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Kern County Superior Court
By Sophia Munoz Alvarez, Deputy

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 FOR THE COUNTY OF KERN

11 EDGAR QUINCY SLOAN,
12
13 Plaintiff,

14 v.

15 CITY OF BAKERSFIELD, BAKERSFIELD
16 FIRE DEPARTMENT, CHIEF ANTHONY
17 GALAGAZA, CHIEF MICHAEL KELLY,
18 DEPUTY CHIEF JOHN FRANDO, DEPUTY
19 CHIEF TREVER MARTINUSEN, DEPUTY
20 CHIEF WILLIAM BALLARD, AND DOES
21 1 THROUGH 100, INCLUSIVE,

22 Defendants.

CASE NO. BCV-20-102749

[Assigned to the Honorable _____]

COMPLAINT FOR DAMAGES FOR:

- 23 (1) Cause of Action for Hostile Work
24 Environment Harassment –
25 Conduct directed at Plaintiff by
26 Entity Defendant in Violation of
27 California Government Code
28 Sections 12900 & 12940;
- (2) Cause of Action for Hostile Work
Environment Harassment –
Conduct directed at Plaintiff by
Individual Defendants in Violation
of California Government Code
Sections 12900 & 12940;
- (3) Cause of Action for Complaining
about Hostile Work Environment
Harassment in Violation of
California Government Code
Sections 12900 & 12940;
- (4) Cause of Action for Failure to Prevent
Harassment, Retaliation and
Discrimination in violation of
California Government Code Sections
12900 & 12940;
- (5) Cause of Action for Disparate
Treatment –Discrimination on the
Basis of Race, Color, Ancestry and
National Origin in Violation of

- 1 California Government Code
2 Sections 12900 & 12940;
3 (6) Cause of Action for Disparate
4 Impact –Discrimination on the Basis
5 of Race, Color, Ancestry and
6 National Origin in Violation of
7 California Government Code
8 Sections 12900 & 12940;
9 (7) Cause of Action for Retaliation for
10 Complaining about Discrimination on
11 the basis of Race, Color, Ancestry and
12 National Origin in Violation of
13 California Government Code Sections
14 12900 & 12940;
15 (8) Cause of Action for Disparate
16 Treatment –Discrimination on the
17 Basis of Age in Violation of
18 California Government Code
19 Sections 12900 & 12940;
20 (9) Cause of Action for Disparate
21 Impact –Discrimination on the Basis
22 of Age in Violation of California
23 Government Code Sections 12900 &
24 12940;
25 (10) Cause of Action for Retaliation for
26 Complaining about Discrimination on
27 the Basis of Age in Violation of
28 California Government Code Sections
12900 & 12940;
(11) Cause of Action for Disparate
Treatment –Discrimination on the
Basis of Religious Creed in Violation
of California Government Code
Sections 12900 & 12940;
(12) Cause of Action for Disparate
Impact –Discrimination on the Basis
of Religious Creed in Violation of
California Government Code
Sections 12900 & 12940; and
(13) Cause of Action for Retaliation for
Complaining about Religious
Discrimination on the Basis of
Religious Creed in Violation of
California Government Code Sections
12900 & 12940.

[Demand for Jury Trial]

***COMES NOW PLAINTIFF EDGAR SLOAN AND FOR HIS CAUSES OF ACTION,
CLAIMS, DEMANDS, INJURIES, DAMAGES AND HARMS AGAINST DEFENDANT
CITY OF BAKERSFIELD, BAKERSFIELD FIRE DEPARTMENT, CHIEF ANTHONY***

GALAGAZA, CHIEF MICHAEL KELLY, DEPUTY CHIEF JOHN FRANDO, DEPUTY CHIEF TREVER MARTINUSEN, DEPUTY CHIEF WILLIAM BALLARD, AND DOES 1 THROUGH 100 INCLUSIVE, ALLEGES, CONTENTS AND STATES AS FOLLOWS:

PARTIES

1. ***Plaintiff: EDGAR SLOAN*** [hereinafter referred to as “SLOAN”, “employee” or “plaintiff”] is and was an individual residing in the City of Bakersfield, County of Kern, State of California. The plaintiff is an African American male, over the age of forty years, and is a practicing Jehovah Witness in regard to his religion, religious beliefs, religious expression, and religious affiliation. The plaintiff is employed as a Fire Captain with the City of Bakersfield Fire Department and the City of Bakersfield, working on a full-time basis and receiving various benefits to include health insurance, vision coverage, dental coverage, a 401k/retirement plan and other work-related benefits. During his employment and continuing into the present time, the plaintiff has experienced severe and pervasive discrimination, harassment and retaliation based on various protected classifications, including for protesting and speaking up about unlawful working conditions for himself and for others in the workplace. During his employment, plaintiff has always made saving lives a priority, striving to serve and protect the residents of the City of Bakersfield and going above and beyond the call of duty to save lives and serve the Bakersfield community.

2. During his employment, the plaintiff complained of unknown lawful race, age and religious Creed discrimination, harassment and retaliation which defendant’s management partook in, and also about other actions within the fire Department compromising the opportunities, the health, the safety and the civil rights of the plaintiff and other firefighter personnel as well. This is his Complaint against his current employer City of Bakersfield, and more specifically the Bakersfield Fire Department and its chain of command, command staff, management and supervisors who have implemented a practice and policy of racist, hateful, intolerant and bigoted actions, and have adopted hateful decisions, violated policies, and demonstrated a total disregard for the plaintiff’s rights as a human being and employee, and for the rights of other similarly situated employees. These individuals have engaged in biased,

1 unfair, discriminatory actions and decisions, and selective enforcement of firefighting policies
2 and procedures when it comes to performance evaluations, requests for time off, testing, job
3 performance, promotion, advancement and professional development for the plaintiff and other
4 similarly situated employees there. They have disrespected, harassed, and discriminated against
5 the plaintiff on the basis of his race, color, ancestry, national origin, age, religious creed, and
6 other protected classifications.

7 3. ***Employer Defendant:*** At all times mentioned herein, Defendant **CITY OF**
8 **BAKERSFIELD** [hereinafter “**BAKERSFIELD**”, “**DEFENDANT**”, “**DEFENDANT**
9 **EMPLOYER**”, “**defendant employer**,” “**employer defendant**” OR “**EMPLOYER**
10 **DEFENDANT**”] is and was a public entity or municipality with its principal place of business
11 located within the City of Bakersfield, County of Kern, State of California, and more specifically
12 with its headquarters located at 2101 “H” Street, Floor 1, Bakersfield, California 93301. This
13 employer owns and operates a municipality and various municipal departments including a fire
14 department to serve residents and businesses within the Bakersfield community. Said defendant
15 is the plaintiff’s “employer” as the term is defined by *California Government Code Section*
16 *12926(d)* and was the plaintiff’s employer at all times referenced herein. At all times relevant,
17 the **EMPLOYER DEFENDANT** is an entity subject to suit under the *California Fair*
18 *Employment and Housing Act—Government Code § 12926, et. Seq.*, in that it regularly employs
19 five or more persons. Plaintiff is informed and believes and based thereon contends that said
20 defendant employed over 200 employees in connection with its municipal, fire and public safety
21 business. The plaintiff’s employer is the City of Bakersfield and its department or division, the
22 City of Bakersfield Fire Department (referred to collectively and jointly herein as the
23 “department”, “employer”, “employer defendant”, BFD” or “Bakersfield Fire Department”).
24 The City of Bakersfield Fire Department employs over two hundred uniformed personnel and
25 operates fourteen neighborhood fire stations across its 151.2 square-mile jurisdiction, protecting
26 approximately 500,000 thousand residents and businesspersons.

27 4. ***Employer Defendant:*** At all times mentioned herein, Defendant
28 **BAKERSFIELD FIRE DEPARTMENT** [hereinafter “**BAKERSFIELD**”, “**DEFENDANT**”

1 **OR EMPLOYER DEFENDANT”]** is and was a public entity or municipality with its principal
2 place of business located within the County of Kern, State of California, and more specifically at
3 212 “H” Street, Floor 1, Bakersfield, California 93301. The City of Bakersfield owns and
4 operates various municipal departments including a fire department to serve the residents and
5 businesses within the community. Said defendant is the plaintiff’s “employer” as the term is
6 defined by *California Government Code Section 12926(d)* and was the plaintiff’s employer at all
7 times referenced herein. The Bakersfield Fire Department is a part of a subset of, and arm of,
8 affiliate of, a division of, and a department within the City of Bakersfield and is not a separate
9 and distinct entity. While the plaintiff remains assigned to work at the City of Bakersfield Fire
10 Department, his employer is the City of Bakersfield. The Bakersfield Fire Department is named
11 as a defendant in an abundance of caution, but plaintiff will stipulate that the plaintiff’s employer
12 is the City of Bakersfield.

13 5. ***Individual Defendant: CHIEF ANTHONY GALAGAZA***, is an individual
14 residing in the County of Kern is the Bakersfield Fire Chief. This defendant is a supervisor,
15 managing agent, director, officer or other individual tasked with making and implementing
16 policy and procedure at the Bakersfield Fire Department for the City of Bakersfield. He is a
17 Caucasian male. This individual engaged in intentional acts of bias, racism, harassment, created
18 a hostile work environment, mistreatment, abuse, and discrimination in the workplace towards
19 plaintiff predicated on the plaintiff’s race, color, ancestry, national origin, religious creed, and
20 other protected classifications. The decisions and actions by this defendant exceeded ordinary
21 and routine personnel decisions and became part of a personal and directed attack on the
22 plaintiff’s integrity, his family, and his abilities as a firefighter. Said defendant shall be referred
23 to herein as the individual defendant and shall be referred to collectively and interchangeably
24 with the other individual defendants who are/were employees and supervisors at the Bakersfield
25 Fire Department and with the City of Bakersfield. This defendant publicly states that
26 “Bakersfield Firefighters demonstrate bravery by our selfless commitment to the citizens we
27 serve, overcoming fear through fortitude, god judgment, and strength of character.” This
28 defendant’s actions and decisions towards plaintiff communicated otherwise. This defendant sets

1 the tone and promotes the culture for diversity and tolerance for the entire Fire Department given
2 his position, yet he did not practice what he preached, nor did he follow the department's stated
3 policies and procedures regarding performance evaluations, promotions, and selection policies.
4 This defendant ignored the Fire Department's policies and procedures, created his own policies
5 and procedures on various subjects, and/or did not fairly or consistently implement the Fire
6 Department's policies and procedures as to the plaintiff or as between the African-American
7 versus the Caucasian or other employees and applicants for promotions or other positions within
8 the Fire Department. Said defendant is part of a very powerful Caucasian inner circle that is
9 intolerant of minorities and has no interest in diversity and inclusion at the Fire Department. Said
10 individual was a powerful decision maker in every application or promotion sought by the
11 plaintiff. This defendant wanted to ensure that the position of available promotions, the position
12 of Deputy Fire Chief or the position of Fire Chief would never be occupied by an African-
13 American firefighter in furtherance of the racist and bigoted attitudes within the chain of
14 command at this Fire Department. This defendant was one of several decision makers who
15 wanted to make certain that the plaintiff, never promotes to the position of Battalion Chief, or
16 Deputy Chief or Fire Chief at the City of Bakersfield Fire Department. This individual
17 management representative and decisionmaker had no interest in creating the workplace that was
18 fair, diverse, equitable or inclusive for African American firefighters. This individual defendant
19 was fueled by hatred and hostility towards African American firefighters, including the plaintiff
20 and set every road block an obstacle in his path to ensure that he would fail.

21 6. ***Individual Defendant: CHIEF MICHAEL KELLY***, was an individual residing
22 in the County of Kern and was an employee of the employer defendant at all times herein, during
23 the term of plaintiff's employment. He is a Caucasian male. This individual was formerly the
24 Bakersfield Fire Chief, and was plaintiff's supervisor, a supervisor, managing agent, director,
25 officer or other individual tasked with making and implementing policy and procedure at the
26 Bakersfield Fire Department for the City of Bakersfield. This individual engaged in intentional
27 acts of bias, racism, harassment, created a hostile work environment, mistreatment, abuse, and
28 discrimination in the workplace towards plaintiff predicated on the plaintiff's race, color,

1 ancestry, national origin, religious creed. The decisions and actions by this defendant exceeded
2 ordinary and routine personnel decisions and became part of a personal and directed attack on
3 the plaintiff's integrity, his family, and his abilities as a firefighter. Said defendant shall be
4 referred to herein as the individual defendant and shall be referred to collectively and
5 interchangeably with the other individual defendants who are/were employees and supervisors at
6 the Bakersfield Fire Department and with the City of Bakersfield. This defendant publicly states
7 that "Bakersfield Firefighters demonstrate bravery by our selfless commitment to the citizens we
8 serve, overcoming fear through fortitude, god judgment, and strength of character." This
9 defendant's actions and decisions towards plaintiff communicated otherwise. This defendant sets
10 the tone and promotes the culture for diversity and tolerance for the entire Department given his
11 position, yet he did not practice what he preached, nor did he follow the Department's stated
12 policies and procedures regarding performance evaluations, promotions, and selection policies.
13 This defendant ignored the Fire Department's policies and procedures, created his own policies
14 and procedures on various subjects, and/or did not fairly or consistently implement the Fire
15 Departments policies and procedures as to the plaintiff or as between the African-American
16 versus the Caucasian or other employees and applicants for promotions or other positions within
17 the Fire Department. Said defendant was part of a very powerful Caucasian inner circle that is
18 intolerant of minorities and has no interest in diversity and inclusion at the Fire Department. Said
19 defendant had a direct and important role in every job opening, every promotion and every
20 opportunity for advancement within this agency and for members of this Fire Department. No
21 one was selected for promotion or advancement if this defendant did not approve of that
22 candidate. Said defendant created and encouraged an atmosphere of hatred and hostility towards
23 the plaintiff and other minorities in the Fire Department. Said defendant is part of a very
24 powerful Caucasian inner circle that is intolerant of minorities and has no interest in diversity
25 and inclusion at the Fire Department. This defendant wanted to ensure that the position of
26 available promotions, the position of Deputy Fire Chief or the position of Fire Chief would never
27 be occupied by an African-American firefighter in furtherance of the racist and bigoted attitudes
28 within the chain of command at this Fire Department. Said individual was a powerful decision

1 maker in every application or promotion sought by the plaintiff. This defendant was one of
2 several decision makers who wanted to make certain that the plaintiff, never promotes to the
3 position of Battalion Chief, or Deputy Chief or Fire Chief at the City of Bakersfield Fire
4 Department. This individual management representative and decisionmaker had no interest in
5 creating the workplace that was fair, diverse, equitable or inclusive for African American
6 firefighters. This individual defendant was fueled by hatred and hostility towards African
7 American firefighters, including the plaintiff and set every road block an obstacle in his path to
8 ensure that he would fail.

9 7. ***Individual Defendant: DEPUTY CHIEF JOHN FRANDO***, is an individual
10 residing in the County of Kern and is currently the Deputy Fire Chief – Fire Safety Services
11 Branch. He is a Caucasian male. This individual engaged in intentional acts of bias, racism,
12 harassment, created a hostile work environment, mistreatment, abuse, and discrimination in the
13 workplace towards plaintiff predicated on the plaintiff's race, color, ancestry, national origin,
14 religious creed, and other protected classifications. The decisions and actions by this defendant
15 exceeded ordinary and routine personnel decisions and became part of a personal and directed
16 attack on the plaintiff's integrity, his family, and his abilities as a firefighter. Said defendant
17 shall be referred to herein as the individual defendant and shall be referred to collectively and
18 interchangeably with the other individual defendants who are/were employees and supervisors at
19 the Bakersfield Fire Department and with the City of Bakersfield. This defendant sets the tone
20 and promotes the culture for diversity and tolerance for the entire Department given his position,
21 yet he did not practice what he preached, nor did he follow the Fire Department's stated policies
22 and procedures regarding performance evaluations, promotions, and selection policies. This
23 defendant ignored the Fire Department's policies and procedures, created his own policies and
24 procedures on various subjects, and/or did not fairly or consistently implement the Fire
25 Department's policies and procedures as to the plaintiff or as between the African-American
26 versus the Caucasian or other employees and applicants for promotions or other positions within
27 the Fire Department. Said defendant is part of a very powerful Caucasian inner circle that is
28 intolerant of minorities and has no interest in diversity and inclusion at the Fire Department. Said

1 defendant had a direct and important role in every job opening, every promotion and every
2 opportunity for advancement within this agency and for members of this Fire Department. No
3 one was selected for promotion or advancement if this defendant did not approve of that
4 candidate. Said defendant created and encouraged an atmosphere of hatred and hostility towards
5 the plaintiff and other minorities in the Fire Department. Said defendant is part of a very
6 powerful Caucasian inner circle that is intolerant of minorities and has no interest in diversity
7 and inclusion at the Fire Department. Said individual was a powerful decision maker in every
8 application or promotion sought by the plaintiff. This defendant wanted to ensure that the
9 position of available promotions, the position of Deputy Fire Chief or the position of Fire Chief
10 would never be occupied by an African-American firefighter in furtherance of the racist and
11 bigoted attitudes within the chain of command at this Fire Department. This defendant was one
12 of several decision makers who wanted to make certain that the plaintiff, never promotes to the
13 position of Battalion Chief, or Deputy Chief or Fire Chief at the City of Bakersfield Fire
14 Department. This individual management representative and decisionmaker had no interest in
15 creating the workplace that was fair, diverse, equitable or inclusive for African American
16 firefighters. This individual defendant was fueled by hatred and hostility towards African
17 American firefighters, including the plaintiff and set every road block an obstacle in his path to
18 ensure that he would fail.

