

Assigned for all purposes to: Stanley Mosk Courthouse, Judicial Officer: Patricia Nieto

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SHAWN BONFIELD

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8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA,**
9 **COUNTY OF LOS ANGELES**

10 SHAWN BONFIELD, an individual,

11 Plaintiff,

12 v.

13
14 CITY OF EL SEGUNDO; EL SEGUNDO
FIRE DEPARTMENT; FIRE CHIEF
15 CHRIS DONOVAN; and DOES 1-100,

16 Defendants.
17

Case No. 20STCV48677

COMPLAINT FOR:

1. AGE DISCRIMINATION
2. HARASSMENT BASE ON AGE

DEMAND FOR JURY TRIAL

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19 Plaintiff SHAWN BONFIELD, for his Complaint against Defendants CITY OF EL
20 SEGUNDO, EL SEGUNDO FIRE DEPARTMENT and FIRE CHIEF CHRIS DONOVAN and
21 DOES 1 - 100, inclusive, alleges:

22 **PARTIES**

23 1. At all times herein mentioned, Plaintiff SHAWN BONFIELD ("Plaintiff") was
24 employed by the City of El Segundo ("City") and the El Segundo Fire Department ("ESFD"),
25 holding the rank of Battalion Chief and is an individual over the age of eighteen residing in Kern
26 County, California.

27 2. Plaintiff is informed and believes and thereon alleges that at all times herein
28 mentioned, Defendant City was a municipal public entity under the laws of California, violating

1 laws within the State of California, County of Los Angeles. At all times pertinent hereto,
2 Defendant City owned, controlled, and operated that agency known as the El Segundo Fire
3 Department (“ESFD”), also a defendant in this action.

4 3. Plaintiff is informed and believes and thereon alleges that at all times herein
5 mentioned, Defendants City and ESFD were the employers of Defendants Fire Chief Chris
6 Donovan, and DOES 1-50, who were managerial, supervisory, and policy making employees of
7 ESFD and City, and DOES 51-100 who at all relevant times, were residents of Los Angeles
8 County, California, and were working generally for and in the City of El Segundo, California.

9 4. Chief Chris Donovan and DOES 1-100 were employed by Defendants City and/or
10 ESFD and were acting within the course and scope of their employment with Defendants City
11 and/or ESFD and on behalf of Defendants City and/or ESFD and with authority as such agents and
12 employees and with the consent and ratification of their co-Defendants and City and/or ESFD.

13 5. At all relevant times Fire Chief Chris Donovan and DOES 1-100 were duly
14 appointed supervising fire fighters and/or employees and/or agents of the City and/or ESFD,
15 subject to oversight and supervision by City’s elected and non-elected officials.

16 6. The true names and capacities, whether corporate, associate, individual, or
17 otherwise, of Defendants DOES 1-100 are unknown to Plaintiff, who therefore sues said
18 Defendants by such fictitious names. Each of the Defendants designated herein as a DOE is
19 negligently or otherwise legally responsible in some manner for the events and happenings herein
20 referred to, and caused injuries and damages proximately thereby to Plaintiff, as herein alleged.
21 Plaintiff will amend this Complaint to show their names and capacities when they have been
22 ascertained.

23 7. At all times herein mentioned, Defendants were the agents, servants, and
24 employees of each other, and at all times relevant hereto were acting within the course and scope
25 of their authority as agents, servants, and/or employees and acting on the implied and actual
26 permission and consent of the City and/or ESFD.

27 8. Fire Chief Chris Donovan (“Chief Donovan” or “Donovan”) is sued in his
28 individual and official capacities.

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

2 9. Plaintiff has been employed as a firefighter by City in the ESFD, since November
3 4, 1991, more than twenty-nine years. Plaintiff became a Battalion Chief in the ESFD in or
4 around October 2015 and remains employed in that capacity.

5 10. Plaintiff's date of birth is August 31, 1966. He is age 54.

6 11. Plaintiff is informed and believes and thereon alleges that Defendant Donovan
7 became Chief of the ESFD in or around 2016.

8 12. Plaintiff is informed and believes and thereon alleges that since becoming Fire
9 Chief, Donovan has engaged in a course of conduct designed to force older employees,
10 particularly those over age 50, to leave the employ of the ESFD so Donovan can replace them
11 with substantially younger employees.

12 13. Plaintiff is informed and believes and thereon alleges that in furtherance of that
13 plan Donovan has refused to promote older employees, particularly those over age 50, giving such
14 promotions to lesser qualified substantially younger employees.

15 14. Plaintiff is informed and believes and thereon alleges that in furtherance of that
16 plan, Donovan has demoted older employees, particularly those over age 50, replacing them with
17 lesser qualified substantially younger employees.

