

# SUMMONS (CITACION JUDICIAL)

FOR COURT USE ONLY  
(SOLO PARA USO DE LA CORTE)

### NOTICE TO DEFENDANT: (AVISO AL DEMANDADO):

City and County of San Francisco, and Does 1 through 10, inclusive.

### YOU ARE BEING SUED BY PLAINTIFF: (LO ESTÁ DEMANDANDO EL DEMANDANTE):

Keith Baraka, an individual

**NOTICE!** You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), or by contacting your local court or county bar association. NOTE: The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. ¡AVISO! Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), en el Centro de Ayuda de las Cortes de California, ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)) o poniéndose en contacto con la corte o el colegio de abogados locales. AVISO: Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:  
(El nombre y dirección de la corte es):

Superior Court of California, County of San Francisco, 400 McAllister Street  
San Francisco, CA 94107

CASE NUMBER (Número del caso)  
**CC-20-587897**

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is: (El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Angela Alioto, Angela Mia Veronese, 700 Montgomery Street, 3rd Floor, SF, CA 94111 (415) 434-8700

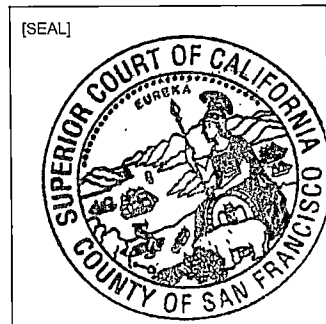
DATE: **NOV 20 2020**  
(Fecha)

CLERK OF THE COURT

Clerk, by , Deputy  
(Secretario) (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)  
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010).)

**SANDRA L. SCHIRO**



### NOTICE TO THE PERSON SERVED: You are served

- as an individual defendant.
- as the person sued under the fictitious name of (specify):
- on behalf of (specify):  
under:  CCP 416.10 (corporation)  CCP 416.60 (minor)  
 CCP 416.20 (defunct corporation)  CCP 416.70 (conservatee)  
 CCP 416.40 (association or partnership)  CCP 416.90 (authorized person)  
 other (specify):
- by personal delivery on (date)

1 Angela M. Alioto (SBN 130328)  
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15 Attorneys for Plaintiff KEITH BARAKA

16 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
17 **FOR THE COUNTY OF SAN FRANCISCO**

18 KEITH BARAKA, an individual,  
19  
20 Plaintiff,

21 v.

22 CITY AND COUNTY OF SAN FRANCISCO,  
23 and Does 1 through 10, inclusive,  
24  
25 Defendants.

CASE NO. **CGC -20-587897**

COMPLAINT FOR DAMAGES:

1. DISCRIMINATION BASED ON SEXUAL ORIENTATION IN VIOLATION OF FEHA;
2. RACE DISCRIMINATION IN EMPLOYMENT-FEHA
3. HARASSMENT IN VIOLATION OF FEHA;
4. UNLAWFUL RETALIATION FOR OPPOSING DISCRIMINATION BASED ON SEXUAL ORIENTATION IN VIOLATION OF FEHA UNLAWFUL RETALIATION FOR OPPOSING RACE DISCRIMINATION IN VIOLATION OF FEHA;
5. UNLAWFUL RETALIATION FOR OPPOSING DISCRIMINATION BASED ON GENDER IDENTITY IN VIOLATION OF FEHA
6. FAILURE TO TAKE REASONABLE STEPS TO INVESTIGATE AND

**FILED**  
San Francisco County Superior Court

NOV 20 2020

CLERK OF THE COURT  
BY: Sandra Schio  
Deputy Clerk

1 PREVENT DISCRIMINATION,  
2 HARASSMENT, AND RETALIATION  
3 IN VIOLATION OF FEHA; AND  
4 7. INTENTIONAL INFLICTION OF  
5 EMOTIONAL DISTRESS;

6 DEMAND FOR JURY TRIAL

7 Plaintiff KEITH BARAKA (“Mr. Baraka” or “Plaintiff”) alleges as follows:

8 **I. PRELIMINARY STATEMENT**

9 Plaintiff Keith Baraka joined the ranks of the San Francisco Fire Department in 1997. As a  
10 black and gay individual, he thought he found his dream job after moving to San Francisco from  
11 his native Ohio. After 23 years of employment, Mr. Baraka still enjoys the honorable work of  
12 being a firefighter and being in service to his community. However, he has not enjoyed working  
13 for the San Francisco Fire Department. At Station 6, located in the heart of the Castro, he was the  
14 only openly gay firefighter assigned to the station. During his time at Station 6, Mr. Baraka not  
15 only witnessed maltreatment of the neighborhood residents because of their sexual orientation and  
16 gender identity by his fellow firefighters—he was also a target of similar harassment himself. Mr.  
17 Baraka was consistently harassed based on his race and sexual orientation. His locker was broken  
18 into, his name was erased from the assignment board, when he entered the room, all non-black  
19 personnel would leave. This went on for many years. This treatment occurred within the ranks of  
20 his peers and was further sanctioned by his supervisors. Instead of disciplining Mr. Baraka’s co-  
21 workers for engaging in discriminatory behavior, it was Mr. Baraka who was disciplined. The  
22 disciplinary process has continued to be weaponized against Mr. Baraka because he has spoken  
23 out about the discrimination he has experienced and has come to the aid of others who have  
24 experienced similar discrimination. The San Francisco Fire Department continues to resist efforts  
25 to diversify its ranks. When brave individuals like Mr. Baraka speak out against the discrimination  
26 pervasive throughout the department, its leadership takes active measures to single out those  
27 individuals and unlawfully punish them.

28 The Chief of Department, Jeanine Nicholson recently admitted to the fact that the department  
has failed to adequately recruit diverse candidates for employment. And she admitted the fact that

1 barriers to promotion for members of the Department's diverse ranks were issues known to the  
2 management and to her when she ascended to the role of Chief. Thus, it is clear that there is  
3 rampant discrimination within the Department and those in management positions were aware of  
4 this fact. Mr. Baraka has been one of its victims. In response to the Department's discriminatory  
5 conduct against Mr. Baraka, he hereby sues for relief under the California Fair Employment and  
6 Housing Act ("FEHA").

## 7 II. JURISDICTION AND VENUE

8 1. Jurisdiction and venue are proper in this Court because some or all of the claims  
9 alleged herein arose in San Francisco County and some or all of the parties were and/or are  
10 residents of San Francisco County or are doing or did business in San Francisco County at all times  
11 relevant herein.

12 2. The amount in controversy in this matter exceeds the sum of \$25,000.00, exclusive of  
13 interest and costs.

14 3. Plaintiff has met all of the jurisdictional requirements for proceeding with his claims  
15 under the Fair Employment and Housing Act ("FEHA"), codified at California Government Code,  
16 Sections 12940, *et. seq.*, and 12960, *et. seq.*, by timely filing administrative complaints with the  
17 Department of Fair Employment and Housing ("DFEH") and receiving Notice of Case Closure and  
18 a Right to Sue letter. In addition, Plaintiff has complied with the Requirements of California  
19 Government Code Section 12962 by serving Defendants with his DFEH Charge and Right-to-Sue  
20 Letter.