19 8. ***Individual Defendant: DEPUTY CHIEF TREVER MARTINUSEN***, is an
20 individual residing in the County of Kern and was and is an employee of the employer defendant
21 at all times herein. He is a Caucasian male. This defendant is the Deputy Fire Chief – Fire
22 Suppression Branch with the City of Bakersfield. This individual engaged in intentional acts of
23 bias, racism, harassment, created a hostile work environment, mistreatment, abuse, and
24 discrimination in the workplace towards plaintiff predicated on the plaintiff's race, color,
25 ancestry, national origin, religious creed. The decisions and actions by this defendant exceeded
26 ordinary and routine personnel decisions and became part of a personal and directed attack on
27 the plaintiff's integrity, his family, and his abilities as a firefighter. Said defendant shall be
28 referred to herein as the individual defendant and shall be referred to collectively and

1 interchangeably with the other individual defendants who are/were employees and supervisors at
2 the Bakersfield Fire Department and with the City of Bakersfield. While this defendant preaches
3 “kindness behind the shield”, his actions towards plaintiff were anything but kind. This
4 defendant sets the tone and promotes the culture for diversity and tolerance for the entire
5 Department given his position, yet he did not practice what he preached, nor did he follow the
6 Fire Department’s stated policies and procedures regarding performance evaluations,
7 promotions, and selection policies. This defendant ignored the Fire Department’s policies and
8 procedures, created his own policies and procedures on various subjects, and/or did not fairly or
9 consistently implement the Fire Departments policies and procedures as to the plaintiff or as
10 between the African-American versus the Caucasian or other employees and applicants for
11 promotions or other positions within the Fire Department. Said defendant is part of a very
12 powerful Caucasian inner circle that is intolerant of minorities and has no interest in diversity
13 and inclusion at the Fire Department. Said defendant had a direct and important role in every job
14 opening, every promotion and every opportunity for advancement within this agency and for
15 members of this Fire Department. No one was selected for promotion or advancement if this
16 defendant did not approve of that candidate. Said defendant created and encouraged an
17 atmosphere of hatred and hostility towards the plaintiff and other minorities in the Fire
18 Department. Said defendant is part of a very powerful Caucasian inner circle that is intolerant of
19 minorities and has no interest in diversity and inclusion at the Fire Department. This defendant
20 wanted to ensure that the position of available promotions, the position of Deputy Fire Chief or
21 the position of Fire Chief would never be occupied by an African-American firefighter in
22 furtherance of the racist and bigoted attitudes within the chain of command at this Fire
23 Department. Said individual was a powerful decision maker in every application or promotion
24 sought by the plaintiff. This defendant was one of several decision makers who wanted to make
25 certain that the plaintiff, never promotes to the position of Battalion Chief, or Deputy Chief or
26 Fire Chief at the City of Bakersfield Fire Department. This individual management
27 representative and decisionmaker had no interest in creating the workplace that was fair, diverse,
28 equitable or inclusive for African American firefighters. This individual defendant was fueled by

1 hatred and hostility towards African American firefighters, including the plaintiff and set every
2 road block an obstacle in his path to ensure that he would fail.

3 9. ***Individual Defendant: DEPUTY CHIEF WILLIAM BALLARD***, is an
4 individual residing in the County of Kern and was and is an employee of the employer defendant
5 at all times herein. This defendant is the Fire deputy Chief at the Bakersfield Fire Department.
6 This individual engaged in intentional acts of bias, racism, harassment, created a hostile work
7 environment, mistreatment, abuse, and discrimination in the workplace towards plaintiff
8 predicated on the plaintiff's race, color, ancestry, national origin, religious creed, and other
9 protected classifications. The decisions and actions by this defendant exceeded ordinary and
10 routine personnel decisions and became part of a personal and directed attack on the plaintiff's
11 integrity, his family, and his abilities as a firefighter. Said defendant shall be referred to herein
12 as the individual defendant and shall be referred to collectively and interchangeably with the
13 other individual defendants who are/were employees and supervisors at the Bakersfield Fire
14 Department and with the City of Bakersfield. This defendant sets the tone and promotes the
15 culture for diversity and tolerance for the entire Fire Department given his position, yet he did
16 not practice what he preached, nor did he follow the Fire Department's stated policies and
17 procedures regarding performance evaluations, promotions, and selection policies. This
18 defendant ignored the Fire Department's policies and procedures, created his own policies and
19 procedures on various subjects, and/or did not fairly or consistently implement the Fire
20 Department's policies and procedures as to the plaintiff or as between the African-American
21 versus the Caucasian or other employees and applicants for promotions or other positions within
22 the Fire Department. Said defendant is part of a very powerful Caucasian inner circle that is
23 intolerant of minorities and has no interest in diversity and inclusion at the Fire Department. Said
24 defendant had a direct and important role in every job opening, every promotion and every
25 opportunity for advancement within this agency and for members of this Fire Department. No
26 one was selected for promotion or advancement if this defendant did not approve of that
27 candidate. Said defendant created and encouraged an atmosphere of hatred and hostility towards
28 the plaintiff and other minorities in the Fire Department. Said defendant is part of a very

1 powerful Caucasian inner circle that is intolerant of minorities and has no interest in diversity
2 and inclusion at the Fire Department. Said individual was a powerful decision maker in every
3 application or promotion sought by the plaintiff. This defendant wanted to ensure that the
4 position of available promotions, the position of Deputy Fire Chief or the position of Fire Chief
5 would never be occupied by an African-American firefighter in furtherance of the racist and
6 bigoted attitudes within the chain of command at this Fire Department. This defendant was one
7 of several decision makers who wanted to make certain that the plaintiff, never promotes to the
8 position of Battalion Chief, or Deputy Chief or Fire Chief at the City of Bakersfield Fire
9 Department. This individual management representative and decisionmaker had no interest in
10 creating the workplace that was fair, diverse, equitable or inclusive for African American
11 firefighters. This individual defendant was fueled by hatred and hostility towards African
12 American firefighters, including the plaintiff and set every road block an obstacle in his path to
13 ensure that he would fail.

14 10. ***Doe Defendants:*** Plaintiff sues fictitious Defendants **DOES 1 through 100**,
15 inclusive pursuant to *California Code of Civil Procedure* § 474, because their names and/or
16 capacities are not presently known. Plaintiff will amend the Complaint when such facts become
17 known. Plaintiff is informed and believes and based thereon, alleges that each of the fictitiously
18 named defendants is responsible in some manner for the occurrences herein alleged and that
19 plaintiff's damages were legally and/or proximately caused thereby.

20 11. ***Relationship of Defendants:***

21 (a) all defendants, including the City of Bakersfield and all Doe defendants,
22 directly and/or indirectly employed the plaintiff, as defined under the regulations,
23 statutes, and interpreting case law, including California Government Code Section
24 12926(d).

25 (b) all defendants, including the City of Bakersfield and all Doe defendants,
26 compelled, counseled, aided and/or abetted the discrimination, retaliation and
27 harassment alleged throughout which is prohibited under California Government
28 Code Section 12940(i).

1 (c) all defendants, including the City of Bakersfield and all Doe defendants, were
2 acting as agents of all other defendants and employers, as defined under the
3 regulations, statutes, and interpreting case law, including California Government
4 Code Section 12926(d).

5 (d) all actions of the defendants, including the City of Bakersfield, were taken by
6 employees, supervisors, executives, managing agents, officers and directors
7 during their employment with all defendants, on behalf of all defendants, and
8 defendants engaged in, authorized, ratified and approved of the conduct of all
9 other defendants.

10 (e) plaintiff is informed and believes, and on that basis alleges, that at all times
11 relevant hereto defendants, and each of them, with the principals, agents, servants,
12 employers, employees, partners, joint venturers, predecessors in interest,
13 successors in interest, and/or authorized representatives of each of the other
14 defendants, were at all times relevant here and acting within the purpose, scope,
15 and course of their agency, service, employment, partnership, joint venturers,
16 and/or representation, and were doing so with the knowledge, permission and
17 consent of their principals, employers, partners, joint venturers, and codefendants,
18 and each of them. Plaintiff further alleges that each and every defendant was
19 negligent, careless, and legally liable in the selection and hiring of each and every
20 other defendant as its agent, representative, servant, employee, consultant,
21 assistant, partner, and/or joint venture.

22
23 12. ***Legislative Intent of FEHA:*** In 1980, Governor Jerry Brown and the legislature
24 conducted a reorganization of civil rights enforcement. As a result, various statutes were
25 combined and renamed as the California Fair Employment and Housing Act intended to protect
26 Californians from both employment and housing discrimination. The plaintiff pursues his
27 statutory causes of action against the employer defendants who are public entities pursuant to
28 California Government Code Sections 815, 815.2 and 815.6. The enabling statutes that support

1 the claims and causes of action are grounded in the Fair Employment & Housing Act [FEHA]
2 commencing at California Government Code Sections 12900 and 12940 et seq. The causes of
3 action for wrongful termination in violation of public policy are predicated on California
4 Government Code Section 12940 et seq. Since its enactment, the FEHA has been repeatedly
5 amended to respond to changing circumstances and evolving values. In addition to its initial
6 protections, the FEHA now prohibits discrimination in employment on the basis of race, color,
7 national origin, age, and religious creed making it significantly broader than federal law both in
8 terms of scope of protections and covered employers. In enacting, California Government Code
9 Section 12940(a), the legislature specifically declares the public policy grounded in statute and
10 stresses that “it is an unlawful employment practice for an employer because of the *race*,
11 *religious creed*, *color*, *ancestry*, *national origin*, physical disability, mental disability, medical
12 condition, genetic information, marital status, sex, gender, gender identity, gender expression,
13 age, sexual orientation or military and veteran status of any person, to refuse to hire or employ
14 the person or to refuse to select the person for a training program leading to employment, or to
15 bar or to discharge the person from employment or from a training program leading to
16 employment, *or to discriminate against the person in compensation or in terms, conditions or*
17 *privileges of employment.*

18 13. The plaintiff has timely and properly exhausted his administrative remedies under
19 any application collective bargaining agreement, union agreement or other employment
20 agreements.

21 14. ***Exhaustion of Administrative Remedies:*** The plaintiff properly and timely
22 complies with the requirements of the *Fair Employment and Housing Act [F.E.H.A.]* and
23 exhausts his administrative remedies against the named defendants prior to the filing of this civil
24 action. Plaintiff files his Complaint of Discrimination on **September 3, 2020** with the
25 Department of Fair Employment & Housing. Plaintiff receives his right-to-sue letter as against
26 all named defendants from the *Department of Fair Employment & Housing* on **September 3,**
27 **2020**, and thereafter timely files this civil action. Plaintiff has therefore timely and properly
28

1 exhausted his administrative remedies under the California Fair Employment and Housing Act,
2 Government Code Section 12960 et seq. prior to filing this action.

3 **FACTS COMMON TO ALL CAUSES OF ACTION**

4 15. ***Who is Edgar Sloan?*** Captain Edgar Sloan has devoted over 33 years of his life
5 to preserving and promoting life safety and community welfare through his incredible work in
6 firefighting. Captain EDGAR SLOAN is an outstanding human being and an iconic member of
7 the firefighting community. Captain Sloan is a good and valuable employee who devotes his best
8 efforts to serving his employer, the City of Bakersfield and its Fire Department. He takes great
9 pride in his work, his work ethic and in his level of attention, warmth, and commitment to his
10 work, and he is always respectful at work. He is a highly educated man and, more importantly, a
11 good and decent human being who loves helping others. However, he can no longer tolerate the
12 widespread and unrelenting hatred, hostility, bigotry, harassment, discrimination, and retaliation
13 that is occurring in his workplace. He loves his family and one of his children has a serious
14 medical condition that requires him to sometimes be absent from work or requiring other
15 accommodations in order to care for his child. These requests either go ignored by his employer
16 or he is criticized for such requests. Captain Sloan is a Jehovah Witness and experiences
17 backlash for his religious beliefs, views, and affiliation, and is targeted for his religious creed.

18 16. ***Plaintiff's Protected Status.*** Plaintiff is an African American male over the age of
19 40 years and a resident of the City of Bakersfield, State of California. Plaintiff is also a Jehovah
20 Witness, and has always been a part of this faith during his employment with the employer. His
21 religious views and affiliation with the Jehovah's Witness faith has been known to everyone at
22 the Fire Department who have not been tolerant of his faith and his adherence to his faith.

23 17. Edgar Sloan volunteers as an Explorer for the Bakersfield Fire Department from
24 1987 through 1990. From 1990 through 1992, he works as a Reserve Firefighter for the Fire
25 Department. In 1992, Mr. Sloan tests for a Firefighter position with the City of Bakersfield. He is
26 ranked poorly on the two-year eligibility list and consequently, the first six candidates are hired
27 off the eligibility list within a year. He is not given a position at that time. Eventually, the City
28 returns to the eligibility list in or about 1995. DEFENDANT CHIEF MICHAEL KELLY Chief

1 (a Caucasian male), at the time, does not want to hire Mr. Sloan given his hatred of African
2 Americans. He is part of a culture and climate that denigrates and disrespects African Americans.
3 In an undisclosed meeting with Bakersfield Fire Department employees he expresses that he is
4 adamantly against hiring Mr. Sloan. Only with the support of local community members, Mr.
5 Sloan is ultimately given a provisional offer of employment and then joins the Bakersfield Fire
6 Department. Plaintiff learns that Chief Kelly went so far as to direct Training Captain Lance
7 Bowman to fail Mr. Sloan while he was in the Fire Academy to ensure that he did not get hired
8 at the Fire Department. Thankfully for his grit and determination, Mr. Sloan successfully
9 completes and then graduates from the Fire Academy.

10 18. After he graduates from the Academy, he is assigned to a pool of firefighters at
11 Fire Station Number 1. Academy graduates are filtered out of Station 1 to fill vacancies as
12 needed. Graduates are moved frequently from station to station. This is a common practice for
13 this Fire Department. Chief Kelly's attacks on Mr. Sloan continue and even intensify. Chief
14 Kelly encourages Captain Bob Oran and Captain Jim Cross to continue to put pressure on Mr.
15 Sloan, so he does not pass probation. Chief Kelly directs the Captains to permanently assign Mr.
16 Sloan to Station 1 not letting him work at different stations, like the other Caucasian graduates.
17 The Captains refuse to follow this directive that is the product of bias and prejudice and is not
18 based on any legitimate performance issues. Captain Bowman directs other Captains (including
19 Jim Cross) and fellow academy recruits to target Mr. Sloan due to his being African American.
20 He encourages them to criticize Mr. Sloan's weekly productivity for example: ladder climbing
21 skills among other petty complaints. Mr. Sloan is a very tall man, and they criticized his agility
22 and ladder climbing abilities, but did not criticize the same recruits who were Caucasian and had
23 equally questionable agility.

24 19. ***Plaintiff's Hiring as a Firefighter:*** Captain Sloan is initially hired as a Fire
25 Fighter with the City of Bakersfield and Bakersfield Fire Department in March 1995 after
26 successfully completing the Fire Academy. This is his dream job, but he never expects what
27 happens next.
28

1 20. ***Work Environment Permeated with Ongoing Discrimination, Hate, Harassment***
2 ***& Retaliation in Series of Related Acts:*** From March 1995 through January 2000, he works as a
3 Fire Fighter at Fire Station 1, then he moves to Station 7, then he moves to Station 4, then he
4 moves to Station 5, then he moves to Station 4, and then he moves to Station 1, where he assists
5 with fire suppression, emergency medical services and station maintenance. He accepts any
6 assignment he is given, he declines no assignments, and always does as he is told. In 1997, he is
7 awarded a Medal of Valor by the Bakersfield Fire Department for his heroic efforts while in the
8 line of duty. While he does not feel genuinely welcome at the Bakersfield Fire Department due
9 to a culture and a climate that is fueled by a systemic hatred for and discrimination towards
10 African Americans, he makes the best of the situation, and continues to aspire to promote
11 through the ranks believing that the employer will eventually do the right thing and things will
12 become fair, diverse, equitable and inclusive. He is optimistic and believes that someday he will
13 be appreciated, promoted, and rewarded for his loyalty and hard work, regardless of the color of
14 his skin, his religious beliefs, his age, and other protected classifications. At every turn, he feels
15 he is being denied training, promotion, and professional development opportunities. For
16 example, rescue classes are being offered to selected employees with less time on the job and
17 who are Caucasian. Also, he is given sham write ups, his job performance is criticized, and he is
18 denied more favorable job assignments such as going through Hazardous Materials training as
19 compared to his Caucasian counterparts who are offered the training unconditionally. After
20 applying and twice being denied, the Fire Department staff's excuse is that the plaintiff cannot fit
21 into a Hazmat suit as the reason for excluding him from training. He is being denied assignments
22 that will improve his ability to promote such as going to training and working as a field training
23 officer. Additionally, he is being denied promotional opportunities, he is being accused of poor
24 work performance, with greater frequency and for no valid reason as compared to his Caucasian
25 counterparts. He is required to follow ever changing rules, policies, procedures, or processes that
26 are not part of the Bakersfield Fire Department's rules and regulations or the rules are being
27 ignored and violated by management. He is being denied the more desirable work assignments or
28 positions that are highly coveted in the Fire Department, and which are needed to be undertaken

1 for him to promote and advance. At the time of his hire, Mr. Sloan shares his religion, religious
2 beliefs and religious associations with his managers, supervisors and co-workers and informs
3 them that he and his family are Jehovah's Witnesses. The Fire Department, through its
4 supervisors and management, has no tolerance for Mr. Sloan's religious beliefs (Jehovah
5 Witness). He is mocked for his religious beliefs. He is forced to participate in events that are
6 contrary to his religious beliefs, but which are not fundamental to his work duties. He is the
7 subject of shameful discipline and ridiculous criticisms for his religious beliefs. He is not given
8 time off for reasons related to his religion, religious beliefs, and religious expression. His
9 religious creed and views are mocked and disrespected by his colleagues and management at the
10 Fire Department. Other employees at the Fire Department who are members of what is
11 considered more mainstream or commonly known or accepted religions, are freely given time off
12 for religious holidays or other religious reasons, unlike the plaintiff. From 1995 through 2004
13 (*and continuing to the present*), he keeps fighting hoping that the workplace will become a fair,
14 diverse, equitable and inclusive, especially with a changing of the guard that occurs with a
15 change of management due to retirement, separation or attrition.

