has suffered and continues to suffer humiliation, severe emotional distress and mental and physical pain and anguish, all to his damage in a sum according to proof.

1 59. The foregoing acts of Defendants were oppressive, malicious, and
2 despicable, and Plaintiff is, therefore, entitled to an award of punitive damages against
3 Defendants in an amount to be proven at trial.

4 **FOURTH CAUSE OF ACTION**

5 **(For Failure to Prevent Discrimination**

6 **Against All Defendants)**

7 60. Plaintiff realleges and incorporates herein by reference all of the allegations
8 set forth in paragraphs 1 through 60 as though fully set forth herein.

9 61. Defendants had a statutory duty, pursuant to the Fair Employment and
10 Housing Act (FEHA) to take all reasonable steps necessary to prevent discrimination in the
11 workplace pursuant to *California Government Code* §12940(k).

12 62. Defendants breached their statutory duty of care to Plaintiff by failing to take
13 all reasonable steps necessary to prevent the discrimination experienced by Plaintiff as
14 alleged herein.

15 63. As a proximate result of Defendants' discriminatory conduct, Plaintiff has
16 sustained and continues to sustain substantial loss in past, present and future earnings,
17 career opportunities, bonuses and other employment benefits in amounts to be proven at
18 trial. Plaintiff's damages include all consequential, general and special economic damages
19 in amounts to be proven at trial.

20 64. As a further proximate result of Defendant's discriminatory conduct, Plaintiff
21 has suffered and continues to suffer humiliation, severe emotional distress and mental and
22 physical pain and anguish, all to her damage in a sum according to proof.

23 65. The foregoing acts of Defendant were oppressive, malicious, and despicable,
24 and Plaintiff is, therefore, entitled to an award of punitive damages against Defendant in an
25 amount to be proven at trial.

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FIFTH CAUSE OF ACTION**(For Unlawful Retaliation (FEHA) in Employment****Against All Defendants)**

66. Plaintiff realleges and incorporates herein by reference all of the allegations set forth in paragraphs 1 through 66 as though fully set forth herein.

67. California law prohibits retaliation in the workplace. The Fair Employment and Housing Act (FEHA) protects workers who oppose discriminatory and wrongful employment practices. *Government Code* §12940(h) makes it unlawful for “any person” to retaliate against an employee who opposes discrimination in the workplace.

68. As alleged herein, Defendants are charged with retaliating against Plaintiff after he complained to Defendants, as well as the company’s Human Resources department, that he had received an unjustified and factually unsupported 2015 performance review. Within a short period of time after Plaintiff filed an ethics complaint and formally challenged the review, he was fired.

69. Defendants fabricated a reason for Plaintiff’s termination which is not supported by the facts as set forth herein and, in reality, fired Plaintiff because he had the temerity to challenge his review and to file an ethics complaint.

70. As a proximate result of Defendants’ retaliatory conduct, Plaintiff has sustained and continues to sustain substantial loss in past, present and future earnings, career opportunities, bonuses and other employment benefits in amounts to be proven at trial. Plaintiff’s damages include all consequential, general and special economic damages in amounts to be proven at trial.

71. As a further proximate result of Defendants’ retaliatory conduct, Plaintiff has suffered and continues to suffer humiliation, severe emotional distress and mental and physical pain and anguish, all to his damage in a sum according to proof.

72. The foregoing acts of Defendants were oppressive, malicious, and despicable, and Plaintiff is, therefore, entitled to an award of punitive damages against Defendants in an amount to be proven at trial.

SIXTH CAUSE OF ACTION**(For Intentional Infliction of Emotional Distress****Against All Defendants)**

73. Plaintiff realleges and incorporates herein by reference all of the allegations set forth in paragraphs 1 through 73 as though fully set forth herein.

74. The actions of Defendants in causing Plaintiff's employment to be terminated in contravention of public policy as described herein were intentional, extreme, outrageous and were done with the intent to cause emotional distress or with reckless disregard of the probability of causing Plaintiff emotional distress.

75. Defendants knew, or should have known, of Plaintiff's susceptibility to emotional distress based on the outrageous conduct as described herein which surrounded and led to the unjustified, abrupt and fabricated termination of Plaintiff's employment which was, in reality, based solely on pretextual reasons which had no relationship in reality to Plaintiff's job performance.