## 21 III. PARTIES

22 4. Plaintiff KEITH BARAKA is an individual who at all times pertinent to this lawsuit  
23 was a resident of the County of San Francisco, State of California. Plaintiff is entitled to the  
24 protections of the Fair Employment and Housing Act ("FEHA") because he is black and gay.  
25 Plaintiff has been employed by Defendant employers since July, 1997.

26 5. Defendant City and County of San Francisco ("CCSF") is and/or was the employer  
27 of the Plaintiffs herein. Except for Human Resources Director Micki Callahan and other Human  
28

1 Resources personnel, all individuals referred to herein are or were employed within the SFFD.  
2 Accordingly, as used in this complaint “SFFD” and “Fire Department” refer to “employer.”  
3 Plaintiffs are ignorant of the true names or capacities of the defendants sued here under the  
4 fictitious names DOE 1 through DOE 20, inclusive. Plaintiff is informed and believes that each  
5 DOE defendant was responsible in some manner for the occurrences and injuries alleged in this  
6 complaint.

7 6. At all times mentioned in the causes of action into which this paragraph is  
8 incorporated by reference, each and every defendant was the agent or employee of each and every  
9 other defendant. In doing the things alleged in the causes of action into which this paragraph is  
10 incorporated by reference, each and every defendant was acting within the course and scope of the  
11 agency or employment and was acting with the consent, permission, and authorization of each  
12 remaining defendant. All actions of each defendant alleged in the causes of action into which this  
13 paragraph is incorporated by reference were ratified and approved by the officers or managing  
14 agents of every other defendant.

#### 15 **IV. EXHAUSTION OF ADMINISTRATIVE REMEDIES**

16 7. Plaintiff has fully exhausted his statutory administrative remedies.

#### 17 **V. STATEMENT OF FACTS**

18 8. On or about July 30, 2020, in public remarks at City of San Francisco Supervisor  
19 meeting, the current Chief of the San Francisco Fire Department Jeanine Nicholson stated “we are  
20 not doing a good job in terms of recruiting a good amount of diverse candidates.” She also stated  
21 that barriers to promotion for those employees from diverse backgrounds were among the issues  
22 she knew the department needed to address when she became chief in 2019.

23 9. Keith Baraka started his 23 year-long career with the SFFD in July, 1997 as a  
24 Miscellaneous Employee while being trained on-the-job. This assignment was fairly standard for  
25 new hires.

26 10. In November of 1997, Mr. Baraka was hired as an H-2 Firefighter and placed on  
27 one year probation. This was also a standard assignment for new hires for this class of employee.  
28

1           11. Mr. Baraka served his probationary term at Station 1. At the end of his time there,  
2 he was pulled aside by a fellow firefighter who was more senior and had mentored Mr. Baraka. He  
3 warned Mr. Baraka that the culture of the department was such that for him to be an out and black  
4 gay man would be difficult for other employees to accept. It would not be easy for him going  
5 forward. Mr. Baraka had not experienced anything negative at this point, but that would soon  
6 change.

7           12. Starting in January, 1999, Mr. Baraka was assigned to Station 18. He remained  
8 there for 3 years.

9           13. The harassment started at Station 18 when Mr. Baraka was routinely singled out by  
10 his supervisor, Captain Mike Ahumada for being an out, gay man. He frequently subjected Mr.  
11 Baraka to racist jokes as well. Mr. Baraka filed his first EEO complaint while he worked at Station  
12 18.

13           14. Starting in January of 2002, Mr. Baraka was assigned to Station 6 as an Assigned  
14 EMT and later as a Driver on Engine 6. Station 6 is located in the Castro neighborhood of San  
15 Francisco.

16           15. One of the first things Mr. Baraka did was to put a rainbow sticker on his helmet in  
17 order to communicate that he was member of the community that was being served by Station 6.  
18 The image and colors of the rainbow are a symbol of gay pride and visibility.

19           16. It was at Station 6 that Mr. Baraka experienced being a target of discrimination from  
20 both his peers *and* from the management staff. He was the only out gay and black firefighter at the  
21 stationhouse. A station that was situated in the heart of the Castro, the epicenter of the Lesbian,  
22 Gay, Bisexual, Transgender and Queer (LGBTQ) community in San Francisco.

23           17. While at Station 6, Mr. Baraka was denied the opportunity to be an engine driver, a  
24 prestigious and competitive role at each station house. Other non-black firefighters at the station  
25 and less senior to him were given these opportunities before he was given one.

26           18. At Station 6, Mr. Baraka was denied the opportunity to serve in other "premium"  
27 and sought after shifts. Shifts that other, less senior and non-black firefighters were given ahead of  
28 him.

1           19. Mr. Baraka's locker was broken into several times while he worked at Station 6.  
2 His personal objects were stolen and/or destroyed.

3           20. When Mr. Baraka would enter the stationhouse kitchen and greet the occupants, all  
4 non-black individuals, they would all stand up and leave the room.

5           21. Mr. Baraka was called names such as "faggot" and "sissy"—derogatory terms used  
6 against those who are gay or perceived as gay.

7           22. Mr. Baraka was called "sambo," a racial epithet.

8           23. Mr. Baraka would write requests to trade shifts on the stationhouse white board, a  
9 common way to solicit coverage for an assigned shift. His name was often erased shortly after he  
10 wrote it.

11           24. At one point, members of Station 6 were featured in a local magazine, called 7X7.  
12 Mr. Baraka was present for the group photo and wore his helmet with the rainbow pride sticker. It  
13 was visible in the photograph. The magazine cover was framed and hung on the wall of the  
14 stationhouse. Shortly after, Mr. Baraka observed that it was on the floor and broken. He was told  
15 by another firefighter "We don't want that picture in here."

16           25. In one instance, after already being signed in for his shift and in uniform, Captain  
17 Ray Guzman called roll call (a rare occurrence at Station 6). Mr. Baraka was in another part of the  
18 stationhouse. Given this unexpected and rare event, he made his way to the roll call as soon as he  
19 was aware it was happening. He was one minute late. Later that day, Captain Guzman  
20 reprimanded for Mr. Baraka being tardy even though he was signed in and in uniform at the time of  
21 the roll call (which was the custom at Station 6 at that time). This occurred shortly after Captain  
22 Guzman's arrival to Station 6. He had made it clear what he thought of Mr. Baraka at that time.

23           26. After years of dealing with the stress of being the target of discrimination and his  
24 superiors participating in that conduct or turning a blind eye toward it, Mr. Baraka began to  
25 experience a great deal of stress. He began to struggle with mental health issues.

