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13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
14 **COUNTY OF SANTA CRUZ**

14 MICHAEL BOTILL, an individual,
15
16 Plaintiff,
17 vs.
18 CENTRAL FIRE DISTRICT OF SANTA
19 CRUZ COUNTY, a California public entity;
20 DAN JORDAN, an individual; FORREST
21 GLEITSMAN, an individual; and DOES 1-25,
22 inclusive,

22 Defendants.

Case No.: 23CV01792

COMPLAINT FOR DAMAGES:

- (1) WHISTLEBLOWER RETALIATION
(Cal. Lab. Code § 1102.5)
- (2) WHISTLEBLOWER RETALIATION
(Cal. Lab. Code § 6310)
- (3) ASSAULT
- (4) BATTERY
- (5) FEHA RETALIATION
(Cal. Gov't. Code § 12940 (h))
- (6) HARASSMENT- HOSTILE WORK
ENVIRONMENT
(Cal. Gov't. Code 12940(j))
- (7) FAILURE TO PREVENT
DISCRIMINATION, RETALIATION,
AND HARASSMENT
(Cal. Gov't. Code § 12940 (k))
- (8) NEGLIGENT HIRING AND
RETENTION
- (9) NEGLIGENCE

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I. INTRODUCTION

1. Plaintiff Michael Botill has been employed as a firefighter for the Central Fire District of Santa Cruz County (“Central Fire” or “Central Fire District”) since 2016. During his employment with Central Fire District, Plaintiff was attacked or threatened with physical violence multiple times by a supervisor, Captain Dan Jordan. Central Fire District was fully aware of Captain Jordan’s history of violence in the workplace yet failed and refused to take any meaningful action to prevent future attacks.

2. In October 2022, in direct response to Plaintiff’s written complaints about Captain Jordan’s ongoing threats of violence and retaliatory medical leave policies, Plaintiff was attacked yet again in a coordinated assault by Captain Jordan and Firefighter Forrest Gleitsman at a work event. Instead of taking meaningful action against Plaintiff’s assailants, Central Fire has further retaliated against Plaintiff by blaming him for the attack and forcing Plaintiff to use protected leave should he wish to avoid working with his assailants.

3. Additionally, Plaintiff has been subjected to a barrage of continual and pervasive unlawful harassment by Captain Jordan and Central Fire in the form of gender and sexual orientation-based derogatory comments and taunts during his employment, all in violation of California’s Fair Employment and Housing Act (“FEHA”; Gov. Code § 12900 *et seq.*).

4. Plaintiff brings this action for numerous violations of anti-retaliation laws under the Labor Code and the FEHA, as well as actions for assault and battery and violation of protected leave laws.

II. JURISDICTION AND VENUE

5. Personal jurisdiction is proper under the California Code of Civil Procedure section 410.10 because Defendants, and each of them, have maintained sufficient minimum contacts with the State to make the exercise of personal jurisdiction reasonable and just under contemporary standards. Defendants are governmental entities, residents of, and/or are doing business, and are, upon information and belief, headquartered and maintain their principal place of business in the County of Santa Cruz, State of California.

1 14. Throughout his employment, Plaintiff has made formal and informal complaints,
2 reports, and disclosures within the meaning of California Labor Code sections 1102.5, 6310, and the
3 FEHA.

4 15. Central Fire District is, and at all times mentioned was, a California public entity
5 district comprised of multiple fire stations and an administrative headquarters all located in Santa
6 Cruz County. Central Fire was formerly referred to as Aptos/ La Selva Fire Protection District
7 and/or Central Fire District.

8 16. Defendant Central Fire District is a state, political, or civil subdivision of the State
9 or city, and regularly employed and continue to employ at least five persons during the relevant
10 periods at issue herein. As such, Central Fire District is an “employer” within the meaning of
11 FEHA.

12 12. Defendant Captain Dan Jordan (“Jordan”) is, and at all relevant times herein, has
13 been employed as captain of Central Fire District. Jordan has at all times relevant to this legal action
14 been a resident of Santa Cruz County. Jordan is also referred to as “DanJo”.

15 13. On information and belief, Jordan has a substance abuse problem with alcohol and
16 this fact has been known to the Central Fire District both before and after all relevant times herein.
17 This known substance abuse problem includes the use of violence or threats of violence after
18 consuming alcohol.

19 14. The position held by Jordan has at all times met at least the minimum requirements
20 of a legal supervisor for purposes of the FEHA and Government Code section 12926(t). Captains,
21 including Jordan, direct the daily work activities of firefighters and/or act as forepersons or leads or
22 the substantive equivalent of forepersons or leads. Captains oversee correction actions and can
23 initiate progressive discipline. Moreover, a captain’s recommendation is given significant weight in
24 hiring, firing, or disciplinary decisions or other decisions which affect the terms and conditions of
25 employment of firefighters. Captains are responsible for reporting illegal and discriminatory
26 behavior and unsafe working conditions at the Central Fire District and for receiving complaints,
27 disclosures, and reports of the same.
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1 knowledge of said facts. In the alternative, Plaintiff alleges that Defendants, and each of them,
2 exceeded the course and scope of their agency relationship with one another, rendering the agent(s)
3 liable for their own individualized misconduct.

4 **V. AIDING AND ABETTING/CONSPIRACY**

5 18. Defendants, and each of them, aided and abetted, encouraged, and rendered
6 substantial assistance to the other Defendants in breaching their obligations to Plaintiff, as alleged
7 herein. In taking action, as alleged herein, to aid and abet and substantially assist the commission of
8 these wrongful acts and other wrongdoing complained of, each of the Defendants acted with an
9 awareness of its/his/her primary wrongdoing and realized that its/his/her conduct would
10 substantially assist the accomplishment of the wrongful conduct, wrongful goals, and wrongdoing.
11 Defendants, and each of them, also knowingly and willfully conspired to do the acts and things
12 herein alleged pursuant to, and in furtherance of, the conspiracy.

13 **VI. ALTER EGO**

14 19. There is a unity of interest between one or more of the Defendants, and each acts as
15 the alter ego of the other. Additionally, at all times relevant herein, Defendants were joint employers
16 of the Plaintiff, by virtue of sharing authority over and control of the terms and conditions of
17 Plaintiff's employment.

18 **VII. EXHAUSTION OF ADMINISTRATIVE REMEDIES**

19 20. Prior to filing this action, on February 9, 2023, Plaintiff filed a charge with the
20 California Civil Rights Department, Complaint Number 202302-19648110, alleging violations of the
21 FEHA. The same day, Plaintiff received a "Right-to-Sue" Notice and Letter from the Department.
22 This lawsuit is timely initiated within a year of the issuance of the Right to Sue.

23 21. By obtaining and timely exercising his Right to Sue Notices from the Department in
24 a timely manner, Plaintiff has exhausted all available and required administrative remedies of the
25 FEHA.