16 21. ***The Fire Engineer Position:*** While he still does not feel welcome in this
17 predominantly Caucasian based work force and one that is not receptive or welcoming to African
18 Americans, due to a culture and a climate that is fueled by systemic hatred for and discrimination
19 against African American men and women, he makes the best of the situation. He hopes that the
20 workplace will become fair, diverse, equitable and inclusive. He keeps fighting. He tests for the
21 position of Fire Engineer which consists of a written test, a practical test, and an oral interview.
22 During the testing process, Mr. Sloan is told by Captain Ernesto Duran to study real hard because
23 other Caucasian employees are saying, "not to worry about Sloan promoting" as he is essentially
24 an unintelligent African American applicant and, like the other African American Firemen who
25 had taken these tests several times but were unable to pass them and promote through the testing
26 process, he would not be able to promote. Even with the odds stacked against him, Mr. Sloan
27 successfully passes the Engineer's Test. He is ranked number 9 on the Eligibility List for this
28 position. Thus, he is next promoted to the position of Fire Engineer in January 2000 and is

1 assigned to Fire Station 7. He drives and operates emergency response apparatus; he is involved
2 with the apparatus maintenance program and assists with emergency services. His supervisor,
3 Captain John Weber who is known to be sexist, homophobic, and racist despises Mr. Sloan and
4 repeatedly tries to get him fired. Mr. Sloan passes probation against all opposition from Captain
5 Weber and Deputy Chief Dean Clason who attack him and repeatedly give him sham write ups
6 or criticize his job performance without any basis. Working at Fire Station 7 represents the
7 hardest years Mr. Sloan endures in his work life with the Fire Department. Little did he know
8 what lies ahead in terms of ongoing racial attacks and racial animus that has polluted the work
9 environment and the personnel from the bottom to the top of the chain of command. Employee
10 discipline in the Fire Department is selective and biased based. Workplace rules and procedures
11 are not followed, and if they are followed, they are selectively followed. Ignoring workplace rule
12 violations is commonplace and exceptions are made for Caucasian firefighters while African
13 American firefighters are held to higher standards or non-existent standards. Depending upon the
14 race of the firefighter involved, no matter how severe the workplace rule violation, a blind eye
15 will be turned whereby violations of rules Caucasian firefighters will be overlooked.
16 Consequently, the City of Bakersfield Fire Department has perpetuated a culture wherein “white
17 makes right” and Caucasian firefighters are favored, treated better, and promote faster regardless
18 of prior discipline, or trouble with the law they have had, or their violation of workplace rules.

19 22. While he does not feel welcome at the Fire Department due to a culture and a
20 climate that is fueled by systemic hatred for and discrimination against African Americans, he
21 makes the best of the situation. He keeps fighting hoping that the workplace will become a fair,
22 diverse, equitable and inclusive, especially with a changing of the guard that occurs with a
23 change of management due to retirement, separation, or attrition. Against all opposition, he tries
24 again to promote through the ranks believing that someday he will be appreciated and rewarded
25 for his loyalty, efforts, and hard work. At every turn, he feels he is being denied training and
26 promotional development, his pay is decreased by 5% without explanation or reason while
27 salaries of Caucasian co-workers are not similarly reduced, he is being denied training
28 opportunities which he has to seek out himself while Caucasian co-workers are given boundless

1 training. He must pursue training on his own time to further his experience and gain professional
2 development knowledge in order to become promotable. On one occasion while his child was
3 hospitalized for a serious medical condition, he was accused of poor work performance and was
4 required to go through an additional Engineer's driving course test to confirm his ability to drive
5 a company vehicle/truck. This additional testing had never been required before of any other
6 employee. Eventually, after Chief Clason retired, plaintiff was told by Battalion Chief Bill
7 Ballard, that had he failed to test, it was Chief Clason's intent to demote him. In this time frame,
8 he is attacked with conduct and commentary that is derogatory to African Americans, he is
9 referred to as "nigger", mocked for having what they felt were uniquely or stereotypical "black"
10 physical attributes in regards to his physique.

11 23. The plaintiff is very open about his being a Jehovah's Witness, and he explains to
12 his co-workers the tenets of his faith which include belief in God or Jehovah, but not celebrating
13 any birthdays, Christmas or other traditional holidays typical of more mainstream Christian
14 faiths. He is mocked for his religious creed. No one at work respects his religious creed. He is
15 forced to participate in holiday events that run contrary to the tenets of his Jehovah Witness
16 creed. He voices these concerns to management about violating the tenets of his creed, but these
17 complaints go ignored by management. Also, in this time frame, the Fire Department, through its
18 supervisors and management, continues to have no tolerance for Mr. Sloan's religious beliefs
19 and creed (Jehovah Witness). He is mocked for his religious beliefs, creed, views, expression,
20 association, and affiliation. He is forced to participate in events that are contrary to his religious
21 beliefs, but which are not essential to his work duties. He is the subject of sham discipline and
22 criticisms for his religious beliefs, creed, affiliation, association, and expression, that are without
23 any legitimate basis.

24 24. ***The Fire Captain Position.*** Mr. Sloan takes the Captain's test twice. The first
25 time, he passes the written portion but is failed on the practical portion of the exam. He believes
26 that the Caucasian management unfairly failed him on the practical portion of the exam which
27 was based on their purely subjective perceptions about his work abilities. He passes all the
28 required testing on the second attempt for the Fire Captain's position. In June 2004, he is

1 promoted to the position of Fire Captain and assigned to Fire Station 5, one of the busiest fire
2 stations in the City of Bakersfield. It makes a lot of people nervous when Captain Sloan is
3 promoted into this position. The climate and work structure are still not receptive to or
4 welcoming of African Americans, especially those seeking to promote and rise in the ranks. He
5 keeps fighting hoping that the workplace will become a fair, diverse, equitable and inclusive,
6 especially with a changing of the guard that occurs with a change of management due to
7 retirement, separation, or attrition.

8 25. From June 2004 through the present, plaintiff serves as a Fire Captain where he
9 coordinates monthly and daily training for assigned crew and probationary firefighters. He
10 manages various departments, and addresses hazard reduction, fire prevention, public education,
11 station, and apparatus maintenance. He manages and supervises emergency services using the
12 Incident Command System. He provides leadership and mentoring to subordinates. He continued
13 to report to a Caucasian management and chain of command at the Fire Department, and one that
14 is hostile to African Americans. He keeps fighting hoping that the workplace will become a fair,
15 diverse, equitable and inclusive, especially with a changing of the guard that occurs with a
16 change of management due to retirement, separation, or attrition.

17 26. Captain Sloan is never disciplined or written up for any legitimate violations of
18 workplace policies and procedures but remains the subject of numerous job criticisms, nitpicking
19 by the Caucasian management, ridiculous workplace investigations, accusations attacking his
20 integrity and competence, hostility towards his religious faith and creed, attacks on his age, and
21 other actions that are the functional equivalent of unwarranted disciplinary actions and adverse
22 employment actions. While he still does not feel welcome there due to a culture and a climate
23 that is fueled by systemic hatred for and discrimination towards African Americans, older
24 workers and persons who adhere to less mainstream religious views and creeds like the Jehovah
25 Witness faith, he tries to make the best of the situation, and continues to try to promote through
26 the ranks and work hoping that someday he will be appreciated and rewarded for his loyalty and
27 his hard work. At every turn, he feels he is being denied training and promotional development,
28 he is being given sham write ups, he is being denied pay increases or bonuses, he is being denied

1 the more desirable job assignments, he is being denied the ability to work in overtime
2 assignments, he is being denied promotional opportunities, he is being denied the opportunity to
3 participate in a fair promotion and selection process, he is being accused of poor work
4 performance, he is required to following ever changing rules or processes that are not part of the
5 Fire Department's established rules and/or the rules are made up and/or the rules that are not
6 being followed, and he is being denied the more desirable assignments or positions that are
7 highly coveted in the Fire Department and necessary to work in so that he can seek promotion.
8 Mr. Sloan has no valid or legitimate write ups or disciplinary issues during his tenure as Fire
9 Captain. He continues to go above and beyond the call of duty to assist his colleagues and, more
10 importantly, serve the Bakersfield community. From 1995 to 2004 (*and continuing to the*
11 *present*), he keeps fighting hoping that the workplace will become a fair, diverse, equitable and
12 inclusive, especially with a changing of the guard that occurs with a change of management due
13 to retirement, separation or attrition.

14 27. ***The Battalion Chief Position.*** On or about April 6, 2018, the position of Battalion
15 Chief is officially "flown" and made available for interested candidates. Captain Sloan meets all
16 the qualification in order to apply for this position. His educational background meets or exceeds
17 the requirements for the position. His work experience meets or exceeds the requirements for the
18 position Captain Sloan then tests for the position of Battalion Chief. He meets or exceeds the
19 requirements for the position in every respect. Plaintiff is informed that in theory it is now the
20 City of Bakersfield Human's Resources Department that determines who is eligible for this
21 position within the Fire Department. And in practice, it is the Fire Chief and his upper
22 management team (who are all Caucasian) within the Fire Department that has the ultimate and
23 final say as to who secures this coveted position. Captain Sloan tests for the position of Battalion
24 Chief. This process involves a written test, a simulation, and a panel interview. Captain Sloan
25 goes through this testing process. On April 10, 2018, the written testing is completed. In May
26 2018, Captain Sloan passes the simulation portion of the testing process. In May 2018, Captain
27 Sloan passes the written portion of the testing process. In June 2018, Captain Sloan presents for
28 an interview as part of this promotion process. The panel of persons on the interview committee

1 is comprised of only Caucasian staff. At the close of this process, Captain Sloan is ranked
2 Number 5 on the List of candidates which is made public in July 2018. He is the only African
3 American employee on this List, and the balance of the candidates are Caucasian (and one may
4 have been Hispanic). Captain Sloan never officially hears back about this process, but he
5 unofficially learns that he did not secure the position which would have been a very valuable and
6 coveted promotion for him in his firefighting career. The position was offered to a Caucasian
7 employee at the Fire Department, who accepted the promotion. From 2018 and moving forward,
8 the plaintiff keeps fighting hoping that the workplace will become a fair, diverse, equitable and
9 inclusive, especially with a changing of the guard that occurs with a change of management due
10 to retirement, separation or attrition.

11 28. Captain Sloan continues to attempt, without success, to promote to the position of
12 Battalion Chief. This position has come up available on numerous occasions since July 2018,
13 but the rules of the promotion process are never made clear as to him, the rules of promotion
14 process keep changing as to him, the rules of the promotion process are not fair, open or
15 transparent as applied to him or any other African American applicant. Which set of rules,
16 policies or procedures are being relied upon by the selectors in the promotion process is never
17 made clear by the Caucasian management. Management, supervisors, the Chief's Staff, the chain
18 of command, and the "higher ups" all of whom are Caucasian go out of their way to ensure that
19 Captain Sloan is never promoted. They are part of the "good old white boys club" who have
20 disdain and hatred for the plaintiff and for other African Americans in the firefighting workforce.
21 Moreover, many of Captain Sloan's colleagues, his equals in the suppression and training
22 division who are Caucasian, also engage in acts of race discrimination and racial harassment
23 towards him. They are close friends with the Caucasian chain of command, upper management,
24 the Fire Chief's inner circle, and the inner circle or are otherwise associated or affiliated with the
25 "white boys club" and the "white inner circle" of which clearly Captain Sloan is never going to
26 be allowed admittance. Also, the Fire Department, through its supervisors and management,
27 continues to have no tolerance for Captain Sloan's religious creed (Jehovah Witness). He is
28 mocked or criticized for his religious beliefs, religious views, religious adherents, religious

1 creed, religious affiliation, and religious association. He is forced to participate in events that are
2 contrary to his religious beliefs, but which are not essential to his work duties as a firefighter. He
3 is the subject of sham discipline and ridiculous criticisms for his religious beliefs or is retaliated
4 against for his religious creed. He is disciplined when asked to perform community service in
5 matters that conflict with his religious creed, and he declines to do so citing to his religious creed
6 and faith. He keeps fighting hoping that the workplace will become a fair, diverse, equitable and
7 inclusive, especially with a changing of the guard that occurs with a change of management due
8 to retirement, separation, or attrition.

9 29. In or about January 29, 2018, the ACLU files suit against the City of Bakersfield,
10 and its police department raising allegations of racial profiling by police officers of African
11 American vehicle occupants or other minorities whom police believe are committing crimes
12 simply because they are African American. ACLU makes clear that “the people of Bakersfield
13 deserve government officials that treat them with dignity and respect their constitutional rights.”
14 The EEOC feels that much work is needed with individuals and community organizations to
15 confront racial discrimination, including in the courts. Plaintiff contends that this behavior
16 reflects on the City’s intentional decision to promotes disrespect, disenfranchisement and
17 marginalization of African American men and women in its employ.

18 30. All of Captain Sloan’s efforts to promote into the position of Battalion Chief are
19 met with extreme resistance by, changing of the rules and every road block possible is presented
20 in order for the Caucasian management and “higher ups” to frustrate him in his efforts. It is
21 significant to note that in the history of City of Bakersfield Fire Department, there has never
22 been an African American Fire Chief since the City’s founding in 1869; even after slavery was
23 abolished in the United States. Moreover, there has there ever been an African American
24 Battalion Chief at the City of Bakersfield since the City’s founding in 1869; even after slavery
25 was abolished in the United States. The Caucasian management and the Caucasian “higher ups”
26 know that when someone is promoted into the position of Battalion Chief, they are then on the
27 path that guarantees them to eventually become the next Fire Chief. There is no way this
28 Caucasian led Fire Department will ever allow an African American male or female to become

1 the Battalion Chief, to ever become the Deputy Fire Chief, or to ever become the Fire Chief. It
2 must be noted that from July 2018 and continuing through July 2019, the only positions which
3 have become “available” for Battalion Chief have been offered to Caucasian males who were
4 placed into these positions without a formal application process and through “back door”
5 surreptitious means where policies and procedures for promotion and advancement were not
6 followed or outcomes were predetermined regardless of where the candidate placed in the testing
7 process.

8 31. On July 2, 2018, DEFENDANT ANTHONY GALAGAZA, is appointed to serve
9 as the City of Bakersfield Fire Department’s Fire Chief. Captain Sloan is hopeful that a
10 changing of the guard might result in positive and much needed change in this Fire Department.
11 He keeps fighting hoping that the workplace will become a fair, diverse, equitable and inclusive,
12 especially with a changing of the guard that occurs with a change of management due to
13 retirement, separation, or attrition. Unfortunately, Chief Galagaza only fuels the toxic and racist
14 environment that exists at the Fire Department. The new Fire Chief creates his own promotion
15 system with rules unspecified. To this end, he adds new processes to the promotion system
16 which are intended to ensure that he retains control over the ultimate outcome and can hand pick
17 the applicant selected. When two more Battalion Chief positions become available on July 3,
18 2018, Captain Sloan applies for the position but is passed over for two Caucasian candidates,
19 James Cherry and Bradford Ward. The plaintiff undergoes a two-interview process, among other
20 changes implemented by the Fire Chief in this process. This second interview process is a new
21 step created by the Fire Chief that continues and fuels the systemic racism, toxicity, hatred, and
22 discrimination against African Americans in the workplace. The top four candidates are only
23 required to have one Chief’s interview and then are promoted in order off the eligibility list.
24 Nothing changes until Captain Sloan becomes number 1 on the eligibility list for the Battalion
25 Chief’s position. The selection process, dictated by the Fire Chief Galagaza, does not follow the
26 rules of the Civil Service Commission, or any other established policies and procedures at the
27 Fire Department for promotion and professional advancement. Mr. Sloan complains about this to
28 management and files a grievance for a flawed selection process. Captain Sloan was denied the

1 promotion into the position of Battalion Chief. Management made it clear that an African
2 American man (like plaintiff) was never going to get this position. The Fire Department, through
3 its supervisors and management, continues to have no tolerance for Mr. Sloan's religious beliefs
4 (Jehovah Witness). He is mocked for his religious beliefs. He is forced to participate in events
5 that are contrary to his religious beliefs, but which are not fundamental to his work duties. He is
6 the subject of sham discipline and ridiculous criticisms for his religious beliefs.

7 32. On July 27, 2018, the position of Battalion Chief becomes available and is given
8 to a Caucasian male employee of the Fire Department. This individual is ranked higher than
9 Captain Sloan even though he did not have the plaintiff's qualification in terms of educational
10 background or work experience.

11 33. On August 27, 2018, the position of Battalion Chief becomes available and is
12 given to a Caucasian male employee of the Fire Department. This individual is allegedly ranked
13 higher than Captain Sloan even though he did not have the plaintiff's qualification in terms of
14 educational background or work experience.

15 34. On September 24, 2018, the position of Battalion Chief becomes available and is
16 given to a Caucasian male employee of the Fire Department. This individual is allegedly ranked
17 higher than Captain Sloan even though he did not have the plaintiff's qualifications in terms of
18 educational background or work experience. From 2004 *and continuing to the present*, he keeps
19 fighting hoping that the workplace will become a fair, diverse, equitable and inclusive, especially
20 with a changing of the guard that occurs with a change of management due to retirement,
21 separation, or attrition.