26           27. As part of his therapy and coping with the mental health stress he was enduring, Mr.  
27 Baraka worked with a therapy dog. He requested and received oral permission from Captain  
28 Driscoll to bring this dog to the stationhouse with him. He brought his therapy dog to the

1 stationhouse on at least three occasions without incident. Despite having Captain Driscoll's  
2 permission, Mr. Baraka was ordered by Acting Captain Mark Castagnola to remove the dog from  
3 the station. Despite the fact that Captain Castagnola had been present at the prior occasions when  
4 Mr. Baraka brought his dog and said nothing, he filed a formal complaint and initiated disciplinary  
5 charges against Mr. Baraka without honoring the progressive discipline requirements and giving a  
6 warning. Subsequent to this, Mr. Baraka was disciplined with an 8 day suspension. He challenged  
7 the discipline and it was reduced to 2 days. Dogs at firehouses are a frequent mainstay and other  
8 non-black firefighters have frequently brought their dogs to the stationhouses. However, only Mr.  
9 Baraka was ever levied with an 8 day suspension for doing so.

10 28. Because Mr. Baraka challenged the disparate discipline he received, he began  
11 experiencing retaliatory conduct from his superiors. He filed complaints with the Department of  
12 Human Resources (DHR) and they were ignored. Only because Mr. Baraka was persistent in  
13 following up on these complaints for months, did DHR conduct a paltry investigation. DHR did  
14 not take any action against the individuals complained of by Mr. Baraka.

15 29. There was so much disdain for Mr. Baraka's presence at Station 6, he was offered  
16 money to leave the assignment. He did not accept.

17 30. After nearly 11 years at Station 6, Mr. Baraka finally requested a new assignment.  
18 He moved to Station 21. On one of his last days at Station 6, Mr. Baraka found a note in his  
19 locker. It read, "Good bye, Good Riddance, Bitch!!"

20 31. On at least two separate occasions, Mr. Baraka was asked by a senior official,  
21 Captain Anita Paratley, if he was HIV positive.

22 32. Captain Paratley, a non-black individual, co-presented a cultural competency class  
23 with Mr. Baraka for new recruits for which she developed materials that included the use of the  
24 "N" word. She did not disclose these materials to Mr. Baraka ahead of time, so he was unaware of  
25 the content until she produced them in the training. The use of the term in the materials was  
26 extremely offensive to Mr. Baraka and to the other Black/African-American recruits in the training  
27 (as they later relayed to the Chief of the Department in a letter). Mr. Baraka ended the session and  
28 addressed the impropriety of using such materials in a cultural competence training. At SFFD, it is



1 unacceptable to point out the failings of one's superiors and Mr. Baraka would experience  
2 retaliation for speaking out publicly about Captain Paratley's use of the "N" word.

3 33. An EEO complaint was filed regarding the "N" word incident. After conducting an  
4 extensive investigation with several members of the probationary class who were present in the  
5 cultural competency training, DHR administratively closed the complaint. No one was disciplined  
6 and nothing else was done to remedy the harm of the incident.

7 34. Mr. Baraka has filed his own EEO complaints of discrimination with DHR on or  
8 around the following dates: May 2003, January 2009, December 2012, April 2018 and July, 2020  
9 (these are in addition to the one he filed while at Station 18).

10 35. While at Station 21, Mr. Baraka experienced a completely different culture. He felt  
11 valued and respected. He remained there for 3 years.

12 36. In 2014, Mr. Baraka, along with a few other LGBTQ-identified employees of SFFD  
13 formed an Employee Resource Group (ERG) in order to offer support to these employees and to  
14 help fight the discrimination they were experiencing in the Department. Mr. Baraka was selected  
15 as Chair of the group. The group took the name SF ResQ "ResQ."

16 37. ResQ received recognition from the Chief of Department in August of 2014.

17 38. In his work with ResQ, Mr. Baraka advocated publicly and privately within SFFD  
18 for opportunities to discuss ways to bring cultural sensitivity training regarding LGBTQ issues to  
19 the department. He also advocated for other LGBTQ employees who were coming forward with  
20 their own stories of discriminatory treatment. ResQ sought out meetings with the Chief of the  
21 Department where its members addressed their concerns directly. She noted that ResQ engaged  
22 with her office more than the other ERGs.

23 39. On June 20, 2017, SF ResQ was given the highest commendation by the San  
24 Francisco Board of Supervisors for "advancing the cause of equality for the LGBTQ community  
25 and for advocacy and support of current and past members of the San Francisco Fire Department."

26 40. In order to advance in his career, Mr. Baraka continued to look for opportunities in  
27 the SFFD. He applied and was hired for the Firefighter/Recruitment Coordinator role in February  
28 of 2016.

1           41.     Upon being offered the job, Mr. Baraka was informed that he would be receiving a  
2 pay cut. He was also informed that he could not work overtime in his Recruiter role. Not being  
3 able to work overtime meant that he had to flex his schedule in order to attend off-hour and  
4 weekend events that fall within his recruitment duties.

5           42.     For his Recruiter role, Mr. Baraka was classified as an H-2 firefighter. He was also  
6 told that he would report to the Division of Training (DOT) Captain and was assigned to work out  
7 of the Division of Training offices at SFFD headquarters. He was given business cards that stated  
8 he worked for DOT. He was featured on the website as a staff member of the DOT. He even paid  
9 “house dues” at DOT (a common practice to solicit funds for common items like coffee supplies).

10          43.     Mr. Baraka was aware that other firefighters who were performing administrative  
11 duties received a higher classification for this work. Typically, they were classed as H-18 (as  
12 defined in the Civil Service Rules). Other employees doing similar Coordinator roles such as the  
13 Coordinator of Community Service and the COVID Response Coordinator were classified as H-18.  
14 This was the case for SFFD employees who were not black and working in those roles.

15          44.     Being classed as an H-18 over an H-2 would mean a difference in pay of at least  
16 \$20 more per hour.

17          45.     Mr. Baraka was the only person doing a Coordinator role who was not classified as  
18 an H-18. He was kept at the H-2 classification. Mr. Baraka is also the only black and gay  
19 firefighter in a Coordinator role who was receiving less pay than other non-black employees in  
20 similar roles.

21          46.     As a result of this difference in pay for substantially similar work, Mr. Baraka asked  
22 for an increase in his pay. As part of his advocacy for an increase in his pay to be equal to those of  
23 his peers doing the same work, Mr. Baraka requested documents through a public records request.  
24 In these documents he requested and received a list of DOT employees, their classifications and  
25 their pay rate. Upon receiving this list of DOT employees, Mr. Baraka observed that he was not on  
26 the list. When he inquired why he was not on the list, he was told by management that he was not  
27 a DOT employee.

