

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

THERESE Y. CANNATA (SBN 88032)
MARK P. FICKES (SBN 178570)
ETHAN J. WICKLUND (SBN 306645)
CANNATA, O'TOOLE, FICKES & OLSON LLP
100 Pine Street, Suite 350
San Francisco, CA 94111
Telephone: (415) 409-8900
Facsimile: (415) 409-8904

Attorneys for Plaintiff and Petitioner
NICOL JURATOVAC

ELECTRONICALLY
FILED
Superior Court of California,
County of San Francisco

05/24/2021
Clerk of the Court
BY: JACKIE LAPREVOTTE
Deputy Clerk

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN FRANCISCO**

CGC-21-591954

NICOL JURATOVAC, an individual,

Plaintiff and Petitioner

vs.

CITY AND COUNTY OF SAN
FRANCISCO, and DOES 1 THROUGH 50,

Defendants and Respondents

Case No.:

**COMPLAINT FOR DAMAGES AND
VERIFIED PETITION FOR WRIT OF
MANDATE AND DECLARATORY
RELIEF:**

**1. Unlawful Retaliation in Violation of
Labor Code § 1102.5**
**2. Unlawful Retaliation in Violation of
FEHA**
**3. Discrimination Based on Sexual
Orientation in Violation of FEHA**
**4. Discrimination Based on Race in
Violation of FEHA**
**5. Discrimination Based on Gender in
Violation FEHA**
**6. Unlawful Harassment – Hostile Work
Environment in Violation of FEHA**
**7. Failure to Investigate and Prevent
Discrimination, Harassment and
Relatiation in Violation of FEHA**
**8. Violation of the California Public
Records Act, Government Code
section 6250 et seq.**

I. INTRODUCTION

1. Plaintiff and Petitioner Assistant Chief Nicol Juratovac (“Plaintiff”, “Petitioner,”

1 or “Assistant Chief Juratovac”) is a 23-year veteran of the San Francisco Fire Department
2 (“SFFD” or the “Department”), a division of Defendant and Respondent City and County of San
3 Francisco (“Defendant,” “Respondent,” “City,” or “CCSF”). Assistant Chief Juratovac has an
4 exemplary record in the Department, having risen up the ranks within the Department from Fire
5 Fighter to Lieutenant, Captain, Battalion Chief, and now Assistant Chief Chief, a position in
6 which she has dutifully served since 2017.

7 2. Assistant Chief Juratovac is proud to be the first openly LGBTQ+, first Asian
8 American, and first woman promoted to the highest Civil Service rank of Assistant Chief in the
9 Department’s 155-year history. She enjoys the honorable work of being a Fire Fighter, but her
10 success has come at a cost because a culture of corruption, sexism, homophobia and sexism
11 prevalent within the SFFD. During her tenure at the SFFD, Assistant Chief Juratovac has tried to
12 change the culture by blowing the whistle on all forms of misconduct, including cheating on
13 promotional exams, drunken parties at a fire station, and the discriminatory treatment of minority
14 Fire Fighters.

15 3. Rather than welcome the opportunity to address its problems, the Department has
16 allowed those who feel threatened by Assistant Chief Juratovac to retaliate against her for taking
17 on the “good old boys” mentality. Beginning in 2014, and continuing through the present date,
18 the Department has weaponized its disciplinary process to punish Assistant Chief Juratovac by
19 subjecting her to numerous unfounded and meritless disciplinary investigations. All of these
20 investigations, save one, were rescinded or abandoned, but only after Assistant Chief Juratovac
21 had already endured the emotional distress and humiliation of being investigated in addition to
22 incurring substantial attorneys’ fees to defend herself against frivolous claims. She has also been
23 denied promotional and overtime opportunities in retaliation for her whistleblowing activities, as
24 well as her race, gender, and sexual orientation.

25 4. In response to the SFFD’s unlawful activity, Assistant Chief Juratovac submitted
26 multiple complaints to the San Francisco Ethics Commission. Rather than meaningfully
27 investigate and protect Assistant Chief Juratovac from those seeking to harm her career, the
28 Ethics Commission has aided and abetted the Department’s unethical conduct. For example,

1 Assistant Chief Juratovac filed a complaint in 2016 about the Department’s retaliation for raising
2 issues about safety, racial discrimination, and retaliation. The Ethics Commission sat on her
3 complaint for years before finally initiating an investigation in March 2019. The Ethics
4 Commission has not notified Assistant Chief Juratovac about the results of the investigation
5 despite the investigator assuring her that her case presented one of the most serious cases of
6 retaliation in the history of the Ethics Commission. Assistant Chief Juratovac filed a complaint
7 with the Department of Human Resources (“DHR”), a division of the city, in October 2019. For
8 months, DHR represented to Assistant Chief Juratovac that it had completed its investigation of
9 her complaint, found it to be meritorious and would soon bring an end to the harassment. When
10 confronted with its own dilatory tactics, however, DHR admitted in September of 2020 that it had
11 been stringing her along, and that its promises to vindicate her were untrue.

12 5. In order to get to the bottom of DHR’s misconduct, Assistant Chief Juratovac’s
13 counsel sought to get information about DHR’s conduct by making requests for documents under
14 the Public Records Act, Government Code section 6250 (the “PRA”). Again, DHR shirked its
15 responsibilities and refused to comply with its disclosure obligations under the PRA.

16 **II. PARTIES**

17 6. Plaintiff and Petitioner Nicol Juratovac is an individual, who at all times pertinent
18 to this lawsuit was a resident of the City and County of San Francisco. She is a local success
19 story. Assistant Chief Juratovac grew up in the Western Addition neighborhood and graduated
20 from Galileo High School. She attended U.C. Berkeley, earning a B.A. degree in English and a
21 minor in Asian American Studies in 1990. She obtained a law degree from San Francisco Law
22 School in 1996. She earned an A.S. degree in Fire Science Technology and a Certificate of
23 Completion in Fire Protection Systems from City College of San Francisco. She holds
24 certifications in Chief Officer, Company Officer, Master Instructor, Hazardous Materials
25 Specialist, Incident Command System, and many other qualifications from California State Fire
26 Training. She also completed the prestigious four year Executive Fire Officer Program from the
27 National Fire Academy, the only Asian American woman and the only LGBTQ+ person to do so
28 in the SFFD. Further, Assistant Chief Juratovac is the only woman to rise to the Civil Service

1 rank of Assistant Chief, the only Asian American to rise to the level of Assistant Chief, and the
2 only openly LGBTQ+ person to rise to the level of Assistant Chief. She is entitled to the
3 protections of the Fair Employment and Housing Act (“FEHA”), because she is an Asian
4 American woman and a member of the LGBTQ+ community.

5 7. At all relevant times, Defendant and Respondent City and County of San Francisco
6 is and was a charter city, and is Assistant Chief Juratovac’s employer. Except for former DHR
7 Director Micki Callahan and other former and current DHR personnel, all individuals referred to
8 herein were employed within the SFFD. As used in this complaint, “SFFD,” “Department,”
9 and/or “the City” refer to Assistant Chief Juratovac’s “employer.”

10 8. Plaintiff and Petitioner is unaware of the true names, capacities, or basis for
11 liability of Defendants and Respondents DOES 1 through 10, inclusive, and sue the DOE
12 defendants by their fictitious names. Plaintiff and Petitioner will amend this Complaint to allege
13 their true names, capacities, or basis for liability when the same has been ascertained.

14 9. Plaintiff and Petitioner is informed and believes, and thereon alleges, that at all
15 times herein mentioned, Defendants and Respondents, including the “Doe” defendants and
16 respondents, and each of them, were agents, servants, alter egos and/or employees of each of the
17 other defendants, and in doing the things hereinafter alleged, were acting within the scope of their
18 authority as agents, servants, and employees, and with the permission and consent of their co-
19 defendants. All actions of each defendant alleged herein were ratified and approved by the
20 officers or managing agents of every other defendant and respondent.

21 **III. JURISDICTION AND VENUE**

22 10. This case is subject to the unlimited jurisdiction of the superior court in that the
23 amount in controversy exceeds \$50,000.00.

24 11. The actions and omissions which give rise to the subject matter of this litigation all
25 took place in the State of California, County of San Francisco. As such, venue in this court is
26 proper.

27 12. Plaintiff and Petitioner has met all of the jurisdictional requirements for
28 proceeding with her claims under FEHA, Government Code sections 12940 *et seq.*, and 12960 *et*

1 *seq.*, by timely seeking and receiving a Right to Sue letter from the Department of Fair
2 Employment and Housing (“DFEH”). Plaintiff and Petitioner also timely delivered a claim to the
3 City pursuant to the Government Tort Claim Act, Government Code section 810 *et seq.* The City
4 denied the claim on April 8, 2021.

5 **IV. EXHAUSTION OF ADMINISTRATIVE REMEDIES**

6 13. Plaintiff and Petitioner has fully exhausted her statutory administrative remedies.

7 **V. FACTUAL ALLEGATIONS**

8 **A. The City Discriminates Against Assistant Chief Juratovac and Retaliates for**
9 **Her Blowing the Whistle on Misconduct in the SFFD**

10 **1) Background**

11 14. Assistant Chief Juratovac has served in the SFFD for more than 23 years. Before
12 earning the rank of Assistant Chief, she served in the SFFD as a Fire Fighter, Lieutenant, Captain,
13 and Battalion Chief. Prior to a routine training drill giving rise to the recent imposition of
14 discipline, Assistant Chief Juratovac had an unblemished career throughout her employment with
15 the SFFD. Prior to the misconduct described herein, she had never been disciplined formally or
16 informally. However, starting in or around 2014, and continuing through the present date, she
17 become the target of a serial disciplinary investigations conducted in retaliation for trying to take
18 on corruption, discrimination and homophobia in the Department.

