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F I L E D
Clerk of the Superior Court
OCT 10 2013
BY _____
DEPUTY

5 Attorneys for Plaintiff STEVE CHOI

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8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **IN AND FOR THE COUNTY OF SAN DIEGO**

10 STEVE CHOI, an individual,

Case No.: 37-2013-00070994-CU-OE-CTL

11 Plaintiff,

**COMPLAINT FOR VIOLATIONS
OF THE CALIFORNIA FAIR
EMPLOYMENT & HOUSING
ACT, CIVIL RIGHTS
VIOLATIONS, DECLARATORY
RELIEF & INJUNCTIVE RELIEF**

12 v.

13 CITY OF SAN DIEGO, a public entity;
14 and DEPUTY CHIEF CRISS
15 BRAINARD, individually and in his
16 official capacity; and DOES ONE
through TEN, inclusive,

UNLIMITED CIVIL CASE

17 Defendants.

JURY TRIAL DEMANDED

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19 Plaintiff, STEVE CHOI, an individual, by the undersigned attorney, based
20 upon information and belief, and demanding a trial by jury, hereby files this
21 Complaint against Defendant CITY OF SAN DIEGO (the "City") and DEPUTY
22 CHIEF CRISS BRAINARD ("Brainard"), and alleges as follows:

23 **I.**

24 **NATURE OF ACTION**

25 1. This is an action brought upon pursuant to the California Fair
26 Employment & Housing Act, Cal. Govt. Code §§ 12900, *et seq.* ("FEHA") and 42
27 U.S.C. § 1981. It is brought by Plaintiff STEVE CHOI ("Plaintiff" or "Choi"), who
28

1 is an employee of the City's Fire-Rescue Department, against the City and
2 Brainard, the Deputy Chief in charge of Emergency Medical Services for the City's
3 Fire-Rescue Department (the "Department").

4 2. The federal Civil Rights Act was enacted, *inter alia*, for the purposes
5 of ensuring to all persons within the jurisdiction of the United States of America,
6 and all States and territories thereof, the full and equal benefit of all laws and
7 proceedings for the security of persons and property guaranteed to citizens by the
8 Constitution and other laws of the United States of America. 42 U.S.C. §1981.

9 3. The Fifth Amendment to the United States Constitution provides to all
10 the right to due process of law prior to an abridgment of the rights set forth in the
11 Fourth Amendment. The Fourteenth Amendment to the United States Constitution
12 enshrines these protections as against state governmental actors.

13 4. Plaintiffs also bring claims for relief for violations of the California
14 Fair Employment and Housing Act, which protects and safeguards the right and
15 opportunity of all persons to seek, obtain, and hold employment without
16 discrimination or abridgment on account of, among other things, race, color,
17 national origin, and ancestry.

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19 **II.**

20 **JURISDICTION AND VENUE**

21 5. Jurisdiction and venue are appropriate in this Court because the events
22 giving rise to the Plaintiffs' claims alleged herein occurred within this County.
23 Venue is also appropriate insofar as the Plaintiff and both of the Defendants reside
24 within this County.

25 **III.**

26 **PARTIES**

27 6. Plaintiff STEVE CHOI is an individual residing in the City of
28 San Diego, County of San Diego, State of California. He is currently employed by

1 Defendant CITY OF SAN DIEGO, in the San Diego Fire-Rescue Department as a
2 Fire Engineer.

3 7. Defendant CITY OF SAN DIEGO is a public entity and municipality
4 located within the County of San Diego, State of California. The San Diego Fire-
5 Rescue Department (the "Department") is a department within the CITY OF SAN
6 DIEGO answerable to, and ultimately controlled by, the Defendant.

7 8. Defendant DEPUTY CHIEF CRISS BRAINARD is the Deputy Chief
8 in charge of Emergency Medical Services for the Department and is, ultimately, the
9 individual who has acted to deny Plaintiff reinstatement to the position of
10 Paramedic as more specifically alleged hereinafter.

11 9. Plaintiff is informed and believes and thereon alleges that at all times
12 herein-mentioned, Defendants DOES ONE through TEN, inclusive, and each of
13 them, were individuals authorized to and doing business as managers, agents,
14 employees, subcontractors, independent contractors or otherwise on behalf of
15 Defendant CITY OF SAN DIEGO and at all relevant times were acting with the
16 authorization and/or ratification of Defendant CITY OF SAN DIEGO.

17 10. The full extent of the facts linking the fictitiously designated
18 Defendants with each cause of action alleged herein is unknown to Plaintiff, or the
19 true names or capacities, whether individual, plural, corporate, partnership,
20 associate or otherwise, of Defendants Does ONE through TEN, inclusive, and each
21 of them, are unknown to Plaintiff. Plaintiff therefore sues said Defendants by
22 fictitious names. Plaintiff is informed and believes and thereon alleges that each of
23 the Defendants designated herein as a Doe is negligently, recklessly, tortiously, and
24 unlawfully responsible in some manner for the events and happenings herein
25 referred to and negligently, tortiously, and unlawfully proximately caused the
26 injuries and damages thereby to Plaintiff as hereby alleged. Plaintiff will herein
27 seek leave of Court to amend this Complaint to show said Defendants' true names
28 and capacities after the same have been ascertained. Plaintiff is alleging claims for

1 relief against each DOE Defendant under every theory of recovery set forth herein.

2 **IV.**

3 **GENERAL ALLEGATIONS**

4 11. Although every active Department employee must be an Emergency
5 Medical Technician licensed by the County of San Diego to function as such, those
6 individuals licensed by the State of California (like Choi) to operate as a Paramedic
7 as provided premium pay for maintaining that license and functioning as such
8 during their employment with the Department.