26 22. Prior to filing this action, and within six-months of the incidents at issue, on
27 February 10, 2023, Plaintiff's counsel submitted a Complaint and Notice Against a Government/
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1 Public Entity pursuant to California Government Code section 910, *et sec.* That Complaint was
2 mailed to Central Fire District on February 10, 2023, certified mail, return receipt requested. That
3 Complaint described in great detail the facts, dates, and witnesses giving rise to the legal claims and
4 the specific code sections and torts underlying those claims.

5 23. On or about March 23, 2023, Central Fire District issued a claims rejection letter to
6 Plaintiff's counsel stating that the Complaint of February 10, 2023, had been received, but had been
7 rejected.

8 24. Plaintiff has commenced this lawsuit prior to the six-month deadline as set forth by
9 law and has thereby satisfied any administrative exhaustion requirements of Government Code
10 section 910, *et sec.*

11 **VIII. FACTUAL ALLEGATIONS**

12 ***Plaintiff's initial hiring and the first assault by Captain Jordan***

13 25. On approximately September 12, 2016, Plaintiff was hired by Central Fire District as
14 a probationary employee. Plaintiff met at least satisfactory performance expectations during his
15 probationary period before becoming a permanent employee on or about March 12, 2018.

16 26. Plaintiff has met at least satisfactory performance expectations for the entirety of his
17 employment at Central Fire District.

18 27. Central Fire District hosts an annual event called "Bid Night" where firefighters and
19 captains bid for their schedules and positions for the following year. Bid Nights are attended by all
20 levels of Central Fire District employees, including captains and even higher-ranking battalion chiefs.
21 Bid Nights are official or otherwise sanctioned by the Central Fire District.

22 28. At the 2020 Bid Night, which took place in or around the month of October 2020,
23 multiple higher-ranking firefighters aside from Jordan were present at the event. Because this was a
24 work event, Plaintiff also attended. At the event Jordan appeared drunk, impaired, and/or was
25 otherwise under the influence of alcohol and was also observed consuming alcohol.
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1 29. During the event, Jordan walked directly up to Plaintiff, abruptly slapped him across
2 the face, and then walked away laughing. Multiple Central Fire District employees were aware of this
3 battery immediately or very shortly thereafter, including multiple other Central Fire District captains.

4 30. In response to Jordan’s well known, public assault and battery of Plaintiff, the
5 Central Fire District did nothing to discipline, discourage, or punish Jordan, nor to prevent him
6 from committing similar and foreseeable acts in the future. As a result of these failures by Central
7 Fire District, Jordan learned that striking a subordinate was an acceptable practice.

8 31. By failing and refusing to take any action against Captain Jordan, Central Fire
9 District ratified Jordan’s behavior in connection with the 2020 Bid Night.

10 ***The second assault by Captain Jordan***

11 32. Firefighter Botill assisted in the organization and running of the following year’s Bid
12 Night in 2021. At the 2021 Bid Night, multiple higher-ranking firefighters aside from Jordan were
13 present, including captains and one or more battalion chiefs.

14 33. At the year 2021 Bid Night, Captain Jordan again appeared drunk, impaired, and
15 otherwise under the influence. During the event, Jordan aggressively approached Plaintiff with his
16 fist cocked back and ready to strike. He then verbally threatened Plaintiff and yelled, in substance or
17 effect: “You better not say anything to my fucking people!” Multiple Central Fire District employees
18 observed this, including higher ranking captains and battalion chiefs.

19 34. Plaintiff is informed and believed that Jordan’s remarks were intended to prevent
20 him from making workplace complaints or other legally protected reports or disclosures regarding
21 unlawful working conditions.

22 35. In response to Jordan’s second well known, public assault of Plaintiff, the Central
23 Fire District again did nothing to discipline, discourage, or punish Jordan, nor to prevent him from
24 committing similar and foreseeable acts in the future. Nor did Central Fire District take any action
25 to otherwise remediate the ongoing hostile work environment Plaintiff was forced to endure. By
26 failing to correct Jordan’s unlawful behavior *again*, Jordan was once again given the impression that
27 striking a subordinate was an acceptable way to discipline, or otherwise treat, lower ranking
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1 firefighters In the alternative, Jordan was implementing an unwritten policy, practice or custom of
2 the Central Fire District; to wit, that physical violence was an appropriate method of enforcing
3 workplace discipline.

4 36. By failing and refusing to take any action against Captain Jordan, Central Fire
5 District again ratified Jordan's behavior in connection with the 2021 Bid Night.

6 ***In response to complaints of unlawful conduct, Plaintiff is threatened with more violence***

7 37. On or about August 30, 2022, Plaintiff reasonably and in good faith believed that
8 Central Fire District already had implemented, or would be implementing, an illegal and retaliatory
9 medical leave of absence policy which would effectively punish firefighters (including Plaintiff) who
10 utilized various forms of protected leave or medical absences.

11 38. In response to Central Fire District's policy or proposed policy, Plaintiff submitted a
12 written complaint, disclosure, or report stating that this policy was, or would be, discriminatory,
13 retaliatory, harassing, and/or otherwise unlawful. On or about August 30, 2022, this complaint was
14 provided to Captain Jordan and numerous other persons who had authority over Plaintiff's
15 employment.

16 39. In direct response to Plaintiff's complaint and/or his lawful use of protected
17 medical leave, Jordan promptly retaliated against Plaintiff by stating to dozens of Plaintiff's co-
18 workers and superiors, that Plaintiff was "fucking [his] fellow union members because [he] want[s]
19 to work less and get more" by utilizing protected leave and/or opposing the policy and practices
20 that Plaintiff had reported.

21 40. In a telephone conversation with Captain Jordan shortly after Plaintiff's August 30,
22 2022, email, Jordan threatened further violence and retaliation against Plaintiff, stating, "You better
23 not be in the same room as me!" and "Fuck you, Dude . . . You're such a fag."

24 41. This act of retaliation was in direct response to Plaintiff's report and disclosure from
25 earlier that day. Plaintiff is informed and believed that Jordan's written and verbal remarks were
26 intended to prevent him from making workplace complaints or other legally-protected reports or
27 disclosures regarding unlawful working conditions.
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1 42. Plaintiff is further informed and believes that Jordan’s conduct in this instance, and
2 other instances, is part of an unwritten policy, practice, or custom of the Central Fire District’s to
3 retaliate against employees who make good faith complaints about working conditions, unlawful
4 policies and practices, or safety issues. Jordan’s conduct in this instance, and others, was done in
5 conformity with that unwritten policy, practice, or custom of the Central Fire District.

6 ***Plaintiff is assaulted yet again in response to his complaints of unlawful conduct***

7 43. On August 31, 2022, Plaintiff submitted a written complaint of retaliation,
8 discrimination and harassment to the Central Fire District pertaining to Captain Jordan’s conduct,
9 via a Central Fire Protection District Discrimination / Harassment Complaint form, where Plaintiff
10 also reported illegal acts of assault, battery, and retaliation that had occurred in the workplace.