76. As a proximate result of Defendants' wrongful conduct, Plaintiff has suffered and will continue to suffer severe and serious emotional and physical distress, all to Plaintiff's damage in an amount to be proven at trial.

77. As a further proximate result of Defendants' wrongful conduct, Plaintiff has sustained and continues to sustain substantial loss in past, present and future earnings, career opportunities, bonuses and other employment benefits, all to Plaintiff's damage in an amount to be proven at trial.

78. The conduct of Defendants in terminating Plaintiff's employment without good, just or legitimate cause and in violation of California public policy was done in conscious disregard of the rights of Plaintiff. As a consequent of the aforesaid oppressive, malicious and despicable conduct, Plaintiff is entitled to an award of exemplary and punitive damages in an amount to be proven at trial.

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SEVENTH CAUSE OF ACTION**(For Negligent Infliction of Emotional Distress****Against All Defendants)**

79. Plaintiff realleges and incorporates herein by reference all of the allegations set forth in paragraphs 1 through 79 as though fully set forth herein.

80. Defendants engaged in negligent conduct by terminating Plaintiff in contravention of public policy as described herein with reckless disregard of the probability of causing Plaintiff emotional distress.

81. Defendants knew, or should have known, of Plaintiff's susceptibility to emotional distress based on the negligent conduct as described herein which surrounded and led to the unjustified, abrupt and fabricated termination of Plaintiff's employment which was, in reality, based solely on pique.

82. As a proximate result of Defendants' wrongful conduct, Plaintiff has suffered and will continue to suffer severe and serious emotional and physical distress, all to Plaintiff's damage in an amount to be proven at trial.

83. As a further proximate result of Defendants' wrongful conduct, Plaintiff has sustained and continues to sustain substantial loss in past, present and future earnings, career opportunities, bonuses and other employment benefits, all to Plaintiff's damage in an amount to be proven at trial.

EIGHTH CAUSE OF ACTION**(For Violation of Business & Professions Code §17200 Against All Defendants)**

84. Plaintiff realleges and incorporates herein by reference all of the allegations set forth in paragraphs 1 through 84 as though fully set forth herein.

85. Plaintiff is informed and believes and, based on that information and belief, alleges that Defendants created, devised, developed, supervised and approved employment practices and protocols which directly impacted Plaintiff's employment.

86. Plaintiff is informed and believes and, based on that information and belief, alleges that by implementing policies and protocols which are discriminatory and in direct

1 contravention of public policy, Defendants intended to reduce its overhead and maximize
2 its profits.

3 87. Plaintiff relied upon, by accepting and continuing his employment with
4 Defendants, Defendants' representations that they did not mandate or approve
5 discriminatory policies in hiring and retaining their employees, including but not limited to
6 discrimination based on race and age. However, as described herein, Plaintiff was
7 subjected, to his detriment, to discriminatory policies implemented and executed by
8 Defendants.

9 88. Defendants, by the conduct described herein, have engaged in an unfair and
10 fraudulent business practice within the meaning of Business & Professions Code §17200.

11 89. Defendants' employment policies and protocols, as implemented and
12 described herein, resulted in the unjustifiable and abrupt termination of Plaintiff's
13 employment, for which he incurred, and continues to incur, monetary loss in earnings and
14 employment benefits.

15 90. As a direct and proximate result of Defendants' conduct, Plaintiff is entitled
16 to restitution and injunctive relief.