18 15. Plaintiff is informed and believes and thereon alleges that consistent with and in
19 furtherance of Donovan's desire to rid ESFD of older employees, upon becoming Fire Chief,
20 Donovan embarked on a course of conduct designed to force Plaintiff to leave the ESFD, because
21 of Plaintiff's age. This conduct was pervasive and occurred almost daily.

22 16. Donovan's actions included demanding that Plaintiff self-demote to Captain,
23 shunning Plaintiff, excluding Plaintiff from staff meetings that he needed to attend to comply with
24 his duties as Battalion Chief, berating Plaintiff with unwarranted criticism in the presence of
25 colleagues and giving Plaintiff last minute assignments the deadlines of which were impossible to
26 meet.

27 17. Donovan's conduct as described herein continued through 2016, 2017, 2018, 2019
28 and into 2020 and remained pervasive.

1 18. Frustrated that his efforts to force Plaintiff to leave ESFD had not come to fruition,
2 on February 19, 2020, Donovan demanded that Plaintiff retire. Plaintiff refused, advising
3 Donovan that he had no intention of retiring until November 2021 at the earliest when he would be
4 age 55. Donovan responded that Plaintiff would retire in December 2020. Plaintiff again refused.

5 19. Due to Plaintiff's refusal to retire, Donovan's age-motivated and pervasive
6 treatment of Plaintiff as alleged herein continued.

7 20. On March 27, 2020, Donovan and Plaintiff met privately at Donovan's request on
8 the premises of ESFD. Donovan berated Plaintiff, telling Plaintiff that he was not meeting
9 performance standards, was an ineffective leader and "dropped the ball on everything."

10 21. None of DONOVAN's purported criticism was valid. Rather, it was a pretext for
11 DONOVAN's continued unlawful effort to force Plaintiff to leave the ESFD because of his age.
12 The truth was that Plaintiff was an excellent employee. In Plaintiff's most recent annual written
13 performance appraisal on December 9, 2019, Plaintiff had received the maximum allowable merit
14 salary increase – 5%.

15 22. As a result of Donovan's continual mistreatment, over the years Plaintiff had
16 suffered extreme emotional distress, including anxiety, insomnia and panic attacks, and related
17 physical maladies, all of which had caused him to seek medical treatment and resulted in
18 hospitalizations.

19 23. After and because of the March 27, 2020 meeting with Donovan, Plaintiff's
20 emotional and physical maladies increased to such a level that he was forced to take medical
21 leave. Plaintiff remains on medical leave to date.

22 24. After Plaintiff commenced medical leave, Donovan placed into the Battalion Chief
23 position that had been vacated by Plaintiff two substantially younger employees. Consistent with
24 his age-related prejudice Donovan refused to place into that position a more qualified ESFD
25 Captain who is over age 50.

26 25. Both City and ESFD regularly employ five or more employees and therefore City
27 and ESFD are employers as that term is defined in *Government Code* § 12926(d).

28 26. On December 3, 2020, Plaintiff filed an administrative complaint with the
Department of Fair Employment and Housing ("DFEH") alleging discrimination based on age and

1 age related harassment in violation of the *Fair Employment & Housing Act (Government Code*
2 *§§ 12900 et seq.)* and naming as respondents, City, ESFD and Donovan. That same day, the
3 DFEH issued to Plaintiff a Right To Sue Notice.

4 **FIRST CAUSE OF ACTION**

5 **Age Discrimination In Violation of *Government Code § 12940(a)***

6 **(Against Defendants City, ESFD and DOES 1-100)**

7 27. Plaintiff repeats and realleges each of the allegations set forth above.

8 28. *Government Code § 12940(a)* prohibits an employer from discriminating against an
9 employee in terms and conditions of employment because of the employee's age.

10 29. Defendants discriminated against Plaintiff because of his age by in effect forcing
11 him to leave active employment as a Battalion Chief and go on medical leave.

12 30. As a direct, foreseeable and proximate result of Defendants' discriminatory
13 conduct, individually and collectively, Plaintiff suffered and continues to suffer humiliation,
14 embarrassment, anxiety, mental anguish and emotional distress and related physical maladies.
15 Said conduct has adversely affected his personal health and well-being, which includes medical
16 expenses and that may include medical expenses that are anticipated into the future and may force
17 an early retirement. Plaintiff's damages are continuing, in an amount not yet determined, but in
18 excess of the jurisdictional minimum of this Court.

19 31. As a direct, foreseeable and proximate result of the Defendants' discriminatory
20 conduct, individually and collectively, Plaintiff suffered and continues to suffer losses in earnings
21 and other employment benefits all to his damage in an amount in excess of the minimum
22 jurisdictional limits of this Court, the precise amount of which will be proven at trial.

