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CHRISTOPHER WIROWEK

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17 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
18 **COUNTY OF SAN FRANCISCO – UNLIMITED JURISDICTION**

19 CHRISTOPHER WIROWEK, an individual,

20 Plaintiff,

21 vs.

22 CITY AND COUNTY OF SAN FRANCISCO, a  
23 Local Government Entity; and DOES 1 through  
24 20, inclusive,

25 Defendants.

Case No.:

**COMPLAINT FOR DAMAGES AND  
INJUNCTIVE RELIEF FOR:**

**1. RETALIATION IN VIOLATION  
OF CAL. LABOR CODE § 1102.5;**

**2. UNLAWFUL RETALIATION IN  
VIOLATION OF FEHA, CAL. GOV.  
CODE, § 12900, et seq.;**

**3. VIOLATION OF/INTERFERENCE  
WITH CFRA, CAL. GOV. CODE, §§  
12900, et seq. and 12945.2;**

**4. UNLAWFUL RETALIATION IN**

**VIOLATION OF CFRA, CAL. GOV. CODE, § 12900, et seq. and 12945.2;**

**5. RETALIATION BASED ON DISABILITY IN VIOLATION OF FEHA, CAL. GOV. CODE, § 12940, et seq.;**

**6. FAILURE TO PREVENT RETALIATION IN VIOLATION OF CFRA.**

**JURY TRIAL DEMANDED**

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11 1. Christopher Wirowek (“Plaintiff”), an individual, complains against the City and  
12 County of San Francisco, (“CCSF”), Does 1 through 20 (collectively “Defendants”), demands a  
13 trial by jury of all issues and causes of action, and alleges the following:

14 **NATURE OF ACTION**

15 2. This is a civil rights case involving harassing, abusive, and retaliatory conduct of  
16 Defendant against Plaintiff because Plaintiff exercised his right to stop illegal conduct  
17 encouraged and engaged in by Defendant’s supervisors and/or managers under the California  
18 Labor Code’s whistleblower law (Cal. Lab. Code § 1102.5).

19 3. This is also a civil rights case involving harassing, abusive and retaliatory conduct  
20 of Defendant against Plaintiff because Plaintiff took paternity leave and exercised his rights  
21 under the California Fair Employment and Housing Act (“FEHA”).

22 4. These acts render Defendant in violation of FEHA.

23 5. As a direct consequence of Defendant’s acts, Plaintiff has suffered economic,  
24 consequential and other damages, all to Plaintiff’s detriment. Defendant’s actions and inactions  
25 forced Plaintiff to hire attorneys and file suit and, therefore, incurred substantial attorney’s fees  
26 and costs.

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1 **JURISDICTION AND VENUE**

2 6. This case is subject to the jurisdiction of this court pursuant to the California  
3 Labor Code and California Code of Civil Procedure.

4 7. Jurisdiction is proper because Defendant, the City and County of San Francisco,  
5 resides and conducts a substantial amount of business in California, and, thus, purposefully  
6 avails itself to the laws of this state.

7 8. All of the acts complained of occurred in San Francisco County where Defendant  
8 CCSF employed Plaintiff. Therefore, venue is proper in this judicial district pursuant to Code of  
9 Civil Procedure § 395(a).

10 9. The damages sought in this matter exceed \$25,000.

11 **PARTIES**

12 10. Plaintiff Christopher Wirowek (“Plaintiff”) is an individual and, at all relevant  
13 times, was an employee of CCSF’s Office of Chief Medical Examiner (“OCME”) in San  
14 Francisco.

15 11. The OCME “provides forensic death investigation services for the public and  
16 agencies of the City and County of San Francisco.”

17 12. The true names and capacities of Defendants Does 1 through 20 are unknown to  
18 Plaintiff. Plaintiff will amend this Complaint by inserting the true names and capacities of each  
19 such Defendant, with appropriate charging allegations, when they are ascertained. Plaintiff is  
20 informed and believes that each of the Defendants designated as a “DOE” is responsible in some  
21 manner for the injuries suffered by Plaintiff and for damages proximately caused by the conduct  
22 of each such Defendant.