28

1           47. To date, Mr. Baraka is not listed on the DOT roster and has not been given a job  
2 description for his role. He was given a list of duties, however it was not a list of *all* his expected  
3 duties. He has not been given regular performance reviews by those who directly supervise his  
4 work. Without a clear job description, a consistent supervisor or consistent and clear guidance in  
5 how to perform his job, the Department has created a set of circumstances whereby it can use the  
6 resulting ambiguities in his current role against Mr. Baraka to create a narrative that he is not  
7 performing his job duties properly. And in fact, Mr. Baraka has been targeted with arbitrary and  
8 capricious disciplinary investigations as retaliation for his complaints of discrimination and  
9 requests for equal pay. The following paragraphs outline examples of this use of the disciplinary  
10 process to further discriminate against Mr. Baraka and harass him:

- 11           a. Mr. Baraka has been hamstrung in being able to perform his job duties. The current  
12 Chief of the Department, Jeanine Nicholson, while serving as Assistant Chief,  
13 ordered Mr. Baraka to stop meeting with recruits while he serves as Recruitment  
14 Coordinator.
- 15           b. The current Chief of the Department, Jeanine Nicholson, while serving as Assistant  
16 Chief, failed to invite Mr. Baraka, the only Recruitment Coordinator in SFFD, to a  
17 meeting about recruitment strategies with another county fire department.
- 18           c. On October 4, 2019, Mr. Baraka received a letter from the Chief of the Department  
19 Jeanine Nicholson outlining that he had violated City policies and that he would be  
20 subject to an investigation. However, this letter did not outline the nature of the  
21 conduct that allegedly violated policy.
- 22           d. On February 3, 2020, Mr. Baraka attended a meeting before the Civil Service  
23 Commission (CSC) that was hearing an appeal filed by a ResQ member who  
24 identifies as black and transgender. This member was appealing DHR's  
25 administrative closure of his EEO complaint for discrimination based on gender  
26 identity. Mr. Baraka spoke during the open comment period where he publicly  
27 shared that he has recruited qualified transgender individuals to apply for  
28

1 employment to the SFFD, only to have those recruits denied opportunities. Mr.  
2 Baraka attended this meeting on his own time and out of uniform.

- 3 e. On March 5, 2020, Mr. Baraka attended a meeting of the Human Rights  
4 Commission (HRC) to discuss outreach opportunities to members of the LGBTQ  
5 community. He attended at the invitation of HRC because of his Recruitment  
6 Coordinator role at SFFD. Because this fit squarely within his job duties, Mr.  
7 Baraka attended the meeting in uniform.
- 8 f. On March 10, 2020, Mr. Baraka was counseled by his immediate supervisor Captain  
9 Gering and Assistant General Chief Joel Sato for his attendance of the February 3<sup>rd</sup>  
10 CSC appeal hearing and the March 5<sup>th</sup> HRC meeting. He was informed that his  
11 attendance at both events violated policy because they had not been approved.  
12 However, this was the first time in his four years of serving in the Recruitment  
13 Coordinator role that Mr. Baraka was informed that he needed to request approval to  
14 attend such events.
- 15 g. On June 25, 2020, the Chief of the Department Jeanine Nicholson recommended  
16 that Mr. Baraka be suspended for 9 days for his work in supporting an unpopular  
17 ballot measure. The charges include an assertion that Mr. Baraka failed to timely  
18 file paperwork requesting approval for the outside activity. However, a prior 2019  
19 campaign ad featured several firefighters who never filed the requisite paperwork  
20 and they were not disciplined at all.
- 21 h. Most recently, on October 23, 2020, Mr. Baraka was issued a letter from his  
22 supervisor Deputy Chief of Administration, Jose Velo explaining that he would be  
23 demoted from his Recruitment Coordinator role because Mr. Baraka refused to take  
24 on additional and “revised responsibilities” without an increase in his pay  
25 commensurate with other Coordinator roles in the department and to reflect these  
26 additional duties.
- 27 48. As of November 9, 2020, Mr. Baraka is no longer the Recruitment Coordinator at  
28 the SFFD.

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**FIRST CAUSE OF ACTION**  
**DISCRIMINATION ON THE BASIS OF SEXUAL ORIENTATION**  
**IN VIOLATION OF FEHA**  
**[Cal. Gov. Code § 12940(a)]**

Plaintiff incorporates by reference Paragraphs 1 through 48 of this Complaint as if fully set forth herein and for a cause of action alleges as follows:

49. Jurisdiction in this Court is invoked pursuant to California Government Code §§ 12900, 12921, 12926, 12940 and 12965 [Collectively referred to as “FEHA”]. SFFD is not exempted from the statutes cited in this paragraph by any local, state or federal laws.

50. Plaintiff is informed and believes, and thereon alleged he was subjected to adverse employment actions due to his sexual orientation including but not limited to wrongfully disciplining Plaintiff, taking away Plaintiff’s job duties, micromanaging Plaintiff, and illegally denying him accommodation for his disability.

51. As a direct, foreseeable and proximate result of the SFFD’s unlawful actions, Plaintiff has suffered and continues to suffer substantial losses in earnings, equity, and other employment benefits and has incurred other economic losses in an amount in excess of the minimum jurisdiction of this Court and according to proof.

52. As a further direct, foreseeable and proximate result of the SFFD’s unlawful actions, Plaintiff has suffered emotional distress, humiliation, shame, mental anguish and embarrassment all to the Plaintiff’s damage in an amount in excess of the minimum jurisdiction of this Court and according to proof.

53. As a further direct and proximate result of the SFFD’s unlawful actions, Plaintiff was required to and did seek medical attention, and will need medical attention in the future, all to Plaintiff’s damages in a sum according to proof.

54. As a further direct and proximate result of the SFFD’s unlawful actions, Plaintiff was forced to and did retain attorneys, and is accordingly entitled to an award of attorneys’ fees and costs according to proof at the time of trial.

55. The management of SFFD knew of discriminatory practices within the Department and among managers generally, as evidenced by the Chief’s public admissions on July 30, 2020,

1 but took no remedial action or, if remedial action was attempted, it was insufficient and not  
2 supervised to assure compliance.

3 56. The adverse employment actions alleged in herein were and are continuing in  
4 character.

5 57. Plaintiff is informed and believes and thereon alleges that this cause of action is not  
6 preempted by the California Workers' Compensation Act on the grounds that discrimination on the  
7 basis of sexual orientation is not a risk of employment.

8 58. As a result of the aforesaid acts of discrimination based on sexual orientation,  
9 Plaintiff has suffered and is continuing to suffer a loss of wages/salary, benefits and other  
10 employee compensation in an amount which is currently unascertained. Plaintiff faces substantial  
11 diminution of his future earning capacity and of his future retirement income in amounts which are  
12 also currently unascertained. Plaintiff will request leave of the court to amend this Complaint to  
13 state the amount of all such damages when they have been ascertained or upon proof at the time of  
14 trial.

15 59. As a result of the aforesaid disparate treatment based on sexual orientation, Plaintiff  
16 has been held up to great derision and embarrassment with fellow workers, friends, members of the  
17 community and their families, and continue to suffer emotional distress because the Defendant  
18 demonstrated to the Plaintiff that it would not recognize nor accept him as an employee solely  
19 because of his sexual orientation. SFFD acted unreasonably because it knew and/or should have  
20 known that its conduct was likely to result in additional, severe mental distress. Plaintiff therefore  
21 seeks damages for such emotional distress in an amount to be proven at the time of trial.

22 60. In bringing this action, Plaintiff has been required to retain the services of counsel.  
23 Pursuant to California Government Code § 12965(b), he is entitled to and hereby request an award  
24 of attorney and expert witness fees and costs of suit.