11 44. Although Central Fire District was aware of Jordan’s violent behavior and substance
12 abuse, Plaintiff again warned the Central Fire District of Jordan’s violent history, his threats of
13 future violence against him, and Plaintiff’s ongoing and increasing workplace safety concerns.

14 45. In response, the Central Fire District ignored Plaintiff and did nothing to discipline,
15 discourage, or punish Jordan, nor did it do anything to prevent Jordan from committing similar acts
16 in the future. Jordan’s unlawful conduct was once again ratified by the Central Fire District. By
17 failing to correct Jordan’s unlawful behavior *yet again*, Central Fire District was ratifying Jordan’s
18 illegal and harassing workplace conduct.

19 46. On October 4, 2022, Plaintiff helped organize that year’s Bid Night. For the third
20 Bid Night in a row, Captain Jordan appeared drunk, impaired, and otherwise under the influence of
21 alcohol.

22 47. During Bid Night, Jordan approached probationary firefighters Julian Thompson
23 and Ben Shank and physically slapped items out of their hands, including a cell phone, in a highly
24 aggressive manner. Because he perceived this assault as another instance of workplace violence,
25 Plaintiff immediately told Jordan to stop, then asked another captain to intervene. Multiple high-
26 ranking firefighters observed Jordan’s aggressive behavior. Because Central Fire District took no
27 meaningful action against Jordan in response to more workplace violence, Jordan was once again
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1 given the impression that striking a subordinate was an acceptable way to discipline, or otherwise
2 treat, lower ranking firefighters. In the alternative, Jordan was implementing an unwritten policy,
3 practice or custom of the Central Fire District; to wit, that physical violence was an appropriate
4 method of enforcing workplace discipline.

5 48. By failing and refusing to take any action against Captain Jordan, Central Fire
6 District ratified Jordan’s behavior in connection with the 2022 Bid Night.

7 49. As a continuation of the Bid Night, multiple firefighters, including Plaintiff, went to
8 the Britannia Arms Restaurant located in Capitola, California. While at the restaurant, Plaintiff
9 received a text message from Firefighter Forrest Gleitsman, asking in substance or effect: “Where
10 you at?” Plaintiff provided Gleitsman with his location. On information and belief, and
11 unbeknownst to Plaintiff, Jordan and Gleitsman had by this time formed an agreement or
12 conspiracy to attack Plaintiff and were attempting to locate him for that purpose.

13 50. A short while later, Jordan and Gleitsman entered the restaurant. Jordan sat down
14 across from Plaintiff at the same table, staring at him and taunting him. These acts of further
15 intimidation, harassment, and retaliation included the following statements: (1) “Why are you such a
16 cunt?”; (2) “Why are you such a faggot?”; and (3) “Why do you hate me so much?” Because Jordan
17 was increasingly belligerent and antagonistic, Plaintiff was afraid for his safety and left the restaurant.
18 Jordan almost immediately pursued him.

19 51. Jordan continued to taunt Plaintiff outside and verbally reconfirmed that the basis
20 for his retaliation against, and treatment of, Plaintiff was due in at least substantial part to Plaintiff’s
21 perceived use of protected leave and Plaintiff’s complaints about unlawful working conditions.
22 Jordan further complained about Covid-19 policies, stating that the vaccine requirements were
23 Plaintiff’s fault. Plaintiff attempted to escape Jordan for a *second time* by returning inside and sitting
24 away from the Central Fire District’s table entirely next to a stranger. Jordan again pursued Plaintiff
25 and placed himself directly between Plaintiff and the patron, interrupting them mid conversation.
26 Jordan continued antagonizing Plaintiff, plainly in an effort to intimidate him.

1 52. In response to Jordan’s outward aggression, the bartender closed the bar for the
2 night. Plaintiff then attempted to get away from Captain Jordan for a *third time* but was pursued by
3 Jordan and also Gleitsman. Referring expressly to Plaintiff’s protected complaint of August 31,
4 2022, and the District’s unwritten policy, custom, or practice of allowing workplace violence,
5 Gleitsman yelled, in substance or effect: “How dare you sue DanJo!” and “If we have problems, we
6 settle them in the streets with our fists!” Jordan attempted to strike and shove Plaintiff at this time.

7 53. During this assault, and again in direct reference to Plaintiff’s complaints and reports
8 about workplace violence and safety, Jordan yelled, in substance or effect: “How dare you complain
9 about me to the department!”

10 54. Plaintiff attempted to distance himself from Jordan and now Gleitsman for a *fourth*
11 *time* but was attacked from behind by a strike to the jaw from Gleitsman. Gleitsman then repeatedly
12 struck Plaintiff’s face and body multiple times with his fists. Jordan joined the attack, also striking
13 Plaintiff with his fists. Plaintiff suffered multiple physical and emotional injuries because of the
14 unlawful attack by these agents of Central Fire District.

15 55. On information and belief, Gleitsman has committed at least one other assault and
16 battery against a fellow District firefighter. This includes an instance where Gleitsman choked a
17 Captain during a work event located at Palapas Restaurant in Aptos, California. The Central Fire
18 District was made aware of this behavior, and Gleitsman’s propensity for violence, but took no
19 material and or reasonable steps to discipline or punish Gleitsman or otherwise prevent a similar
20 violent behavior, but instead continued to negligently retain Gleitsman and thereby ratified the
21 unlawful conduct and encourage future instances of violence. Moreover, Central Fire District’s
22 failure to address Gleitsman’s violence created the impression in Gleitsman that violence and/or
23 the threat of violence was an appropriate method of resolving workplace disputes by effectively
24 ratifying the conduct.

25 56. Upon information and belief, Captain Jordan, Gleitsman, and others who are
26 currently unknown to Plaintiff have engaged in a pattern and practice of unlawful activity towards
27 other firefighters, including the use of workplace violence, to implement workplace and to resolve
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1 workplace disputes. This is part of an unwritten policy, custom, and practice at Central Fire District
2 that deems such conduct acceptable.

3 ***The Central Fire District continues its campaign of inaction against Plaintiff's attackers and***
4 ***instead blames Plaintiff for the attack***

5 57. Multiple upper ranking firefighters, including captains and one or more battalion
6 chiefs as well as Fire Chief Jason Nee, were made aware of the October 4, 2022, attack on Plaintiff
7 no later than the following day.

8 58. Plaintiff is informed and believes that the Central Fire District has taken no material
9 steps to discipline or punish either Captain Jordan or Gleitsman, nor to prevent them from
10 committing similar acts in the future against Plaintiff or others. Moreover, Central Fire District has
11 ratified the actions of Captain Jordan and Gleitsman as described herein.

12 59. In contrast, Plaintiff was told by Fire Chief Nee that *he* was at fault because Plaintiff
13 was hired by a Fire Chief who was widely disliked and since that Chief was so disliked, the people he
14 hired (including Plaintiff) were not trusted. Nee told Plaintiff that he needed to “earn” trust for that
15 reason. Moreover, Plaintiff was told he could try to schedule himself on different shifts than Jordan
16 and Gleitsman, but if it was not possible to do so, he had to either work with his assailants or take
17 leave from work.