17 PRAYER FOR RELIEF

18 WHEREFORE, Plaintiff ERNEST J. WALKER prays for judgment as follows:

19 FOR THE FIRST THROUGH FIFTH CAUSES OF ACTION:

- 20 1. Compensatory damages, including loss of wages (front and back pay), career
21 opportunities, benefits and other opportunities of employment;
- 22 2. Special damages including loss of income and benefits and medical expenses;
- 23 3. Interest, including pre-judgment interest, thereon at the legal rate, including but
24 not limited to *Civil Code* §3291;
- 25 4. Attorney's fees according to proof, pursuant to *Government Code* §12965, or
26 other applicable statutes or contracts;
- 27 5. Punitive damages in a sum to be proven at trial;
- 28

6. Costs of suit incurred herein; and
7. Such other and further relief as to the Court may seem just and proper.

FOR THE SIXTH CAUSE OF ACTION:

1. General damages in a sum to be proven at trial;
2. Special damages including loss of income and benefits and medical expenses;
3. Interest, including pre-judgment interest, thereon at the legal rate, including but not limited to *Civil Code* §3291;
4. Punitive damages in a sum to be proven at trial;
5. Costs of suit incurred herein; and
6. Such other and further relief as to the Court may seem just and proper.

FOR THE SEVENTH CAUSE OF ACTION:

1. General damages in a sum to be proven at trial;
2. Special damages including loss of income and benefits and medical expenses;
3. Interest, including pre-judgment interest, thereon at the legal rate, including but not limited to *Civil Code* §3291;
4. Costs of suit incurred herein; and
5. Such other and further relief as to the Court may seem just and proper.

FOR THE EIGHTH CAUSE OF ACTION:

1. Restitution according to proof;
2. Injunctive relief, including but not limited to, an injunction ordering Defendants to stop engaging in such unconstitutional and unlawful acts, and to develop policies and procedures for preventing the recurrence of any such unconstitutional or unlawful acts;
3. Costs of suit incurred herein; and
4. Such other and further relief as to the Court may seem just and proper.

1 Dated: September 25, 2017

ADISHIAN LAW GROUP, P.C.

2
3 By:

4 Christopher M. Adishian
5 Cynthia Y. Sun
6 Attorneys for Plaintiff Ernest J. Walker
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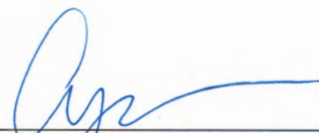
DEMAND FOR JURY TRIAL

Plaintiff ERNEST J. WALKER demands a trial by jury as to all claims triable by a jury.

Dated: September 25, 2017

ADISHIAN LAW GROUP, P.C.

By:



Christopher M. Adishian

Cynthia Y. Sun

Attorneys for Plaintiff Ernest J. Walker

EXHIBIT 1

EXHIBIT 1

**DEPARTMENT OF FAIR EMPLOYMENT & HOUSING**

EEOC Number: 555-2016-01170C

Case Name: Ernest J. Walker vs. TERMINIX

Filing Date: October 14, 2016

NOTICE TO COMPLAINANT AND RESPONDENT

This is to advise you that the above-referenced complaint is being dual filed with the California Department of Fair Employment and Housing (DFEH) by the U.S. Equal Employment Opportunity Commission (EEOC). The complaint will be filed in accordance with California Government Code section 12960. This notice constitutes service pursuant to Government Code section 12962.

The EEOC is responsible for the processing of this complaint and the DFEH will not be conducting an investigation into this matter. Please contact EEOC directly for any discussion of the complaint or the investigation.

NOTICE TO COMPLAINANT OF RIGHT-TO-SUE

This letter is also your Right to Sue notice. This Right-To-Sue Notice allows you to file a private lawsuit in State court. According to Government Code section 12965, subdivision (b), you may bring a civil action under the provisions of the Fair Employment and Housing Act against the person, employer, labor organization or employment agency named in the above-referenced complaint. The lawsuit may be filed in a State of California Superior Court. Government Code section 12965, subdivision (b), provides that such a civil action must be brought within one year from the date of this notice. Pursuant to Government Code section 12965, subdivision (d)(1), this one-year period will be tolled during the pendency of the EEOC's investigation of your complaint. You should consult an attorney to determine with accuracy the date by which a civil action must be filed. This right to file a civil action may be waived in the event a settlement agreement is signed.

If you have questions about the right to file under federal law, please contact the EEOC using the contact information below.