25 **SECOND CAUSE OF ACTION**  
26 **Racial Discrimination in Violation of FEHA**  
27 **[Cal. Gov. Code § 12940(a)]**

28 Plaintiff incorporates by reference Paragraphs 1 through 60 of this Complaint as if fully set  
forth herein and for a cause of action alleges as follows:

1           61. Jurisdiction in this court is invoked pursuant to California Government Code §§12900,  
2 12921, 12926, 12940 and 12965 [Collectively referred to as "FEHA"]. SFFD is not exempted  
3 from the statutes cited in this paragraph by any local, state or federal laws.

4           62. Plaintiff was targeted on account of his race as a black man.

5           63. There is and has been a long-standing, deep-rooted policy and practice of employment  
6 discrimination against Blacks and African Americans in the SFFD.

7           64. Defendant City and County of San Francisco, by and through the San Francisco Fire  
8 Department, engaged in racially motivated disparate treatment against the Plaintiff herein as  
9 follows:

- 10                   A. Refusal or failure to provide assignments to African American  
11                   employees at the same level as provided to non-members of the  
12                   protected class;
- 13                   B. Racially disparate discipline;
- 14                   C. Involuntary transfers of members of the protected class to less desirable or  
15                   unwanted positions or assignments;
- 16                   D. Destruction or damage of personal property of members of  
17                   the protected class;
- 18                   E. Removal of tools or accessories necessary for employees to perform their  
19                   duties; and
- 20                   F. Demotion.

21           65. The management of Defendant SFFD knew of racially discriminatory practices in  
22 Stations 18 and 6 and in the training of new recruits and among managers generally by way of  
23 the multiple EEO complaints over several years, but took no remedial action or, if remedial  
24 action was attempted, it was insufficient and not supervised to assure compliance.

25           66. The adverse employment actions alleged in paragraph 47 herein were and are  
26 continuing in character.

27           67. Plaintiff is informed and believes and thereon alleges that this cause of action is  
28 not preempted by the California Workers' Compensation Act on the grounds that discrimination  
on the basis of race is not a risk of employment.

          68. As a result of the aforesaid acts of race discrimination, Plaintiff has suffered and

1 is continuing to suffer a loss of wages/salary, benefits and other employee compensation in an  
2 amount which is currently unascertained. Plaintiff faces substantial diminution of his future  
3 earning capacity and of his future retirement income in amounts which are also currently  
4 unascertained. Plaintiff will request leave of the court to amend this Complaint to state the  
5 amount of all such damages when they have been ascertained or upon proof at the time of trial.

6 69. As a result of the aforesaid racially disparate treatment, Plaintiff has been held up  
7 to great derision and embarrassment with fellow workers, friends, members of the community  
8 and their families, and continue to suffer emotional distress because the Defendant demonstrated  
9 to the Plaintiff that it would not recognize nor accept him as an employee solely because of his  
10 race. SFFD acted unreasonably because it knew and/or should have known that its conduct was  
11 likely to result in additional, severe mental distress.

12 70. Plaintiff therefore seeks damages for such emotional distress in an amount to be  
13 proven at the time of trial.

14 71. In bringing this action, Plaintiff has been required to retain the services of  
15 counsel. Pursuant to California Government Code § 12965(b), he is entitled to and hereby  
16 requests an award of attorney and expert witness fees and costs of suit.

17 **THIRD CAUSE OF ACTION**  
18 **HARASSMENT VIOLATION**  
19 **IN VIOLATION OF CAL. GOV'T CODE § 12940(j)**  
20 **[AGAINST ALL DEFENDANTS]**

21 Plaintiff incorporates by reference Paragraphs 1 through 71 of this Complaint as if fully set  
22 forth herein and for a cause of action alleges as follows:

23 72. At all times herein mentioned, California's Fair Employment and Housing Act  
24 ("FEHA"), Cal. Government Code § 12900 *et seq.*, was in full force and effect and was fully  
25 binding upon the Employer Defendants. Specifically, section 12940(j) prohibits an employer from  
26 harassing an employee on the basis of his sexual orientation and/or race.

27 73. The actions of Captains Ahumada, Guzman, Castagnola, Paratley, Deputy Chief  
28 Velo and Chief Nicholson, towards Plaintiff, their subordinate, as described herein, created a  
hostile environment that materially altered Plaintiff's working conditions and that constitutes  
harassment based on sexual orientation and/or race in violation of Cal. Gov't Code § 12940(j)(1).





1           81. Plaintiff engaged in protected activity by stating his opposition to the use of  
2 language such as “sissy” and “fag” amongst the other firefighters.

3           82. Plaintiff further engaged in protected activity by stating his opposition to the  
4 discriminatory manner in which he and other employees who identify as LGBTQ employed at  
5 SFFD were treated.

6           83. Furthermore, as hereinabove alleged, Mr. Baraka engaged in protected activity on  
7 his own behalf.

8           84. Defendant SFFD retaliated against Mr. Baraka for his protected activity as follows:  
9 First, by refusing to pay him a commensurate rate as other employees doing similar or  
10 substantially the same work; secondly, imposing disparate discipline; and, thirdly by taking away  
11 his Recruiter Coordinator job duties.

12           85. The adverse employment actions were taken in retaliation for the Plaintiff’s  
13 protected and opposition activities.

14           86. Plaintiff further engaged in protected activity by filing complaints against those  
15 who unlawfully discriminated against himself and others on account of sexual orientation.

16           87. Plaintiff is informed and believes and thereon alleges that this cause of action is not  
17 preempted by the California Workers' Compensation Act on the grounds that retaliation for  
18 opposing unlawful employment discrimination.

19           88. As a result of the aforesaid acts of retaliation, Plaintiff has suffered and is  
20 continuing to suffer a loss of wages/salary, benefits and other employee compensation in an  
21 amount which is currently unascertained. Plaintiff faces substantial diminution of his future  
22 earning capacity and of his future retirement income in amounts which are also currently  
23 unascertained. Plaintiff will request leave of the court to amend this Complaint to state the amount  
24 of all such damages when they have been ascertained or upon proof at the time of trial.

25           89. As a result of the aforesaid retaliation, Plaintiff has been held up to great derision  
26 and embarrassment with fellow workers, friends, members of the community and his family, and  
27 continues to suffer emotional distress because the Defendant demonstrated to the Plaintiff that it  
28 would not recognize nor accept him as an employee solely because of his opposition to

1 discriminatory practices based on sexual orientation. SFFD acted unreasonably because it knew  
2 and/or should have known that its conduct was likely to result in additional, severe mental  
3 distress.

4 90. Plaintiff therefore seeks damages for such emotional distress in an amount to be  
5 proven at time of trial.

6 91. In bringing this action, Plaintiff has been required to retain the services of counsel.  
7 Pursuant to California Government Code § 12965(b), he is entitled to and hereby requests an  
8 award of attorney and expert witness fees and costs of suit.

9 **FIFTH CAUSE OF ACTION**  
10 **Retaliation in Violation of FEHA**  
11 **Cal. Gov. Code § 12940(h)**

12 Plaintiff incorporates by reference all of the allegations contained in paragraphs 1  
13 through 91 with the same force and effect as if fully pleaded at length herein.