19 15. In retaliation for her whistleblowing, and based on her race, gender, and sexual
20 orientation, Assistant Chief Juratovac has often been denied promotions, overtime work
21 opportunities, and other meaningful benefits made available to other, less-qualified SFFD
22 personnel of similar and/or lower rank including, *inter alia*, the repeated denial of the opportunity
23 to work as a Strike Team Leader Trainee for the Department’s Mutual Aid Wildland fire fighting
24 Strike Team. Rather, these opportunities were given to white, male, and/or heterosexual Fire
25 Fighters who were less qualified and experienced to work as a Strike Team Leader Trainees than
26 Assistant Chief Juratovac. Assistant Chief Juratovac is informed and believes, and on that basis
27 alleges, that she has been denied these promotions and work opportunities because of her status as
28 an Asian American lesbian woman and because of her whistleblowing activities.

1 **2) Assistant Chief Juratovac's Early Whistleblowing Activity and the**
2 **Resulting Retaliation**

3 16. As early as 2012, Assistant Chief Juratovac began reporting instances of
4 misconduct within the ranks of SFFD that she reasonably believed to be violations of local, state,
5 and/or federal law. That year, she reported to her superiors in the Department extensive, unlawful
6 cheating on the Department's Battalion Chief promotional exam.

7 17. In 2013, Assistant Chief Juratovac served as a witness in a racial discrimination
8 lawsuit against the City, providing supportive testimony for a minority Fire Fighter seeking
9 justice for the Department's unlawful discrimination against them. Assistant Chief Siragusa was
10 one of the subjects of the lawsuit. On information and belief, Assistant Chief Suragusa was
11 involved in launching at least one disciplinary investigation against Assistant Chief Juratovac to
12 retaliate against her.

13 18. Following Assistant Chief Juratovac's efforts to combat cheating and her
14 participation in the 2013 racial discrimination lawsuit, the Department launched two disciplinary
15 investigations against her, in 2014 and 2015.

16 **a) Disciplinary Investigation No. 1**

17 19. The first disciplinary investigation against Assistant Chief Juratovac
18 ("Disciplinary Investigation No. 1") was initiated right after she submitted an Unusual
19 Occurrence report on February 21, 2014, related to Battalion Chief Bryan Rubenstein's bullying
20 and harassing behavior at an active fire on February 14, 2014. On April 17, 2014, the Department
21 notified Assistant Chief Juratovac that it had launched an investigation against her related to her
22 conduct at the same February 14, 2014 fire, nearly two months after the fact.

23 20. Disciplinary Investigation No. 1 centered around allegations that Assistant Chief
24 Juratovac, who was then an Acting Battalion Chief, had improperly "abandoned her position" at
25 the February 14, 2014 fire by assigning herself to Fire Attack Group Supervisor allegedly without
26 notifying the other officers at the scene. In addition, the investigation involved allegations that
27 Assistant Chief Juratovac displayed a "lack of professionalism" in speaking with Battalion Chief
28 Rubenstein after the fire by purportedly interrupting him and responding to his comments with

1 “Yes, sir.” Notably, this was the very same interaction that formed the basis of Assistant Chief
2 Juratovac’s February 21, 2014 Unusual Occurrence report, in which Battalion Chief Rubenstein
3 verbally berated and physically intimidated Assistant Chief Juratovac in front of their colleagues
4 and the general public.

5 21. The Department waited at least five months before questioning Assistant Chief
6 Juratovac about the February 14, 2014 fire, finally interviewing her on September 30, 2014. On
7 March 27, 2015, more than a year after the underlying incident, Deputy Chief of Operations Mark
8 Gonzales issued a “Documented Coaching” to Assistant Chief Juratovac. This was issued despite
9 the one year statute of limitations expiring. Deputy Chief Gonzales’s Documented Coaching did
10 not reference any specific rule or policy violations beyond deviations from “accepted practice[s]”
11 and allegations of a “lack of professionalism.” After Deputy Chief Gonzales issued his
12 Documented Coaching and upon further investigation, the Department dismissed the investigation
13 against Assistant Chief Juratovac, and never placed the Documented Coaching in her personnel
14 file.

15 **b) Disciplinary Investigation No. 2**

16 22. The second investigation against Assistant Chief Juratovac (“Disciplinary
17 Investigation No. 2”) was launched in July 2015, only several months after the conclusion of
18 Disciplinary Investigation No. 1. Disciplinary Investigation No. 2 stems from an incident on July
19 3, 2015, in which Assistant Chief Juratovac, who was then an Acting Battalion Chief, learned
20 from a fellow officer, Lieutenant Wesley Lemberg, that an SFFD Fire Fighter had been cited for
21 driving under the influence of alcohol or drugs (“DUI”) three months prior. Yet, for nearly three
22 months, this Fire Fighter had been allowed to drive the fire engine, although his driver’s license
23 had been suspended. Lt. Lemberg had asked Assistant Chief Juratovac whom he should notify
24 about the Fire Fighter’s DUI and suspended license. She advised Lt. Lemberg to report the issue
25 to Captain Sheila Hunter, with the Investigative Services Bureau (“ISB”), who would have
26 already known about the DUI based on the State’s notification system and should have reported
27 the issue up and down the appropriate chain of command. Out of an abundance of caution,
28 Assistant Chief Juratovac also instructed Lt. Lemberg to make sure the Fire Fighter with the

1 suspended license did not operate any Department fire apparatus.

2 23. Shortly thereafter and in retaliation for her role in the above-mentioned 2013 racial
3 discrimination lawsuit, the Department notified Assistant Chief Juratovac of Disciplinary
4 Investigation No. 2 on or around July 24, 2015. The Department claimed that Assistant Chief
5 Juratovac had failed to properly report the DUI, a possible rule violation, through the chain of
6 command. None of the other officers who knew or should have known about the DUI and
7 suspended license were subjected to disciplinary action. Specifically, Lt. Lemberg, the other
8 officers assigned to the station where the Fire Fighter with the suspended driver's license was
9 assigned, and Capt. Hunter were never subjected to disciplinary action, despite their failure to
10 notify the proper authorities of the DUI issue. On information and belief, Assistant Chief
11 Siragusa, knowing that Assistant Chief Juratovac was a witness in the 2013 racial discrimination
12 lawsuit involving him, played a key role in initiating Disciplinary Investigation No. 2 in
13 retaliation for her role in the lawsuit.

14 24. Assistant Chief Juratovac was forced to hire counsel to assist in her defense
15 against Disciplinary Investigation No. 2. The investigation resulted in the Department issuing
16 Assistant Chief Juratovac a Letter of Reprimand on December 28, 2015. Assistant Chief
17 Juratovac appealed, and on September 12, 2016, then Chief of Department, Joanne Hayes-White
18 rescinded the Letter of Reprimand. However, Assistant Chief Juratovac had already been harmed.
19 She expended significant time, energy, and financial resources defending herself against claims
20 that were deemed meritless. In addition, she suffered emotional distress.

21 **3) Assistant Chief Juratovac Continues to Expose Wrongdoing and Pays**
22 **the Price as She is Subjected to More Disciplinary Investigations**

23 25. Undeterred by the Department's efforts to punish her for whistleblowing, Assistant
24 Chief Juratovac continued to speak out against unlawful activity and misconduct. In 2016, she
25 participated in another lawsuit against the Department, serving as a witness in a case brought by
26 SFFD minority Fire Fighters to address cheating and discriminatory practices in connection with
27 the SFFD's promotional examinations. That same year, Assistant Chief Juratovac also blew the
28 whistle on a serious, unlawful safety issue involving a member of the SFFD Airport Division,

1 which she reasonably believed to be in violation of California law. Also in 2016, Assistant Chief
2 Juratovac reported alleged Department violations of the City's employment discrimination laws.
3 More disciplinary investigations followed as a result.

4 **a) Disciplinary Investigation No. 3**

5 26. Assistant Chief Juratovac is informed and believes that in response to and in
6 retaliation for her efforts to shine the light on misconduct, the Department launched two more
7 baseless disciplinary investigations against her in 2016. The third disciplinary investigation
8 ("Disciplinary Investigation No. 3") involved innocuous comments that Assistant Chief Juratovac
9 made about SFFD Battalion Chief Edmund Dea on or around May 20, 2016. Notably,
10 Investigation No. 3 was initiated shortly after Assistant Chief Juratovac submitted a complaint
11 regarding the SFFD's violations of the City's Equal Employment Opportunity policy. Assistant
12 Chief Juratovac, who was then a Battalion Chief, made passing remarks to other Fire Fighters
13 about Battalion Chief Dea after he had made a mistake in ordering safety equipment and
14 materials. Apparently, one of the Fire Fighters present for that conversation took issue with her
15 comments, and on June 8, 2016, Assistant Deputy Chief Rudy Castellanos filed an Unusual
16 Occurrence report chastising Assistant Chief Juratovac's tone and demeanor during the alleged
17 conversation about Battalion Chief Dea.