18 60. The District’s response is a further act of retaliation to Plaintiff’s series of workplace
19 complaints. Moreover, by refusing and failing to consistently schedule Jordan or Gleitsman on
20 separate shifts than Plaintiff, the District has interfered and/or prospectively interfered with
21 Plaintiff’s ability to use protected leave for true medical or family emergencies and has engaged in
22 unlawful conduct by failing to appropriately remediate the ongoing hostile work environment.

23 61. As a result of the aforementioned conduct, Plaintiff has in essence been frozen out
24 from internal advancement or higher-ranking job opportunities within the Central Fire District.

25 62. For almost the entirety of Plaintiff’s employment with Central Fire, Plaintiff has also
26 been exposed to a barrage of continual and pervasive derogatory comments by Jordan, including
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1 “faggot,” “cunt,” and other derogatory terms that have materially affected the terms and conditions
2 of his employment at the Central Fire District.

3 **IX. CAUSES OF ACTION**

4 **FIRST CAUSE OF ACTION**

5 **WHISTLEBLOWER RETALIATION**

6 **(Labor Code § 1102.5)**

7 **(Against Defendant Central Fire and Does 1-25)**

8 63. Plaintiff realleges and hereby incorporates by reference all allegations set forth in the
9 paragraphs above, to the extent they are not contradictory to the relief requested herein, as if fully
10 set forth.

11 64. California Labor Code §1102.5(a) prohibits an employer from making, adopting or
12 enforcing any rule or policy preventing an employee from disclosing information to a government or
13 law enforcement agency, where the employee reasonably believes that the information discloses a
14 violation of state or federal statute, rule or regulation.

15 65. California Labor Code § 1102.5(b) prohibits an employer, or any person acting on
16 behalf of the employer, from discharging, retaliating or in any manner discriminating against any
17 employee for disclosing information, or because the employer believes that the employee disclosed
18 or may disclose information, to a government or law enforcement agency, to a person with authority
19 over the employee or another employee who has the authority to investigate, discover, or correct the
20 violation or noncompliance, or for providing information to, or testifying before, any public body
21 conducting an investigation, hearing, or inquiry, if the employee has reasonable cause to believe that
22 the information discloses a violation of state or federal statute, or a violation of or noncompliance
23 with a local, state, or federal rule or regulation, regardless of whether disclosing the information is
24 part of the employee's job duties.

25 66. California Labor Code §1102.5(c) prohibits an employer, or any person acting on
26 behalf of the employer, from discharging, retaliating, or in any manner discriminating against any
27 employee for refusing to participate in an activity that would result in a violation of state or federal
28 statute, or a violation of or noncompliance with a local, state, or federal rule or regulation.

1 67. Plaintiff disclosed to Defendants what he reasonably believed to be a violations of
2 law and his legally protected employment rights, and he opposed Defendants' inadequate response
3 and remedial measures relating to his complaints that he had reasonable cause to believe were in
4 violation of local, state, and or federal civil rights statutes. Those protected complaints, disclosures,
5 reports, and activities include but are not limited to:

- 6 ➤ Plaintiff's written complaint and disclosure of August 30, 2022, submitted to multiple
7 Central Fire District supervisors and managers, including Jordan, that the Central Fire's
8 treatment and/or proposed treatment of firefighters who utilized, or would utilize,
9 protected leave or take medical absences violated California law, and that said treatment
10 was retaliatory, discriminatory, and harassing.
- 11 ➤ Plaintiff's written Discrimination/ Harassment complaint of August 31, 2022, disclosed
12 and/or submitted to Central Fire, complaining of unlawful retaliation, discrimination,
13 and harassment regarding Captain Jordan's past unlawful conduct and threats of future
14 violence.
- 15 ➤ Plaintiff's verbal complaint of October 4, 2022, disclosed and/or submitted to a
16 supervisor and/or manager, that Captain Jordan was engaging in violent behavior
17 towards other firefighters.
- 18 ➤ Plaintiff's verbal complaint(s) of October 5, 2022, disclosed and/or submitted to
19 supervisors and/or managers that Captain Jordan and Gleitsman had engaged in
20 unlawful acts of violence and retaliation towards him.
- 21 ➤ Plaintiff's written Discrimination/ Harassment complaint of October 12, 2022, disclosed
22 and/or submitted to Central Fire, complaining of unlawful retaliation, discrimination,
23 and harassment regarding Captain Jordan's past unlawful conduct and threats of future
24 violence.
- 25 ➤ Plaintiff's verbal complaint to Fire Chief Nee on or about October 19, 2022, that Central
26 Fire District's conduct towards him was retaliatory, discriminatory, and harassing.
- 27 ➤ Other disclosures that will be identified up to and including the time of trial.
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1 68. At the time Plaintiff made the disclosures, reports, and complaints regarding
2 workplace health and safety concerns, Plaintiff reasonably believed the law had been broken, was
3 being broken, or would be broken. Those laws include, but are not limited to:

- 4 ➤ California Penal Code sections 240 and 242 defining assault and battery;
- 5 ➤ California Labor Code sections 245-247.5 pertaining to the use of protected sick leave
6 and medical absences;
- 7 ➤ California Labor Code sections 233 and 234 pertaining to the use of protected sick leave
8 and medical absences;
- 9 ➤ California Government Code section 12945.2, and related provisions pertaining to the
10 CFRA;
- 11 ➤ The Family Medical Leave Act (FMLA), including but not limited to 29 Code Fed. Regs.
12 section 825.220;
- 13 ➤ California Government Code section 12940(a) prohibiting unlawful discrimination,
14 harassment, and retaliation for opposing practices that violate the FEHA;
- 15 ➤ California Labor Code section 232.5, prohibiting employers from discrimination,
16 disciplining, or discharging employees who disclose information about working
17 conditions;
- 18 ➤ 8 Cal. Code Regs. section 3200, California's public policy to make full provision for
19 securing safety in employment and compliance with OSHA orders to help prevent
20 injury;
- 21 ➤ 8 Cal. Code Regs. section 3203, setting forth the regulations and requirements for
22 California employers to establish, implement and maintain an effective Injury and Illness
23 Prevention Program, that includes a system for ensuring that employees comply with
24 safe and healthy work practices, and that includes a system for communicating with
25 employees in a form readily understandable by all affected employees on matters relating
26 to occupational safety and health, including provisions designed to encourage employees
27 to inform the employer of hazards at the worksite without the fear of reprisal;
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- 1 ➤ Other laws, regulations, and/or ordinances that will be identified up to and including the
2 time of trial.

3 69. The complaints, reports, and protected disclosures were made to persons that had
4 had authority over Plaintiff, had the authority to make and enforce rules, regulations and policy
5 affecting employees, and the terms and conditions of their employment, and/or to investigate,
6 discover and/or correct the violation of non-compliance reported by Plaintiff.

