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7 Attorneys for Plaintiff,
BRIAN THOMPSON

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **COUNTY OF PLACER**
12 **UNLIMITED JURISDICTION**

14 BRIAN THOMPSON,)	Case No.: S-CV-0048337
)	
15 Plaintiff,)	COMPLAINT FOR DAMAGES
)	
16 v.)	1. WHISTLEBLOWER RETALIATION
)	UNDER LABOR CODE §1102.5;
17 NEWCASTLE FIRE PROTECTION DISTRICT;)	2. AGE DISCRIMINATION UNDER
)	THE FAIR EMPLOYMENT AND
18 and DOES 1 to 25 inclusive,)	HOUSING ACT;
)	3. RETALIATION UNDER FEHA
19 Defendants.)	REQUEST FOR JURY TRIAL

21 COMES NOW Plaintiff, BRIAN THOMPSON, and alleges as follows:

22 **GENERAL ALLEGATIONS**

23 1. Plaintiff, BRIAN THOMPSON ("Plaintiff"), is an adult resident of the County of
24 Sacramento, California and applied for employment with the Newcastle Fire Protection District located in
25 Newcastle, California.

26 2. Defendant NEWCASTLE FIRE PROTECTION DISTRICT ("NFPD") is a State/Local
27 Govt subject to suit under the California Fair Employment and Housing Act (FEHA) (*Government Code*
28 §12900 *et seq.*). Plaintiff believes Defendant is subject to the FEHA.

1 11. Prior to applying for the position with NFPD, Mr. Thompson was employed as a
2 firefighter with the French Camp McKinley Fire Department (“French Camp”). During the time that Mr.
3 Thompson was employed with French Camp, he observed illegal and improper activities by the command
4 staff including misuse of funds, misuse of equipment, and discrimination based on race.

5 12. Mr. Thompson was a witness with the San Joaquin Grand Jury regarding the practices he
6 witnessed at French Camp and suffered retaliation from the command staff that adversely impacted his
7 own employment.

8 13. Mr. Thompson was also forced to protect himself from those adverse employment actions
9 with a civil suit against French Camp and the relevant command staff.

10 14. On July 8, 2019, Mr. Thompson had an in-person interview with Chief Kushen. He
11 brought copies of his DMV record, credit report, and the Grand Jury Report for French Camp to his
12 interview so that he could explain what had occurred at his prior position.

13 15. Mr. Thompson provided details on his own experience of whistleblower retaliation and
14 the illegal/discriminatory practices he had seen at French Camp during the interview by Chief Kushen.

15 16. Chief Kushen told Mr. Thompson during the interview that he appreciated his
16 transparency and that if any issues arose in the background check he would be provided an opportunity to
17 explain the concern.

18 17. Later that afternoon, Chief Kushen contacted Plaintiff to offer him the position of Lateral
19 Engineer with NFPD, contingent on his passing the background check.

20 18. Mr. Thompson was happy to have the offer and agreed to return the background packet as
21 soon as possible.

22 19. Mr. Thompson turned in the completed background questionnaire and packet of
23 documents at the Placer Hills Fire District office on July 10, 2019.

24 20. Plaintiff has been informed and reasonably believes that after dropping off the documents
25 Battalion Chiefs were permitted to view his information and materials for the following week.

26 21. The packet was finally delivered from the Placer Hills Fire District Office to KP
27 Investigations in Auburn on July 17, 2019.

28 22. On July 21, 2019, Mr. Thompson had an interview scheduled with KP Investigations.

1 23. Mr. Thompson was informed it could not occur because a notarized authorization was not
2 completed. Mr. Thompson contacted the office and had the paperwork completed the same day so that his
3 background process could begin. Over the next several weeks, he remained in contact with KP
4 Investigations to ensure they received all necessary documents to complete the background check.

5 24. On August 21, 2019, Chief Kushen emailed Mr. Thompson that he had not been selected
6 for the position with NFPD.

7 25. Mr. Thompson attempted to contact Chief Kushen via email and telephone to discuss
8 why the job offer was being taken back, but he was simply told that the decision was final.

9 26. On September 9, 2019, a new employee, who was significantly younger than Mr.
10 Thompson, began his first shift with NFPD in the position that had been previously offered to Mr.
11 Thompson.