18 27. Rather than handling this mundane issue informally and quickly, the Department
19 launched a full-blown disciplinary investigation, on or about June 22, 2016, that vaguely critiqued
20 her "demeanor in the workplace" as the basis for the investigation.

21 28. On or about July 22, 2016, Chief of Department Hayes-White sent a letter to
22 Assistant Chief Juratovac advising that Chief of Department Hayes-White had made the decision
23 to rescind Disciplinary Investigation No. 3, stating the obvious; namely, that the circumstances
24 "did not rise to the level of a formal investigation." Although this investigation resolved favorably
25 for her, Assistant Chief Juratovac suffered harm in the form of the emotional distress associated
26 with yet another meritless investigation. Further, she expended financial resources to retain
27 counsel to defend herself.

28

b) Disciplinary Investigation No. 4

29. The fourth disciplinary investigation against Assistant Chief Juratovac (“Disciplinary Investigation No. 4”) also alleged improper workplace demeanor. Disciplinary Investigation No. 4 began when Assistant Deputy Chief Castellanos issued an Unusual Occurrence report on June 8, 2016. Assistant Deputy Chief Castellanos alleged that Assistant Chief Juratovac, who was then a Battalion Chief, demeaned a Field Operations Employee at the San Francisco International Airport (“SFIA”), after he called SFFD concerning a waste spill at the airport. Although Assistant Chief Juratovac disputed Assistant Deputy Chief Castellanos’s account of the interaction with the SFIA employee, she immediately offered to apologize in order to clear up any misunderstandings.

30. Despite her willingness to apologize, Assistant Deputy Chief Castellanos wrote in his report that he believed Assistant Chief Juratovac had abused her authority, and stated his belief that she violated SFFD Rules and Regulations. Following Assistant Deputy Chief Castellanos’s report, the Department launched Disciplinary Investigation No. 4 against her, on or about June 22, 2016. Once again, Assistant Chief Juratovac was forced to retain counsel to defend herself against the Department’s weaponization of the investigative discipline process as well as suffer the emotion distress of yet another meritless disciplinary investigation.

31. One month later, on or about July 22, 2016, Chief of Department Hayes-White wrote a letter advising that Disciplinary Investigation No. 4 had been rescinded.

4) Assistant Chief Juratovac Is Undeterred in Her Efforts to Fight Misconduct

32. Despite the Department’s efforts to retaliate against her, Assistant Chief Juratovac continued to combat malfeasance within the SFFD.

33. In November 2017, Assistant Chief Juratovac learned of a raucous party at SFFD’s Station 11 where Fire Fighters, both on-duty and off-duty, were drinking alcohol at the station in September 2017. Assistant Chief Juratovac also learned that a probationary Fire Fighter had been sexually harassed at the same party. Believing the incident to be both a serious safety issue and a violation of California law, Assistant Chief Juratovac reported the Station 11 party to Assistant

1 Chief William Storti, who was on-duty the day of the incident. When he failed to properly report
2 the issue to Department leadership, Assistant Chief Juratovac took the matter into her own hands,
3 filing an Unusual Occurrence report to formally document her account of the incident and to
4 request that the Department launch a formal investigation. As discussed in greater detail below,
5 Assistant Chief Storti later destroyed evidence favorable to Assistant Chief Juratovac in
6 connection with a seventh disciplinary investigation launched against her. Further, Assistant
7 Chief Storti was very vocal at Station 11 about his animosity toward Assistant Chief Juratovac for
8 “turning on the heat” about the Station 11 party.

9 34. While the Department ultimately investigated the Station 11 party incident and
10 issued disciplinary orders for some culpable Fire Fighters, not everyone in the Department
11 appreciated Assistant Chief Juratovac’s whistleblowing activity. After reporting the Station 11
12 incident, Assistant Chief Juratovac began experiencing an even greater level of hostility and
13 harassment from some Fire Fighters, including her superiors in the Department. For example, Lt.
14 Michael Day was assigned to Station 11 in January 2018, just two months after Assistant Chief
15 Juratovac reported the party. As detailed below, in October 2018, Lt. Day became a key
16 participant in the SFFD’s efforts to investigate and discipline Assistant Chief Juratovac in
17 connection with a routine ladder drill held at Station 11 just nine months after he was assigned to
18 the station. Lt. Day’s role in the retaliatory misconduct is notable in particular because Assistant
19 Chief Juratovac actively assisted him when he was preparing for a promotional examination to
20 rise to the rank of Captain.

21 35. Despite the ongoing harassment and hostility, Assistant Chief Juratovac continued
22 to advocate for positive change within the department. In 2018, she participated in an
23 investigation by the American Civil Liberties Union (“ACLU”) concerning retaliation,
24 harassment, and discrimination within the SFFD.

25 36. In 2019, Assistant Chief Juratovac submitted a formal complaint regarding unfair
26 treatment by an Incident Scene Specialist who worked under Assistant Chief Juratovac’s
27 supervision, which had created a serious safety issue. Notably, the Incident Scene Specialist who
28 was the subject of Assistant Chief Juratovac’s complaint was close friends with Assistant Chief

1 Siragusa, who was implicated in the 2013 racial discrimination lawsuit and who had spearheaded
2 Disciplinary Investigation No. 2.

3 37. Assistant Chief Juratovac continued to advocate for her fellow SFFD Fire Fighters
4 who were the victims of the Department's ongoing discrimination and harassment. In 2019, she
5 met with the Chief of the Department, Jeanine Nicholson, on behalf of ResQ, the SFFD's
6 LGBTQ+ advocacy group, to address concerns regarding the Department's unlawful and unfair
7 treatment of its LGBTQ+ Fire Fighters and Paramedics. Later that same year, Assistant Chief
8 Juratovac acted as a representative for a Black, transgender Paramedic in his harassment
9 complaint against the SFFD.

10 **a) Disciplinary Investigation No. 5**

11 38. The fifth disciplinary investigation ("Disciplinary Investigation No. 5") against
12 Assistant Chief Juratovac began on or about June 24, 2019, right on the heels of Assistant Chief
13 Juratovac's whistleblowing regarding unfair treatment by an Incident Scene Specialist who
14 worked under Assistant Chief Juratovac's supervision, which had created a serious safety issue.

15 39. Disciplinary Investigation No. 5 stems from a complaint brought by an Incident
16 Scene Specialist who happened to be a close friend of Assistant Chief Siragusa. Assistant Chief
17 Siragusa retired shortly after DHR began investigating a 2018 complaint brought by Assistant
18 Chief Juratovac against him concerning misconduct on his part. Assistant Chief Juratovac did not
19 learn of the specifics of the allegations against her until she sat for an investigative interview on
20 July 15, 2019. There, she learned that the allegation was that she allegedly misused Department
21 resources by attending recruitment events on behalf of the Department while on duty, even
22 though the Department had detailed her to those very same events.

23 40. To this day, there has been no resolution of this investigation. Chief of Department
24 Nicholson has not issued Assistant Chief Juratovac her clearance letter with regards to
25 Disciplinary Investigation No. 5. The failure to issue the clearance letter or to issue any other
26 dispositive determination is another example of how the SFFD has weaponized the disciplinary
27 process against Assistant Chief Juratovac. Further, Assistant Chief Juratovac was forced again to
28 retain counsel to defend herself against another Department investigation in addition to suffering

1 emotional distress from being the target of a meritless investigation.

2 **b) Disciplinary Investigation No. 6**

3 41. The Department initiated yet another disciplinary investigation against Assistant
4 Chief Juratovac, claiming that she had unfairly mistreated a probationary Fire Fighter at a routine
5 ladder-raising drill (“Disciplinary Investigation No. 6”). The Department tainted Disciplinary
6 Investigation No. 6 by waiting nine months from the date of the alleged underlying incident to
7 launch the investigation. The City then assigned a biased investigator who routinely put words
8 into witnesses’ mouths and came to the astounding conclusion that Assistant Chief Juratovac
9 should be disciplined in part for allegedly “outing” an LGBTQ+ probationary Fire Fighter who
10 was already quite open and public about her sexual orientation long before the routine ladder drill
11 at issue. The investigator’s personal bias and animosity was evident throughout the investigation.

12 42. Following a sham investigation, Chief of Department Nicholson imposed an
13 unprecedented ten-day suspension against Assistant Chief Juratovac, the maximum discipline
14 which could be imposed short of termination, notwithstanding Assistant Chief Juratovac’s
15 unblemished record and SFFD’s progressive discipline policy. After appealing the suspension, it
16 was ultimately reduced to eight days and then reduced again to four days. However, in imposing
17 even the four-day suspension, the Department violated its own protocols related to progressive
18 discipline in which informal or formal coaching would have been the appropriate response.
19 Moreover, the Department imposed harsher discipline on Assistant Chief Juratovac than the
20 discipline imposed on her white, male, heterosexual counterparts for far more egregious
21 violations of SFFD rules.

22 **c) Disciplinary Investigation No. 7**

23 43. On or about January 7, 2020, SFFD launched yet another disciplinary investigation
24 in what is perhaps the clearest example of how it has weaponized the disciplinary process against
25 Assistant Chief Juratovac (“Disciplinary Investigation No. 7”).

