

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

DR. JIANJUN DU,
Plaintiff,

v.

**THE UNIVERSITY OF HOUSTON
AT VICTORIA and THE
UNIVERSITY OF HOUSTON
SYSTEM,**
Defendants.

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CIVIL ACTION NO.:

JURY DEMANDED

PLAINTIFF’S ORIGINAL COMPLAINT

TO THE HONORABLE U.S. DISTRICT COURT JUDGE:

NOW COMES Dr. Jianjun Du (“Plaintiff”) in the above-styled cause, complaining of and about The University of Houston at Victoria (“UHV”) and The University of Houston System (“the UH System”), (“Defendants”) and for cause of action files this, his Plaintiff’s Original Complaint, showing to the Court the following:

I. PARTIES

1. Plaintiff, Dr. Jianjun Du, is an individual residing in Missouri City, Fort Bend County, Texas. Plaintiff is a citizen of the United States and the State of Texas.
2. Defendant, the University of Houston at Victoria, is a state-funded university in the State of Texas. Defendant may be served with process by serving its registered agent, Jim Davis, the Deputy AG for Civil Litigation, at the Price Daniel Senior Building, 8th Floor, 209 W 14th St., Austin, TX 78701.

3. Defendant, the University of Houston System, is a state-funded university in the State of Texas. Defendant may be served with process by serving its registered agent, Jim Davis, the Deputy AG for Civil Litigation, at the Price Daniel Senior Building, 8th Floor, 209 W 14th St., Austin, TX 78701.

II. JURISDICTION

4. This Court has jurisdiction pursuant to 28 U.S.C. § 1331, as Plaintiff's causes of action arise under federal statutes: the Age Discrimination in Employment Act ("ADEA") (29 U.S.C. § 621 et seq.) and Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000e-2(a), 2000e-3(a).

5. Additionally, this Court has supplemental jurisdiction pursuant to 28 U.S.C. § 1367 over Plaintiff's pendent state claims arising under the Texas Commission on Human Rights Act ("TCHRA"), Texas Labor Code §21.051, *et seq.*, because such claims are so related to the claims within the Court's original jurisdiction that they form part of the same case or controversy under Article 3 of the United States Constitution.

6. Venue is proper in the Southern District of Texas, Houston Division pursuant to 28 U.S.C. § 1391(a) because this is the judicial district in which a substantial part of the events or omissions giving rise to the claim occurred.

III. NATURE OF THE ACTION

7. This is an action against Defendant pursuant to the Age Discrimination in Employment Act ("ADEA") (29 U.S.C. § 621 et seq.); Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e-2(a); and the Texas Commission on Human Rights Act ("TCHRA"), Texas Labor Code §21.051, *et seq.* on the grounds that Plaintiff was discriminated against because of his national origin (Chinese), age (fifty-seven (57)), and in retaliation for complaining to

Defendants and the EEOC about national origin and age discrimination.

IV. EXHAUSTION OF ADMINISTRATIVE REMEDIES

8. On November 5, 2012, Plaintiff filed a charge of discrimination based on national origin discrimination, age discrimination, and retaliation with the U.S. Equal Employment Opportunity Commission; Charge No. 460-2013-00428. This charge was related to ongoing discrimination. Subsequently, on July 25, 2016, the U.S. Equal Employment Opportunity Commission (“EEOC”) issued Plaintiff his Notice of Right Sue. See Exhibits A and B. Plaintiff files this lawsuit within ninety (90) days of receiving his Notice of Right to Sue and his lawsuit is, therefore, timely filed.

V. FACTS

9. Plaintiff is Chinese and is fifty-seven (57) years old.

10. Plaintiff obtained a BA in Finance and Accounting from Zhongnan University of Economics and Laws, and an MBA in International Finance from Remin University of China. He also received an MA in Economics from Washington University in Missouri, and a Ph.D. in International Business and Accounting from Saint Louis University in St. Louis.

11. He worked for Coopers & Lybrand WorldCom, and other firms in the areas of accounting, auditing, finance, and management. Plaintiff also worked for a Chinese university as an instructor, and the Chinese National Ministry of Foreign Trade and Economic Relationship as auditing officer.