22 35. On January 11, 2019, the position of Battalion Chief again becomes available and
23 is given to a Caucasian male employee of the Fire Department. This individual is allegedly
24 ranked higher than Captain Sloan even though he did not have the plaintiff's qualifications in
25 terms of educational background or work experience.

26 36. On January 11, 2019, Captain Sloan is moved to the position of number one on
27 the eligibility list for any potential vacancies at the Battalion Chief level. This is a very important
28 position and a material steppingstone for someone like Captain Sloan to promote within the Fire

1 Department, and more specifically to promote into administration (to include the positions of
2 Deputy Chief and ultimately Fire Chief). The Fire Chief at this time is DFENDANT
3 ANTHONY GALAGAZA (a Caucasian male). The Chief determines who is ultimately going to
4 be promoted to the position of Battalion Chief. Again, the Fire Department, through its
5 supervisors and management, continues to have no tolerance for Mr. Sloan's being African
6 American, his religious beliefs (Jehovah Witness) and his age and longevity in firefighting. He
7 continues to be mocked for his religious beliefs. He is forced to participate in events that are
8 contrary to his religious beliefs or creed, but which are not fundamental to his work duties. He is
9 the subject of sham discipline and ridiculous criticisms for reasons relating to his religious
10 beliefs and creed or for his refusal to do things that are contrary to his religious creed and not
11 among his essential job duties.

12 37. In March 2019, Captain Sloan is denied an upgraded Medal of Valor award which
13 he was awarded earlier in his firefighting career. Other Caucasian employees receive upgraded
14 awards when plaintiff did not. Captain Sloan never receives an upgraded Medal of Valor even
15 though he locates the vendor and offers to upgrade the medal himself. Now, the Fire Department
16 does not deem a Medal of Valor to be important because it belonged to someone of color. Also,
17 the Fire Department, through its supervisors and management, continues to have no tolerance for
18 Mr. Sloan's religious beliefs (Jehovah Witness). He is mocked for his religious beliefs. He is
19 forced to participate in events that are contrary to his religious beliefs, but which are not
20 fundamental to his work duties. He is the subject of sham discipline and ridiculous criticisms for
21 his religious beliefs and creed. He is also discriminated against on the basis of his age.

22 38. In or about April 26, 2019, upper management initiates discipline proceedings
23 against Captain Sloan for sham and ridiculous reasons. The Caucasian management team does
24 not follow stated policies and procedures for employee discipline, and they do not engage in the
25 same process with other employees who have done far worse than anything Captain Sloan is
26 accused of doing or not doing. This incident of discipline was not only based on Captain Sloan's
27 race and age but also his religious views and religious creed. Management contends that Captain
28 Sloan violated workplace rules when he took a work vehicle (that he is authorized to drive)

1 during his shift to go to church to pray for his son who is battling serious illness. This
2 disciplinary action was an attempt to sully Captain Sloan's record to further harm his chances of
3 promoting into the Battalion Chief position, especially given his high ranking on the Eligibility
4 List which assures that he will be promoted if the rules of the process are followed. Captain
5 Sloan was issued a written reprimand by Deputy Chief Trever Martinusen for using a work
6 vehicle to briefly stop at his church to pray for his son. Fearing for himself, his family and his
7 job, Captain Sloan elects to waive his right to respond and appeal the written reprimand having
8 confidence in Nick Poulos's, the Union President, statement, "Just sign the consultation and this
9 will not affect your promotion."

10 39. In July 2019, two new positions for Battalion Chief are now open and available.
11 At that time, the Fire Chief's Staff arbitrarily creates a new interview process after other persons
12 who are on the Eligibility List are promoted – none of these persons are African American.
13 Captain Sloan is now ranked number 1 of the Eligibility List for this position but is passed over
14 because "he doesn't fit" the Staff's "vision". Consistent with the workplace rules, Captain Sloan
15 is entitled to this position and would not need to formally reapply given his placement on the
16 Eligibility List and the fact that he had already participated in a Chief's interview. Captain Sloan
17 is informed by Chief Anthony Gallagaza that he will have to participate in another round of
18 Chief's Oral Interviews and that the Chief's office has created a new process for this promotion
19 or advancement to this position. This has never been done in the history of this Fire Department
20 and the rules are that there are no rules when it comes to minorities seeking promotion in the Fire
21 Department, unless you are part of the "good old white boys club" or at least strongly connected
22 to or affiliated with this elitist club. This Fire Chief was formerly the Union President and is
23 close friends with the City Manager and Human Resource Representatives at the City of
24 Bakersfield. These strong political ties allow him to create his own "rules" when it comes to
25 promotion and advancement within the Fire Department. Moreover, this new process
26 implemented by the Fire Chief is in violation of the Civil Service Commission Rules which do
27 not provide for any such interview or selection process. The Fire Department then selects the
28 candidates ranked 3 and 4, even though Captain Sloan is ranked 1 on the Eligibility List. The

1 candidates ranked 3 and 4 are Caucasian and have less work experience and/or educational
2 background as compared to Captain Sloan. Captain Sloan is once again denied promotion into
3 the position of Battalion Chief. The Fire Department, through its supervisors and management,
4 continues to have no tolerance for Mr. Sloan's religious beliefs and creed (Jehovah Witness), or
5 his age and longevity with the Fire Department. He is mocked for his religious beliefs and creed.
6 He is forced to participate in events that are contrary to his religious beliefs, but which are not
7 fundamental to his work duties. He is the subject of sham discipline and ridiculous criticisms for
8 his religious beliefs and creed.

9 40. On or about July 2, 2019, Captain Sloan meets with the City of Bakersfield
10 Human Resources representative Christi Tenter to complain about harassment, discrimination,
11 and retaliation in the workplace. He follows the City policies which require this process. On
12 August 7, 2019, Captain Sloan participates in a formal grievance proceeding as part of the
13 Formal Grievance Procedures and intended to exhaust administrative remedies. He voices
14 complaints of harassment, retaliation, and discrimination on the basis of his race, color, national
15 origin, age, religious creed, religious beliefs, his association with or advocacy for other African
16 American employees at the Fire Department, and other protected classifications. Therein,
17 Captain Sloan also appeals Chief Galagaza's decision not to promote him to the position of
18 Battalion Chief. Retaliation by the employer continues to intensify against Captain Sloan on each
19 occasion that he speaks out and speaks up about the racist, hostile, and abusive working
20 environment at the Fire Department. The plaintiff is informed and believes, and based thereon
21 contends, that human resources did not take any action on his complaints, did not fully or fairly
22 investigate his complaints, and simply did nothing. The plaintiff is further informed and believes,
23 and based thereon contends, that human resources did not make any remedial changes to the
24 workplace to put an end to racial bias, hostility, and hatred in the workplace.

25 41. The Fire Department Management is doing everything in its power to prevent
26 Captain Sloan from promoting into the Battalion Chief position. An African American man,
27 even one as deserving as Captain Sloan, is not going to get this position. Captain Sloan is again
28 denied the promotion into the position of Battalion Chief. Management made it clear that an

1 African American man (like the plaintiff) is never going to get this position. The Fire
2 Department, through its supervisors and management, continues to have no tolerance for Mr.
3 Sloan's religious beliefs or creed (Jehovah Witness). He is mocked for his religious beliefs and
4 creed. He is forced to participate in events that are contrary to his religious beliefs, but which are
5 not fundamental to his work duties. He is the subject of sham discipline and ridiculous criticisms
6 for his religious beliefs. The statement that best describes management's racist and hostile views
7 towards the plaintiff: "They'll shit out unicorns before we make him Battalion Chief!"

8 42. On August 7, 2019, a formal grievance meeting is held with Captain Sloan, and
9 others including Christi Tenter (Human Resources) and Battalion Chief Michael Lencioni. A
10 formal memorandum is prepared by Deputy Chief Martinusen outlining the reasons for denial of
11 the plaintiff's grievance. The reasons offered for the failure to promote Captain Sloan once again
12 to the position of Battalion Chief are illogical, irrational, inhumane, unreasonable, and in
13 violation of the employer's policies and procedures. This was all in furtherance of the Fire
14 Department's hatred and hostility towards the plaintiff and intended as a further pretext for
15 discrimination, harassment and retaliation on the basis of race, color, ancestry, national origin,
16 religious beliefs, religious creed, age and other protected classifications.

17 43. On August 20, 2019, Captain Sloan files an appeal of the Fire Department's
18 failure to promote him. Captain Sloan is informed by HR Christi Tenter that his appeal and
19 complaint remain under consideration. The fact that Captain Sloan questioned and challenged the
20 Fire Department's promotion policies only fueled the racist management's hatred and contempt
21 towards him. He is prevented from obtaining public records and copies of alleged policies or
22 procedures he violated for his appeal to prove the flawed promotion process amidst the bias and
23 racial hostility that permeates this workplace. He has further contact with Human Resources and
24 voices complaints about violations of law in the work place including misconduct by other
25 employees and supervisors to include violation of work place policies, intoxication on the job
26 and other issues that affect the safety and health of the work force and the community the
27 firefighters are supposed to protect and to serve.

1 44. From October 2019 *and continuing to the present*, Captain Sloan gets the cold
2 shoulder, essentially the ice treatment, and is shunned and ignored by everyone in the Fire
3 Department. The Fire Department does not think it has to deal with Captain Sloan given his
4 ranking on the Eligibility list. Captain Sloan tries to be the Chief's cheerleader believing that
5 one day he would in fact be promoted to the position of Battalion Chief if rules of fundamental
6 fairness and due process are respected. The Fire Department, through its supervisors and
7 management, continues to have no tolerance for Mr. Sloan's religious beliefs (Jehovah Witness).
8 He is mocked for his religious beliefs. He is forced to participate in events that are contrary to
9 his religious beliefs, but which are not fundamental to his work duties. He is the subject of sham
10 discipline and ridiculous criticisms for his religious beliefs. From 2019 and *continuing into the*
11 *present*, he keeps fighting hoping that the workplace will become a fair, diverse, equitable and
12 inclusive, especially with a changing of the guard that occurs with a change of management due
13 to retirement, separation or attrition.

14 45. At the present time, Captain Sloan continues to get the cold shoulder, the ice
15 treatment and is essentially ignored by everyone in the Fire Department. He has reached out to
16 be included in the Bakersfield Burn Foundation, Bakersfield Firefighters Historical Society, and
17 ran for a position on the Bakersfield Relief Association but his efforts have been ignored. He was
18 denied admission to all the organizations. The Department does not think it has to deal with
19 Captain Sloan given his poor ranking on the Eligibility List for the Battalion Chief position.
20 Captain Sloan tries to be the Chief's cheerleader believing that one day he would in fact be
21 promoted to the position of Battalion Chief. Things are getting worse as Captain Sloan's crew (1
22 engineer and 1 firefighter all of whom are minorities) that he supervises have also become the
23 subject of work performance criticism, hatred, and racial bias. The Fire Department, through its
24 supervisors and management, continues to have no tolerance for Mr. Sloan's religious beliefs
25 and creed (Jehovah Witness). He is mocked for his religious beliefs and creed. He is forced to
26 participate in events that are contrary to his religious beliefs, but which are not fundamental to
27 his work duties. He is the subject of sham discipline and ridiculous criticisms for his religious
28 beliefs and religious creed.

1 46. In July 2020, the Eligibility List on which Captain Sloan is ranked 1 for the
2 position of Battalion Chief, will expire and he will have to restart the entire testing process from
3 the beginning. He is aware that there will be openings for the position of Battalion Chief coming
4 up available in the near future. The plaintiff is informed and believes and based thereon
5 contends that Fire Department, and its management to include the individually named
6 defendants, waited until the eligibility list expired so that plaintiff would have to begin the
7 process anew for the position of Battalion Chief.

8 47. In or about August 1, 2020, Captain Sloan again applies for the position of
9 Battalion Chief. He participates in the testing and evaluation process and is informed that he did
10 not rank highly for this position and that others ranked above him. He was denied this promotion
11 and the position is given to a Caucasian applicant who does not have his educational background
12 or work experience.

13 48. Between 1995 and *continuing into the present*, Captain Sloan is denied
14 opportunities for advancement, equity, promotion, training and professional advancement or
15 assignment to more desirable positions or a fair review and discipline process, which
16 opportunities were readily made available to the Caucasian applicants and Caucasian firefighters
17 in the workplace. From his hire date and *continuing to the present*, there exists a hostile
18 environment at this workplace, and discrimination on the basis of race and color, origin,
19 ancestry, age, religious creed, religious beliefs and associations, venomous hostility towards
20 African American and women employees in the work force, harassment, retaliation, and other
21 protected classifications. Abuse and mistreatment of African American men and women in the
22 workplace, including the plaintiff, continues unabated. Anyone who speaks up about such an
23 abusive and hostile work environment is targeted for discipline or elimination.

24 49. ***Harassment, Discrimination and Retaliation of Others in the Workplace:*** In this
25 time frame, Mr. Sloan observes and becomes aware of other African American male employees
26 who are denied promotional opportunities for advancement (including the plaintiff) as compared
27 to their Caucasian counterparts. Moreover, Caucasian employees, candidates, and other
28 applicants receive more favorable treatment by management and do not follow the same rules as

1 their African-American counterparts (including the plaintiff) who are part of the “good old white
2 boys club”. African American and other minority men as and women (including the plaintiff)
3 are falsely accused of misconduct or falsely accused of violating company policies and are then
4 subjected to sham write ups.

5 50. The City of Bakersfield Fire Department, as an agency, is very good at putting out
6 fires and rescue services. But what is sorely lacking in this Fire Department is respect, diversity,
7 inclusion, equity and fairness for minority employees, especially African American men, and
8 women including the plaintiff. This agency has a very hostile attitude toward and disdain of its
9 African American work force, and routinely and regularly engages in adverse employment
10 actions against them to include sham investigations, sham allegations of workplace misconduct,
11 sham write ups, failure to promote, failure to consistently apply workplace policies and rules.
12 The Caucasian “higher ups” at the Fire Department hold very racist attitudes, and do not believe
13 in diversity, fairness, equity, or inclusion. Those minority employees who do not “play their
14 game” suffer consequences in terms of numerous adverse employment actions in a very hostile
15 and toxic work setting. The racist culture and conduct at the Fire Department continue to the
16 present time unabated and there have been no sincere reforms implemented to bring about an end
17 to such hatred and hostility. It is time, and plaintiff looks to the Courts for positive and much
18 needed change and, more importantly, to bring fairness, diversity, equity, inclusivity and justice
19 for the entire firefighting community.

20 51. The Fire Department contends that it does not tolerate harassment or
21 discrimination on any basis in its work force. It does not practice what it preaches. It also
22 contends that it takes all complaints of harassment and discrimination seriously and that no one
23 who comes forward will be retaliated against. Again, it does not practice what it preaches. Such
24 bad behavior goes unreported, unabated, or swept under the rug, especially when doing so
25 protects the Caucasian rank and file, chain of command. Captain Sloan remains the victim of
26 ongoing race discrimination and harassment on the basis of his being African American; as well
27 as the victim of hostile work environment, retaliation and harassment on the basis of
28 race/color/national origin; a hostile work environment, harassment and discrimination due to his

1 age, associational discrimination on the basis of his religious faith and religious creed; a hostile
2 work environment, harassment and discrimination due to his religious beliefs and religious
3 creed; and for his association with other African American men and women or older men and
4 women in the work place who also suffer similar harassment, discrimination and retaliation. He
5 is also being targeted for voicing complaints about unlawful harassment and discrimination in
6 the workplace, and for exercising his rights of redress and filing workplace complaints. He is
7 also being targeted for engaging in union activity and for filing workplace grievances. While he
8 is the direct target of this harassment, hostile work environment, discrimination and retaliation,
9 he also witnesses harassment, retaliation and discrimination of other African American and/or
10 older employees which occurs both in his presence and outside of his presence but which he
11 learns about from others in the workplace. He remains employed with the City of Bakersfield
12 Fire Department.

13 52. Plaintiff contends that the actions, decisions, incidents, events, encounters, failed
14 policies and practices, harassment, bias, discrimination, and retaliation identified in detail in this
15 lawsuit were a series of related acts over time perpetrated by the same management or
16 supervisory employee, or the same decision makers in the Caucasian chain of command and thus
17 consistent with the *continuing violation doctrine*, plaintiff seeks to include all acts of harassment,
18 discrimination, mistreatment, abuse, hostility and retaliation from his hire date to the present and
19 as identified in this lawsuit as part of and at the heart of his lawsuit. Plaintiff continues to
20 experience new acts of harassment, discrimination, hostility, abuse, mistreatment, retaliation, by
21 the same decision makers and the same racist, heartless, and bigoted chain of command, even
22 continuing into the present time as the harassment, discrimination and retaliation remains
23 ongoing.

24 53. Plaintiff is further informed and believes, and based thereon contends, that the
25 employer defendant does not value older workers or people with longevity on the job and does
26 their best to push them out as they are not deemed a desirable part of the workforce. This pool of
27 older workers typically sustained a higher number of on-the-job injuries and therefore cost the
28 city to much in terms of worker's compensation claims, medical leave, or other assistance to do

1 the job for these now older disabled workers. Plaintiff is further informed and believes, and
2 based thereon contends, that the employer defendant encourages ageist attitudes in its
3 supervisors and management which results in outward hostility and lack of flexibility towards
4 older workers, harsher criticisms of older higher paid employees, unfair job criticisms of older
5 workers as compared to their younger counterparts, demeaning and negative conduct and
6 commentary towards older employees as opposed to their younger counterparts, makes things
7 intolerable for older employees in the hopes that they will leave or quit the job, increasing work
8 demands on older employees in the hopes that they will leave or quit the job, failing to engage in
9 discussions regarding workplace accommodations for older injured employees related to
10 industrial injuries, comments about older employees made in the context of an intention to
11 eliminate them from the workforce, and failing to appreciate and reward older employees for
12 their hard work, loyalty and longevity with the employer.