23 13. At all times herein mentioned each of the individual Defendants were the agents,  
24 managing agents, servants and employees of the remaining Defendants and, each of them, was  
25 acting within the course and scope of said agency, service and employment.

26 14. Whenever and wherever reference is made in this Complaint to any act or  
27 omission by a Defendant or Defendants, such allegations and references shall also be deemed to  
28 mean the acts and/or omissions by each Defendant acting individually, jointly, and severally.

1                                 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

2            15.            Plaintiff filed his charges of discrimination with the California Department of Fair  
3 Employment and Housing, which issued the requisite "Right-to-Sue" letters. All requisite  
4 documents were served on Defendant CCSF as required by law.

5                                 **COMPLIANCE WITH THE GOVERNMENT (TORT) CLAIMS ACT**

6            16.            On April 14, 2020, Plaintiff, through his counsel of record, submitted a Claim for  
7 Damages with CCSF. Plaintiff never received a response; thus, Plaintiff’s claim is automatically  
8 rejected given the statutory timeframe to respond has expired.

9                                 **GENERAL ALLEGATIONS**

10           17.            Christopher Wirowek began his employment at the Office of the Chief Medical  
11 Examiner ("OCME") on January 9, 2012 as an Assistant Chief Investigator.

12           18.            Prior to Plaintiff taking over as Deputy Director in October 2013, several OCME  
13 Directors quit. OCME became "plagued" by staff shortages and a deep backlog of death cases.  
14 Almost half of the death cases dated back greater than twelve months.

15           19.            On or about October 20, 2013, Chief Medical Examiner ("CME"), Dr. Amy Hart  
16 named Mr. Wirowek as the Acting Deputy Director. In or around December 2013, City  
17 Administrator Naomi Kelly and then Deputy City Administrator, Kenneth Bukowski informed  
18 supervisors at the OCME that Dr. Hart would be demoted and removed from her position as  
19 CME.

20           20.            In March 2014, Mr. Bukowski stepped in as the acting CME—despite having no  
21 medical experience and no medical license from the State of California or accreditation from the  
22 National Association of Medical Examiners ("NAME"). Dr. Hart instructed Mr. Wirowek to  
23 continue to communicate with her and not Mr. Bukowski. Mr. Wirowek followed Dr. Hart’s  
24 instructions. Soon after, Mr. Bukowski confronted Mr. Wirowek and told him he was in charge  
25 and that Mr. Wirowek better start following his direction or Mr. Wirowek would return to  
26 working as an investigator.

27           21.            On or around March 30, 2015, Dr. Michael Hunter started as the new CME. On  
28 July 6, 2015, CCSF officially appointed Mr. Wirowek as OCME’s Deputy Director. Over the

1 next few years Dr. Hunter and Mr. Wirowek worked together to address the deep backlog of  
2 death cases and were able to fix several of the issues at OCME, including staff shortages. Mr.  
3 Wirowek worked tirelessly to address the staff shortages; however, to hire the required staff Mr.  
4 Wirowek needed Mr. Bukowski's authority. Mr. Bukowski continuously pushed back on hiring  
5 staff to resolve the backlogs, so Mr. Wirowek asked Ms. Kelly to help approve hiring employees  
6 and she did. This infuriated Mr. Bukowski.

7 22. Mr. Wirowek also repeatedly addressed inconsistent billing issues with Mr.  
8 Bukowski to no avail. Mr. Wirowek told Mr. Bukowski that in order to be fair the OCME needed  
9 to start charging the District Attorney's Office for the same services the OCME charged the  
10 Public Defender's Office for. The OCME was charging the Public Defender's Office \$1 per  
11 page for discovery packets and for additional testing, some discovery packets comprised of  
12 several hundreds of pages and supportive documents, resulting in large amounts owed by the  
13 Public Defender's Office. The OCME was not charging the District Attorney's Office for  
14 anything. Mr. Bukowski denied Mr. Wirowek's repeated requests to make OCME's charging  
15 practices fair and Mr. Bukowski insisted on only charging the Public Defender's Office for  
16 services.