26 44. Initially, Assistant Chief Juratovac was advised that the investigation centered
27 around allegations of misconduct related to a Performance Improvement Plan (“PIP”) in which
28 Assistant Chief Juratovac played no part. At the investigatory interview, however, it became clear

1 that that the SFFD spent more than one year investigating Assistant Chief Juratovac about a
2 missing PIP that she had not written and for which she was not responsible. Rather, through
3 Assistant Chief Juratovac's own efforts, she discovered that an entirely different document, an
4 August 3, 2019 Notice to Improve ("NTI") concerning a probationary Fire Fighter, had been
5 submitted through the chain of command. Battalion Chief Michael Thompson lost or purposefully
6 misplaced the PIP that he wrote, and sought to misrepresent the facts and place blame on
7 Assistant Chief Juratovac for his own retaliatory and unlawful reasons. The entire investigation
8 was premised on getting Assistant Chief Juratovac in trouble rather than focusing on Battalion
9 Chief Thompson, the person who wrote the NTI and the only person who had possession of it.

10 45. In order to clear her name of this frivolous charge, Assistant Chief Juratovac had
11 to retain counsel. During the course of the investigation, it became clear that SFFD officials
12 actively sought to suppress evidence that completely exonerated Assistant Chief Juratovac and
13 obviated the need for an investigation in the first instance.

14 46. The investigator in charge of Disciplinary Investigation No. 7, Rescue Captain
15 Christopher Bonn, claimed not to have taken notes of a witness who exonerated Assistant Chief
16 Juratovac and sought to re-interview the witness. When Rescue Captain Bonn asked that witness
17 for another interview, the witness submitted an Unusual Occurrence report documenting the
18 implausible nature of the request for another interview under the circumstances. In particular,
19 Rescue Captain Bonn's interview took place in January 2020 and revealed Assistant Chief
20 Juratovac's innocence in the matter. Yet, Rescue Captain Bonn allegedly took no notes and then
21 sought to re-interview the witness in May 2020. Although the witness properly documented the
22 interaction in an Unusual Occurrence report, Rescue Captain Bonn attempted to chastise the
23 witness and wrongfully accused him of violating the confidentiality of the investigatory process.

24 47. Assistant Chief Storti then reviewed the subject Unusual Occurrence report.
25 Assistant Chief Storti advised Assistant Chief Juratovac that he intended to rip it up. Assistant
26 Chief Juratovac admonished Assistant Chief Storti against this course of action, noting that the
27 Unusual Occurrence report pertained to the ongoing investigation against her. Assistant Chief
28 Storti acknowledged that Chief Juratovac was a "target" of the investigation.

1 48. Assistant Chief Juratovac advised Assistant Chief Storti to put the Unusual
2 Occurrence report into a sealed envelope and send it to Deputy Chief Wyrsh. Approximately one
3 week later, Assistant Chief Storti informed Assistant Chief Juratovac that after he spoke with
4 Deputy Chief Wyrsh about the Unusual Occurrence report, Deputy Chief Wyrsh ordered
5 Assistant Chief Storti to destroy it. Assistant Chief Storti stated that he complied with Deputy
6 Chief Wyrsh's order and destroyed it.

7 49. Further, Assistant Chief Storti advised that he and Deputy Chief Wyrsh intended
8 to punish the exculpatory witness for providing favorable information about Assistant Chief
9 Juratovac by denying his request to be transferred to the Airport Division because the Unusual
10 Occurrence report made Rescue Captain Bonn "look bad." On information and belief, Chief
11 Storti's actions were motivated, in part, by a desire to retaliate against Assistant Chief Juratovac
12 for blowing the whistle on the drunken party that took place at Station 11, as discussed above.

13 50. On or about February 24, 2021, Chief of Department Nicholson issued a letter
14 finding in Assistant Chief Juratovac's favor, bringing an end to an investigation that lasted more
15 than a year and which could have been addressed by a phone call. Notably, the letter ending the
16 investigation admonished Assistant Chief Juratovac for failing to turn over the NTI, even though
17 a missing NTI was never the subject of the investigation; rather, Disciplinary Investigation No. 7
18 supposedly concerned a missing PIP which Assistant Chief Juratovac had never seen. On
19 information and belief, the Department has done nothing to address Battalion Chief Thompson's
20 loss of the report and his efforts to blame his misconduct on Assistant Chief Juratovac. Further,
21 SFFD has done nothing to address Rescue Captain Bonn's, Assistant Chief Storti's and Deputy
22 Chief Wyrsh's efforts to suppress evidence favorable to Assistant Chief Juratovac.

23 **B. DHR Falsely Promised to End SFFD's Misconduct but Instead Engaged in**
24 **Even More Malfeasance**

25 51. In an effort to put an end to the retaliation, harassment, and discrimination,
26 Assistant Chief Juratovac submitted multiple complaints to the Ethics Commission. Rather than
27 meaningfully investigate and protect Assistant Chief Juratovac from those seeking to harm her
28 career, the Ethics Commission doubled down on the Department's misconduct, committing its

1 own, independent malfeasance. For example, Assistant Chief Juratovac filed a complaint in 2016
2 about the Department's retaliation for raising issues about safety, racial discrimination, and
3 retaliation. The Ethics Commission delayed responding for years before finally initiating an
4 investigation in March 2019. After three years, the Ethics Commission has not notified Assistant
5 Chief Juratovac about the results of the investigation despite the investigator assuring her that her
6 case presented strong evidence of retaliation (i.e. "the best case of retaliation in the history of the
7 Ethics Commission"). Then, the Ethics Commission abruptly backpeddled and suggested it could
8 not find a nexus between Assistant Chief Juratovac's claims and the Department's retaliatory
9 treatment.

10 52. After Disciplinary Investigation No. 6 was well underway, Assistant Chief
11 Juratovac filed a complaint with DHR in October 2019. For months, DHR represented to
12 Assistant Chief Juratovac that it had completed its investigation of her complaint, found it to be
13 meritorious and would soon bring an end to the harassment. When confronted with its own
14 dilatory tactics, however, DHR admitted in September of 2020 that it had been stringing her
15 along, and that its promises to vindicate her were untrue.

16 53. Assistant Chief Juratovac's 2019 EEO complaint specifically named individual
17 members of SFFD leadership who had subjected her to unlawful discrimination, harassment, and
18 retaliation. Assistant Chief Juratovac hoped and believed that DHR would investigate and
19 ultimately direct the Department to end its misconduct. Notably, Disciplinary Investigation No. 7
20 was initiated around the time of Assistant Chief Juratovac's complaint to DHR.

21 54. After Assistant Chief Juratovac submitted her EEO complaint to DHR in October
22 of 2019, Micki Callahan, Director of DHR, advised Assistant Chief Juratovac in January of 2020
23 that Rebecca Sherman, EEO Programs Manager, had been designated to investigate Assistant
24 Chief Juratovac's EEO Complaint.

25 55. Over the course of the following months, Ms. Sherman, acting within the course
26 and scope of her employment, claimed to be proceeding with her investigation of Assistant Chief
27 Juratovac's complaint. Although Assistant Chief Juratovac often requested status updates from
28 Ms. Sherman, responses from Ms. Sherman were rare. When Ms. Sherman did reply to Assistant

1 Chief Juratovac, she communicated that she was diligently investigating Assistant Chief
2 Juratovac's complaint, including conducting interviews with key witnesses. Notably, Ms.
3 Sherman's supervisors within DHR – including Ms. Callahan – were often copied on her written
4 status updates to Assistant Chief Juratovac. Thus, they were well aware of Ms. Sherman's
5 representations to Assistant Chief Juratovac. They were also aware that Ms. Sherman's
6 representations were false and did absolutely nothing to stop Ms. Sherman's lies nor "correct the
7 record" for Assistant Chief Juratovac.

8 56. On or about May 3, 2020, Ms. Sherman called Assistant Chief Juratovac to notify
9 her that she anticipated concluding her investigation within the following month. Indeed, on July
10 7, 2020, Ms. Sherman informed Assistant Chief Juratovac that her investigation was complete,
11 and that she had reached a preliminary determination finding that SFFD members had wrongfully
12 discriminated against, retaliated against, and harassed Assistant Chief Juratovac. Ms. Sherman
13 told Assistant Chief Juratovac that she would have her investigative report completed by the end
14 of the week.

15 57. While Ms. Sherman failed to ever provide a complete, definitive set of findings
16 from her investigation, she made multiple assurances to Assistant Chief Juratovac over the course
17 of the following months that the investigation was nearly complete. Not only did Ms. Sherman
18 repeatedly promise that she would deliver her final, comprehensive investigation report, she
19 assured Assistant Chief Juratovac that the individuals named in Assistant Chief Juratovac's EEO
20 complaint would be subject to disciplinary measures for their discriminatory conduct. Ms.
21 Sherman also advised Assistant Chief Juratovac that her report would include a recommendation
22 that the then-pending disciplinary investigations against Assistant Chief Juratovac be dismissed.

23 58. In spite of Ms. Sherman's promises to act quickly to finalize DHR's determination
24 letter, she failed to submit her recommendations to City leadership. Instead, in the following
25 months, under Ms. Callahan's direct supervision and direction, Ms. Sherman offered Assistant
26 Chief Juratovac a variety of flimsy excuses as to why the determination letter was not finalized or
27 could not be issued. Several times, Ms. Sherman falsely represented in emails to Assistant Chief
28 Juratovac that she was waiting for Ms. Callahan to review and revise the determination letter. Not

1 once did Ms. Callahan or any other DHR personnel respond to correct Ms. Sherman or to advise
2 that the investigation was not, in fact, complete.