7 70. Defendants took adverse employment action, by and through their agents and
8 employees, which, individually or taken as a whole, materially and adversely affected the terms,
9 conditions and privileges of Plaintiff's employment:

- 10 ➤ Committing assault and/or battery against Plaintiff;
11 ➤ Failing and/or refusing to act upon one or more of Plaintiff's disclosures or complaints
12 of unlawful activity and/or to do so in a timely, good faith, and material way;
13 ➤ Refusing to reasonably punish or discipline Captain Jordan and/or Gleitsman;
14 ➤ Forcing Plaintiff into circumstances that would require him to work on the same shift
15 as Captain Jordan and/or Gleitsman;
16 ➤ Prospectively interfering with Plaintiff's use of protected sick leave, CFRA, and FMLA
17 leave by requiring him to work on the same shift as Captain Jordan and/or Gleitsman,
18 or in the alternative, utilize protected leaves of absence;
19 ➤ Harassing Plaintiff on the basis of his actual and/or perceived sexual orientation and/or
20 gender;
21 ➤ Failing to prevent ongoing harassment of Plaintiff on the basis of his actual and/or
22 perceived sexual orientation and/or gender;
23 ➤ Blaming Plaintiff for the actions taken by Captain Jordan and/or Gleitsman;
24 ➤ Alienating and reprimanding Plaintiff;
25 ➤ Other adverse actions that will be identified up to and including the time of trial.

26 71. By and through the aforesaid acts and omissions of Defendants, and each of them,
27 Plaintiff has been directly and legally caused to suffer actual damages including, but not limited to,
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1 loss of earnings and future earning capacity, loss of benefits, attorneys' fees, costs of suit, and other
2 pecuniary loss not presently ascertained. Accordingly, Plaintiff is entitled to a recovery for said
3 damages in an amount according to proof at trial.

4 72. As a further direct and legal result of the acts and conduct of Defendants, and each
5 of them, as aforesaid, Plaintiff has been caused to and did suffer, and continues to suffer significant
6 emotional and mental distress, anguish, humiliation, embarrassment, fright, shock, pain, discomfort
7 and anxiety. Therefore, Plaintiff is entitled to a recovery for said damages in an amount according to
8 proof at trial.

9 73. Defendants' conduct was a substantial factor in causing Plaintiff's harm.

10 **SECOND CAUSE OF ACTION**
11 **WHISTLEBLOWER RETALIATION**
12 **(Labor Code § 6310)**
13 **(Against Defendant Central Fire and Does 1-25)**

14 74. Plaintiff realleges and hereby incorporates by reference all allegations set forth in the
15 paragraphs above, to the extent they are not contradictory to the relief requested herein, as if fully
16 set forth.

17 75. At all times mentioned herein, California Labor Code § 6310 ("Section 6310") was in
18 effect, and binding on Defendant Central Fire District. Section 6310 prohibits employers from
19 discharging, constructively discharging, retaliating or in any manner discriminating against any
20 employee for making any oral or written health or safety complaint, or complaint regarding working
21 conditions, to a governmental agency, or their employer.

22 76. Plaintiff made good faith health or safety complaints or complaints regarding
23 working conditions, including but not limited to:

- 24 ➤ Plaintiff's written complaint and disclosure of August 30, 2022, submitted to multiple
25 Central Fire District supervisors and managers, including Jordan, that the Central Fire's
26 treatment and/or proposed treatment of firefighters who utilized protected leave or take
27 medical absences, or would utilize protected leave or take medical absences, violated
28 California law, and that said treatment was retaliatory and discriminatory;

- Plaintiff's written Discrimination/ Harassment complaint of August 31, 2022, disclosed and/or submitted to Central Fire, complaining of unlawful retaliation, discrimination, and harassment regarding Captain Jordan's past unlawful conduct and threats of future violence;
- Plaintiff's verbal complaint of October 4, 2022, disclosed and/or submitted to a supervisor and/or manager, that Captain Jordan was engaging in violent behavior towards other firefighters;
- Plaintiff's verbal complaint(s) of October 5, 2022, disclosed and/or submitted to supervisors and/or managers that Captain Jordan and Gleitsman had engaged in further violence towards him;
- Plaintiff's written Discrimination/ Harassment complaint of October 12, 2022, disclosed and/or submitted to Central Fire, complaining of unlawful retaliation, discrimination, and harassment regarding Captain Jordan's past unlawful conduct and threats of future violence.
- Plaintiff's verbal complaint to Fire Chief Nee on or about October 19, 2022, that Central Fire District's conduct towards him was retaliatory, discriminatory, and harassing.
- Other disclosures and complaints that will be identified up to and including the time of trial.

77. At the time Plaintiff made the complaints and disclosures regarding workplace safety violations and health and safety concerns, Plaintiff reasonably believed the law had and/or was being broken. Those workplace safety laws include, but are not limited to:

- California Penal Code sections 240 and 242 defining assault and battery;
- California Labor Code sections 245-247.5 pertaining to the use of protected sick leave and medical absences;
- California Labor Code sections 233 and 234 pertaining to the use of protected sick leave and medical absences;

- California Government Code section 12945.2, and related provisions pertaining to the California Family Rights Act;
- The Family Medical Leave Act, including but not limited to 29 CFR 825.220;
- California Government Code section 12940(a) prohibiting unlawful discrimination, harassment, and retaliation for opposing practices which violate the California Fair Employment and Housing Act;
- California Labor Code section 232.5, prohibiting employers from discrimination, disciplining, or discharging employees who disclose information about working conditions;
- 8 Cal. Code Regs. section 3200, California’s public policy to make full provision for securing safety in employment and compliance with OSHA orders to help prevent injury;
- 8 Cal. Code Regs. section 3203, setting forth the regulations and requirements for California employers to establish, implement and maintain an effective Injury and Illness Prevention Program, that includes a system for ensuring that employees comply with safe and healthy work practices, and that includes a system for communicating with employees in a form readily understandable by all affected employees on matters relating to occupational safety and health, including provisions designed to encourage employees to inform the employer of hazards at the worksite without the fear of reprisal;
- Other laws, regulations, and/or ordinances that will be identified up to and including the time of trial.

78. At the time Plaintiff made the protected complaints and disclosures, he reasonably believed the working conditions and/or practices to be unsafe.

79. Defendants took adverse action, by and through their agents and employees, which, individually or taken as a whole, materially and adversely affected the terms, conditions and privileges of employment for Plaintiff:

- Committing assault and/or battery against Plaintiff;
- Failing and/or refusing to act upon one or more of Plaintiff's disclosures or complaints of unlawful activity;
- Refusing to reasonably punish or discipline Captain Jordan and/or Gleitsman;
- Forcing Plaintiff into circumstances that would require him to work on the same shift as Captain Jordan and/or Gleitsman;
- Prospectively interfering with Plaintiff's use of protected sick leave, CFRA, and FMLA leave by requiring him to work on the same shift as Captain Jordan and/or Gleitsman, or in the alternative, utilize protected leaves of absence
- Harassing Plaintiff on the basis of his actual and/or perceived sexual orientation and/or gender;
- Failing to prevent ongoing harassment of Plaintiff on the basis of his actual and/or perceived sexual orientation and/or gender;
- Blaming Plaintiff for the actions taken by Captain Jordan and/or Gleitsman;
- Alienating and reprimanding Plaintiff;
- Other adverse actions that will be identified up to and including the time of trial.