17 23. On February 21, 2019, Public Defender, Jeff Adachi died. Mr. Wirowek and Dr.  
18 Hunter went to the hospital. This was the standard practice for high-profile cases. Mr. Wirowek  
19 called Ms. Kelly to tell her about Mr. Adachi's death. Ms. Kelly instructed Mr. Wirowek to stay  
20 with Mr. Adachi's wife. Mayor Breed also asked Mr. Wirowek to stay with Mr. Adachi's wife  
21 until Ms. Adachi's family could get there.

22 24. The next day, Dan Noyes posted a picture of the San Francisco Police Department  
23 at the scene of Mr. Adachi's death. Two days later, Mr. Noyes posted a picture noting "Police  
24 report sheds light on SF Public Defender Adachi's last hours." Mr. Noyes was holding a copy of  
25 the police report. According to the SFPD, the police report was "stolen" and illegally released to  
26 defame Mr. Adachi.

27 25. To find out the names of the police officers that released the report, SFPD got a  
28 search warrant for freelance journalist, Bryan Carmody's phone. The warrant was granted. On

1 March 5, 2019 SFPD received Mr. Carmody's phone records and discovered he was in contact  
2 with two police officers. The next day, SFPD authored a search warrant for the police officers'  
3 phones and subsequently confirmed their contact with Mr. Carmody. Video footage also  
4 confirmed these officers were at the police station around the time they would have access to the  
5 police report and before it was released to Mr. Carmody.

6 26. On the morning of March 22, 2019, Ms. Kelly and her media relations person Bill  
7 Barnes arrived to the OCME, and under the color of her title being the City Administrator, and  
8 demanded to read Mr. Adachi's autopsy report prior to its release. This was an unlawful order  
9 for Ms. Kelly to issue because Claimant had reasonable cause to believe that Ms. Kelly was  
10 forcing him to alter a public document with false information.

11 27. Under the compulsion and order by Ms. Kelly, Claimant provided the autopsy  
12 report to her. During this time, Ms. Kelly reviewed the report for several hours and disagreed  
13 with the medical and investigative findings of the Medical Examiner. After verbalizing her  
14 disagreement, Ms. Kelly ordered Claimant to alter and edit the report findings. Ms. Kelly  
15 demanded Claimant to add, change, and edit the autopsy report with her version of the findings,  
16 which would materially alter and falsify the already completed autopsy report.

17 28. Consequently, Ms. Kelly has delayed and obstructed Claimant in performing his  
18 official duties as the Deputy Director by conditioning the release of a public record with her  
19 approval. Essentially, with Ms. Kelly's version of the proposed false and edited version of the  
20 autopsy report, Claimant would be falsifying a public record. At that moment in time, Claimant  
21 had reasonable cause to believe that what Ms. Kelly is ordering him to do was against the law,  
22 because Ms. Kelly is compelling Claimant to falsify a public record.

23 29. Therefore, knowing that it was against the law to knowingly falsify an autopsy  
24 report, Mr. Wirowek told Ms. Kelly she could not make changes to the autopsy report and that he  
25 would release the report as the doctors wrote it.

26 30. Later that day on March 22, 2019, Mr. Wirowek officially released Mr. Adachi's  
27 autopsy report.

1           31.       In early 2019, Mr. Wirowek informed CCSF his wife was pregnant, he would  
2 need paternity leave, and in the future would not be as available as before. From 2014 through  
3 2019, Mr. Wirowek worked over eighty hours a week to get the OCME into a functioning  
4 department, and was on call 24 hours a day, 7 days a week to meet the public's needs. On May  
5 21, 2019, Mr. Wirowek went on paternity leave and told CCSF he intended on taking  
6 intermittent leave when he returned.

7           32.       In June, Dr. Hunter informed Ms. Kelly and Mr. Bukowski he was quitting for a  
8 position as CME in San Joaquin County. Mr. Bukowski again stepped in as the acting CME,  
9 without medical licensure or appropriate qualifications. Mr. Bukowski immediately started  
10 interviewing Mr. Wirowek's subordinates to seek negative feedback. Next, he started looking  
11 through packages in Mr. Wirowek's office, including opening an envelope addressed to Mr.  
12 Wirowek's wife's law firm. Mr. Bukowski then started opening boxes also addressed to Mr.  
13 Wirowek's wife's law firm. Mr. Bukowski subsequently searched Mr. Wirowek's computer for  
14 emails between Mr. Wirowek and his wife.