14 92. This is an action for damages arising from retaliation against Plaintiff for  
15 having opposed unlawful employment practices based on race. This action is brought pursuant  
16 to the California FAIR EMPLOYMENT AND HOUSING ACT ["FEHA"], i.e., Cal. Gov. Code  
17 §12900, 12921, 12926, 129240 and 12965.

18 93. Plaintiff engaged in protected activity by stating his opposition to the use of racist  
19 training materials that included use of the "N" word, a well-known racial epithet that carries a  
20 long history of intimidating and creating a hostile environment for Black/African Americans  
21 individuals.

22 94. Plaintiff engaged in protected activity by stating his opposition to the  
23 disparate imposition of discipline he received on account of his race.

24 95. Plaintiff further engaged in protected activity by filing complaints against those  
25 who unlawfully discriminated against himself and others on account of race.

26 96. Defendant SFFD retaliated against Plaintiff by: 1. Removing him from the work  
27 place to which he was assigned (DOT); 2. Creating hostility against Plaintiff by inconsistently  
28 enforcing department policy against him resulting in a disproportionate imposition of  
disciplinary actions; 3. Refusing to pay him for duties and responsibilities at the H-18 rate, which

1 non-Black employees doing similar work received; 4. Enforcing new rules and standards without  
2 notice of the new rules and standards; 8. Ransacking and vandalizing personal locker; 9. Failing  
3 to hire culturally competent trainers to perform cultural sensitivity trainings; 10. Failing to  
4 investigate his complaints of harassment, hostile environment and acts of discrimination; and 11.  
5 Demoting Mr. Baraka when he refused to take on additional duties without receiving additional  
6 pay.

7 97. The circumstances described in Paragraph 96 supra, when considered in their  
8 totality, created a work environment that a reasonable African American in Mr. Baraka's  
9 circumstance would consider offensive and which Mr. Baraka did in fact consider offensive.

10 98. As a result of the hostile work environment described in Paragraphs 96 and 97  
11 supra, Mr. Baraka's employment with Defendant SFFD was adversely affected.

12 99. Plaintiff is informed and believes and thereon alleges that this cause of action is  
13 not preempted by the California Workers' Compensation Act on the grounds that retaliation for  
14 opposing unlawful employment discrimination is not a risk of employment.

15 100. As a result of the aforesaid acts of retaliation, Plaintiff has suffered and is  
16 continuing to suffer a loss of wages/salary, benefits and other employee compensation in an  
17 amount which is currently un-ascertained. Plaintiff faces substantial diminution of his future  
18 earning capacity and retirement income in an amount which is currently unascertained. Plaintiff  
19 will request leave of the court to amend this Complaint to state the amount of all such damages  
20 when they have been ascertained or upon proof at the time of trial.

21 101. As a result of the aforesaid retaliatory harassment, Plaintiff has been held up to  
22 great derision and embarrassment with fellow workers, friends, members of the community and  
23 families, and continues to suffer emotional distress because SFFD demonstrated to Plaintiff that  
24 it would not recognize nor accept him as employees solely because of the fact that he opposed  
25 discriminatory employment practices in his workplace. SFFD acted unreasonably because it  
26 knew and/or should have known that its conduct was likely to result in additional, severe mental  
27 distress. Plaintiff therefore seeks damages for such emotional distress in an amount to be proven  
28 at time of trial.

1           102. In bringing this action, Plaintiff has been required to retain the services of  
2 counsel. Pursuant to California Government Code § 12965(b), he is entitled to and hereby  
3 requests an award of attorney and expert witness fees and costs of suit.

4                               **SIXTH CAUSE OF ACTION**  
5                               **Retaliation in Violation of FEHA**  
6                               **Cal. Gov. Code § 12940(h)**

7           Plaintiff incorporates by reference all of the allegations contained in paragraphs 1  
8 through 102 with the same force and effect as if fully pleaded at length herein.

9           103. This is an action for damages arising from retaliation against Plaintiff for  
10 having opposed unlawful employment practices based on gender identity. This action is brought  
11 pursuant to the California FAIR EMPLOYMENT AND HOUSING ACT ["FEHA"], i.e., Cal.  
12 Gov. Code §12900, 12921, 12926, 129240 and 12965.

13           104. Plaintiff engaged in protected activity by stating his opposition administrative  
14 closure of the EEO investigation for a black transgender SFFD employee and SF ResQ member.

15           105. Plaintiff engaged in protected activity by stating his opposition to the  
16 discriminatory failure by Defendant SFFD to hire transgender recruits in public hearings before the  
17 San Francisco Civil Service Commission and through other advocacy.

18           106. Defendant SFFD retaliated against Baraka by: 1. Disciplining Plaintiff for attending  
19 the Civil Service Commission hearing out of uniform and on his own time; 2. Disciplining Plaintiff  
20 for attending a meeting in uniform with the HRC to discuss ways to communicate job opportunities  
21 at SFFD for the LGBTQ community within the scope and duties of his Recruiter Coordinator role;

22           107. The circumstances described in Paragraph 106 supra, when considered in their  
23 totality created a work environment that a reasonable Black/African American in Mr. Baraka's  
24 circumstance would consider offensive and which Mr. Baraka did in fact consider offensive.

25           108. Plaintiff is informed and believes and thereon alleges that this cause of action is not  
26 preempted by the California Workers' Compensation Act on the grounds that retaliation for  
27 opposing unlawful employment discrimination is not a risk of employment.

28           109. As a result of the aforesaid acts of retaliation, Plaintiff has suffered and is  
continuing to suffer a loss of wages/salary, benefits and other employee compensation in an

1 amount which is currently un-ascertained. Plaintiff faces substantial diminution of his  
2 future earning capacity and retirement income in an amount which is currently unascertained.  
3 Plaintiff will request leave of the court to amend this Complaint to state the amount of all such  
4 damages when they have been ascertained or upon proof at the time of trial.

5 110. As a result of the aforesaid retaliatory harassment, Plaintiff has been held up to  
6 great derision and embarrassment with fellow workers, friends, members of the community and  
7 families, and continues to suffer emotional distress because SFFD demonstrated to Plaintiff that  
8 it would not recognize nor accept him as an employee solely because of the fact that opposed  
9 discriminatory employment practices in his workplace. SFFD acted unreasonably because it  
10 knew and/or should have known that its conduct was likely to result in additional, severe mental  
11 distress. Plaintiff Baraka therefore seeks damages for such emotional distress in an amount to be  
12 proven at time of trial.

13 111. In bringing this action, Plaintiff Baraka has been required to retain the services of  
14 counsel. Pursuant to California Government Code § 12965(b), they are entitled to and hereby  
15 request an award of attorney and expert witness fees and costs of suit.

16 **SEVENTH CAUSE OF ACTION**  
17 **Failure to Prevent Discrimination and Harassment in Violation of FEHA**

18 **Cal. Gov. Code § 12940(k)**

19 Plaintiffs incorporate by reference all of the allegations contained in paragraphs 1 through  
20 111 with the same force and effect as if fully pleaded at length herein.

21 112. This is an action for damages based on the failure by SFFD to prevent unlawful  
22 employment discrimination, harassment and retaliation. This action is brought pursuant to  
23 FEHA.