3 59. Ms. Sherman, Ms. Callahan and Ms. Simon have all resigned or retired from City
4 employment, without advising Assistant Chief Juratovac as to the status of the pending
5 investigation. Since then, multiple members of City and DHR personnel have advised Assistant
6 Chief Juratovac that various law firms and consultants were either investigating Assistant Chief
7 Juratovac's complaint, or DHR's failure to investigate Assistant Chief Juratovac's complaint.
8 However, time has demonstrated that once again, the City has no real intent to hold those
9 involved in the unlawful treatment of Assistant Chief Juratovac accountable.

10 **C. The City Refused to Provide Documents Related to DHR's Misconduct**

11 60. On or about October 5, 2020, Assistant Chief Juratovac, through her counsel,
12 submitted a set of records requests to DHR under the California Public Records Act, Government
13 Code section 6250 *et seq.*, and the San Francisco Sunshine Ordinance (hereinafter referred to as
14 the "PRA requests").

15 61. Assistant Chief Juratovac's PRA requests generally requested documents related to
16 and arising from DHR's investigation of Assistant Chief Juratovac's EEO Complaint, designated
17 as Case File No. 3339. Assistant Chief Juratovac's PRA requests sought records from the
18 underlying investigation itself (including interview notes and interview transcripts), as well as
19 DHR's internal communications regarding the investigation (including, *inter alia*, correspondence
20 between Ms. Sherman and Ms. Callahan).

21 62. On or about October 16, 2020, DHR confirmed receipt of Assistant Chief
22 Juratovac's PRA request and invoked a 14-day extension of time to locate and provide responsive
23 records. However, DHR did not provide any documents within the 14-day window. Assistant
24 Chief Juratovac, through counsel, sent a follow-up letter to DHR on or about November 10, 2020
25 to inquire regarding the status of her pending records request.

26 63. On or about November 13, 2020, DHR responded, expressing "deepest apologies
27 for the delay." DHR produced a mere 40 pages of documents in response to the PRA request and
28 noted it was still researching and reviewing additional records.

1 64. The 40 pages of records which DHR provided consisted largely of DHR's
2 correspondence with Assistant Chief Juratovac herself. DHR's production contained few, if any,
3 emails, correspondence, and other records evidencing its investigation of Assistant Chief
4 Juratovac's EEO complaint.

5 65. More than three months passed without any supplemental production from DHR.
6 Assistant Chief Juratovac, through counsel, sent a follow-up letter to DHR on February 12, 2021,
7 addressing the deficiencies in DHR's November 13, 2020 production, and requesting an update
8 on its search for additional documents. When DHR did not respond, Assistant Chief Juratovac,
9 through counsel, sent another follow-up letter on February 26, 2021, demanding that DHR fully
10 respond to Assistant Chief Juratovac's PRA requests and provide all responsive records.

11 66. After further follow up correspondence, DHR responded on or about February 26,
12 2021, apologizing for DHR's failure to respond. DHR further advised that DHR's Custodian of
13 Records had begun compiling additional records in response to Assistant Chief Juratovac's PRA
14 requests. Then, on or about March 10, 2021, DHR advised that it had additional responsive
15 records which would be reviewed and produced by the end of the week.

16 67. On or about March 15, 2021, counsel for Assistant Chief Juratovac sent another
17 letter to DHR, detailing the deficiency of DHR's lone document production, and DHR's failure
18 over the previous five months to provide Assistant Chief Juratovac with any additional documents
19 or meaningful updates on its search for responsive records. Finally, on or about March 29, 2021,
20 DHR made a supplemental production that consisted of three documents, none of which were
21 related to DHR's investigation of Assistant Chief Juratovac's EEO complaint. DHR further
22 advised that it was withholding records responsive to Assistant Chief Juratovac's PRA requests,
23 noting meritless privacy and/or confidentiality concerns.

24 68. DHR has failed to produce records responsive to Assistant Chief Juratovac's PRA
25 request, other than a handful of documents mostly composed of Assistant Chief Juratovac's
26 correspondence.

27
28

FIRST CAUSE OF ACTION

Against All Defendants

Retaliation in Violation of Labor Code § 1102.5

1
2
3 69. Assistant Chief Juratovac hereby incorporates by reference each of the allegations
4 contained in paragraphs 1 through 68 as if set forth in full in this claim for relief.

5 70. At all times herein mentioned, Labor Code section 1102.5, the California
6 Whistleblower Act, was in full force and effect and was binding upon Defendants, and each of
7 them. This section required Defendants, and each of them, to refrain from retaliating against an
8 employee, such as Assistant Chief Juratovac for having exercised her rights under the statute.

9 71. At all times herein mentioned, Defendants were Assistant Chief Juratovac's
10 employer.

11 72. Throughout her career, Assistant Chief Juratovac has persistently advocated for
12 internal reform within the SFFD by disclosing to her superiors within the Department and other
13 City divisions (including the Department of Human Resources) instances of what she reasonably
14 believed to be unlawful and wrongful conduct. This includes, *inter alia*, the following instances
15 of protected whistleblowing activity, described more fully above:

16 A. Disclosing instances of unlawful cheating on SFFD promotional exams to
17 SFFD leadership;

18 B. Actively speaking out concerning intradepartmental discrimination against
19 minority Fire Fighters, including Black and LGBTQ+ Fire Fighters;

20 C. Participating as a witness in multiple racial discrimination lawsuits;

21 D. Reporting instances of safety issues which violated local and state law(s);

22 E. Disclosing unlawful misconduct within the Department, including the 2017
23 incident involving Fire Fighters consuming alcohol on duty and sexually harassing probationary
24 Fire Fighters;

25 F. Submitting complaints to the SFFD and DHR regarding rampant
26 discrimination, harassment, and retaliation perpetuated by SFFD leadership against Assistant
27 Chief Juratovac.
28

1 73. Assistant Chief Juratovac had reasonable cause to believe that the information she
2 provided to Defendants, including the numerous instances of misconduct and unlawful behavior
3 detailed above, disclosed a violation of state, local, and/or federal law.

4 74. In retaliation for Assistant Chief Juratovac's disclosure of unlawful activity within
5 the Department, Defendants have subjected Assistant Chief Juratovac to seven separate
6 disciplinary investigations, all without merit, one of which resulted in a four-day suspension
7 against Assistant Chief Juratovac.

8 75. In addition, and in further retaliation for Assistant Chief Juratovac's disclosure of
9 unlawful activity within the Department, the City declined to investigate Assistant Chief
10 Juratovac's well-founded complaints of discrimination, harassment, and retaliation.

11 76. In addition, and in further retaliation for Assistant Chief Juratovac's disclosure of
12 unlawful activity within the Department, the City has often denied Assistant Chief Juratovac
13 promotions, overtime work opportunities, and other meaningful benefits available to SFFD
14 personnel, in favor of her white, male, heterosexual counterparts within the Department – many
15 of whom are underqualified, or less qualified, than Assistant Chief Juratovac. This includes, *inter*
16 *alia*, SFFD's repeatedly denying Assistant Chief Juratovac the opportunity to work on the
17 SFFD's Incident Management Team ("IMT"), while appointing white, male, and/or heterosexual
18 firefighters who are less qualified and experienced than Assistant Chief Juratovac to work on the
19 IMT. This also includes, *inter alia*, SFFD's repeatedly denying Assistant Chief Juratovac the
20 opportunity to work as a Strike Team Leader Trainee for its Mutual Aid Wildland fire fighting
21 Strike Team, while appointing white, male, and/or heterosexual Fire Fighters who are less
22 qualified and experienced to work as a Strike Team Leader Trainee.

23 77. Assistant Chief Juratovac's disclosure of the unlawful conduct detailed herein was
24 a contributing factor in Defendant SFFD's misconduct described herein, including the serial
25 disciplinary investigations, the decision to suspend Assistant Chief Juratovac, the abandonment of
26 the City's obligations to investigate her EEO complaints, and denying Assistant Chief Juratovac
27 overtime work and promotions.

28 78. As a proximate result of Defendants' conduct, Assistant Chief Juratovac has

1 sustained and continues to sustain losses in earnings and other employment benefits in addition to
2 other financial harm in an amount to be proved at trial.

3 79. As a proximate result of Defendants conduct, Assistant Chief Juratovac has
4 suffered and continues to suffer humiliation, emotional distress, and mental pain and anguish.

5 80. As a proximate result of Defendants' conduct, Assistant Chief Juratovac has
6 incurred and continues to incur legal expenses and attorneys fees. Assistant Chief Juratovac is
7 presently unaware of the precise amount of said expenses and fees, and prays leave of court to
8 amend this complaint when said amounts are more fully known.

9 81. Defendants' conduct was a substantial factor in causing Assistant Chief
10 Juratovac's harm.

11 WHEREFORE, Assistant Chief Juratovac prays for judgment against Defendants as set
12 forth below.

13 **SECOND CAUSE OF ACTION**

14 Against All Defendants

15 Retaliation in Violation of Government Code section 12940(h)

16 82. Assistant Chief Juratovac hereby incorporates by reference each of the allegations
17 contained in paragraphs 1 through 81 as if set forth in full in this claim for relief.

18 83. At all times herein mentioned, Defendants were Assistant Chief Juratovac's
19 employer.