EEOC Northern California
450 Golden Gate Ave 5-West
PO Box 36025
San Francisco, CA 94102
(415) 522-3000

EEOC Southern California
255 East Temple Ste., 4th Floor
Los Angeles, CA 90012
(213) 894-1100

EXHIBIT 2



DEPARTMENT OF FAIR EMPLOYMENT & HOUSING

DIRECTOR KEVIN KISH

2218 Kausen Drive, Suite 100 | Elk Grove | CA | 95758
800-884-1684 | TDD 800-700-2320
www.dfeh.ca.gov | email: contact.center@dfeh.ca.gov

July 21, 2017

Chris Adishian
222 N. Sepulveda Blvd., Ste. 2000
El Segundo California 90245

RE: Notice to Complainant or Complainant's Attorney

DFEH Matter Number: 892615-301660

Right to Sue: Walker / The Terminix International Company Limited Partnership

Dear Complainant or Complainant's Attorney:

Attached is a copy of your complaint of discrimination filed with the Department of Fair Employment and Housing (DFEH) pursuant to the California Fair Employment and Housing Act, Government Code section 12900 et seq. Also attached is a copy of your Notice of Case Closure and Right to Sue. Pursuant to Government Code section 12962, DFEH will not serve these documents on the employer. You or your attorney must serve the complaint. If you do not have an attorney, you must serve the complaint yourself. Please refer to the attached Notice of Case Closure and Right to Sue for information regarding filing a private lawsuit in the State of California.

Be advised that the DFEH does not review or edit the complaint form to ensure that it meets procedural or statutory requirements.

Sincerely,

Department of Fair Employment and Housing



DEPARTMENT OF FAIR EMPLOYMENT & HOUSING

2218 Kausen Drive, Suite 100 | Elk Grove | CA | 95758
800-884-1684 | TDD 800-700-2320
www.dfeh.ca.gov | email: contact.center@dfeh.ca.gov

DIRECTOR KEVIN KISH

July 21, 2017

RE: Notice of Filing of Discrimination Complaint

DFEH Matter Number: 892615-301660

Right to Sue: Walker / The Terminix International Company Limited Partnership

To All Respondent(s):

Enclosed is a copy of a complaint of discrimination that has been filed with the Department of Fair Employment and Housing (DFEH) in accordance with Government Code section 12960. This constitutes service of the complaint pursuant to Government Code section 12962. The complainant has requested an authorization to file a lawsuit. This case is not being investigated by DFEH and is being closed immediately. A copy of the Notice of Case Closure and Right to Sue is enclosed for your records.

Please refer to the attached complaint for a list of all respondent(s) and their contact information.

No response to DFEH is requested or required.

Sincerely,

Department of Fair Employment and Housing



DEPARTMENT OF FAIR EMPLOYMENT & HOUSING

2218 Kausen Drive, Suite 100 | Elk Grove | CA | 95758
800-884-1684 | TDD 800-700-2320
www.dfeh.ca.gov | email: contact.center@dfeh.ca.gov

DIRECTOR KEVIN KISH

July 21, 2017

Ernest Walker
1728 Dover Place
Hayward, California 94541

RE: Notice of Case Closure and Right to Sue

DFEH Matter Number: 892615-301660

Right to Sue: Walker / The Terminix International Company Limited Partnership

Dear Ernest Walker,

This letter informs you that the above-referenced complaint was filed with the Department of Fair Employment and Housing (DFEH) has been closed effective July 21, 2017 because an immediate Right to Sue notice was requested. DFEH will take no further action on the complaint.

This letter is also your Right to Sue notice. According to Government Code section 12965, subdivision (b), a civil action may be brought under the provisions of the Fair Employment and Housing Act against the person, employer, labor organization or employment agency named in the above-referenced complaint. The civil action must be filed within one year from the date of this letter.

To obtain a federal Right to Sue notice, you must visit the U.S. Equal Employment Opportunity Commission (EEOC) to file a complaint within 30 days of receipt of this DFEH Notice of Case Closure or within 300 days of the alleged discriminatory act, whichever is earlier.

Sincerely,

Department of Fair Employment and Housing



STATE OF CALIFORNIA | Business, Consumer Services and Housing Agency

GOVERNOR EDMUND G. BROWN JR.