12. Plaintiff also received a number of training certificates in telecommunication data, voice products, computer statistics, and programming languages.

13. Plaintiff has received several awards including a Fellowship Scholarship, the Academy of

International Business Ph.D. student conference and consortium presentation award, and the Ph.D. student and young scholar conference consortium award from the Academy of Management, as well as performance awards from numerous companies.

14. Plaintiff has published papers in international business and finance academic journals including, the *Management International Review*, *International Marketing Review*, *Journal of Global Information Management*, and *Management Business Review*, and has also published academic papers in proceedings at academic conferences. His research interests include, but are not limited to, accounting, finance, and international business.

15. Plaintiff is a member of the American Accounting Association, the Academy of International Business, the Academy of Management, the American Finance Association, and the American Economic Association. He began working at the UHV School of Business Administration (“SBA”) in August of 2001.

16. In 2009, Farhang Niroomand became the dean of the SBA, and Plaintiff began experiencing discrimination based on his national origin and age.

17. In 2013, Plaintiff applied for funds to go to a conference and he talked to the Chair, but the University did not support him. In 2014, Yong Lee, who is not Chinese, got to go to the same conference that Plaintiff did not get approval for.

18. Additionally, professors from America and Middle Eastern countries were promoted to Full Professor over Plaintiff on multiple occasions, even though Plaintiff wrote papers for finance, accounting, and international business. The other professors’ papers were only within one field, making them less desirable candidates to be promoted to Full Professor.

19. Plaintiff and other faculty from East Asian countries (China and South Korea) also had points deducted on their annual evaluations for not attending Commencement, while many

professors from other countries received no deduction, despite also missing Commencement.

20. Because his annual evaluation was lower, Plaintiff did not receive as many pay increases as his non-Asian colleagues.

21. Additionally, professors who have been at the school longer, who are predominantly older professors, have greater publication requirements than the younger professors, which is not a requirement at other schools.

22. Plaintiff complained about national origin and age discrimination within UHV and the UH system, and then to the EEOC.

23. Since then, Plaintiff has received even worse treatment from Dr. Niroomand, especially with regard to evaluations.

24. Plaintiff has seen a doctor to cope with his emotional distress caused by these events, and has been prescribed medication.

V. COUNT 1: TITLE VII NATIONAL ORIGIN DISCRIMINATION

13. Plaintiff incorporates by reference all of the foregoing allegations in each of the paragraphs above as if fully set forth herein.

14. Defendants intentionally engaged in unlawful employment practices involving Plaintiff because of his national origin (Chinese).

15. Defendants discriminated against Plaintiff in connection with the compensation, terms, conditions, and privileges of employment, or limited, segregated, or classified Plaintiff in a manner that would deprive or tend to deprive him of any employment opportunity or adversely affect his status because of Plaintiff's national origin (Chinese) in violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e-2(a).

VI. COUNT 2: TCHRA NATIONAL ORIGIN DISCRIMINATION

16. Plaintiff incorporates by reference all of the foregoing allegations in each of the paragraphs above as if fully set forth herein.

17. Defendants intentionally engaged in unlawful employment practices involving Plaintiff because of his national origin (Chinese).

18. Defendants discriminated against Plaintiff in connection with the compensation, terms, conditions, and privileges of employment, or limited, segregated, or classified Plaintiff in a manner that would deprive or tend to deprive him of any employment opportunity or adversely affect his status because of Plaintiff's national origin (Chinese) in violation of Texas Labor Code § 21.051.

VII. COUNT 3: ADEA AGE DISCRIMINATION

19. Plaintiff incorporates by reference all of the foregoing allegations in each of the paragraphs above as if fully set forth herein.

20. Defendants intentionally engaged in unlawful employment practices involving Plaintiff because of his age (fifty-seven) (57) years old).

21. Defendants discriminated against Plaintiff in connection with the compensation, terms, conditions, and privileges of employment or limited, segregated or classified Plaintiff in a manner that would deprive or tend to deprive him of any employment opportunity or adversely affect his status because of Plaintiff's age (fifty-seven) (57) years old), in violation of the Age Discrimination in Employment Act.