24 113. Under FEHA, it is an unlawful employment practice to fail to take all reasonable  
25 steps to prevent unlawful discrimination, harassment and retaliation.

26 114. The SFFD had and has a notorious reputation of denying employment to  
27 candidates who are not white and/or heterosexual. This fact was publicly admitted by Chief  
28

1 Nicholson in July of 2020. It is a reputation of which SFFD leadership and upper City and  
2 County Management, including but not limited to Human Resources Director Micki Callahan,  
3 were and are well aware. Notwithstanding said awareness, no action was taken to root out or  
4 eliminate said segregation nor did Defendant take any action to protect the Plaintiff from  
5 discrimination based on his sexual orientation, racial discrimination, harassment or retaliation.  
6

7 115. As a result of said inaction by SFFD and San Francisco Human Resources  
8 leadership, Plaintiff was denied equal pay given to other SFFD employees doing similar work  
9 and experienced disparate discipline on account of his sexual orientation and race and his  
10 attempts to prevent and report that discrimination.

11 116. Notwithstanding notice of discrimination, harassment and retaliation in the work  
12 place, SFFD failed to take sufficient steps to prevent discrimination based on sexual orientation,  
13 racial discrimination, harassment and retaliation from occurring.

14 117. Plaintiff is informed and believes and thereon alleges that this cause of action is  
15 not preempted by the California Workers' Compensation Act on the grounds that unlawful  
16 discrimination, harassment and retaliation are not risks of employment.  
17

18 118. Because of the aforesaid acts of SFFD, Plaintiff has suffered, and is continuing to  
19 suffer, loss of wages/salary, benefits and other employee compensation in an amount which is  
20 currently unascertained. Plaintiff will therefore request leave of the court to amend this  
21 Complaint to state the amount of all such damages when they have been ascertained or upon  
22 proof at the time of trial.

23 119. Plaintiff has been held up to great derision and embarrassment with fellow  
24 workers, friends, members of the community and family, and continues to suffer emotional  
25 distress because SFFD demonstrated to the Plaintiff that it would not recognize nor accept him as  
26 an employee solely because of his race. SFFD acted unreasonably because it knew and/ or should  
27 have known that its conduct was likely to result in additional, severe mental distress. Plaintiff  
28 therefore, seeks damages for such emotional distress in an amount to be proven at time of trial.

1 120. In bringing this action, Plaintiff has been required to retain the services of  
2 counsel. Pursuant to California Government Code § 12965(b), he is entitled to an award of  
3 attorney and expert witness fees, and costs of suit.

4 **EIGHTH CAUSE OF ACTION**  
5 **INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**  
6 **[AGAINST ALL DEFENDANTS]**

7 Plaintiff incorporates by reference Paragraphs 1 through 120 of this Complaint as if fully  
8 set forth herein and for a cause of action alleges as follows:

9 121. By this cause of action Plaintiff seeks to recover damages to compensate him for the  
10 emotional distress caused by the Defendants' wrongful and unlawful conduct. Jurisdiction is  
11 invoked pursuant to *Rojo v. Klinger*, (1990) 52 Cal.3d 63.

12 122. Defendants, and each of them, willfully and wantonly, and with full knowledge and  
13 intent, harmed Plaintiff by its extreme and outrageous conduct as more fully set forth in the  
14 preceding paragraphs of this Complaint. The extreme and outrageous conduct by the Defendants,  
15 and each of them, included, but was not limited to:

- 16 a. Persistently denied Plaintiff's request to receive equal pay as an H-18 for equal  
17 work he performed with that of other H-18 classified employees;
- 18 b. Removed Plaintiff from the directory and roster of the Department of Training;
- 19 c. Management staff repeatedly inquiring into Plaintiff's HIV status as a gay man;
- 20 d. Asking Plaintiff to co-present a cultural sensitivity workshop but failing to  
21 disclose the intention to use materials that included the "N" word;
- 22 e. Removing and breaking a picture frame that included a photo of the Plaintiff  
23 with his fellow firefighters and telling Plaintiff "we don't want that picture  
24 here."
- 25 f. Telling racist jokes to Plaintiff;
- 26 g. Ordering Plaintiff to not perform certain assigned duties, then disciplining him  
27 for failing to perform his duties.

28 123. As a direct, actual and proximate result of the Defendants' wrongful conduct,  
Plaintiff has suffered and continues to suffer losses in earnings, future earnings, bonuses, deferred



1 compensation, and other employment benefits, and has suffered and continues to suffer the  
2 indignation of unlawful discrimination, deprivation of his right to full and equal employment  
3 opportunities, as well as severe and continuous humiliation, emotional distress, and physical and  
4 mental pain and anguish, all to his damage in an amount according to proof at the time of trial.

5 124. The Defendants committed the acts alleged herein maliciously, fraudulently, and  
6 oppressively, with the wrongful intention of injuring Plaintiff, and acted with an improper and evil  
7 motive amounting to malice and in conscious disregard of Plaintiff's rights. Because the acts taken  
8 toward Plaintiff were carried out by the Employer Defendants acting in deliberate, cold, callous,  
9 and intentional manner in order to injure and damage Plaintiff, he is entitled to punitive damages  
10 from the Employer Defendants, in an amount appropriate to punish and deter other employers from  
11 engaging in the same conduct.

12 **JURY TRIAL DEMANDED**

13 Plaintiff hereby requests a jury trial for all claims.

14 **PRAYER FOR RELIEF**

15 WHEREFORE, Plaintiff prays for judgment against Defendants, and each of them, as  
16 follows:

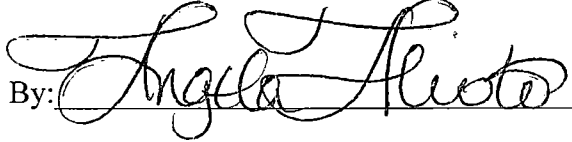
- 17 1. For damages for lost employment income and benefits, past and future, according to  
18 proof;
- 19 2. For general damages including for pain and suffering past and future according to  
20 proof;
- 21 3. For attorney's fees according to proof;
- 22 4. For costs of suit incurred herein;
- 23 5. For punitive damages;
- 24 6. For prejudgment interest as provided by law; and
- 25 7. For such other and further relief as the court deems just and proper.

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Dated: November 20, 2020

LAW OFFICES OF MAYOR JOSEPH L. ALIOTO  
& ANGELA ALIOTO

By:  \_\_\_\_\_


ANGELA ALIOTO  
Attorneys for Plaintiff, KEITH BARAKA

**DEMAND FOR JURY TRIAL**

Plaintiff hereby requests a trial by jury.