80. By and through the aforesaid acts and omissions of Defendants, and each of them, Plaintiff has been directly and legally caused to suffer actual damages including, but not limited to, loss of earnings and future earning capacity, loss of benefits, attorneys' fees, costs of suit, and other pecuniary loss not presently ascertained. Accordingly, Plaintiff is entitled to a recovery for said damages in an amount according to proof at trial.

81. As a further direct and legal result of the acts and conduct of Defendants, and each of them, as aforesaid, Plaintiff has been caused to and did suffer, and continues to suffer significant emotional and mental distress, anguish, humiliation, embarrassment, fright, shock, pain, discomfort and anxiety. Therefore, Plaintiff is entitled to a recovery for said damages in an amount according to proof at trial.

82. Defendants' conduct was a substantial factor in causing Plaintiff's harm.

1 **THIRD CAUSE OF ACTION**

2 **ASSAULT**
3 **(Against All Defendants)**

4 83. Plaintiff realleges and incorporates the foregoing paragraphs as though fully set forth
5 herein, excepting those allegations that are inconsistent with this cause of action.

6 84. Captain Jordan and Gleitsman acted in a violent and threatening manner towards
7 Plaintiff, with the intent to cause Plaintiff apprehension of immediate injury.

8 85. Plaintiff had a reasonable apprehension of immediate touching by Jordan and/or
9 Gleitsman. This included, but was not limited to, reasonably anticipated punches, strikes, shoves and
10 other forms of offensive touching from Captain Jordan and/or Gleitsman.

11 86. By and through the aforesaid acts and omissions of Defendants, and each of them,
12 Plaintiff has been directly and legally caused to suffer actual damages including, but not limited to,
13 loss of earnings and future earning capacity, loss of benefits, attorneys' fees, costs of suit, and other
14 pecuniary loss not presently ascertained. Accordingly, Plaintiff is entitled to a recovery for said
15 damages in an amount according to proof at trial.

16 87. As a further direct and legal result of the acts and conduct of Defendants, and each
17 of them, as aforesaid, Plaintiff has been caused to and did suffer, and continues to suffer significant
18 emotional and mental distress, anguish, humiliation, embarrassment, fright, shock, pain, discomfort
19 and anxiety. Therefore, Plaintiff is entitled to a recovery for said damages in an amount according to
20 proof at trial.

21 88. Defendants' conduct was a substantial factor in causing Plaintiff's harm.

22 89. Defendants Gleitsman and/or Jordan were acting in the course and scope of their
23 employment when the aforementioned assaults occurred. Moreover, the Central Fire District both
24 authorized and ratified the assault of Plaintiff.

25 90. If, in the alternative, Defendants Jordan and Gleitsman were not acting within the
26 scope and course of their employment, Defendants Jordan and Gleitsman committed the acts and
27 conduct alleged herein by acting knowingly and willfully, with the wrongful and illegal deliberate
28 intention of injuring Plaintiff, from improper motives amounting to malice, and in conscious

1 disregard of Plaintiff's rights. Plaintiff is thus entitled to recover nominal, actual, compensatory,
2 punitive, and exemplary damages in amounts according to proof at time of trial, in addition to any
3 other remedies and damages allowable by law. By reason thereof, Plaintiff is entitled to an award of
4 punitive damages from Captain Jordan and/or Gleitsman in an amount according to proof at the
5 time of trial.

6 **FOURTH CAUSE OF ACTION**

7 **BATTERY**
8 **(Against All Defendants)**

9 91. Plaintiff realleges and incorporates the foregoing paragraphs as though fully set forth
10 herein, excepting those allegations that are inconsistent with this cause of action.

11 92. Captain Jordan and Gleitsman touched Plaintiff with the intent to harm or offend
12 him.

13 93. Plaintiff did not consent to the touching.

14 94. By and through the aforesaid acts and omissions of Defendants, and each of them,
15 Plaintiff was harmed or offended, and has been directly and legally caused to suffer actual damages
16 including, but not limited to, loss of earnings and future earning capacity, loss of benefits, attorneys'
17 fees, costs of suit, and other pecuniary loss not presently ascertained. Accordingly, Plaintiff is
18 entitled to a recovery for said damages in an amount according to proof at trial.

19 95. As a further direct and legal result of the acts and conduct of Defendants, and each
20 of them, as aforesaid, Plaintiff has been caused to and did suffer, and continues to suffer significant
21 emotional and mental distress, anguish, humiliation, embarrassment, fright, shock, pain, discomfort
22 and anxiety. Therefore, Plaintiff is entitled to a recovery for said damages in an amount according to
23 proof at trial.

24 96. Defendants' conduct was a substantial factor in causing Plaintiff's harm.

25 97. Defendants Gleitsman and/or Jordan were acting in the course and scope of their
26 employment when the aforementioned assaults occurred. Moreover, the Central Fire District both
27 authorized and ratified the assault of Plaintiff.
28

1 98. If, in the alternative, Defendants Jordan and Gleitsman were not acting within the
2 scope and course of their employment, Defendants Jordan and Gleitsman committed the acts and
3 conduct alleged herein by acting knowingly and willfully, with the wrongful and illegal deliberate
4 intention of injuring Plaintiff, from improper motives amounting to malice, and in conscious
5 disregard of Plaintiff's rights. Plaintiff is thus entitled to recover nominal, actual, compensatory,
6 punitive, and exemplary damages in amounts according to proof at time of trial, in addition to any
7 other remedies and damages allowable by law. By reason thereof, Plaintiff is entitled to an award of
8 punitive damages from Captain Jordan and/or Gleitsman in an amount according to proof at the
9 time of trial.

10 **FIFTH CAUSE OF ACTION**

11 **FEHA RETALIATION**

12 **(Gov't. Code §§ 12940(h))**

13 **(Against Defendant Central Fire District and Does 1-25)**

14 99. Plaintiff realleges and hereby incorporates by reference all allegations set forth in the
15 paragraphs above, to the extent they are not contradictory to the relief requested herein, as if fully
16 set forth.

17 100. California law prohibits employers subject to FEHA from retaliating against an
18 employee for exercising of their protected rights, engaging in protected activities under FEHA, or
19 opposing practices forbidden by the FEHA. (Cal. Gov. Code § 12940 (h).)