VIII. COUNT 4: TCHRA AGE DISCRIMINATION

22. Plaintiff incorporates by reference all of the foregoing allegations in each of the paragraphs above as if fully set forth herein.

23. Defendants intentionally engaged in unlawful employment practices involving Plaintiff because of his age (fifty-seven) (57) years old).

24. Defendants discriminated against Plaintiff in connection with the compensation, terms, conditions, and privileges of employment or limited, segregated or classified Plaintiff in a manner that would deprive or tend to deprive him of any employment opportunity or adversely affect his status because of Plaintiff's age (fifty-seven) (57) years old), in violation of Texas Labor Code § 21.051.

IX. COUNT 5: TITLE VII RETALIATION

25. Plaintiff incorporates by reference all of the foregoing allegations in each of the paragraphs above as if fully set forth herein.

26. Defendants intentionally retaliated against Plaintiff because he complained to Defendants and the EEOC about national origin discrimination and age discrimination, in violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e-2(a).

X. COUNT 6: ADEA RETALIATION

9. Plaintiff incorporates by reference all of the foregoing allegations in each of the paragraphs above as if fully set forth herein.

10. Defendants intentionally retaliated against Plaintiff because he complained to Defendants and the EEOC about age discrimination, in violation of the Age Discrimination in Employment Act.

XI. COUNT 7: TCHRA RETALIATION

27. Plaintiff incorporates by reference all of the foregoing allegations in each of the paragraphs above as if fully set forth herein.

28. Defendants intentionally retaliated against Plaintiff because he complained to Defendants

and the EEOC about national origin discrimination and age discrimination, in violation of Chapter 21 of the Texas Labor Code.

XII. JURY DEMAND

29. Plaintiff demands a jury on all issues to be tried in this matter. Plaintiff has submitted the jury demand and herein submits the jury fee.

XIII. PRAYER

30. WHEREFORE, PREMISES CONSIDERED, Plaintiff prays that Defendant be cited to appear and answer herein, and that on final trial, Plaintiff have judgment against Defendant for:

- a. All damages to which Plaintiff may be entitled pursuant to this Original Complaint, or an amendment thereto, including but not limited to back pay, future wages, reinstatement, upgrading, and compensation for benefits not received;
- b. Past physical pain and mental suffering;
- c. Present physical pain and mental suffering;
- d. Future physical pain and mental suffering;
- e. Compensatory damages, including, but not limited to, emotional distress;
- f. Punitive damages in an amount above the minimum jurisdictional limits of the Court;
- g. Reasonable attorneys' fees as allowed by law, with conditional awards in the event of appeal;
- h. Pre-judgment interest at the highest rate permitted by law;
- i. Post-judgment interest from the judgment until paid at the highest rate permitted by law;
- j. Costs of Court; and
- k. Such other and further relief, at law or in equity, to which Plaintiff may be entitled, whether by this Original Complaint or by proper amendment thereto.

Respectfully submitted,



A handwritten signature in blue ink, appearing to read 'A. Kennard, Jr.', is positioned above a horizontal line.

Alfonso Kennard, Jr.
Texas Bar No. 24036888
Southern District No: 713316
2603 Augusta Drive, Suite 1450
Houston, Texas 77057
(713) 742-0900 (main)
(713) 742-0951 (facsimile)
alfonso.kennard@kennardlaw.com
ATTORNEY-IN-CHARGE FOR PLAINTIFF

OF COUNSEL FOR PLAINTIFF:



Shelby C. Vick
Texas SBN: 24073498
Southern District Bar No: 2489449
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EXHIBIT “A”

EXHIBIT “B”

EEOC Form 161-B (11/09)

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
NOTICE OF RIGHT TO SUE (ISSUED ON REQUEST)

To: **Jianjun Du**
3802 Breaker Court
Missouri City, TX 77459

From: **Houston District Office**
Mickey Leland Building
1919 Smith Street, 7th Floor
Houston, TX 77002

On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.	EEOC Representative	Telephone No.
460-2013-00428	Gabriel Cervantes, Investigator	(713) 651-4918

(See also the additional information enclosed with this form.)