9 12. At all times relevant to this Complaint, Choi has been licensed as both an
10 Emergency Medical Technician and a Paramedic and no action has been taken by
11 either the County of San Diego or the State of California against either of Choi's
12 respective licenses.

13 13. Nearly a decade ago, Choi was alleged by the Department and, later as a
14 result of this complaint the State, to have acted negligently while performing a
15 difficult procedure during his employment. The State of California determined that
16 no disciplinary action or action against Choi's license was warranted. Nevertheless,
17 the Department withdrew Choi from his position as a Paramedic.

18 14. Despite requesting reinstatement in view of the fact his licenses and
19 continuing education are current, Choi has been denied the right to reinstatement as
20 a Paramedic with the Department and, consequently, has been denied the premium
21 pay attendant to such a position.

22 15. Choi requested reinstatement through counsel as recently as April 25,
23 2013, but has been denied that relief. Choi has made several other requests which
24 have simply gone unanswered, which necessitated his decision to engage counsel in
25 this matter.

26 16. The reason Choi has not been reinstated is his Asian/Korean ancestry
27 and a long-standing culture within the Department alienating and ostracizing such
28 individuals. Choi has personally witnessed negative comments made towards

1 himself and, generally, those of Asian/Korean ancestry, in addition to the disparate
2 treatment of the same, by Criss Brainard, Deputy Chief EMS for the Department.
3 Throughout his career, Plaintiff has been called names such as, "Bock Choy", "Hop
4 Sing" and other racially offensive names, including by Defendant Brainard.
5 Brainard is the individual who is charged with the responsibility of determining
6 Choi's reinstatement request and has, consistently, whether explicitly or by a
7 purposeful failure to act, denied Choi's reinstatement despite the fact he meets are
8 requirements for the position.

9 17. Because Brainard, an individual, has acted intentionally in this matter, he
10 is amenable to imposition of punitive damages if so found by a jury at trial.
11 Accordingly, such damages are sought against Brainard only in this matter.

12 18. Because Choi has incurred costs and attorney's fees in pursuing this
13 matter, and because they were necessitated by the Department's unlawful conduct in
14 violation of, inter alia, the California Fair Employment and Housing Act, Choi also
15 seeks an award of attorney's fees and costs for being forced to pursue his claim, as
16 well as all other general and special damages available to him, as against all
17 respondents.

18 19. To the extent allowed by law, Choi seeks an injunction to force the
19 Department to reinstate him to paramedic.

20 20. Choi further seeks all other and further relief the superior court may
21 deem just and proper.

22 **V.**

23 **FIRST CAUSE OF ACTION**
24 **42 U.S.C. § 1983 -- CIVIL RIGHTS**
25 **(AGAINST ALL DEFENDANTS)**

26 21. Plaintiff realleges and incorporates by reference the allegations, as
27 more fully set forth above in Paragraphs One (1) through Twenty (20) of this
28 Complaint as if set forth at length herein.

22. The Defendants, and each of them, while acting under color of law

1 possess the same credentials are allowed to function as Paramedics for the
2 Department, despite the Department and Brainard's refusal to allow Choi to do so.

3 27. The Department and Brainard have required Choi to "jump through
4 hoops" in relation to his credentialing not required of other personnel within the
5 Department in order to keep his job.

6 28. Choi has maintained in good standing his Paramedic license issued by
7 the State of California Emergency Medical Services Authority in 1998 and certified
8 by the County of San Diego Emergency Medical Services authority. The pervasive
9 discriminatory attitude regarding Asian/Korean individuals within the Department
10 is the reason Choi has not been reinstated to Paramedic despite his several requests.

11 29. Defendants' conduct in this regard, as described above, with
12 knowledge and in disregard of the discriminatory impact of that conduct, violates
13 the above-mentioned federal and state statutes.

14 30. Prior to filing this lawsuit, Choi obtained from the Department of fair
15 Employment & Housing in Matter No. 173197-72931-R a right-to-sue notice as
16 against all Defendants.

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18 **VII.**
19 **FOURTH CAUSE OF ACTION**
20 **FOR DECLARATORY RELIEF**
21 **(AGAINST ALL DEFENDANTS)**

22 31. Plaintiffs reallege and incorporate by reference the allegations, as
23 more fully set forth above in Paragraphs One (1) through Thirty (30) of this
24 Complaint as if set forth at length herein.

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VIII.
FIFTH CAUSE OF ACTION
FOR INJUNCTIVE RELIEF
(AGAINST ALL DEFENDANTS)

31. Plaintiffs reallege and incorporate by reference the allegations, as more fully set forth above in Paragraphs One (1) through Thirty-One (31) of this Complaint as if set forth at length herein.

IX.
PRAYER FOR RELIEF

32. WHEREFORE, Plaintiffs pray for Judgment in their favor, and against Defendant CITY OF SAN DIEGO, Defendant CRISS BRAINARD, and Defendants DOES 1-10, inclusive, jointly and severally to the extent jointly sued, as follows:

- A. General Damages;
- B. Special Damages
- C. Punitive Damages (as to Defendant Brainard Only);
- D. Declaratory and Injunctive Relief;
- E. Reasonable Attorney Fees;
- F. Cost of suit; and
- G. For such other and further relief as may be just and proper.

Dated: September 12, 2013 LAW OFFICES OF CHRISTOPHER C. SALDAÑA

By: 

Christopher C. Saldaña
Attorneys for Plaintiff STEVE CHOI

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X.

DEMAND FOR JURY TRIAL

PLEASE TAKE NOTICE that Plaintiff demands a trial by jury against the Defendants, and each of them, for each cause of action so triable.

Dated: September 12, 2013 LAW OFFICES OF CHRISTOPHER C. SALDAÑA

By: 
Christopher C. Saldaña
Attorneys for Plaintiff STEVE CHOI