20 84. Jurisdiction in this court is invoked pursuant to California Government Code §§
21 12900, 12921, 12926, and 12940. Defendants are not exempted from statutes cited in this
22 paragraph by any local, state, or federal laws.

23 85. Throughout her career, Assistant Chief Juratovac has persistently advocated for
24 internal reform within the SFFD by disclosing to her superiors within the Department and other
25 City divisions (including the Department of Human Resources) instances of what she reasonably
26 believed to be unlawful and wrongful conduct. This includes, *inter alia*, the following instances
27 of protected whistleblowing activity, described more fully above:

28 A. Disclosing instances of unlawful cheating on SFFD promotional exams to
SFFD leadership;

1 B. Actively speaking out concerning intradepartmental discrimination against
2 minority Fire Fighters, including Black and LGBTQ Fire Fighters;

3 C. Participating as a witness in multiple racial discrimination lawsuits;

4 D. Reporting instances of safety issues which violated local and state law(s);

5 E. Disclosing unlawful misconduct within the Department, including the 2017
6 incident involving Fire Fighters consuming alcohol on duty and sexually harassing a probationary
7 Fire Fighter;

8 F. Submitting complaints to the SFFD and DHR regarding rampant
9 discrimination, harassment, and retaliation perpetuated by SFFD leadership against Assistant
10 Chief Juratovac.

11 86. Assistant Chief Juratovac had reasonable cause to believe that the information she
12 provided to Defendants, including the numerous instances of misconduct and unlawful behavior
13 detailed above, disclosed a violation of state, local, and/or federal law.

14 87. In retaliation for Assistant Chief Juratovac's disclosure of unlawful activity within
15 the Department, Defendants have subjected Assistant Chief Juratovac to seven separate
16 disciplinary investigations, all without merit, one of which resulted in a four-day suspension
17 against Assistant Chief Juratovac.

18 88. In addition, and in further retaliation for Assistant Chief Juratovac's disclosure of
19 unlawful activity within the Department, the City declined to investigate Assistant Chief
20 Juratovac's well-founded complaints of discrimination, harassment, and retaliation.

21 89. In addition, and in further retaliation for Assistant Chief Juratovac's disclosure of
22 unlawful activity within the Department, the City has often denied Assistant Chief Juratovac
23 promotions, overtime work opportunities, and other meaningful benefits available to SFFD
24 personnel, in favor of her white, male, heterosexual counterparts within the Department – many
25 of whom are underqualified, or less qualified, than Assistant Chief Juratovac. This includes, *inter*
26 *alia*, SFFD's repeatedly denying Assistant Chief Juratovac the opportunity to work on the
27 SFFD's Incident Management Team ("IMT"), while appointing white, male, and/or heterosexual
28 firefighters who are less qualified and experienced than Assistant Chief Juratovac to work on the

1 IMT. This also includes, *inter alia*, SFFD's repeatedly denying Assistant Chief Juratovac the
2 opportunity to work as a Strike Team Leader Trainee for its Mutual Aid Wildland fire fighting
3 Strike Team, while appointing white, male, and/or heterosexual Fire Fighters who are less
4 qualified and experienced to work as a Strike Team Leader Trainee.

5 90. Assistant Chief Juratovac's disclosure of the unlawful conduct detailed herein was
6 a contributing factor in Defendant SFFD's misconduct described herein, including the serial
7 disciplinary investigations, the decision to suspend Assistant Chief Juratovac, the abandonment of
8 the City's obligations to investigate her EEO complaint, and denying Assistant Chief Juratovac
9 overtime work and promotions as described herein.

10 91. As a proximate result of Defendants' conduct, Assistant Chief Juratovac has
11 sustained and continues to sustain losses in earnings and other employment benefits in addition to
12 other financial harm in an amount to be proved at trial.

13 92. As a proximate result of Defendants' conduct, Assistant Chief Juratovac has
14 suffered and continues to suffer humiliation, emotional distress, and mental pain and anguish.

15 93. As a proximate result of Defendants' conduct, Assistant Chief Juratovac has
16 incurred and continues to incur legal expenses and attorneys fees. Assistant Chief Juratovac is
17 presently unaware of the precise amount of said expenses and fees, and prays leave of court to
18 amend this complaint when said amounts are more fully known.

19 94. Defendants' conduct was a substantial factor in causing Assistant Chief
20 Juratovac's harm.

21 WHEREFORE, Assistant Chief Juratovac prays for judgment against Defendants as set
22 forth below.

23 **THIRD CAUSE OF ACTION**

24 Against All Defendants

25 Unlawful Discrimination – Gender/Sex (Govt. Code § 12940)

26 95. Assistant Chief Juratovac hereby incorporates by reference each of the allegations
27 contained in paragraphs 1 through 94 as if set forth in full in this claim for relief.

28 96. At all times herein mentioned, Defendants were Assistant Chief Juratovac's

1 employer.

2 97. Jurisdiction in this court is invoked pursuant to California Government Code §§
3 12900, 12921, 12926, and 12940. Defendants are not exempted from statutes cited in this
4 paragraph by any local, state, or federal laws.

5 98. Since 2012, the Department has subjected Assistant Chief Juratovac to seven
6 costly, time-consuming disciplinary investigations. In February of 2021, one of those disciplinary
7 actions resulted in the City, through the SFFD, suspending Assistant Chief Juratovac for four
8 days, without pay.

9 99. At the same time, the City has declined to discipline or investigate Assistant Chief
10 Juratovac's white, male, and/or heterosexual counterparts in the Department who have engaged in
11 the same, or worse, conduct for which Assistant Chief Juratovac was investigated and suspended.
12 Assistant Chief Juratovac's status as a woman was a substantial motivating factor in Defendants'
13 decision to suspend Assistant Chief Juratovac, and to subject her to the wrongful treatment
14 described herein.

15 100. In addition, the City has declined to investigate Assistant Chief Juratovac's well-
16 founded complaints of discrimination, harassment, and retaliation. Assistant Chief Juratovac's
17 status as a woman was a substantial motivating factor in Defendants' failure to investigate her
18 complaints of discrimination, harassment, and retaliation.

19 101. In addition, Assistant Chief Juratovac has often been denied promotions, overtime
20 work opportunities, and other meaningful benefits available to SFFD personnel, in favor of her
21 white, male, heterosexual counterparts within the Department – many of whom are
22 underqualified, or less qualified, than Assistant Chief Juratovac. This includes, *inter alia*, SFFD's
23 repeatedly denying Assistant Chief Juratovac the opportunity to work on the SFFD's Incident
24 Management Team ("IMT"), while appointing white, male, and/or heterosexual firefighters who
25 are less qualified and experienced than Assistant Chief Juratovac to work on the IMT. This also
26 includes, *inter alia*, SFFD's repeatedly denying Assistant Chief Juratovac the opportunity to work
27 as a Strike Team Leader Trainee for its Mutual Aid Wildland fire fighting Strike Team, while
28 appointing white, male, and/or heterosexual Fire Fighters who are less qualified and experienced

1 to work as a Strike Team Leader Trainee. Assistant Chief Juratovac's status as a woman was a
2 substantial motivating factor in Defendants' decision to deny her these employment benefits in
3 favor of her white, male, and/or heterosexual counterparts, and to subject her to the wrongful
4 treatment described herein.

5 102. Assistant Chief Juratovac is informed and believes and thereon alleges that this
6 cause of action is not preempted by the California Workers' Compensation Acts on the grounds
7 that discrimination on the basis of gender or sex is not a risk of employment.

8 103. As a proximate result of Defendants' conduct, Assistant Chief Juratovac has
9 sustained and continues to sustain losses in earnings and other employment benefits.

10 104. As a proximate result of Defendants' conduct, Assistant Chief Juratovac has
11 suffered and continues to suffer humiliation, emotional distress, and mental pain and anguish, all
12 to her damage in sum according to proof.

13 105. As a proximate result of Defendants' conduct, Assistant Chief Juratovac has
14 incurred and continues to incur legal expenses and attorneys fees. Assistant Chief Juratovac is
15 presently unaware of the precise amount of said expenses and fees, and prays leave of court to
16 amend this complaint when said amounts are more fully known.

17 106. Defendants' conduct was a substantial factor in causing Assistant Chief
18 Juratovac's harm.

19 WHEREFORE, Assistant Chief Juratovac prays for judgment against Defendants as set
20 forth below.

21 **FOURTH CAUSE OF ACTION**

22 Against All Defendants

23 Unlawful Discrimination – Race (Govt. Code § 12940)

24 107. Assistant Chief Juratovac hereby incorporates by reference each of the allegations
25 contained in paragraphs 1 through 106 as if set forth in full in this claim for relief.

26 108. At all times herein mentioned, Defendants were Assistant Chief Juratovac's
27 employer.

28 109. Jurisdiction in this court is invoked pursuant to California Government Code §§
12900, 12921, 12926, and 12940. Defendants are not exempted from statutes cited in this

1 paragraph by any local, state, or federal laws.

2 110. Since 2012, the Department has subjected Assistant Chief Juratovac to seven
3 costly, time-consuming disciplinary investigations. In February of 2021, one of those disciplinary
4 actions resulted in the City, through the SFFD, suspending Assistant Chief Juratovac for four
5 days, without pay.