20 101. Plaintiff exercised his rights and engaged in activities protected by FEHA, including
(without limitation) by:

- 21 ➤ Submitting a written complaint and disclosure of August 30, 2022, to multiple Central
22 Fire District supervisors and managers, including Jordan, that the Central Fire's
23 treatment and/or proposed treatment of firefighters who utilized protected leave
24 violated California law, and that said treatment was retaliatory, discriminatory, and
25 harassing;
- 26 ➤ Plaintiff's submission on or about August 31, 2022, of his Discrimination/ Harassment
27 Complaint to Defendant Central Fire where Plaintiff complained of retaliation from
28

1 Jordan in connection to Plaintiff's utilization of protected leave and other discriminatory
2 practices;

- 3 ➤ Opposing Captain Jordan's retaliatory response to Plaintiff's written complaint of
4 August 30, 2022 by verbally speaking directly with Captain Jordan;
- 5 ➤ Plaintiff's submission on or about October 12, 2022 of his Discrimination/ Harassment
6 Complaint where Plaintiff complained of disability discrimination, sex discrimination,
7 and retaliation;
- 8 ➤ Plaintiff's verbal complaint to Fire Chief Nee on or about October 19, 2022, that Central
9 Fire District's conduct towards him was retaliatory, discriminatory, and harassing.

10 102. Defendants responded to Plaintiff's protected acts by (among other acts and
11 conduct):

- 12 ➤ Committing assault and/or battery against Plaintiff;
- 13 ➤ Failing and/or refusing to act upon one or more of Plaintiff's disclosures or complaints
14 of unlawful activity, or in the alternative, not acting upon one or more of Plaintiff's
15 disclosures in a good faith and substantive way;
- 16 ➤ Refusing to reasonably punish or discipline Captain Jordan and/or Gleitsman;
- 17 ➤ Forcing Plaintiff into circumstances that would require him to work on the same shift as
18 Captain Jordan and/or Gleitsman;
- 19 ➤ Prospectively interfering with Plaintiff's use of protected sick leave, CFRA, and FMLA
20 leave by requiring him to work on the same shift as Captain Jordan and/or Gleitsman, or
21 in the alternative, utilize protected leaves of absence to avoid Jordan or Gleitsman;
- 22 ➤ Harassing Plaintiff on the basis of his actual and/or perceived sexual orientation and/or
23 gender;
- 24 ➤ Failing to reasonably prevent ongoing harassment of Plaintiff on the basis of his actual
25 and/or perceived sexual orientation and/or gender;
- 26 ➤ Blaming Plaintiff for the actions taken by Captain Jordan and/or Gleitsman;
- 27 ➤ Alienating and reprimanding Plaintiff;
- 28

1 110. For almost the entirety of Plaintiff's employment with Central Fire, Plaintiff has been
2 exposed to a barrage of continual and pervasive derogatory comments, threats, epithets, and/or
3 slurs directed at Plaintiff by Jordan, including "faggot," "cunt," and other gender-based and sexual-
4 orientation based terms comments.

5 111. These derogatory remarks were unwelcome, were both subjectively and objectively
6 offensive, and were directed at Plaintiff because of Plaintiff's actual and/or perceived sexual
7 orientation and gender. Jordan's conduct was part of a continuing pattern of harassing conduct
8 toward Plaintiff.

9 112. Plaintiff's gender and sexual orientation was used as a weapon to create a hostile
10 work environment for Plaintiff.

11 113. Jordan's harassing conduct included the use of the aforementioned language in the
12 contexts of taunts, antagonistic encounters, threatened physical assault.

13 114. Jordan's harassing conduct included repeatedly physical assaulting Plaintiff or
14 threatening to do so. These physical assaults, or threats of physical assault were motivated, at least in
15 part, because of Plaintiff's gender and sexual orientation.

16 115. Jordan is a supervisor for purposes of the FEHA's harassment statute.

17 116. Jordan's treatment of Plaintiff in this regard, and Central Fire District's ratification of
18 the same, have materially affected the terms and conditions of his employment at the Central Fire
19 District.

20 117. Jordan's treatment of Plaintiff, and Central Fire District's ratification of the same,
21 resulted in the loss of tangible job benefits in the form of the physical attacks, Plaintiff being forced
22 to take a leave of absence in the aftermath of the attack, Plaintiff being forced to take leave when
23 Jordan and/or Gleitsman are scheduled to work with Jordan, and other losses that will be identified
24 at or before the time of trial. As a result, Plaintiff has in essence been frozen out from internal
25 advancement within Central Fire District because of Jordan and Central Fire's conduct.

26 118. The Central Fire District was made aware of Jordan's offensive and harassing
27 conduct toward Plaintiff and failed to take reasonable steps to prevent further harassing conduct.
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- c. Indicates that the law prohibits coworkers and third parties, as well as supervisors and managers, with whom the employee comes into contact from engaging in conduct prohibited by the FEHA;
 - d. Creates a complaint process to ensure that complaints receive:
 - i. an employer's designation of confidentiality, to the extent possible;
 - ii. a timely response;
 - iii. impartial and timely investigations by qualified personnel;
 - iv. documentation and tracking for reasonable progress;
 - v. appropriate options for remedial actions and resolutions; and
 - vi. timely closures.
 - e. Provides a complaint mechanism that does not require an employee to complain directly to his or her immediate supervisor, including, but not limited to, the following:
 - i. direct communication, either orally or in writing, with a designated company representative, such as a human resources manager, EEO officer, or other supervisor; and/or
 - ii. a complaint hotline; and/or
 - iii. access to an ombudsperson; and/or
 - iv. identification of the Department and the U.S. Equal Employment Opportunity Commission (EEOC) as additional avenues for employees to lodge complaints.
 - f. Instructs supervisors to report any complaints of misconduct to a designated company representative, such as a human resources manager, so the company can try to resolve the claim internally;
 - g. Indicates that when an employer receives allegations of misconduct, it will conduct a fair, timely, and thorough investigation that provides all parties appropriate due process and reaches reasonable conclusions based on the evidence collected;

- 1 h. States that confidentiality will be kept by the employer to the extent possible, but not
2 indicate that the investigation will be completely confidential;
3 i. Indicates that if at the end of the investigation misconduct is found, appropriate
4 remedial measures shall be taken; and
5 j. Makes clear that employees shall not be exposed to retaliation as a result of lodging a
6 complaint or participating in any workplace investigation.

7 125. Dissemination of the policy must include one or more of the following methods:

- 8 a. Printing and providing a copy to all employees with an acknowledgment form for the
9 employee to sign and return;
10 b. Sending the policy via e-mail with an acknowledgment return form;
11 c. Posting current versions of the policies on a company intranet with a tracking system
12 ensuring all employees have read and acknowledged receipt of the policies;
13 d. Discussing policies upon hire and/or during a new hire orientation session; and/or
14 e. Any other way that ensures employees receive and understand the policies.

15 126. Any employer whose workforce at any facility or establishment contains 10 percent
16 or more of persons who speak a language other than English as their spoken language shall translate
17 the retaliation/discrimination policy into every language that is spoken by at least 10 percent of the
18 workforce.