13 54. The Fire Department's management's systemic method to encourage and sustain
14 ageist attitudes is accomplished in various ways including but not limited to: (1) to increase the
15 workload for older employees forcing them to quit or leave; (2) writing up and criticizing older
16 employee job performance for errors or insignificant violations thus creating a basis for their
17 actual/constructive termination; (3) terminating older workers who are injured on the job; (4)
18 forcing older workers out of the job; (5) discouraging older workers from participating in the
19 promotion process or to seek promotion at all; and (6) retaliating against older workers who
20 complained about abuse or mistreatment in the workplace. The plaintiff alleges that during her
21 employment, the defendant (through its management and supervisors) engages in actions that
22 had a negative impact on the treatment of these employees.

23 55. The defendant's management also "eliminates" positions which happens to
24 belong to older employees who are being paid the highest salary or income given their tenure or
25 longevity with the company. However, these positions were not really "eliminated", while job
26 titles were changed, the job duties now performed by younger less expensive workers was the
27 same as that performed by the older higher paid workers. The plaintiff alleges that during his
28 employment, the defendant (through its management and supervisors) engages in actions that

1 have a negative on employees who were over the age of forty (40) (like the plaintiff).
2 Specifically, the employer defendant discharges older employees with greater frequency than
3 younger employees or forces them to take a disability retirement, reassigned duties from older
4 employees to younger employees, hired fewer employees who were over the age of forty, and
5 gave better jobs and benefits to younger employees whose salaries were cheaper. During the
6 plaintiff's employment, the defendant intentionally engages in age discrimination by discharging
7 employees over the age of forty with greater frequency than younger similarly situated
8 employees. During the plaintiff's employment with the employer defendant, it has had a pattern
9 and practice of discriminating against employees who are over the age of forty and many of
10 whom receive a higher pay or salary than their younger counterparts. The plaintiff falls within
11 this protected classification given that he is over the age of forty (40).

12 56. ***Plaintiff Still an Employee Fighting for Much Needed Change:*** Plaintiff remains
13 employed with the City of Bakersfield Fire Department doing his best to exist, work, and respect
14 the rules of the work place that are ever changing/no enforced or disregarded by the Caucasian
15 chain of command. His priority remains serving the residents of the Bakersfield community. His
16 undying love for the residents of the Bakersfield community is the only thing that sustains him
17 through this horrifying ordeal at the City of Bakersfield. He hopes that through resort to the legal
18 process, he can make needed and important change for himself, and more importantly for other
19 young African American men and women who aspire to become a part of the firefighting
20 community. He looks now to the Court for assistance to make valuable and much needed
21 changes in this organization, not only for himself but for other African American employees and
22 future minority recruits who aspire to do great things for their community. More importantly,
23 plaintiff looks to this Honorable Court to bring fairness, diversity, equity, inclusivity and justice
24 for the entire firefighting community

25 57. ***Plaintiff's Job Performance:*** During the term of his employment, he receives
26 praise and positive work performance evaluations in those evaluations that are a true and fair
27 representations of his work efforts. There are some evaluations he receives which do not fully
28 and fairly reflect his work and job performance and are prompted by management's hatred and

1 disdain of him and his race, and by his complaints about mistreatment and abuse in the
2 workplace. He is also reprimanded and/or disciplined by management without any logical or
3 valid basis and which adverse employment actions are prompted by management's hatred and
4 disdain of him and his race, and by his complaints about mistreatment and abuse in the
5 workplace. He is never the subject of any legitimate workplace discipline. He never causes the
6 City any financial harms or other losses.

7 58. ***Economic Damages:*** As a consequence of Defendants' conduct, plaintiff has
8 suffered and continues to suffer injuries, losses damages and harms, including lost past income,
9 loss of future income, loss of employment benefits, loss of employment opportunities, loss of
10 retirement benefits, and damage to his career in firefighting in a sum to be proven at trial.

11 59. ***Non-Economic Damages:*** as a consequence of Defendants' conduct, plaintiff has
12 suffered and will suffer past and future physical pain, mental suffering, loss of enjoyment of life,
13 physical impairment, inconvenience, grief, anxiety, humiliation, emotional distress,
14 psychological distress, humiliation and anguish in a sum to be proven at trial.

15 60. ***Attorney' Fees:*** Plaintiff has incurred and continues to incur legal expenses and
16 attorney's fees.

17 **FIRST CAUSE OF ACTION FOR HOSTILE WORK ENVIRONMENT HARASSMENT**
18 **– CONDUCT DIRECTED AT PLAINTIFF BY THE EMPLOYER DEFENDANT IN**
19 **VIOLATION OF CALIFORNIA GOVERNMENT CODE SECTIONS 12900 & 12940 ET**
20 **SEQ. AGAINST DEFENDANT CITY OF BAKERSFIELD AND DOES 1 THROUGH 100**
21 **INCLUSIVE.**

22 61. Plaintiff hereby incorporates by reference the allegations contained in Paragraphs
23 1 through 60 of this Complaint as though fully set forth herein.

24 62. Plaintiff claims that he was subjected to harassment by his employer on the basis
25 of his race, color, national origin, age, religious faiths and beliefs, and religious creed causing a
26 hostile or abusive work environment. The employer defendant's conduct, as alleged, violates
27 FEHA, California Government Code Section 12900 and 12940 et seq., and defendants
28

1 committed unlawful employment practices and created a hostile and abusive working
2 environment, including by the following separate and statutory bases for liability:

- 3 (a) discharging; barring; refusing to transfer, retain, hire, select, or promote the
4 employee; failure to promote the plaintiff to the position of Battalion Chief, directing
5 sham write ups at the plaintiff, and/or otherwise discriminating against plaintiff in
6 whole or in part on the basis of plaintiff's race, color, ancestry, national origin and/or
7 other characteristics, in violation of California Government Code Section 12940(a);
8 and/or
9 (b) failing to take all reasonable steps to prevent discrimination, harassment, and
10 retaliation on the basis of plaintiff's race, color, ancestry, national origin and/or other
11 characteristics, in violation of California Government Code Section 12940(k).

12
13 63. The plaintiff further alleges as follows: (1) That the plaintiff is an employee of the
14 employer defendant; (2) That the plaintiff was and continues to be subjected to unwanted
15 harassing conduct because of his age, color, national origin, race, religion, religious creed,
16 religious beliefs, and religious expression; (3) That the harassing conduct was and continues to
17 be severe or pervasive; (4) That a reasonable person in the plaintiff's circumstances would have
18 considered and considers the work environment to be hostile or abusive; (5) That plaintiff
19 considered and continues to consider the work environment to be hostile or abusive; (6) That
20 defendant's management and supervisors and other employees engaged and continue to engage in
21 offensive conduct and commentary which is approved and ratified by the corporate defendants;
22 (7) That a supervisor engaged and continues to engage in the conduct and/or that the employer
23 defendant and other supervisors knew or should have known of this conduct and failed to take
24 immediate and appropriate corrective action; (8) That the plaintiff was and continues to be
25 harmed; and (9) That the employer defendant's conduct is a substantial factor in causing the
26 plaintiff's harm.

27 64. Plaintiff remains employed with the employer defendant doing his best to exist,
28 work, respect the rules of the work place that are ever changing/no enforced or disregarded by a

1 management who are racist, who are bigots, who were fueled by hatred and hostility. His
2 undying love for the residents of the Bakersfield community is the only thing that sustains him
3 through this horrifying ordeal at the City of Bakersfield.

4 65. As a direct and legal result of defendant employer's unlawful employment
5 practices as alleged above, plaintiff suffered and continues to suffer economic and non-economic
6 damages to an extent and amount according to proof at the time of trial. Economic damages shall
7 include, but are not limited to, all claims for lost wages, benefits, salary increases and income,
8 both past and future, loss of promotions, loss of retirement benefits, loss of professional
9 development and job advancement opportunities, and loss of reputation and standing within the
10 community. Non-economic damages shall include but are not limited to past and future physical
11 pain, mental suffering, loss of enjoyment of life, inconvenience, grief, anxiety, humiliation,
12 emotional distress, that has been and/or will foreseeably be experienced by plaintiff, all to his
13 damage and detriment, in a sum according to proof at trial. Plaintiff contends that he was
14 subjected to numerous adverse employment actions, including but not limited to unfair and
15 excessive job performance criticism, a biased and fatally flawed promotion and selection policy,
16 negative performance appraisals, denial of special assignments, contriving disciplinary actions
17 and compromising investigation, frivolous reprimands, failure to promote, failure to promote to
18 the position of Battalion Chief, failure to allow time off to adhere to religious faith and punishing
19 the plaintiff for his religious beliefs and how he expressed his faith, sham discipline, sham
20 accusations or poor job performance or workplace misconduct, less desirable work assignments,
21 failure to promote, among many other adverse employment actions not specified herein but
22 which plaintiff has experienced and continues to experience with this employer.

23 66. Plaintiff is entitled to all compensatory damages recoverable under California
24 law, as well as costs and attorney's fees as provided by statute under California Government
25 Code Section 12965 and Code of Civil Procedure Sections 1032 and 1033.

26 67. Plaintiff does not allege a prayer for punitive damages against Defendant City of
27 Bakersfield as this would be improper under California Government Code Section 818. Plaintiff
28

1 does not seek recovery of punitive damages against Defendant City Bakersfield as this would be
2 improper under California Government Code Section 818.

3
4 **SECOND CAUSE OF ACTION FOR HOSTILE WORK ENVIRONMENT HARSSMENT**
5 **– CONDUCT DIRECTED AT PLAINTIFF BY INDIVIDUAL DEFENDANTS IN**
6 **VIOLATION OF CALIFORNIA GOVERNMENT CODE SECTIONS 12900 & 12940**
7 **AGAINST ALL DEFENDANTS AND DOES 1 THROUGH 100 INCLUSIVE.**

8 68. Plaintiff hereby incorporates by reference the allegations contained in Paragraphs
9 1 through 67 of this Complaint as though fully set forth herein.

10 69. Plaintiff claims that he was and continues to be subjected to harassment by
11 defendants based on his race, color, ancestry, national origin, age, religious beliefs and
12 affiliations, religious creed, and for speaking out about mistreatment, abuse and hostility in the
13 workplace thereby causing a hostile or abusive work environment. The employer defendant and
14 the individual defendants created a hostile and abusive working environment for the plaintiff.
15 These actions were engaged in by the individual defendants identified in this lawsuit in their
16 capacities as plaintiffs' supervisor or is supervisors and management representatives of the Fire
17 Department. The employer defendant's conduct, as alleged, violates FEHA, California
18 Government Code Sections 12900 and 12940 et seq., and defendants committed unlawful
19 employment practices including by the following separate and statutory bases for liability:

20 (c) discharging; barring; refusing to transfer, retain, hire, select, or promote the
21 employee; failure to promote the plaintiff to the position of Battalion Chief, directing
22 sham write ups at the plaintiff, and/or otherwise discriminating against plaintiff in
23 whole or in part on the basis of plaintiff's race, color, ancestry, national origin and/or
24 other characteristics, in violation of California Government Code Section 12940(a);
25 and/or

26 (d) failing to take all reasonable steps to prevent discrimination, harassment, and
27 retaliation on the basis of plaintiff's race, color, ancestry, national origin and/or other
28 characteristics, in violation of California Government Code Section 12940(k).

1
2 70. The plaintiff further alleges as follows: (1) That the plaintiff is an employee of the
3 employer defendant; (2) That the plaintiff was and continues to be subjected to unwanted
4 harassing conduct because of his because of his age, color, national origin, race, religion,
5 religious creed, religious beliefs, and religious expression; (3) That the individual defendant's
6 harassing conduct was and continues to be severe or pervasive; (4) That a reasonable person in
7 the plaintiff's circumstances would have considered and considers the work environment to be
8 hostile or abusive; (5) That plaintiff considered and continues to consider the work environment
9 to be hostile or abusive; (6) That the individual defendants and the employer defendant engaged
10 and continue to engage in offensive conduct and commentary which is approved and ratified by
11 the chain of command at the Fire Department, to include the management and supervisory
12 individual defendants; (7) That a supervisor engaged in the conduct and/or that the employer
13 defendants and other supervisors knew or should have known of the conduct and failed to take
14 immediate and appropriate corrective action; (8) That the plaintiff was and continues to be
15 harmed; and (9) That the defendants' conduct was and continues to be s a substantial factor in
16 causing the plaintiff's harm.

17 71. As a direct and legal result of defendant employer's and the individual
18 defendants' unlawful employment practices as alleged above, plaintiff suffered and continues to
19 suffer economic and non-economic damages to an extent and amount according to proof at the
20 time of trial. Economic damages shall include, but are not limited to, all claims for lost wages,
21 benefits, salary increases and income, both past and future, loss of promotions, loss of retirement
22 benefits, loss of professional development and job advancement opportunities, and loss of
23 reputation and standing within the community. Non-economic damages shall include but are not
24 limited to past and future physical pain, mental suffering, loss of enjoyment of life,
25 inconvenience, grief, anxiety, humiliation, emotional distress, that has been and/or will
26 foreseeably be experienced by plaintiff, all to his damage and detriment, in a sum according to
27 proof at trial. Plaintiff contends that he was subjected to numerous adverse employment actions,
28 including but not limited to unfair and excessive job performance criticism, a biased and fatally

1 flawed promotion and selection policy, negative performance appraisals, frivolous reprimands,
2 failure to promote, failure to promote to the position of Battalion Chief, denial of special
3 assignments, contriving disciplinary actions and compromising investigation, failure to allow
4 time off to adhere to religious faith and punishing the plaintiff for his religious beliefs and how
5 he expressed his faith, sham discipline, sham accusations or poor job performance or workplace
6 misconduct, less desirable work assignments, failure to promote, among many other adverse
7 employment actions not specified herein but which plaintiff has experienced and continues to
8 experience with this employer.

9 72. The individual defendants GALAGAZA, KELLY, FRANDO, MARTINUSEN
10 AND BALLARD acted with fraud, malice and oppression towards the plaintiff as envisioned by
11 California Civil Code Section 3294, in conspiring with one another and others in the chain of
12 command against the plaintiff, attacking plaintiff's honesty and credibility without basis,
13 blocking plaintiff's attempts to promote and advance, preventing plaintiff from promoting at all,
14 preventing plaintiff from promoting into the position of Battalion Chief, making sure there would
15 never be an African-American Fire Chief at this Fire Department, violating work place rules and
16 processes, targeting and attacking the plaintiff and every aspect of plaintiff's existence, and as
17 further described herein. Thus, plaintiff seeks punitive damages against the individual defendants
18 based on the detailed factual assertions and charging allegations contained in this Complaint.

19 73. Plaintiff is entitled to all compensatory damages recoverable under California
20 law, as well as costs and attorney's fees as provided by statute under California Government
21 Code Section 12965 and Code of Civil Procedure Sections 1032 and 1033.

22 74. Plaintiff does not allege a prayer for punitive damages against Defendant City of
23 Bakersfield as this would be improper under California Government Code Section 818. Plaintiff
24 does not seek recovery of punitive damages against Defendant City Bakersfield as this would be
25 improper under California Government Code Section 818.

1
2 **THIRD CAUSE OF ACTION FOR RETALATION FOR COMPLAINING ABOUT**
3 **HOSTILE WORK ENVIRONMENT HARASSMENT IN VIOLATION OF**
4 **CALIFORNIA GOVERNMENT CODE SECTIONS 12900 & 12940 ET SEQ. AGAINST**
5 **DEFENDANT CITY OF BAKERSFIELD AND DOES 1 THROUGH 100 INCLUSIVE.**

6 75. Plaintiff hereby incorporates by reference the allegations contained in Paragraphs
7 1 through 74 of this Complaint as though fully set forth herein.

8 76. Plaintiff's race, color, ancestry, age national origin, religious beliefs, religious
9 creed, complaining about a hostile work environment and harassment on the basis of race, age
10 and religion, and other protected characteristics protected by FEHA, California Government
11 Code Sections 12900 and 12940 et seq., are motivating factors in defendant's decision to not to
12 promote plaintiff to the position of Deputy Chief or Battalion Chief and/or take other adverse
13 employment actions against the plaintiff.

14 77. The employer defendant's conduct, as alleged, violated FEHA, California
15 Government Code Sections 12900 and 12940 et seq., and defendants committed unlawful
16 employment practices including by the following separate and statutory bases for liability:

17 (a) discharging; barring; refusing to accommodate; refusing to transfer, retain, hire,
18 select, or promote the employee; failing to promote plaintiff to the position of Battalion
19 Chief, and/or otherwise discriminating against plaintiff in whole or in part on the basis of
20 plaintiff's race, color, age ancestry, national origin and/or other protected characteristics,
21 in violation of California Government Code Section 12940(a);

22 (b) harassing plaintiff and/or creating a hostile work environment in whole or in part on
23 the basis of plaintiff's race, age, color, ancestry, national origin and/or other protected
24 characteristics in violation of California Government code section 12940(j);

25 (c) Failing to take all reasonable steps to prevent discrimination, harassment, and
26 retaliation on the basis of race, age, color, ancestry, national origin and/or other protected
27 characteristics in violation of California Government Code Section 12940(k); and/or
28

1 (d) Retaliating against plaintiff are seeking to exercise rights guaranteed under the FEHA
2 and/or for opposing defendant's failure to provide such rights, including rights of
3 reasonable accommodation, interactive process rights, leave rights, and/or the right to be
4 free of discrimination, in violation of California Government Code Section 12940(h).