23 32. As a further legal result of the above-described conduct of Defendants, and each of
24 them, Plaintiff has and will continue to incur attorneys' fees and costs in an amount according to
25 proof. Plaintiff is entitled to an award of attorneys' fees and costs under *Government Code*
26 *§ 12965(b)*.

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1 SECOND CAUSE OF ACTION

2 **Harassment Base on Age in Violation of *Government Code* § 12940(j)(1)**
3 **(Against Defendants City, ESFD, Donovan and DOES 50-100)**

4 33. Plaintiff repeats and realleges each of the allegations set forth above.

5 34. *Government Code* § 12940(j)(1) prohibits an employer and that employer's
6 supervisors from harassing an employee because of his age.

7 35. At all times material herein, Donovan was a supervisor and agent in the employ of
8 City and ESFD, acting within the course and scope of said agency and supervisory authority.

9 36. The conduct ascribed to DONOVAN herein was pervasive and was motivated by
10 Plaintiff's age.

11 37. DONOVAN's conduct, as described herein, was so severe as to, and did, create an
12 environment so hostile as to adversely affect the terms and conditions of the employment of any
13 reasonable person and did adversely affect the terms and conditions of Plaintiff's employment
14 ultimately causing him to take and remain on medical leave.

15 38. The conduct of DONOVAN as described herein violated *Government Code*
16 § 12940(j)(1), because it was motivated by Plaintiff's age and a desire to force Plaintiff to leave
17 the employ of City and ESFD because of his age.

18 39. As a direct, foreseeable and proximate result of Defendants' conduct, individually
19 and collectively, Plaintiff suffered and continues to suffer humiliation, embarrassment, anxiety,
20 mental anguish and emotional distress and related physical maladies. Said conduct has adversely
21 affected his personal health and well-being, which includes medical expenses and may include
22 medical expenses that are anticipated into the future and may force an early retirement. Plaintiff's
23 damages are continuing in an amount not yet determined, but in excess of the jurisdictional
24 minimum of this Court.

25 40. As a direct, foreseeable and proximate result of the Defendants' conduct,
26 individually and collectively, Plaintiff suffered and continues to suffer losses in earnings and other
27 employment benefits all to his damage in an amount in excess of the minimum jurisdictional limits
28 of this Court, the precise amount of which will be proven at trial.

1 41. At all times mentioned herein, Donovan was aware of the importance to Plaintiff of
2 his position as Battalion Chief, his career with ESFD and the prestige of that position and career
3 in the firefighting community and that depriving Plaintiff of his position and career would cause
4 Plaintiff extreme emotional and physical distress and irreparable harm to Plaintiff's reputation in
5 the fire-fighting community. As such, Donovan's conduct was malicious as that term is defined in
6 *Civil Code* § 3294(c)(1) in that such conduct is despicable and Donovan intended to cause injury
7 to Plaintiff and Donovan acted with a willful and conscious disregard of Plaintiff's rights. As such,
8 Plaintiff is entitled to an award of punitive damages against Chief Donovan pursuant to *Civil Code*
9 § 3294(a).

10 42. Plaintiff is entitled to recover attorney fees pursuant *Government Code* § 12965(b).

11 **PRAYER FOR RELIEF**

12 WHEREFORE, Plaintiff requests entry of judgment in his favor and against Defendants
13 City of El Segundo, ESFD and Donovan in his individual and official capacities, and DOES 1 –
14 100 in their individual and official capacities, inclusive, as follows:

- 15 A. For compensatory damages, in an amount to be proven at trial;
- 16 B. For medical expenses and loss of earnings, in an amount to be proven at trial;
- 17 C. For consequential damages, in an amount to be proven at trial;
- 18 D. For punitive damages against the individual defendants, including DONOVAN, in an
19 amount to be proven at trial;
- 20 E. For prejudgment interest;
- 21 F. For reasonable costs of the suit and attorneys' fees pursuant to statute; and

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G. For such further and other relief as the Court may deem just, proper, and appropriate.

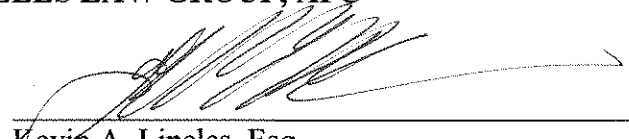
DEMAND FOR JURY TRIAL

Plaintiff demands trial by jury on all causes of action and claims alleged herein.

DATED: December 15, 2020

RESPECTFULLY SUBMITTED,
LIPELES LAW GROUP, APC

By:



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