Dated: November 20, 2020

LAW OFFICES OF MAYOR JOSEPH L. ALIOTO  
& ANGELA ALIOTO

By:  \_\_\_\_\_

ANGELA ALIOTO  
Attorneys for Plaintiff, KEITH BARAKA

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):  
 Angela M. Alioto (SBN 130328) Office of Joseph L. Alioto and Angela Alioto  
 Angela Mia Veronese (SBN 269942) 700 Montgomery Street, 3<sup>rd</sup> Floor  
 San Francisco, CA 94111  
 TELEPHONE NO.: 415-434-8700 FAX NO. (Optional): 415-436-4638  
 ATTORNEY FOR (Name): Keith Baraka

FOR COURT USE ONLY

**FILED**  
 San Francisco County Superior Court

NOV 20 2020

CLERK OF THE COURT  
 BY: Sandra Schie  
 Deputy Clerk

**SUPERIOR COURT OF CALIFORNIA, COUNTY OF San Francisco**  
 STREET ADDRESS: 400 McAllister Street  
 MAILING ADDRESS:  
 CITY AND ZIP CODE: San Francisco, CA 94107  
 BRANCH NAME:

CASE NAME:  
 Keith Baraka v. City and County of San Francisco and Does 1-10, inclusive

<b>CIVIL CASE COVER SHEET</b>		<b>Complex Case Designation</b>		CASE NUMBER: <b>CGC -20-587897</b>
<input checked="" type="checkbox"/> <b>Unlimited</b> (Amount demanded exceeds \$25,000)	<input type="checkbox"/> <b>Limited</b> (Amount demanded is \$25,000)	<input type="checkbox"/> Counter	<input type="checkbox"/> Joinder	JUDGE: DEPT.:
Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)				

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

<b>Auto Tort</b> <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) <b>Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort</b> <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PI/PD/WD (23) <b>Non-PI/PD/WD (Other) Tort</b> <input type="checkbox"/> Business tort/unfair business practice (07) <input checked="" type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PI/PD/WD tort (35) <b>Employment</b> <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	<b>Contract</b> <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) <b>Real Property</b> <input type="checkbox"/> Eminent domain/Inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) <b>Unlawful Detainer</b> <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) <b>Judicial Review</b> <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	<b>Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403)</b> <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) <b>Enforcement of Judgment</b> <input type="checkbox"/> Enforcement of judgment (20) <b>Miscellaneous Civil Complaint</b> <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) <b>Miscellaneous Civil Petition</b> <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)
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2. This case  is  is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:

a. <input type="checkbox"/> Large number of separately represented parties	d. <input type="checkbox"/> Large number of witnesses
b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve	e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
c. <input type="checkbox"/> Substantial amount of documentary evidence	f. <input type="checkbox"/> Substantial postjudgment judicial supervision

3. Remedies sought (check all that apply): a.  monetary b.  nonmonetary; declaratory or injunctive relief c.  punitive

4. Number of causes of action (specify): Seven

5. This case  is  is not a class action suit.

6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: 11.19.20

Angela Veronese  
 (TYPE OR PRINT NAME)

Angela M. Veronese  
 (SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

**NOTICE**

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

**To Plaintiffs and Others Filing First Paper.** If you are filing a first paper (for example, a complaint) in a civil case, you **must** complete and file, along with your first paper, the Civil Case Cover Sheet contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check **one** box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the **primary** cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

**To Parties in Rule 3.740 Collections Cases.** A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

**To Parties in Complex Cases.** In complex cases only, parties must also use the Civil Case Cover Sheet to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

### CASE TYPES AND EXAMPLES

#### Auto Tort

Auto (22)—Personal Injury/Property Damage/Wrongful Death  
Uninsured Motorist (46) (*if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto*)

#### Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

Asbestos (04)  
Asbestos Property Damage  
Asbestos Personal Injury/Wrongful Death  
Product Liability (*not asbestos or toxic/environmental*) (24)  
Medical Malpractice (45)  
Medical Malpractice—Physicians & Surgeons  
Other Professional Health Care Malpractice  
Other PI/PD/WD (23)  
Premises Liability (e.g., slip and fall)  
Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)  
Intentional Infliction of Emotional Distress  
Negligent Infliction of Emotional Distress  
Other PI/PD/WD

#### Non-PI/PD/WD (Other) Tort

Business Tort/Unfair Business Practice (07)  
Civil Rights (e.g., discrimination, false arrest) (*not civil harassment*) (08)  
Defamation (e.g., slander, libel) (13)  
Fraud (16)  
Intellectual Property (19)  
Professional Negligence (25)  
Legal Malpractice  
Other Professional Malpractice (*not medical or legal*)  
Other Non-PI/PD/WD Tort (35)

#### Employment

Wrongful Termination (36)  
Other Employment (15)

#### Contract

Breach of Contract/Warranty (06)  
Breach of Rental/Lease  
Contract (*not unlawful detainer or wrongful eviction*)  
Contract/Warranty Breach—Seller Plaintiff (*not fraud or negligence*)  
Negligent Breach of Contract/Warranty  
Other Breach of Contract/Warranty  
Collections (e.g., money owed, open book accounts) (09)  
Collection Case—Seller Plaintiff  
Other Promissory Note/Collections Case  
Insurance Coverage (*not provisionally complex*) (18)  
Auto Subrogation  
Other Coverage  
Other Contract (37)  
Contractual Fraud  
Other Contract Dispute

#### Real Property

Eminent Domain/Inverse Condemnation (14)  
Wrongful Eviction (33)  
Other Real Property (e.g., quiet title) (26)  
Writ of Possession of Real Property  
Mortgage Foreclosure  
Quiet Title  
Other Real Property (*not eminent domain, landlord/tenant, or foreclosure*)

#### Unlawful Detainer

Commercial (31)  
Residential (32)  
Drugs (38) (*if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential*)

#### Judicial Review

Asset Forfeiture (05)  
Petition Re: Arbitration Award (11)  
Writ of Mandate (02)  
Writ—Administrative Mandamus  
Writ—Mandamus on Limited Court Case Matter  
Writ—Other Limited Court Case Review  
Other Judicial Review (39)  
Review of Health Officer Order  
Notice of Appeal—Labor Commissioner Appeals

#### Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)

Antitrust/Trade Regulation (03)  
Construction Defect (10)  
Claims Involving Mass Tort (40)  
Securities Litigation (28)  
Environmental/Toxic Tort (30)  
Insurance Coverage Claims (*arising from provisionally complex case type listed above*) (41)

#### Enforcement of Judgment

Enforcement of Judgment (20)  
Abstract of Judgment (Out of County)  
Confession of Judgment (*non-domestic relations*)  
Sister State Judgment  
Administrative Agency Award (*not unpaid taxes*)  
Petition/Certification of Entry of Judgment on Unpaid Taxes  
Other Enforcement of Judgment Case

#### Miscellaneous Civil Complaint

RICO (27)  
Other Complaint (*not specified above*) (42)  
Declaratory Relief Only  
Injunctive Relief Only (*non-harassment*)  
Mechanics Lien  
Other Commercial Complaint Case (*non-tort/non-complex*)  
Other Civil Complaint (*non-tort/non-complex*)

#### Miscellaneous Civil Petition

Partnership and Corporate Governance (21)  
Other Petition (*not specified above*) (43)  
Civil Harassment  
Workplace Violence  
Elder/Dependent Adult Abuse  
Election Contest  
Petition for Name Change  
Petition for Relief From Late Claim  
Other Civil Petition