19 127. The Central Fire District knew, or should have known, that Plaintiff was
20 experiencing unlawful discrimination and/or harassment on the basis of Plaintiff's gender and sexual
21 orientation. The Central Fire District knew, or should have know, that Plaintiff was experiencing
22 retaliation in response to having engaged in protected activity and/or opposing violations of the
23 California Fair Employment and Housing Act.

24 128. In engaging in the conduct described above, the Central Fire District failed to take
25 any reasonable steps to prevent discrimination, harassment, and/or retaliation from occurring in the
26 workplace. These failures ultimately resulted in Plaintiff experiencing additional violence in the
27

1 workplace. Moreover, Plaintiff is informed and believes, and thereupon alleges, that the Central Fire
2 District failed to comply with the requirements set forth above.

3 129. These failures by the Central Fire District constituted unlawful employment
4 discrimination, and the failure to prevent that discrimination was a substantial factor in causing
5 damage and injury to Plaintiff.

6 130. As a foreseeable, direct, and proximate result of the Central Fire District's acts and
7 omissions Plaintiff was caused to suffer, and continues to suffer, injury, including lost wages and
8 benefits, attorneys' fees, costs of suit and other pecuniary loss not presently ascertained, the exact
9 amount of which will be proved at the trial.

10 131. As a further foreseeable, direct, and proximate legal result of the acts and conduct of
11 the Central Fire District, Plaintiff has been caused to and did suffer, and continues to suffer
12 emotional and mental distress, anguish, humiliation, embarrassment, fright, shock, pain, discomfort,
13 and anxiety. Therefore, Plaintiff is entitled to a recovery for said damages in an amount according to
14 proof at trial.

15 132. Defendants' conduct was a substantial factor in causing Plaintiff's harm.

16 **EIGHTH CAUSE OF ACTION**
17 **NEGLIGENT HIRING AND RETENTION**
18 **(Against Defendant Central Fire District)**

19 133. Plaintiff realleges and incorporates the foregoing paragraphs as though fully set forth
20 herein, excepting those allegations that are inconsistent with this cause of action.

21 134. The Central Fire District hired both Jordan and Gleitsman.

22 135. Jordan was and/or became unfit, incompetent, and/or untrustworthy to perform the
23 firefighting work for which he had been hired and retained to do, including holding the position of
24 Captain. This includes, but is not limited to, the reasons that Jordan had a known history, pattern,
25 and practice of using violence and/or threats of violence towards co-workers, including Plaintiff.
26 Upon information and belief, Jordan's reasons for unfitness of duty also include, but are not limited
27 to, alcohol abuse.
28

1 136. Gleitsman was and/or became unfit, incompetent, and/or untrustworthy to perform
2 the firefighting work for which he had been hired and retained to do. This includes, but is not
3 limited to, Gleitsman's known history, pattern, and practice of using violence and/or threats of
4 violence towards co-workers, for example Gleitsman choking-out a co-worker at a work event and
5 his actions towards Plaintiff. Upon information and belief, Gleitman's reasons for unfitness for duty
6 also include, but are not limited to, alcohol abuse.

7 137. The Central Fire District knew or should have known that Jordan and/or Gleitsman
8 were or became unfit, incompetent, and/or untrustworthy.

9 138. The Central Fire District knew or should have known that Jordan and/or
10 Gleitsman's unfitness, incompetence, and/or untrustworthiness created a heightened, particular, and
11 unreasonable degree of risk to others, including Plaintiff. These risks, include but are not limited to,
12 the risk and/or danger that further violence would be perpetuated by Jordan and Gleitsman in the
13 workplace or that their alcohol abuse would cause others to be harmed.

14 139. Jordan and/or Gleitsman's unfitness, incompetence, or untrustworthiness harmed
15 Plaintiff.

16 140. As a foreseeable, direct, and proximate result of the Central Fire District's acts and
17 omissions Plaintiff was caused to suffer, and continues to suffer, injury, including lost wages and
18 benefits, attorneys' fees, costs of suit and other pecuniary loss not presently ascertained, the exact
19 amount of which will be proved at the trial.

20 141. As a further foreseeable, direct, and proximate legal result of the acts and conduct of
21 the Central Fire District, Plaintiff has been caused to and did suffer, and continues to suffer
22 emotional and mental distress, anguish, humiliation, embarrassment, fright, shock, pain, discomfort,
23 and anxiety. Therefore, Plaintiff is entitled to a recovery for said damages in an amount according to
24 proof at trial.

25 142. The Central Fire District's negligence in hiring and/or retaining Jordan and/or
26 Gleitsman was a substantial factor in causing Plaintiff's harm.

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NINTH CAUSE OF ACTION
NEGLIGENCE
(Against Defendant Central Fire District)

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3 143. Plaintiff realleges and incorporates the foregoing paragraphs as though fully set forth
4 herein, excepting those allegations that are inconsistent with this cause of action.

5 144. The Central Fire District had a duty to exercise reasonable care in operating its fire
6 stations and providing firefighter services.

7 145. The Central Fire District breached that duty of care, including, but not limited to, the
8 reason that it had allowed, authorized, and implemented an unwritten policy, custom, and/or
9 practice of permitting workplace discipline through violence or the threat of violence or otherwise
10 encouraged the resolution of workplace disputes through such means.

11 146. Upon information and belief, this aforementioned policy, custom, or practice
12 provided Jordan and Gleitsman with the reasonable impression that violence or the threat of
13 violence was an acceptable form of workplace conduct at the Central Fire District. This included the
14 manner and method of which they treated Plaintiff.

15 147. In the alternative, a breach of duty occurred due to the Central Fire District's failure
16 to adequately train its employees, including but not limited to Jordan and Gleitsman, regarding any
17 workplace non-violence policies, disciplinary policies or protocols, and/or how to appropriately
18 resolve conflict in the workplace.

19 148. Upon information and belief, this aforementioned failure to adequately train its
20 employees created and formed the repeated impression in Jordan and/or Gleitsman that violence or
21 the threat of violence was an acceptable way to resolve work-related disputes, to correct perceived
22 performance deficiencies, and/or that such violence was an acceptable way to discipline or treat co-
23 workers and subordinates, including Plaintiff.

24 149. As a foreseeable, direct, and proximate result of the Central Fire District's acts and
25 omissions Plaintiff was caused to suffer, and continues to suffer, injury, including lost wages and
26 benefits, attorneys' fees, costs of suit and other pecuniary loss not presently ascertained, the exact
27 amount of which will be proved at the trial.
28

1 8. For such other, further, and equitable relief (including front pay or a reasonable period
2 of time in lieu of reinstatement) as the court deems just and proper under the
3 circumstances; and

4 9. For such other and further relief as the Court may deem proper.

5 **XI. DEMAND FOR JURY TRIAL**

6 Plaintiff hereby demands a trial by jury on each and every cause of action for which he has a
7 right thereto.

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10 Dated: July 26, 2023

Respectfully Submitted,

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14 _____
15 Dustin L. Collier
16 V. Joshua Socks
17 Elizabeth R. Malay
18 Brian Mathias
19 Attorneys for Plaintiff
20 MICHAEL BOTILL
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