12 27. Mr. Thompson was informed that this new employee was not required to go through the
13 same background check process and investigation with KP Investigations.

14 28. When Mr. Thompson followed up with KP Investigations, he was encouraged to continue
15 seeking a position as a firefighter because they saw nothing in his background that should keep him from
16 getting hired as a firefighter.

17 29. Prior to Mr. Thompson being offered the position, Chief Kushen stated at a Newcastle Fire
18 Board Meeting that moving forward, all new applicants offered a position would need to undergo a
19 professional and comprehensive background investigation with an outside firm.

20 30. Mr. Thompson reasonably believes and therefore contends that he was put through the
21 additional rigors of the background check to provide an excuse for not providing him with the Lateral
22 Engineer position.

23 31. Mr. Thompson reasonably believes and therefore contends that a far younger applicant
24 was provided with preferential treatment in the hiring process, and that he was targeted for discrimination
25 because of both his age and his status as a firefighter who had previously acted as a whistleblower in
26 reporting illegal discrimination and improper activities in his previous employment with another fire
27 department.

1 **FIRST CAUSE OF ACTION**

2 **(Unlawful Retaliation in Violation of *Labor Code* §1102.5**

3 **Against Defendant NFPD and DOES 1 to 25)**

4 32. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 31 as though fully
5 set forth herein.

6 33. As alleged above, Mr. Thompson was asked in the interview process regarding his prior
7 employment and the reason he left his position at French Camp.

8 34. Mr. Thompson replied to these questions honestly and provided documentation to the
9 Defendants during the interview process regarding his role as a witness and whistleblower at French
10 Camp.

11 35. Mr. Thompson believes that his reporting of illegal and discriminatory practices at his
12 prior employer, French Camp, led Defendant NFPD to implement a heightened screening process for his
13 application and to deny him the position of Lateral Engineer in retaliation for his role as a whistleblower.
14 This retaliatory conduct was done in violation of *California Labor Code* §1102.5.

15 36. As a direct and proximate result of the wrongful conduct of Defendants as alleged herein,
16 Plaintiff has suffered injury to his business and professional reputation, and further has suffered and
17 continues to suffer embarrassment, humiliation, and anguish all to his damage in an amount according to
18 proof. Plaintiff has also suffered injury to his health and wellbeing, thereby entitling him general
19 damages in an amount to be proved at trial.

20 37. Plaintiff also seeks the recovery of his reasonable attorneys' fees and costs herein
21 incurred as authorized by law.

22 38. Defendants committed the acts alleged herein maliciously, fraudulently, and
23 oppressively, with the wrongful intention of injuring Plaintiff, from an improper and evil motive
24 amounting to malice, and in conscious disregard of Plaintiff's rights. Plaintiff is thus entitled to recover
25 punitive damages from Defendants and each of them in an amount according to proof and to the extent
26 permitted under the law.

1 are specifically provided by statute. *Government Code* §12940, *et seq.* provides that reasonable
2 attorney's fees and costs are recoverable by the prevailing party, at the discretion of the court. Plaintiff
3 has retained counsel for the prosecution of this action.

4 54. The conduct of Defendants subjected Plaintiff to cruel and unjust hardship in conscious
5 disregard of Plaintiff's rights. As a consequence of the aforesaid oppressive, malicious, and despicable
6 conduct, Plaintiff is entitled to an award of punitive damages in a sum to be shown according to proof and
7 as permitted by law.

8 **PRAYER FOR RELIEF**

9 WHEREFORE, Plaintiff prays as follows:

- 10 1. For general damages in excess of the jurisdictional minimum of this Court, according to
11 proof;
- 12 2. For special damages according to proof;
- 13 3. For exemplary damages as permitted under the law as to individual defendants;
- 14 4. For interest on the amount of losses incurred in earnings, deferred compensation, and
15 other employee benefits at the prevailing rate;
- 16 5. For costs of suit, including reasonable attorneys' fees; and
- 17 6. For such other and further relief as the Court may deem just and proper.

18
19 **REQUEST FOR JURY TRIAL**

20 Plaintiff, BRIAN THOMPSON, hereby requests a trial by jury.

21
22 Dated: April 15, 2022

BOWEN LAW FIRM

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24 By: 

25 WILLIAM L. BOWEN
26 Attorney for Plaintiff,
27 BRIAN THOMPSON
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