6 111. At the same time, the City has declined to discipline or investigate Assistant Chief
7 Juratovac's white, male, heterosexual counterparts in the Department who have engaged in the
8 same, or worse, conduct for which Assistant Chief Juratovac was investigated and suspended.
9 Assistant Chief Juratovac's status as an Asian American was a substantial motivating factor in
10 Defendants' decision to suspend Assistant Chief Juratovac, and to subject her to the wrongful
11 treatment described herein.

12 112. In addition, the City has declined to investigate Assistant Chief Juratovac's well-
13 founded complaints of discrimination, harassment, and retaliation. Assistant Chief Juratovac's
14 status as an Asian American was a substantial motivating factor in Defendants' failure to
15 investigate her complaints of discrimination, harassment, and retaliation.

16 113. In addition, Assistant Chief Juratovac has often been denied promotions, overtime
17 work opportunities, and other meaningful benefits available to SFFD personnel, in favor of her
18 white, male, and/or heterosexual counterparts within the Department – many of whom are
19 underqualified, or less qualified, than Assistant Chief Juratovac. This includes, *inter alia*, SFFD's
20 repeatedly denying Assistant Chief Juratovac the opportunity to work on the SFFD's Incident
21 Management Team ("IMT"), while appointing white, male, and/or heterosexual firefighters who
22 are less qualified and experienced than Assistant Chief Juratovac to work on the IMT. This also
23 includes, *inter alia*, SFFD's repeatedly denying Assistant Chief Juratovac the opportunity to work
24 as a Strike Team Leader Trainee for its Mutual Aid Wildland fire fighting Strike Team, while
25 appointing white, male, and/or heterosexual Fire Fighters who are less qualified and experienced
26 to work as a Strike Team Leader Trainee. Assistant Chief Juratovac's status as an Asian
27 American was a substantial motivating factor in Defendants' decision to deny her these
28 employment benefits in favor of her white, male, and/or heterosexual counterparts, and to subject

1 her to the wrongful treatment described herein.

2 114. Assistant Chief Juratovac is informed and believes and thereon alleges that this
3 cause of action is not preempted by the California Workers' Compensation Acts on the grounds
4 that discrimination on the basis of race is not a risk of employment.

5 115. As a proximate result of Defendants' conduct, Assistant Chief Juratovac has
6 sustained and continues to sustain losses in earnings and other employment benefits.

7 116. As a proximate result of Defendants' conduct, Assistant Chief Juratovac has
8 suffered and continues to suffer humiliation, emotional distress, and mental pain and anguish, all
9 to her damage in sum according to proof.

10 117. Assistant Chief Juratovac has incurred and continues to incur legal expenses and
11 attorneys fees. Assistant Chief Juratovac is presently unaware of the precise amount of said
12 expenses and fees, and prays leave of court to amend this complaint when said amounts are more
13 fully known.

14 118. Defendants' conduct was a substantial factor in causing Assistant Chief
15 Juratovac's harm.

16 WHEREFORE, Assistant Chief Juratovac prays for judgment against Defendants as set
17 forth below.

18 **FIFTH CAUSE OF ACTION**

19 Against All Defendants

20 Unlawful Discrimination – Sexual Orientation (Govt. Code § 12940)

21 119. Assistant Chief Juratovac hereby incorporates by reference each of the allegations
22 contained in paragraphs 1 through 118 as if set forth in full in this claim for relief.

23 120. At all times herein mentioned, Defendants were Assistant Chief Juratovac's
24 employer.

25 121. Jurisdiction in this court is invoked pursuant to California Government Code §§
26 12900, 12921, 12926, and 12940. Defendants are not exempted from statutes cited in this
27 paragraph by any local, state, or federal laws.

28 122. Since 2012, the Department has subjected Assistant Chief Juratovac to seven
costly, time-consuming disciplinary investigations. In February of 2021, one of those disciplinary

1 actions resulted in the City, through the SFFD, suspending Assistant Chief Juratovac for four
2 days, without pay.

3 123. At the same time, the City has declined to discipline or investigate Assistant Chief
4 Juratovac's white, male, and/or heterosexual counterparts in the Department who have engaged in
5 the same, or worse, conduct for which Assistant Chief Juratovac was investigated and suspended.
6 Assistant Chief Juratovac's status as a lesbian woman was a substantial motivating factor in
7 Defendants' decision to suspend Assistant Chief Juratovac, and to subject her to the wrongful
8 treatment described herein.

9 124. In addition, the City has declined to investigate Assistant Chief Juratovac's well-
10 founded complaints of discrimination, harassment, and retaliation. Assistant Chief Juratovac's
11 status as a lesbian woman was a substantial motivating factor in Defendants' failure to investigate
12 her complaints of discrimination, harassment, and retaliation.

13 125. In addition, Assistant Chief Juratovac has often been denied promotions, overtime
14 work opportunities, and other meaningful benefits available to SFFD personnel, in favor of her
15 white, male, and/or heterosexual counterparts within the Department – many of whom are
16 underqualified, or less qualified, than Assistant Chief Juratovac. This includes, *inter alia*, SFFD's
17 repeatedly denying Assistant Chief Juratovac the opportunity to work on the SFFD's Incident
18 Management Team ("IMT"), while appointing white, male, and/or heterosexual firefighters who
19 are less qualified and experienced than Assistant Chief Juratovac to work on the IMT. This also
20 includes, *inter alia*, SFFD's repeatedly denying Assistant Chief Juratovac the opportunity to work
21 as a Strike Team Leader Trainee for its Mutual Aid Wildland fire fighting Strike Team, while
22 appointing white, male, and/or heterosexual Fire Fighters who are less qualified and experienced
23 to work as a Strike Team Leader Trainee. Assistant Chief Juratovac's status as a woman was a
24 substantial motivating factor in Defendants' decision to deny her these employment benefits in
25 favor of her white, male, and/or heterosexual counterparts, and to subject her to the wrongful
26 treatment described herein.

27 126. Assistant Chief Juratovac is informed and believes and thereon alleges that this
28 cause of action is not preempted by the California Workers' Compensation Acts on the grounds

1 that discrimination on the basis of sexual orientation is not a risk of employment.

2 127. As a proximate result of Defendants' conduct, Assistant Chief Juratovac has
3 sustained and continues to sustain losses in earnings and other employment benefits.

4 128. As a proximate result of Defendants' conduct, Assistant Chief Juratovac has
5 suffered and continues to suffer humiliation, emotional distress, and mental pain and anguish, all
6 to her damage in sum according to proof.

7 129. Assistant Chief Juratovac has incurred and continues to incur legal expenses and
8 attorneys fees. Assistant Chief Juratovac is presently unaware of the precise amount of said
9 expenses and fees, and prays leave of court to amend this complaint when said amounts are more
10 fully known.

11 130. Defendants' conduct was a substantial factor in causing Assistant Chief
12 Juratovac's harm.

13 WHEREFORE, Assistant Chief Juratovac prays for judgment against Defendants as set
14 forth below.

15 **SIXTH CAUSE OF ACTION**

16 Against All Defendants

17 Unlawful Harassment – Hostile Work Environment

18 131. Assistant Chief Juratovac hereby incorporates by reference each of the allegations
19 contained in paragraphs 1 through 130 as if set forth in full in this claim for relief.

20 132. At all times herein mentioned, Defendants were Assistant Chief Juratovac's
21 employer.

22 133. Jurisdiction in this court is invoked pursuant to California Government Code §§
23 12900, 12921, 12926, and 12940. Defendants are not exempted from statutes cited in this
24 paragraph by any local, state, or federal laws. At all relevant times herein, FEHA was in full force
25 and effect and was fully binding upon Defendants. Specifically, section Government Code section
26 12940(j) prohibits an employer from harassing an employee on the basis of their race, gender,
27 and/or sexual orientation.

28 134. Assistant Chief Juratovac was subjected to harassing conduct because she was an
Asian American, lesbian woman. The harassing conduct which Assistant Chief Juratovac has and

1 continues to experience was, and is, severe, pervasive, hostile, intimidating, oppressive, and
2 abusive. At all relevant times, Assistant Chief Juratovac considered the work environment to be
3 hostile, intimidating, offensive, oppressive, and abusive.

4 135. Several of Assistant Chief Juratovac's superiors in the Defendant SFFD, including
5 but not limited to Chief of Department Nicholson, engaged in the hostile, intimidating, offensive,
6 oppressive, and/or abusive conduct.

7 136. In addition, Assistant Chief Juratovac, on numerous occasions, complained to
8 Defendants about the hostile, intimidating, offensive, oppressive, and/or abusive conduct to which
9 she was subjected. Defendants, and each of them, knew or should have known of the conduct for
10 which Assistant Chief Juratovac complained, and failed to take immediate and appropriate
11 corrective action.

12 137. The actions of Defendants toward Assistant Chief Juratovac as described herein
13 created a hostile environment that materially altered Assistant Chief Juratovac's working
14 conditions, constituting harassment based on gender, race, and/or sexual orientation in violation
15 of Cal. Gov't Code § 12940(j).

16 138. As a proximate result of Defendants' conduct, Assistant Chief Juratovac has
17 sustained and continues to sustain losses in earnings and other employment benefits in addition to
18 other financial harm in an amount to be proved at trial.

19 139. As a proximate result of Defendants' conduct, Assistant Chief Juratovac has
20 suffered and continues to suffer humiliation, emotional distress, and mental pain and anguish, all
21 to her damage in sum according to proof.