NOTICE TO THE PERSON AGGRIEVED:

Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act (ADA), or the Genetic Information Nondiscrimination Act (GINA): This is your Notice of Right to Sue, issued under Title VII, the ADA or GINA based on the above-numbered charge. It has been issued at your request. Your lawsuit under Title VII, the ADA or GINA must be filed in a federal or state court **WITHIN 90 DAYS** of your receipt of this notice; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

- More than 180 days have passed since the filing of this charge.
- Less than 180 days have passed since the filing of this charge, but I have determined that it is unlikely that the EEOC will be able to complete its administrative processing within 180 days from the filing of this charge.
- The EEOC is terminating its processing of this charge.
- The EEOC will continue to process this charge.

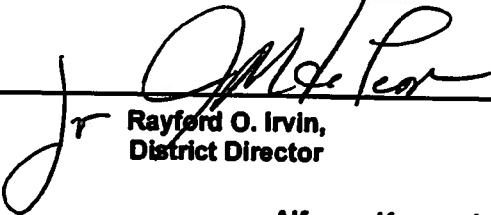
Age Discrimination in Employment Act (ADEA): You may sue under the ADEA at any time from 60 days after the charge was filed until 90 days after you receive notice that we have completed action on the charge. In this regard, the paragraph marked below applies to your case:

- The EEOC is closing your case. Therefore, your lawsuit under the ADEA must be filed in federal or state court **WITHIN 90 DAYS** of your receipt of this Notice. Otherwise, your right to sue based on the above-numbered charge will be lost.
- The EEOC is continuing its handling of your ADEA case. However, if 60 days have passed since the filing of the charge, you may file suit in federal or state court under the ADEA at this time.

Equal Pay Act (EPA): You already have the right to sue under the EPA (filing an EEOC charge is not required.) EPA suits must be brought in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.

If you file suit, based on this charge, please send a copy of your court complaint to this office.

On behalf of the Commission



Rayford O. Irvin,
 District Director

JUL 25 2016

(Date Mailed)

Enclosures(s)

cc: **Jennifer E. Bloom**
Sr. Assistant General Counsel
UNIVERSITY OF HOUSTON SYSTEMS
311 E. Cullen Bldg.
Houston, TX 77204

Alfonso Kennard, Jr., Attorney
Kennard Attorneys at Law
2603 Augusta Dr., 14th floor
Houston, Texas 77057

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS
Dr. Jianjun Du
(b) County of Residence of First Listed Plaintiff Fort Bend
(c) Attorneys (Firm Name, Address, and Telephone Number)
Alfonso Kennard, Jr.
2603 Augusta Dr., Suite 1450 Houston, Texas 77057 (713) 742-0900

DEFENDANTS
The University of Houston at Victoria and The University of Houston System
County of Residence of First Listed Defendant
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.
Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)
1 U.S. Government Plaintiff
2 U.S. Government Defendant
3 Federal Question (U.S. Government Not a Party)
4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)
PTF DEF
Citizen of This State
Citizen of Another State
Citizen or Subject of a Foreign Country

IV. NATURE OF SUIT (Place an "X" in One Box Only) Click here for: Nature of Suit Code Descriptions.

Table with 5 columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes various legal categories and codes.

V. ORIGIN (Place an "X" in One Box Only)
1 Original Proceeding
2 Removed from State Court
3 Remanded from Appellate Court
4 Reinstated or Reopened
5 Transferred from Another District
6 Multidistrict Litigation - Transfer
8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION
Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
(29 U.S.C. § 621 et seq.) ; 42 U.S.C. § 2000e-2(a)
Brief description of cause:
Plt was discriminated against because of his age, National Origin was retaliated against for complaining about it.

VII. REQUESTED IN COMPLAINT:
CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$
CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY
(See instructions): JUDGE DOCKET NUMBER 4:16-cv-3141

DATE 10/24/2016 SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY
RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
 Original Proceedings. (1) Cases which originate in the United States district courts.
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
 Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.