5
6 78. The plaintiff further contends as follows: (1) That the plaintiff claims that he was
7 retaliated against on the basis of his complaints about a hostile work environment and
8 harassment in the workplace based on his race, religion, religious creed and age; (2) That the
9 employer defendant engaged in various adverse actions against the plaintiff or subjected plaintiff
10 to various adverse employment actions including but not limited to the failure to promote
11 plaintiff to the position of Battalion Chief; (3) That plaintiff's complaints about a hostile work
12 environment and harassment in the workplace were substantial motivating reasons for the
13 employer defendant's decision to engage in other adverse employment actions against plaintiff;
14 (4) that plaintiff was harmed; and (5) that the defendant's decision to engage in other adverse
15 employment actions against him was a substantial factor in causing plaintiff's harm.

16 79. Plaintiff remains employed with the employer defendant doing his best to exist,
17 work, respect the rules of the work place that are ever changing/no enforced or disregarded by
18 the Caucasian that has hostility and hatred towards plaintiff based on his race, age and religious
19 creed. His undying love for the residents of the Bakersfield community is the only thing that
20 sustains him through this horrifying ordeal at the City of Bakersfield.

21 80. As a direct and legal result of defendant employer's unlawful employment
22 practices as alleged above, plaintiff suffered and continues to suffer economic and non-economic
23 damages to an extent and amount according to proof at the time of trial. Economic damages shall
24 include, but are not limited to, all claims for lost wages, benefits, salary increases and income,
25 both past and future, loss of promotions, loss of retirement benefits, loss of professional
26 development and job advancement opportunities, and loss of reputation and standing within the
27 community. Non-economic damages shall include but are not limited to past and future physical
28 pain, mental suffering, loss of enjoyment of life, inconvenience, grief, anxiety, humiliation,

1 emotional distress, that has been and/or will foreseeably be experienced by plaintiff, all to his
2 damage and detriment, in a sum according to proof at trial. Plaintiff contends that he was
3 subjected to numerous adverse employment actions, including but not limited to unfair and
4 excessive job performance criticism, a biased and fatally flawed promotion and selection policy,
5 negative performance appraisals, frivolous reprimands, failure to allow leave or FMLA leave or
6 other time off of work to care for an ill child, failure to allow time off to adhere to religious faith
7 and punishing the plaintiff for his religious beliefs and how he expressed his faith, sham
8 discipline, sham accusations or poor job performance or workplace misconduct, less desirable
9 work assignments, failure to promote, denial of special assignments, contriving disciplinary
10 actions and compromising investigation, among many other adverse employment actions not
11 specified herein but which plaintiff has experienced and continues to experience with this
12 employer.

13 81. Plaintiff is entitled to all compensatory damages recoverable under California
14 law, as well as costs and attorney's fees as provided by statute under California Government
15 Code Section 12965 and Code of Civil Procedure Sections 1032 and 1033.

16 82. Plaintiff does not allege a prayer for punitive damages against Defendant City of
17 Bakersfield as this would be improper under California Government Code Section 818. Plaintiff
18 does not seek recovery of punitive damages against Defendant City Bakersfield as this would be
19 improper under California Government Code Section 818.
20

21 **FOURTH CAUSE OF ACTION FOR FAILURE TO PREVENT HARASSMENT,**
22 **RETALIATION AND DISCRIMINATION IN VIOLATION OF CALIFORNIA**
23 **GOVERNMENT CODE SECTIONS 12900 & 12940 ET SEQ. AGAINST DEFENDANT**
24 **CITY OF BAKERSFIELD AND DOES 1 THROUGH 100 INCLUSIVE.**

25 83. Plaintiff hereby incorporates by reference the allegations contained in Paragraphs
26 1 through 82 of the Complaint, as though fully set forth herein.

27 84. The plaintiff contends that the employer defendant failed and continues to fail to
28 take all reasonable steps to prevent an abusive work environment, harassment, discrimination,

1 and retaliation in the workplace based on plaintiff's race, color, ancestry, national origin, age,
2 religion, religious beliefs, religious creed, and religious expression. The employer defendant's
3 conduct, as alleged, violates FEHA, California Government Code Section 12900 and 12940 et
4 seq., and defendants committed unlawful employment practices including by the following
5 separate and statutory bases for liability:

- 6 (e) discharging; barring; refusing to transfer, retain, hire, select, or promote the
7 employee; failure to promote the plaintiff to the position of Battalion Chief, directing
8 sham write ups at the plaintiff, and/or otherwise discriminating against plaintiff in
9 whole or in part on the basis of plaintiff's race, color, ancestry, national origin and/or
10 other characteristics, in violation of California Government Code Section 12940(a);
11 and/or
12 (f) failing to take all reasonable steps to prevent discrimination, harassment, and
13 retaliation on the basis of plaintiff's race, color, ancestry, national origin and/or other
14 characteristics, in violation of California Government Code Section 12940(k).

15
16 85. The plaintiff further alleges and contends as follows: (1) That the plaintiff is an
17 employee of the employer defendant; (2) That plaintiff was and continues to be subjected to
18 harassment, retaliation and discrimination in his work environment; (2) That the employer
19 defendant failed and continues to fail to take all reasonable steps to prevent the harassment,
20 discrimination and retaliation; (4) That the plaintiff was and continues to be harmed; and (5)
21 That the employer defendant's failure and continuing failure to take all reasonable steps to
22 prevent harassment, discrimination and retaliation was and continues to be a substantial factor in
23 causing plaintiff harm.

24 86. As a direct and legal result of defendant employer's unlawful employment
25 practices as alleged above, plaintiff suffered and continues to suffer economic and non-economic
26 damages to an extent and amount according to proof at the time of trial. Economic damages shall
27 include, but are not limited to, all claims for lost wages, benefits, salary increases and income,
28 both past and future, loss of promotions, loss of retirement benefits, loss of professional

1 development and job advancement opportunities, and loss of reputation and standing within the
2 community. Non-economic damages shall include but are not limited to past and future physical
3 pain, mental suffering, loss of enjoyment of life, inconvenience, grief, anxiety, humiliation,
4 emotional distress, that has been and/or will foreseeably be experienced by plaintiff, all to his
5 damage and detriment, in a sum according to proof at trial. Plaintiff contends that he was
6 subjected to numerous adverse employment actions, including but not limited to unfair and
7 excessive job performance criticism, a biased and fatally flawed promotion and selection policy,
8 negative performance appraisals, frivolous reprimands, failure to promote, failure to promote to
9 the position of Battalion Chief, failure to allow time off to adhere to religious faith and punishing
10 the plaintiff for his religious beliefs and how he expressed his faith, sham discipline, sham
11 accusations or poor job performance or workplace misconduct, denial of special assignments,
12 contriving disciplinary actions and compromising investigation, less desirable work assignments,
13 failure to promote, among many other adverse employment actions not specified herein but
14 which plaintiff has experienced and continues to experience with this employer.

15 87. Plaintiff is entitled to all compensatory damages recoverable under California
16 law, as well as costs and attorney's fees as provided by statute under California Government
17 Code Section 12965 and Code of Civil Procedure Sections 1032 and 1033.

18 88. Plaintiff does not allege a prayer for punitive damages against Defendant City of
19 Bakersfield as this would be improper under California Government Code Section 818. Plaintiff
20 does not seek recovery of punitive damages against Defendant City Bakersfield as this would be
21 improper under California Government Code Section 818.

22
23 **FIFTH CAUSE OF ACTION FOR DISPARATE TREATMENT – DISCRIMINATION**
24 **ON THE BASIS OF RACE, COLOR, ANCESTRY AND NATIONAL ORIGIN IN**
25 **VIOLATION OF CALIFORNIA GOVERNMENT CODE SECTIONS 12900 & 12940 ET**
26 **SEQ. AGAINST DEFENDANT CITY OF BAKERSFIELD ONLY AND DOES 1**
27 **THROUGH 100 INCLUSIVE.**
28

1 89. Plaintiff hereby incorporates by reference the allegations contained in Paragraphs
2 1 through 88 of this Complaint as though fully set forth herein.

3 90. Plaintiff's Race (African American), Color, Ancestry, National Origin, and/or
4 other characteristics protected by FEHA, California Government Code Sections 12900 and
5 12940 et seq., are motivating factors in defendant's decision not to promote the plaintiff to the
6 position of Battalion Chief and/or take other adverse employment actions against the plaintiff.
7 The employer defendant's conduct, as alleged, violates FEHA, California Government Code
8 Sections 12900 and 12940 et seq., and defendants committed unlawful employment practices
9 including by the following separate and statutory bases for liability:

10 (a) discharging; barring; refusing to transfer, retain, hire, select, or promote the
11 employee; failure to promote the plaintiff to the position of Battalion Chief, directing
12 sham write ups at the plaintiff, and/or otherwise discriminating against plaintiff in
13 whole or in part on the basis of plaintiff's race, color, ancestry, national origin and/or
14 other characteristics, in violation of California Government Code Section 12940(a);
15 and/or

16 (b) failing to take all reasonable steps to prevent discrimination, harassment, and
17 retaliation on the basis of plaintiff's race, color, ancestry, national origin and/or other
18 characteristics, in violation of California Government Code Section 12940(k).

19 91. Plaintiff alleges as follows: (1) That the employer defendant is an employer; (2)
20 That plaintiff is an employee of the employer defendant; (3) That the employer defendant
21 engaged in and continues to engage in adverse employment actions towards the plaintiff on the
22 basis of his race, color, and national origin – African American; (4) That plaintiff's race, color,
23 and national origin (African American) are motivating reasons for the defendant's decision to
24 fail to promote, discipline and to engage in other adverse employment actions towards the
25 plaintiff; (5) That the plaintiff was and continues to be harmed; and (6) That the plaintiff's race,
26 color, ancestry and national origin were and continue to be substantial motivating reasons for the
27 employer defendant's decision to engage in adverse employment actions towards him as alleged
28 in this lawsuit.

1 92. Plaintiff remains employed with the employer defendant doing his best to exist,
2 work, respect the rules of the work place that are ever changing/no enforced or disregarded by
3 the Caucasian management; and most importantly serve the Bakersfield community. His
4 undying love for the residents of the Bakersfield community is the only thing that sustains him
5 through this horrifying ordeal at the City of Bakersfield Fire Department.

6 93. As a direct and legal result of defendant employer's unlawful employment
7 practices as alleged above, plaintiff suffered and continues to suffer economic and non-economic
8 damages to an extent and amount according to proof at the time of trial. Economic damages shall
9 include, but are not limited to, all claims for lost wages, benefits, salary increases and income,
10 both past and future, loss of promotions, loss of retirement benefits, loss of professional
11 development and job advancement opportunities, and loss of reputation and standing within the
12 community. Non-economic damages shall include but are not limited to past and future physical
13 pain, mental suffering, loss of enjoyment of life, inconvenience, grief, anxiety, humiliation,
14 emotional distress, that has been and/or will foreseeably be experienced by plaintiff, all to his
15 damage and detriment, in a sum according to proof at trial. Plaintiff contends that he was
16 subjected to numerous adverse employment actions, including but not limited to unfair and
17 excessive job performance criticism, a biased and fatally flawed promotion and selection policy,
18 negative performance appraisals, frivolous reprimands, failure to promote plaintiff to the position
19 of Battalion Chief, failure to allow time off to adhere to religious faith and punishing the plaintiff
20 for his religious beliefs and how he expressed his faith, denial of special assignments, contriving
21 disciplinary actions and compromising investigation, sham discipline, sham accusations or poor
22 job performance or workplace misconduct, less desirable work assignments, failure to promote,
23 among many other adverse employment actions not specified herein but which plaintiff has
24 experienced and continues to experience with this employer.

25 94. Plaintiff is entitled to all compensatory damages recoverable under California
26 law, as well as costs and attorney's fees as provided by statute under California Government
27 Code Section 12965 and Code of Civil Procedure Sections 1032 and 1033.

1 95. Plaintiff does not seek or allege a prayer for punitive damages against Defendant
2 City of Bakersfield as this would be improper under California Government Code Section 818.
3 Plaintiff does not seek recovery of punitive damages against Defendant City Bakersfield as this
4 would be improper under California Government Code Section 818.

5
6 **SIXTH CAUSE OF ACTION FOR DISPARATE IMPACT – DISCRIMINATION ON**
7 **THE BASIS OF RACE, COLOR, ANCESTRY AND NATIONAL ORIGIN IN**
8 **VIOLATION OF GOVERNMENT CODE SECTIONS 12900 & 12940 ET SEQ.**
9 **AGAINST DEFENDANT CITY OF BAKERSFIELD AND DOES 1 THROUGH 100**
10 **INCLUSIVE.**

11 96. Plaintiff hereby incorporates by reference the allegations contained in Paragraphs
12 1 through 95 of this Complaint as though fully set forth herein.

13 97. Plaintiff's Race (African American), Color, Ancestry, National Origin, and/or
14 other characteristics protected by FEHA, California Government Code Sections 12900 and
15 12940 et seq., are motivating factors in defendant's decision to refuse to promote the plaintiff
16 into the position of Battalion Chief and/or or take other adverse employment actions against the
17 plaintiff. The employer defendant's conduct, as alleged, violated FEHA, California Government
18 Code Sections 12900 and 12940 et seq., and defendants committed unlawful employment
19 practices including by the following separate and statutory bases for liability:

20 (a) discharging; barring; refusing to accommodate; refusing to transfer, retain, hire,
21 select, or promote the employee; failing to promote into position of Battalion Chief;
22 and/or otherwise discriminating against plaintiff in whole or in part on the basis of
23 plaintiff's race, color, national origin, ethnicity and/or other characteristics, in violation
24 of California Government Code Section 12940(a); and/or

25 (b) failing to take all reasonable steps to prevent discrimination, harassment, and
26 retaliation on the basis of plaintiff's race, color, national origin, ancestry and/or other
27 characteristics, in violation of California Government Code Section 12940(k).
28

1 98. Plaintiff claims that defendants had and continue to have an employment practice,
2 to include their unlawful and biased promotion policy, discipline policy and other personnel
3 policies and practices that unlawfully and disproportionately impacts African-American
4 employees in this work force (including plaintiff). Plaintiff further alleges as follows: (1) That
5 the employer defendant is an employer; (2) That plaintiff is an employee of the employer
6 defendant; (3) That the employer defendant had and has a racist and biased employment practice
7 or selection policy that is biased, unfair, discriminatory to African American employees and
8 applicants, that don't comply with their stated policies or procedures, that is intended to
9 discourage African American employees from applying for or pursuing promotions and
10 professional advancement within the Fire Department, that does not promote African American
11 employees like plaintiff who are qualified and in most instances overqualified as compared to
12 their Caucasian counterparts or other applicants who are selected over their African-American
13 counterparts; (4) plaintiff is an African American male; (5) That plaintiff was and continues to be
14 harmed; (6) That defendant's employment practice and selection policy were and continue to be
15 a substantial factor in causing plaintiff's harm.

16 99. Plaintiff remains employed with the employer defendant doing his best to exist,
17 work, respect the rules of the work place that are ever changing/no enforced or disregarded by
18 the Caucasian management; and most importantly serve the Bakersfield community. His
19 undying love for the residents of the Bakersfield community is the only thing that sustains him
20 through this horrifying ordeal at the City of Bakersfield.

21 100. As a direct and legal result of defendant employer's unlawful employment
22 practices as alleged above, plaintiff suffered and continues to suffer economic and non-economic
23 damages to an extent and amount according to proof at the time of trial. Economic damages shall
24 include, but are not limited to, all claims for lost wages, benefits, salary increases and income,
25 both past and future, loss of promotions, loss of retirement benefits, loss of professional
26 development and job advancement opportunities, and loss of reputation and standing within the
27 community. Non-economic damages shall include but are not limited to past and future physical
28 pain, mental suffering, loss of enjoyment of life, inconvenience, grief, anxiety, humiliation,

1 emotional distress, that has been and/or will foreseeably be experienced by plaintiff, all to his
2 damage and detriment, in a sum according to proof at trial. Plaintiff contends that he was
3 subjected to numerous adverse employment actions, including but not limited to unfair and
4 excessive job performance criticism, a biased and fatally flawed promotion and selection policy,
5 negative performance appraisals, frivolous reprimands, failure to promote to the position of
6 Battalion Chief, a flawed and biased promotion process, failure to allow time off to adhere to
7 religious faith and punishing the plaintiff for his religious beliefs and how he expressed his faith,
8 sham discipline, denial of special assignments, contriving disciplinary actions and compromising
9 investigation, sham accusations or poor job performance or workplace misconduct, less desirable
10 work assignments, failure to promote, among many other adverse employment actions not
11 specified herein but which plaintiff has experienced and continues to experience with this
12 employer.

13 101. Plaintiff is entitled to all compensatory damages recoverable under California
14 law, as well as costs and attorney's fees as provided by statute under California Government
15 Code Section 12965 and Code of Civil Procedure Sections 1032 and 1033.

16 102. Plaintiff does not allege a prayer for punitive damages against Defendant City of
17 Bakersfield as this would be improper under California Government Code Section 818. Plaintiff
18 does not seek recovery of punitive damages against Defendant City Bakersfield as this would be
19 improper under California Government Code Section 818.
20

21 **SEVENTH CAUSE OF ACTION FOR RETALATION FOR COMPLAINING ABOUT**
22 **DISCRIMINATION ON THE BASIS OF RACE, COLOR, ANCESTRY AND**
23 **NATIONAL ORIGIN IN VIOLATION OF CALIFORNIA GOVERNMENT CODE**
24 **SECTIONS 12900 & 12940 ET SEQ. AGAINST DEFENDANT CITY OF BAKERSFIELD**
25 **AND DOES 1 THROUGH 100 INCLUSIVE.**

26 103. Plaintiff hereby incorporates by reference the allegations contained in Paragraphs
27 1 through 102 of this Complaint as though fully set forth herein.
28

1 104. Plaintiff's race, color, ancestry, national origin and other protected characteristics
2 protected by FEHA, California Government Code Sections 12900 and 12940 et seq., are
3 motivating factors in defendant's decision to not to promote plaintiff to the position of Battalion
4 Chief and/or take other adverse employment actions against the plaintiff.