DEPARTMENT OF FAIR EMPLOYMENT & HOUSING

2218 Kausen Drive, Suite 100 | Elk Grove | CA | 95758
800-884-1684 | TDD 800-700-2320
www.dfeh.ca.gov | email: contact.center@dfeh.ca.gov

DIRECTOR KEVIN KISH

Enclosures

cc: Service Master Global Holdings, Inc.

1 **COMPLAINT OF EMPLOYMENT DISCRIMINATION**
2 **BEFORE THE STATE OF CALIFORNIA**
3 **DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING**
4 **Under the California Fair Employment and Housing Act**
5 **(Gov. Code, § 12900 et seq.)**

6 In the Matter of the Complaint of
7 Ernest Walker, Complainant.
8 1728 Dover Place
9 Hayward, California 94541

DFEH No. 892615-301660

10 vs.

11 The Terminix International Company Limited
12 Partnership, Respondent.
13 860 Ridge Lake Blvd
14 Memphis, Tennessee 38120

15 Complainant alleges:

16 1. Respondent **The Terminix International Company Limited Partnership** is a
17 **Private Employer** subject to suit under the California Fair Employment and Housing
Act (FEHA) (Gov. Code, § 12900 et seq.). Complainant believes respondent is
subject to the FEHA.

18 2. On or around **August 09, 2016**, complainant alleges that respondent took the
19 following adverse actions against complainant: **Discrimination, Harassment,**
20 **Retaliation Asked impermissible non-job-related questions, Demoted, Denied**
21 **a good faith interactive process, Denied a work environment free of**
22 **discrimination and/or retaliation, Denied continuation of employer-paid health**
care coverage while on pregnancy disability leave, Denied employment,
Denied equal pay, Denied family care or medical leave, Denied or forced to
transfer, Denied pregnancy leave, Denied promotion, Denied reasonable
accommodation, Denied reinstatement, Denied the right to wear pants, Forced
to quit, Laid-off, Terminated, Tested for genetic characteristics, Other, as
revealed during discovery. Complainant believes respondent committed these
actions because of their: **Age - 40 and over, Ancestry, Association with a**
member of a protected class, Color, Disability, Engagement in Protected
Activity, Family Care or Medical Leave, Genetic Information [information about
genetic tests or participation in clinical research or manifestation of disease],

Marital Status, Medical Condition - Including cancer or cancer related medical condition or genetic characteristics, National Origin - Including language use restrictions, Race, Religion, Sex - Gender, Sex - Gender identity or Gender expression, Sex - Pregnancy, Sexual Orientation, Other, Military or Veteran status as revealed during discovery.

3. Complainant **Ernest Walker** resides in the City of **Hayward**, State of **California**. If complaint includes co-respondents please see below.

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Co-Respondents:

Service Master Global Holdings, Inc.

860 Ridge Lake Blvd
Memphis Tennessee 38120

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2 **Additional Complaint Details:**

3 The following is stated on information and belief. Terminix discriminated against Ernest
4 on the basis of his race and age. Ernest was in at least two protected classes (age and
5 race) at the time of his termination. After working for Terminix for over a decade, on or
6 around September 2015, Ernest expressed interest in fulfilling the position of Regional
7 Director. Ernest was denied. The Company selected an individual outside of Ernest's
8 protected classes for the position. On or around October 2015, Terminix disciplined
9 Ernest. On or around February 2016, his supervisor attempted to place Ernest on a
10 Performance Improvement Plan (PIP). On or around March 2016, Ernest filed an ethics
11 complaint protesting the Company's retaliatory and discriminatory conduct. On or
12 around May, 2016, the Company placed Ernest on a Performance Improvement Plan
13 (PIP) and terminated him on or around August 9, 2016. If Ernest was not discriminated
14 due to his age and race, or retaliated against, he believes he would still be employed by
15 Terminix.
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1 VERIFICATION

2 I, **Chris Adishian**, am the Attorney for Complainant in the above-entitled complaint.
3 I have read the foregoing complaint and know the contents thereof. The same is
4 true of my own knowledge, except as to those matters which are therein alleged on
information and belief, and as to those matters, I believe it to be true.

5 On July 21, 2017, I declare under penalty of perjury under the laws of the State of
6 California that the foregoing is true and correct.

7 **El Segundo, California**
8 **Chris Adishian**
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