22 140. Assistant Chief Juratovac has incurred and continues to incur legal expenses and
23 attorneys fees. Assistant Chief Juratovac is presently unaware of the precise amount of said
24 expenses and fees, and prays leave of court to amend this complaint when said amounts are more
25 fully known.

26 141. Defendants' conduct was a substantial factor in causing Assistant Chief
27 Juratovac's harm.

28 WHEREFORE, Assistant Chief Juratovac prays for judgment against Defendants as set

1 forth below.

2 **SEVENTH CAUSE OF ACTION**

3 Against All Defendants

4 Failure to Prevent Harassment, Discrimination, and Retaliation

5 142. Assistant Chief Juratovac hereby incorporates by reference each of the allegations
6 contained in paragraphs 1 through 141 as if set forth in full in this claim for relief.

7 143. At all times herein mentioned, Defendants were Assistant Chief Juratovac's
8 employer.

9 144. Assistant Chief Juratovac was subjected to the harassment, discrimination, and
10 retaliation described herein in the course of her employment with Defendants.

11 145. Defendants failed to take all reasonable steps to prevent the harassment,
12 discrimination, and retaliation to which Assistant Chief Juratovac was subjected.

13 146. As a proximate result of Defendants' conduct, Assistant Chief Juratovac has
14 sustained and continues to sustain losses in earnings and other employment benefits.

15 147. As a proximate result of Defendants' conduct, Assistant Chief Juratovac has
16 suffered and continues to suffer humiliation, emotional distress, and mental and physical pain and
17 anguish, all to her damage in sum according to proof.

18 148. Assistant Chief Juratovac has incurred and continues to incur legal expenses and
19 attorneys fees. Assistant Chief Juratovac is presently unaware of the precise amount of said
20 expenses and fees, and prays leave of court to amend this complaint when said amounts are more
21 fully known.

22 149. Defendants' conduct was a substantial factor in causing Assistant Chief
23 Juratovac's harm.

24 WHEREFORE, Assistant Chief Juratovac prays for judgment against Defendants as set
25 forth below.

EIGHTH CAUSE OF ACTION

Against All Defendants

Petition for Writ of Mandate and Declaratory Relief

Violations of California Public Records Act (Government Code § 6250 *et seq.*)

1
2
3
4
5 150. Assistant Chief Juratovac hereby incorporates by reference each of the allegations
6 contained in paragraphs 1 through 149 as if set forth in full in this claim for relief.

7 151. The California Public Records Act (“PRA”) provides that “access to information
8 concerning the conduct of the public’s business is a fundamental and necessary right to every
9 person in this state.” Under the PRA, all records prepared, owned, used, or retained by state and
10 local agencies that relate to public business (Gov. Code section 6252(e)) are subject to disclosure
11 unless a specifically enumerated exemption applies. (Gov. Code section 6253(b) [“Except with
12 respect to public records exempt from disclosure by express provisions of law, each state or local
13 agency, upon a request for a copy of records that reasonably describes an identifiable record or
14 records, shall make the records promptly available to any person upon payment of fees covering
15 direct costs of duplication, or a statutory fee if applicable.”].) Respondents’ failure to disclose the
16 records requested by Assistant Chief Juratovac violates the PRA.

17 152. The records sought by Assistant Chief Juratovac are not protected under
18 Government Code section 6254, subdivision (c), because they do not include “personnel, medical
19 or similar files, the disclosure of which would constitute an unwarranted invasion of privacy.”
20 None of the records sought by Assistant Chief Juratovac include records which could be
21 construed as “personnel, medical, or similar files” under Government Code section 6254,
22 subdivision (c). In addition, the disclosure of the records sought by Assistant Chief Juratovac
23 would not constitute an “unwarranted invasion of privacy” because those records do not include
24 any confidential or private information. To the extent those records include information which
25 may or could be construed as confidential or private, the public policy in disclosure of those
26 records strongly outweighs any privacy interests in withholding these documents.

27 153. The records sought by Assistant Chief Juratovac are not protected under
28 Government Code section 6254, subdivision (k) because they do not include information which is

1 exempted or prohibited under any relevant federal or state law, including any provisions of the
2 Evidence Code relating to privilege.

3 154. The records sought by Assistant Chief Juratovac are not protected from disclosure
4 under Article 1, Section 1 of the California Constitution because records do not include any
5 information which, if disclosed, would constitute an unwarranted invasion of personal privacy.
6 To the extent those records include information which may or could be construed as confidential
7 or private, the public policy in disclosure of those records strongly outweighs any privacy
8 interests in withholding these documents.

9 155. The records sought by Assistant Chief Juratovac are not protected from disclosure
10 under Evidence Code section 1040 because those records do not include information which was
11 acquired "in confidence" as defined under Evidence Code section 1040.

12 156. The records sought by Assistant Chief Juratovac are not protected from disclosure
13 under either Evidence Code section 950, Government Code section 6276.04, or California Code
14 of Civil Procedure section 2018.030, because the records do not include information or
15 communications by and between the City and its attorneys, nor do they include information or
16 communications prepared or made in preparation of, or in the course of, litigation.

17 157. Respondents' refusal to thus far produce any documents responsive to Assistant
18 Chief Juratovac's October 5, 2020 PRA request contradicts the PRA. Respondents are refusing to
19 comply with the PRA's statutory time limits, and are unlawfully withholding public records that
20 are not subject to an exemption.

21 158. Respondents' denial of access to the records sought by Assistant Chief Juratovac is
22 a violation of Government Code sections 6253 and 6255. Government Code sections 6253 and
23 6255 require all public records to be made available for inspection and copying unless exempt
24 from disclosure under the PRA.

25 159. Assistant Chief Juratovac has a clear, present, and substantial right to the release of
26 the records sought herein. Respondents have a manifest legal duty to respond to Assistant Chief
27 Juratovac's October 5, 2020 PRA request within the statutory period, and to provide records not
28 subject to an exemption in response to Assistant Chief Juratovac's October 5, 2020 PRA request.

1 Assistant Chief Juratovac has no plan, speedy, and adequate remedy other than relief sought in
2 this Petition.

3 160. There is a real, present, and ongoing controversy between Assistant Chief
4 Juratovac and Respondents with respect to Assistant Chief Juratovac's October 5, 2020 PRA
5 request.

6 161. Pursuant to, *inter alia*, Government Code section 6259(d), Assistant Chief
7 Juratovac is entitled to recover her attorneys' fees and costs on her PRA claims.

8 WHEREFORE, Assistant Chief Juratovac prays for judgment against Respondents as set
9 forth below.

10 **PRAYER FOR RELIEF**

11 WHEREFORE, Plaintiff and Petitioner prays for judgment as set forth below:

12 1. For general damages against each defendant, jointly and severally, in an amount
13 according to proof, and prejudgment interest at the legal rate thereon;

14 2. For special damages against each defendant, jointly and severally; lost wages and
15 salary; annoyance; inconvenience; medical expenses; and emotional distress damages, in an
16 amount according to proof, and interest at the legal rate thereon;

17 3. That this Court grant this Petition for Writ of Mandate and order disclosure of all
18 of the records requested by Plaintiff and Petitioner in her Public Records Act request;

19 4. That this Court grant declaratory relief holding that the Public Records Act applies
20 to and mandates disclosure of all of the records requested by Plaintiff and Petitioner in her Public
21 Records Act request, and that respondent has violated the Public Records Act by failing to
22 disclose said records to Plaintiff and Petitioner;

23 5. Alternatively, if the Court does not order immediate disclosure, that the Court
24 conduct an *in camera* review, if it deems necessary, of some or all of the records requested
25 pursuant to Government Code section 6259(a);

26 6. Alternatively, if the Court does not immediately order disclosure of the records
27 requested by Plaintiff and Petitioner in her Public Records Act request, that it order respondent to
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

show cause why the records requested should not be disclosed, and prepare a log of withheld documents, and thereafter order that the records requested be disclosed;

- 7. For reasonable attorney's fees;
- 8. For costs of suit incurred herein;
- 9. For such other and further relief as the Court deems just and proper.

DEMAND FOR A JURY TRIAL

Plaintiff and Petitioner hereby demands a jury trial on all issues.

Dated: May 24, 2021

CANNATA, O'TOOLE, FICKES & OLSON LLP



THERESE Y. CANNATA
Attorneys for Plaintiff and Petitioner
NICOL JURATOVAC

Dated: May 24, 2021

CANNATA, O'TOOLE, FICKES & OLSON LLP



MARK P. FICKES
Attorneys for Plaintiff and Petitioner
NICOL JURATOVAC

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

VERIFICATION

I, NICOL JURATOVAC, declare:

1. I am the Plaintiff and Petitioner in this action.
2. I have read the foregoing Petition for Writ of Mandate and Declaratory Relief, and know its contents.
3. As to the matters set forth above related to my Petition for Writ of Mandate and Declaratory Relief, and Eighth Cause of Action for Violation of the California Public Records Act (Paragraphs 60-68 and 151-161, above), the matters stated therein are true and correct and based on my personal knowledge, except as to those matters stated on information and belief, and as to those matters, I believe them to be true.
4. By this verification, I intend to verify only the Petition for Writ of Mandate and Declaratory Relief alleged in the Eighth Cause of Action (Paragraphs 60-68 and 151-161, above).

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on May 24, 2021 at San Francisco, California.



Nicol Juratovac