5 105. The employer defendant's conduct, as alleged, violated FEHA, California
6 Government Code Sections 12900 and 12940 et seq., and defendants committed unlawful
7 employment practices including by the following separate and statutory bases for liability:

8 (a) discharging; barring; refusing to accommodate; refusing to transfer, retain, hire,
9 select, or promote the employee; failing to promote plaintiff to the position of Battalion
10 Chief, and/or otherwise discriminating against plaintiff in whole or in part on the basis of
11 plaintiff's race, color, ancestry, national origin and/or other protected characteristics, in
12 violation of California Government Code Section 12940(a);

13 (b) harassing plaintiff and/or creating a hostile work environment in whole or in part on
14 the basis of plaintiff's race, color, ancestry, national origin and/or other protected
15 characteristics in violation of California Government code section 12940(j);

16 (c) Failing to take all reasonable steps to prevent discrimination, harassment, and
17 retaliation on the basis of race, color, ancestry, national origin and/or other protected
18 characteristics in violation of California Government Code Section 12940(k); and/or

19 (d) Retaliating against plaintiff are seeking to exercise rights guaranteed under the FEHA
20 and/or for opposing defendant's failure to provide such rights, including rights of
21 reasonable accommodation, interactive process rights, leave rights, and/or the right to be
22 free of discrimination, in violation of California Government Code Section 12940(h).

23
24 106. The plaintiff further contends as follows: (1) That the plaintiff claims that he was
25 retaliated against on the basis of his race, color, ancestry or national origin, for speaking out
26 about race discrimination, and other protected activity; (2) That the employer defendant engaged
27 in various adverse actions against the plaintiff or subjected plaintiff to various adverse
28 employment actions including but not limited to the failure to promote plaintiff to the position of

1 Battalion Chief; (3) That plaintiff's race, color and other protected classifications were
2 substantial motivating reasons for the employer defendant's decision to engage in other adverse
3 employment actions against plaintiff; (4) that plaintiff was harmed; and (5) that the defendant's
4 decision to engage in other adverse employment actions against him was a substantial factor in
5 causing plaintiff's harm.

6 107. Plaintiff remains employed with the employer defendant doing his best to exist,
7 work, respect the rules of the work place that are ever changing/no enforced or disregarded by
8 the Caucasian management; and most importantly serve the Bakersfield community. His
9 undying love for the residents of the Bakersfield community is the only thing that sustains him
10 through this horrifying ordeal at the City of Bakersfield.

11 108. As a direct and legal result of defendant employer's unlawful employment
12 practices as alleged above, plaintiff suffered and continues to suffer economic and non-economic
13 damages to an extent and amount according to proof at the time of trial. Economic damages shall
14 include, but are not limited to, all claims for lost wages, benefits, salary increases and income,
15 both past and future, loss of promotions, loss of retirement benefits, loss of professional
16 development and job advancement opportunities, and loss of reputation and standing within the
17 community. Non-economic damages shall include but are not limited to past and future physical
18 pain, mental suffering, loss of enjoyment of life, inconvenience, grief, anxiety, humiliation,
19 emotional distress, that has been and/or will foreseeably be experienced by plaintiff, all to his
20 damage and detriment, in a sum according to proof at trial. Plaintiff contends that he was
21 subjected to numerous adverse employment actions, including but not limited to unfair and
22 excessive job performance criticism, denial of special assignments, contriving disciplinary
23 actions and compromising investigation, a biased and fatally flawed promotion and selection
24 policy, negative performance appraisals, frivolous reprimands, failure to allow leave or FMLA
25 leave or other time off of work to care for an ill child, failure to allow time off to adhere to
26 religious faith and punishing the plaintiff for his religious beliefs and how he expressed his faith,
27 sham discipline, sham accusations or poor job performance or workplace misconduct, less
28 desirable work assignments, failure to promote, among many other adverse employment actions

not specified herein but which plaintiff has experienced and continues to experience with this employer.

109. Plaintiff is entitled to all compensatory damages recoverable under California law, as well as costs and attorney's fees as provided by statute under California Government Code Section 12965 and Code of Civil Procedure Sections 1032 and 1033.

110. Plaintiff does not allege a prayer for punitive damages against Defendant City of Bakersfield as this would be improper under California Government Code Section 818. Plaintiff does not seek recovery of punitive damages against Defendant City Bakersfield as this would be improper under California Government Code Section 818.

**EIGHTH CAUSE OF ACTION FOR DISPARATE TREATMENT – DISCRIMINATION
ON THE BASIS OF AGE IN VIOLATION OF CALIFORNIA GOVERNMENT CODE
SECTIONS 12900 & 12940 ET SEQ. AGAINST DEFENDANT CITY OF BAKERSFIELD
AND DOES 1 THROUGH 100 INCLUSIVE.**

111. Plaintiff hereby incorporates by reference the allegations contained in Paragraphs 1 through 110 of this Complaint as though fully set forth herein.

112. Plaintiff's age and/or other characteristics protected by FEHA, California Government Code Sections 12900 and 12940 et seq., are motivating factors in defendant's decision to not to promote the plaintiff to the position of Battalion Chief and/or take other adverse employment actions against the plaintiff. The employer defendant's conduct, as alleged, violated FEHA, California Government Code Sections 12900 and 12940 et seq., and defendants committed unlawful employment practices including by the following separate and statutory bases for liability:

(a) discharging; barring; refusing to accommodate; refusing to transfer, retain, hire, select, or promote the employee; failing to promote plaintiff to the position of Battalion Chief, and/or otherwise discriminating against plaintiff in whole or in part on the basis of plaintiff's age and/or other characteristics, in violation of California Government Code Section 12940(a); and/or

1 (b) failing to take all reasonable steps to prevent discrimination, harassment, and
2 retaliation on the basis of plaintiff's age and/or other characteristics, in violation of
3 California Government Code Section 12940(k).
4

5 113. Plaintiff further alleges as follows: (1) That the employer defendant is an
6 employer; (2) That plaintiff is an employee of the employer defendant; (3) That defendant
7 engaged and continues to engage in adverse employment actions towards the plaintiff on the
8 basis of his age; (4) That plaintiff's age was and continues to be a motivating reason for the
9 defendant's decision to fail to promote, discipline and engage in other adverse employment
10 actions towards the plaintiff; (5) That the plaintiff was and continues to be harmed; and (6) That
11 the plaintiff's age was and continues to be a substantial motivating reason for the defendant's
12 decision to engage in adverse employment actions towards him as further described and alleged
13 in this lawsuit.

14 114. Plaintiff remains employed with the employer defendant doing his best to exist,
15 work, respect the rules of the work place that are ever changing/no enforced or disregarded by
16 the Caucasian management; and most importantly serve the Bakersfield community. His
17 undying love for the residents of the Bakersfield community is the only thing that sustains him
18 through this horrifying ordeal at the City of Bakersfield.

19 115. As a direct and legal result of defendant employer's unlawful employment
20 practices as alleged above, plaintiff suffered and continues to suffer economic and non-economic
21 damages to an extent and amount according to proof at the time of trial. Economic damages shall
22 include, but are not limited to, all claims for lost wages, benefits, salary increases and income,
23 both past and future, loss of promotions, loss of retirement benefits, loss of professional
24 development and job advancement opportunities, and loss of reputation and standing within the
25 community. Non-economic damages shall include but are not limited to past and future physical
26 pain, mental suffering, loss of enjoyment of life, inconvenience, grief, anxiety, humiliation,
27 emotional distress, that has been and/or will foreseeably be experienced by plaintiff, all to his
28 damage and detriment, in a sum according to proof at trial. Plaintiff contends that he was

1 subjected to numerous adverse employment actions, including but not limited to unfair and
2 excessive job performance criticism, failure to promote, failure to promote to the position of
3 Battalion Chief, a biased and fatally flawed promotion and selection policy, negative
4 performance appraisals, frivolous reprimands, denial of special assignments, contriving
5 disciplinary actions and compromising investigation, failure to allow time off to adhere to
6 religious faith and punishing the plaintiff for his religious beliefs and how he expressed his faith,
7 sham discipline, sham accusations or poor job performance or workplace misconduct, less
8 desirable work assignments, failure to promote, among many other adverse employment actions
9 not specified herein but which plaintiff has experienced and continues to experience with this
10 employer defendant.

11 116. Plaintiff is entitled to all compensatory damages recoverable under California
12 law, as well as costs and attorney's fees as provided by statute under California Government
13 Code Section 12965 and Code of Civil Procedure Sections 1032 and 1033.

14 117. Plaintiff does not allege a prayer for punitive damages against Defendant City of
15 Bakersfield as this would be improper under California Government Code Section 818. Plaintiff
16 does not seek recovery of punitive damages against Defendant City Bakersfield as this would be
17 improper under California Government Code Section 818.

18
19 **NINTH CAUSE OF ACTION FOR DISPARATE IMPACT – DISCRIMINATION ON**
20 **THE BASIS OF AGE IN VIOLATION OF CALIFORNIA GOVERNMENT CODE**
21 **SECTIONS 12900 & 12940 ET SEQ. AGAINST DEFENDANT CITY OF BAKERSFIELD**
22 **AND DOES 1 THROUGH 100 INCLUSIVE.**

23 118. Plaintiff hereby incorporates by reference the allegations contained in Paragraphs
24 1 through 117 of this Complaint as though fully set forth herein.

25 119. Plaintiff's age and/or other characteristics protected by FEHA, California
26 Government Code Sections 12900 and 12940 et seq., are motivating factors in defendant's
27 decision to terminate plaintiff's employment, not to retain, hire or otherwise employ plaintiff in
28 any position and/or take other adverse employment actions against the plaintiff. The employer

1 defendant's conduct, as alleged, violated FEHA, California Government Code Sections 12900
2 and 12940 et seq., and defendants committed unlawful employment practices including by the
3 following separate and statutory bases for liability:

4 (a) discharging; barring; refusing to accommodate; refusing to transfer, retain, hire,
5 select, or promote the employee; failing to promote, failing to promote to the position of
6 Battalion Chief, and/or otherwise discriminating against plaintiff in whole or in part on
7 the basis of plaintiff's age and/or other characteristics, in violation of California
8 Government Code Section 12940(a); and/or

9 (b) failing to take all reasonable steps to prevent discrimination, harassment, and
10 retaliation on the basis of plaintiff's age and/or other characteristics, in violation of
11 California Government Code Section 12940(k).

12
13 120. Plaintiff claims that defendants had and continues to have an employment
14 practice, to include an unlawful and biased promotion policy, discipline policy and other
15 personnel policies and practices that was intended to weed out older applicants and employees
16 because they were too old for the job or because they were too expensive to keep as part of the
17 workforce. Plaintiff further alleges as follows: (1) That the employer defendant is an employer;
18 (2) That plaintiff is an employee of the employer defendant; (3) That the employer defendant had
19 and continues to have an employment practice or selection policy that was biased, unfair,
20 discriminatory, that didn't comply with their stated policies or procedures, that was and
21 continues to be intended to discourage older employees from applying for or pursuing, that did
22 not promote older employees like plaintiff who are qualified and in most instances over qualified
23 or more qualified than those younger employees who are selected over their older counterparts;
24 (4) plaintiff is over the age of forty; (5) That plaintiff was and continues to be harmed; (6) That
25 defendant's employment practice and selection policy biased against older workers were and
26 continue to be substantial factors in causing plaintiff's harm.

27 121. Plaintiff remains employed with the employer defendant doing his best to exist,
28 work, respect the rules of the work place that are ever changing/no enforced or disregarded by

1 the Caucasian management; and most importantly serve the Bakersfield community. His
2 undying love for the residents of the Bakersfield community is the only thing that sustains him
3 through this horrifying ordeal at the City of Bakersfield.

4 122. As a direct and legal result of defendant employer's unlawful employment
5 practices as alleged above, plaintiff suffered and continues to suffer economic and non-economic
6 damages to an extent and amount according to proof at the time of trial. Economic damages shall
7 include, but are not limited to, all claims for lost wages, benefits, salary increases and income,
8 both past and future, loss of promotions, loss of retirement benefits, loss of professional
9 development and job advancement opportunities, and loss of reputation and standing within the
10 community. Non-economic damages shall include but are not limited to past and future physical
11 pain, mental suffering, loss of enjoyment of life, inconvenience, grief, anxiety, humiliation,
12 emotional distress, that has been and/or will foreseeably be experienced by plaintiff, all to his
13 damage and detriment, in a sum according to proof at trial. Plaintiff contends that he was
14 subjected to numerous adverse employment actions, including but not limited to unfair and
15 excessive job performance criticism, failure to promote, failure to promote to the position of
16 Battalion Chief, denial of special assignments, contriving disciplinary actions and compromising
17 investigation, a biased and fatally flawed promotion and selection policy, negative performance
18 appraisals, frivolous reprimands, failure to allow time off to adhere to religious faith and
19 punishing the plaintiff for his religious beliefs and how he expressed his faith, sham discipline,
20 sham accusations or poor job performance or workplace misconduct, less desirable work
21 assignments, failure to promote, among many other adverse employment actions not specified
22 herein but which plaintiff has experienced and continues to experience with this employer.

23 123. Plaintiff is entitled to all compensatory damages recoverable under California
24 law, as well as costs and attorney's fees as provided by statute under California Government
25 Code Section 12965 and Code of Civil Procedure Sections 1032 and 1033.

26 124. Plaintiff does not allege a prayer for punitive damages against Defendant City of
27 Bakersfield as this would be improper under California Government Code Section 818. Plaintiff
28

1 does not seek recovery of punitive damages against Defendant City Bakersfield as this would be
2 improper under California Government Code Section 818.

3
4 **TENTH CAUSE OF ACTION FOR RETALATION FOR COMPLAINING ABOUT**
5 **DISCRIMINATION ON THE BASIS OF AGE IN VIOLATION OF CALIFORNIA**
6 **GOVERNMENT CODE SECTIONS 12900 & 12940 ET SEQ. AGAINST DEFENDANT**
7 **CITY OF BAKERSFIELD AND DOES 1 THROUGH 100 INCLUSIVE.**

8 125. Plaintiff hereby incorporates by reference the allegations contained in Paragraphs
9 1 through 124 of this Complaint as though fully set forth herein.

10 126. Plaintiff's age and other protected characteristics protected by FEHA, California
11 Government Code Sections 12900 and 12940 et seq., are motivating factors in defendant's
12 decision to terminate plaintiff's employment, failure to promote, failure to promote the position
13 of Battalion Chief, not to retain, hire or otherwise employ plaintiff in any position and/or take
14 other adverse employment actions against the plaintiff.

15 127. The employer defendant's conduct, as alleged, violated FEHA, California
16 Government Code Sections 12900 and 12940 et seq., and defendants committed unlawful
17 employment practices including by the following separate and statutory bases for liability:

18 (a) discharging; barring; refusing to accommodate; refusing to transfer, retain, hire,
19 select, or employee; failing to promote; failing to promote to the position of Battalion
20 Chief; and/or otherwise discriminating against plaintiff in whole or in part on the basis of
21 plaintiff's age and/or other protected characteristics, in violation of California
22 Government Code Section 12940(a);

23 (b) harassing plaintiff and/or creating a hostile work environment in whole or in part on
24 the basis of plaintiff's age and/or other protected characteristics in violation of California
25 Government code section 12940(j);

26 (c) Failing to take all reasonable steps to prevent discrimination, harassment, and
27 retaliation on the basis of plaintiff's age and/or other protected characteristics in violation
28 of California Government Code Section 12940(k); and/or

1 (d) Retaliating against plaintiff are seeking to exercise rights guaranteed under the FEHA
2 and/or for opposing defendant's failure to provide such rights and/or the right to be free
3 of discrimination, in violation of California Government Code Section 12940(h).
4

5 128. The plaintiff further contends as follows: (1) That the plaintiff claims that he was
6 retaliated against on the basis of his age and for speaking out about age discrimination, and other
7 protected activity; (2) That the employer defendant engaged in various adverse actions against
8 the plaintiff or subjected plaintiff to various adverse employment actions; (3) That plaintiff's age
9 or protected activity was a substantial motivating reason for the employer defendant's decision to
10 engage in adverse employment actions against plaintiff; (4) that plaintiff was harmed; and (5)
11 that the employer defendant's decision to engage in adverse employment actions against plaintiff
12 was a substantial factor in causing plaintiff's harm.

13 129. As a direct and legal result of defendant employer's unlawful employment
14 practices as alleged above, plaintiff suffered and continues to suffer economic and non-economic
15 damages to an extent and amount according to proof at the time of trial. Economic damages shall
16 include, but are not limited to, all claims for lost wages, benefits, salary increases and income,
17 both past and future, loss of promotions, loss of retirement benefits, loss of professional
18 development and job advancement opportunities, and loss of reputation and standing within the
19 community. Non-economic damages shall include but are not limited to past and future physical
20 pain, mental suffering, loss of enjoyment of life, inconvenience, grief, anxiety, humiliation,
21 emotional distress, that has been and/or will foreseeably be experienced by plaintiff, all to his
22 damage and detriment, in a sum according to proof at trial. Plaintiff contends that he was
23 subjected to numerous adverse employment actions, including but not limited to unfair and
24 excessive job performance criticism, a biased and fatally flawed promotion and selection policy,
25 negative performance appraisals, failure to promote, failure to promote to the position of
26 Battalion Chief, frivolous reprimands, denial of special assignments, contriving disciplinary
27 actions and compromising investigation, failure to allow time off to adhere to religious faith and
28 punishing the plaintiff for his religious beliefs and how he expressed his faith, sham discipline,

1 sham accusations or poor job performance or workplace misconduct, less desirable work
2 assignments, failure to promote, among many other adverse employment actions not specified
3 herein but which plaintiff has experienced and continues to experience with this employer.

4 130. Plaintiff is entitled to all compensatory damages recoverable under California
5 law, as well as costs and attorney's fees as provided by statute under California Government
6 Code Section 12965 and Code of Civil Procedure Sections 1032 and 1033.

7 131. Plaintiff does not allege a prayer for punitive damages against Defendant City of
8 Bakersfield as this would be improper under California Government Code Section 818. Plaintiff
9 does not seek recovery of punitive damages against Defendant City Bakersfield as this would be
10 improper under California Government Code Section 818.

11
12 **ELEVENTH CAUSE OF ACTION FOR DISPARATE TREATMENT –**
13 **DISCRIMINATION ON THE BASIS OF RELIGIOUS CREED IN VIOLATION OF**
14 **CALIFORNIA GOVERNMENT CODE SECTIONS 12900 & 12940 ET SEQ. AGAINST**
15 **DEFENDANT CITY OF BAKERFIELD AND DOES 1 THROUGH 100 INCLUSIVE.**

16 132. Plaintiff hereby incorporates by reference the allegations contained in Paragraphs
17 1 through 131 of this Complaint as though fully set forth herein.

18 133. Plaintiff's religious creed and/or other characteristics protected by FEHA,
19 California Government Code Sections 12900 and 12940 et seq., are motivating factors in
20 defendant's decision to terminate plaintiff's employment, not to retain, hire or otherwise employ
21 plaintiff in any position and/or take other adverse employment actions against the plaintiff. The
22 employer defendant's conduct, as alleged, violated FEHA, California Government Code Sections
23 12900 and 12940 et seq., and defendants committed unlawful employment practices including by
24 the following separate and statutory bases for liability:

- 25 (a) discharging; barring; failure to promote; failure to promote the position of Battalion
26 Chief; refusing to accommodate; refusing to transfer, retain, hire, select, or employee;
27 and/or otherwise discriminating against plaintiff in whole or in part on the basis of
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1 plaintiff's religious creed and/or other characteristics, in violation of California
2 Government Code Section 12940(a); and/or
3 (b) failing to take all reasonable steps to prevent discrimination, harassment, and
4 retaliation on the basis of plaintiff's religious creed and/or other characteristics, in
5 violation of California Government Code Section 12940(k).
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7 134. Plaintiff alleges as follows: (1) That the employer defendant is an employer; (2)
8 That plaintiff is an employee of the employer defendant; (3) That defendant engaged and
9 continues to engage in adverse employment actions towards the plaintiff on the basis of his
10 religion, his religious creed, his religious beliefs, and his religious expression – Jehovah's
11 Witness; (4) That plaintiff's religion, religious beliefs, religious creed, and religious expression
12 were and continue to be motivating reasons for the defendant's decision to fail to promote,
13 discipline and engage in other adverse employment actions towards the plaintiff; (5) That the
14 plaintiff was and continues to be harmed; and (6) That the plaintiff's religion, religious creed,
15 religious beliefs and religious expression were and continue to be substantial motivating reasons
16 for the defendant's decision to engage in adverse employment actions towards him as further
17 described and alleged in this lawsuit.

18 135. Plaintiff remains employed with the employer defendant doing his best to exist,
19 work, respect the rules of the work place that are ever changing/no enforced or disregarded by
20 management that is hostile and adverse towards the views and tenets of the Jehovah witness
21 faith. His undying love for the residents of the Bakersfield community is the only thing that
22 sustains him through this horrifying ordeal at the City of Bakersfield.

23 136. As a direct and legal result of defendant employer's unlawful employment
24 practices as alleged above, plaintiff suffered and continues to suffer economic and non-economic
25 damages to an extent and amount according to proof at the time of trial. Economic damages shall
26 include, but are not limited to, all claims for lost wages, benefits, salary increases and income,
27 both past and future, loss of promotions, loss of retirement benefits, loss of professional
28 development and job advancement opportunities, and loss of reputation and standing within the

1 community. Non-economic damages shall include but are not limited to past and future physical
2 pain, mental suffering, loss of enjoyment of life, inconvenience, grief, anxiety, humiliation,
3 emotional distress, that has been and/or will foreseeably be experienced by plaintiff, all to his
4 damage and detriment, in a sum according to proof at trial. Plaintiff contends that he was
5 subjected to numerous adverse employment actions, including but not limited to unfair and
6 excessive job performance criticism, a biased and fatally flawed promotion and selection policy,
7 negative performance appraisals, frivolous reprimands, failure to promote, failure to promote to
8 the position of Battalion Chief,, failure to allow time off to adhere to religious faith and
9 punishing the plaintiff for his religious beliefs and how he expressed his faith, sham discipline,
10 sham accusations or poor job performance or workplace misconduct, denial of special
11 assignments, contriving disciplinary actions and compromising investigation, less desirable work
12 assignments, failure to promote, among many other adverse employment actions not specified
13 herein but which plaintiff has experienced and continues to experience with this employer.

14 137. Plaintiff is entitled to all compensatory damages recoverable under California
15 law, as well as costs and attorney's fees as provided by statute under California Government
16 Code Section 12965 and Code of Civil Procedure Sections 1032 and 1033.

17 138. Plaintiff does not allege a prayer for punitive damages against Defendant City of
18 Bakersfield as this would be improper under California Government Code Section 818. Plaintiff
19 does not seek recovery of punitive damages against Defendant City Bakersfield as this would be
20 improper under California Government Code Section 818.

21
22 **TWELFTH CAUSE OF ACTION FOR DISPARATE IMPACT – DISCRIMINATION ON**
23 **THE BASIS OF RELIGIOUS CREED IN VIOLATION OF CALIFORNIA**
24 **GOVERNMENT CODE SECTIONS 12900 & 12940 ET SEQ. AGAINST DEFENDANT**
25 **CITY OF BAKERSFIELD AND DOES 1 THROUGH 100 INCLUSIVE.**

26 139. Plaintiff hereby incorporates by reference the allegations contained in Paragraphs
27 1 through 138 of this Complaint as though fully set forth herein.

1 140. Plaintiff's religious creed and/or other characteristics protected by FEHA,
2 California Government Code Sections 12900 and 12940 et seq., are motivating factors in
3 defendant's decision to terminate plaintiff's employment, not to retain, hire or otherwise employ
4 plaintiff in any position and/or take other adverse employment actions against the plaintiff. The
5 employer defendant's conduct, as alleged, violated FEHA, California Government Code Sections
6 12900 and 12940 et seq., and defendants committed unlawful employment practices including by
7 the following separate and statutory bases for liability:

8 (a) discharging; barring; refusing to accommodate; refusing to transfer, retain, hire,
9 failing to promote, failing to promote to the position of Battalion Chief, select, or
10 employee; and/or otherwise discriminating against plaintiff in whole or in part on the
11 basis of plaintiff's religious creed and/or other characteristics, in violation of California
12 Government Code Section 12940(a); and/or

13 (b) failing to take all reasonable steps to prevent discrimination, harassment, and
14 retaliation on the basis of plaintiff's religious creed and/or other characteristics, in
15 violation of California Government Code Section 12940(k).

16 141. Plaintiff claims that defendants had an employment practice and selection
17 process, that was not open to applicants and employees applying (this would include employees
18 seeking promotion within the Fire Department) who adhere to the Jehovah's Witness faith.
19 Plaintiff further alleges as follows: (1) That the employer defendant is an employer; (2) That
20 plaintiff is an employee of the employer defendant; (3) That the employer defendant had and
21 continues to have an employment practice or selection policy that was and continues to be
22 biased, unfair, discriminatory towards the plaintiff's religion, religious beliefs and religious
23 expression and hostile to persons who adhere to the Jehovah witness faith; (4) plaintiff is a
24 member of the Jehovah Witness faith; (5) That plaintiff was and continues to be harmed; (6) That
25 defendant's employment practice and selection policy that is hostile towards persons who adhere
26 to the Jehovah Witness faith, and is biased against plaintiff's religion, religious beliefs and
27 religious expression were and continue to be substantial factors in causing plaintiff's harm.
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1 142. Plaintiff remains employed with the defendant doing his best to exist, work,
2 respect the rules of the workplace that are ever changing/no enforced or disregarded by
3 management that is hostile to the Jehovah Witness faith. His undying love for the residents of
4 the Bakersfield community is the only thing that sustains him through this horrifying ordeal at
5 the City of Bakersfield.

6 143. As a direct and legal result of defendant employer's unlawful employment
7 practices as alleged above, plaintiff suffered and continues to suffer economic and non-economic
8 damages to an extent and amount according to proof at the time of trial. Economic damages shall
9 include, but are not limited to, all claims for lost wages, benefits, salary increases and income,
10 both past and future, loss of promotions, loss of retirement benefits, loss of professional
11 development and job advancement opportunities, and loss of reputation. Non-economic damages
12 shall include but are not limited to the fear, humiliation, emotional distress, and mental, or
13 emotional or physical pain and anguish that has been and/or will foreseeably be experienced by
14 plaintiff, all to his damage and detriment, in a sum according to proof at trial. Plaintiff contends
15 that he was subjected to numerous adverse employment actions, including but not limited to
16 unfair and excessive job performance criticism, the failure to promote, the failure to promote into
17 the Battalion Chief position, denial of special assignments, contriving disciplinary actions and
18 compromising investigation, a biased and fatally flawed promotion and selection policy, negative
19 performance appraisals, failure to allow time off to adhere to religious faith and punishing the
20 plaintiff for his religious beliefs and how he expressed his faith and his religious beliefs, sham
21 discipline, sham accusations or poor job performance or workplace misconduct, less desirable
22 work assignments, among many other actions not specified herein but which plaintiff has
23 experienced and continued to experience.

24 144. Plaintiff is entitled to all compensatory damages recoverable under California
25 law, as well as costs and attorney's fees as provided by statute for FEHA claims under
26 Government Code Section 12965.

27 145. Plaintiff does not allege a prayer for punitive damages against Defendant City of
28 Bakersfield as this would be improper under California Government Code Section 818. Plaintiff

1 does not seek recovery of punitive damages against Defendant City Bakersfield as this would be
2 improper under California Government Code Section 818.

3
4 **THIRTEENTH CAUSE OF ACTION FOR RETALATION FOR COMPLAINING**
5 **ABOUT DISCRIMINATION ON THE BASIS OF RELIGIOUS CREED IN VIOLATION**
6 **OF CALIFORNIA GOVERNMENT CODE SECTIONS 12900 & 12940 ET SEQ.**
7 **AGAINST DEFENDANT CITY OF BAKERSFIELD AND DOES 1 THROUGH 100**
8 **INCLUSIVE.**

9 146. Plaintiff hereby incorporates by reference the allegations contained in Paragraphs
10 1 through 145 of this Complaint as though fully set forth herein.

11 147. Plaintiff's religious creed (Jehovah's Witness) and other protected characteristics
12 protected by FEHA, California Government Code Sections 12900 and 12940 et seq., are
13 motivating factors in defendant's decision to terminate plaintiff's employment, not to retain, not
14 to promote, not to promote to the position of Battalion Chief, hire or otherwise employ plaintiff
15 in any position and/or take other adverse employment actions against the plaintiff.

16 148. The employer defendant's conduct, as alleged, violated FEHA, California
17 Government Code Sections 12900 and 12940 et seq., and defendants committed unlawful
18 employment practices including by the following separate and statutory bases for liability:

19 (a) discharging; barring; refusing to accommodate; refusing to transfer, retain, hire,
20 select, promote, promote the position of Battalion Chief, or employee; and/or otherwise
21 discriminating against plaintiff in whole or in part on the basis of plaintiff's religious
22 creed and/or other protected characteristics, in violation of California Government Code
23 Section 12940(a);

24 (b) harassing plaintiff and/or creating a hostile work environment in whole or in part on
25 the basis of plaintiff's religious creed and/or other protected characteristics in violation of
26 California Government code section 12940;

1 (c) Failing to take all reasonable steps to prevent discrimination, harassment, and
2 retaliation on the basis of plaintiff's religious creed and/or other protected characteristics
3 in violation of California Government Code Section 12940; and/or
4 (d) Retaliating against plaintiff are seeking to exercise rights guaranteed under the FEHA
5 and/or for opposing defendant's failure to provide such rights and/or the right to be free
6 of discrimination, in violation of California Government Code Section 12940.

7
8 149. The plaintiff further contends as follows: (1) That the plaintiff claims that he was
9 retaliated against on the basis of his religious creed (Jehovah Witness), for speaking out about
10 religious discrimination, and other protected activity; (2) That the employer defendant engaged
11 in various adverse actions against the plaintiff or subjected plaintiff to various adverse
12 employment actions; (3) That plaintiff's religious creed and/or protected activity was a
13 substantial motivating reason for the employer defendant's decision to engage in adverse
14 employment actions against plaintiff; (4) that plaintiff was harmed; and (5) that the defendant's
15 decision to fail to promote and to engage in other adverse employment actions against him was a
16 substantial factor in causing plaintiff's harm.

17 150. Plaintiff remains employed with the employer defendant doing his best to exist,
18 work, respect the rules of the work place that are ever changing/no enforced or disregarded by
19 management that has no tolerance of employees who adhere to the Jehovah Witness faith. His
20 undying love for the residents of the Bakersfield community is the only thing that sustains him
21 through this horrifying ordeal at the City of Bakersfield.

22 151. As a direct and legal result of defendant employer's unlawful employment
23 practices as alleged above, plaintiff suffered and continues to suffer economic and non-economic
24 damages to an extent and amount according to proof at the time of trial. Economic damages shall
25 include, but are not limited to, all claims for lost wages, benefits, salary increases and income,
26 both past and future, loss of promotions, loss of retirement benefits, loss of professional
27 development and job advancement opportunities, and loss of reputation and standing within the
28 community. Non-economic damages shall include but are not limited to past and future physical

1 pain, mental suffering, loss of enjoyment of life, inconvenience, grief, anxiety, humiliation,
2 emotional distress, that has been and/or will foreseeably be experienced by plaintiff, all to his
3 damage and detriment, in a sum according to proof at trial. Plaintiff contends that he was
4 subjected to numerous adverse employment actions, including but not limited to unfair and
5 excessive job performance criticism, failure to promote, failure to promote to the position of
6 Battalion Chief, denial of special assignments, contriving disciplinary actions and compromising
7 investigation, a biased and fatally flawed promotion and selection policy, negative performance
8 appraisals, frivolous reprimands, failure to allow time off to adhere to religious faith and
9 punishing the plaintiff for his religious beliefs and how he expressed his faith as a Jehovah's
10 Witness, sham discipline, sham accusations or poor job performance or workplace misconduct,
11 less desirable work assignments, failure to promote, among many other adverse employment
12 actions not specified herein but which plaintiff has experienced and continues to experience with
13 this employer.

14 152. Plaintiff is entitled to all compensatory damages recoverable under California
15 law, as well as costs and attorney's fees as provided by statute under California Government
16 Code Section 12965 and Code of Civil Procedure Sections 1032 and 1033.

17 153. Plaintiff does not allege a prayer for punitive damages against Defendant City of
18 Bakersfield as this would be improper under California Government Code Section 818. Plaintiff
19 does not seek recovery of punitive damages against Defendant City Bakersfield as this would be
20 improper under California Government Code Section 818.

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PRAYER

WHEREFORE, Plaintiff EDGAR QUINCY SLOAN seeks judgment against Defendants, and each of them, for the following:

(1) For general, compensatory and special damages including lost wages, lost employee benefits, loss of income, loss of promotion and career advancement opportunities, loss of retirement benefits at a higher salary if the promotion process was fair and unbiased, bonuses, benefits, mental and emotional distress, and other special and general damages according to proof at trial;

(2) For all economic damages permitted by law;

(3) For all non-economic damages permitted by law;

(4) For an award of interest, including prejudgment interest, at the legal rate;

(5) For an award to plaintiff of reasonable attorney's fees and costs as permitted by law and under Government Code Section 12965;

(6) For declaratory relief as requested herein and a declaration of rights including a Court Order ending the discriminatory, biased, flawed, unfair promotion and selection policies and practices, and harassing and retaliatory employment practices at the Fire Department directed at the plaintiff and other similarly situated employees;

(7) For declaratory relief as requested herein and a declaration of rights including a Court order that brings fairness, diversity, equity, and inclusivity to the City of Bakersfield and its Fire Department;

(8) For an award of punitive damages as against individual Defendants CHIEF ANTHONY GALAGAZA, CHIEF MICHAEL KELLY, DEPUTY CHIEF JOHN FRANDO, DEPUTY CHIEF TREVER MARTINUSEN, DEPUTY CHIEF WILLIAM BALLARD, (note *that the plaintiff does not seek any award of punitive damages against the City of Bakersfield, a public entity defendant and the plaintiff's employer as this is not proper under Government Code Section 818*); and

1 (9) For an award to Plaintiff of such other and further relief as this Court deems just
2 and proper.

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4 DATED: November 23, 2020

DOUMANIAN & ASSOCIATES

5
6 By: 

NANCY P. DOUMANIAN, ESQ.
Attorneys for Plaintiff,
EDGAR QUINCY SLOAN

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DATED: November 23, 2020

By: 
NANCY P. DOUMANIAN, ESQ.
Attorneys for Plaintiff,
EDGAR QUINCY SLOAN