15           33.       On August 21, 2019, Mr. Wirowek informed Mr. Bukowski he was returning  
16 from paternity leave. That evening, CCSF sent Mr. Wirowek a letter placing him on  
17 administrative leave. Mr. Wirowek knew his termination was a foregone conclusion. Years  
18 prior, Mr. Wirowek was involved in a *Skelly* hearing for another employee. Ms. Kelly asked Mr.  
19 Wirowek what he wanted the hearing determination to be as Ms. Kelly has already selected a  
20 *Skelly* hearing officer that would "take care of the matter," rendering the conclusion of the  
21 employee's dismissal. Following the hearing, Mr. Wirowek spoke on the phone with the *Skelly*  
22 hearing officer, and the officer informed him Ms. Kelly provided her with the decision before the  
23 hearing, so the issue was concluded resulting in the predetermined outcome.

24           34.       CCSF later sent Mr. Wirowek letters claiming he could not interview witnesses or  
25 conduct any investigation into his termination, yet CCSF was conducting an investigation. On  
26 December 10, 2019, without the ability to investigate, CCSF held a *Skelly* hearing wherein Mr.  
27 Wirowek informed CCSF it had violated his rights under the Public Safety Officers Procedural  
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1 Bill of Rights and asked for CCSF to legally conduct itself. CCSF refused and instead on  
2 January 16, 2020 submitted its termination decision.

3 35. CCSF's decision to terminate Mr. Wirowek was in clear retaliation for Mr.  
4 Wirowek exercising his rights under the Fair Employment and Housing Act to take paternity  
5 leave and under Labor Code section 1102.5, for refusing to alter official public documents.

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7 **FIRST CAUSE OF ACTION**  
8 **RETALIATION IN VIOLATION OF CAL. LABOR CODE §1102.5**  
9 **(Against CCSF and DOES 1-20)**

10 36. Plaintiff re-alleges and incorporates by reference the allegations contained in the  
11 preceding paragraphs as though fully set forth herein.

12 37. At all times applicable to this action, the provisions of Labor Code § 1102.5 were  
13 in full force and effect.

14 38. As alleged herein, Plaintiff was terminated in retaliation for his lawful exercise of  
15 rights provided under Labor Code § 1102.5 including, but not limited to, refusing Ms. Kelly's  
16 request to make edits to Mr. Adachi's autopsy report, making complaints of staff shortages and  
17 the deep backlog of death cases, making complaints of inconsistent billing practices between the  
18 OCME, the District Attorney's Office and the Public Defender's Office, and by opposing and  
19 protesting disciplinary actions taken against him including his termination.

20 39. Defendant CCSF has subjected Plaintiff to adverse employment actions in  
21 retaliation for Plaintiff's complaints as set forth above.

22 40. Plaintiff complained of Defendant's violations of statutes and regulations, or of  
23 actions which were in violation of various statutes and regulations. The conduct of Defendant  
24 CCSF violated, inter alia, the provisions of California Labor Code section 1102.5.

25 41. As a result of Defendant's retaliation against him, Plaintiff has suffered and  
26 continues to suffer substantial losses in earnings, significant injuries to his professional  
27 reputation, lost wages and other employment benefits, attorneys' fees, future earnings and  
28 benefits, cost of suit, humiliation, embarrassment and anguish.

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**SECOND CAUSE OF ACTION**  
**FOR UNLAWFUL RETALIATION IN VIOLATION OF FEHA,**  
**CAL. GOV. CODE § 12900, et seq.**  
**(Against CCSF and DOES 1-20)**

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42. Plaintiff re-alleges and incorporates by reference the allegations contained in the preceding paragraphs as though fully set forth herein.

43. California Government Code Section 12940(h) provides that it is an unlawful employment practice “[f]or any employer . . . or person to discharge, expel, or otherwise discriminate against any person because the person has opposed any practices forbidden under this part or because the person has filed a complaint, testified, or assisted in any proceeding under [FEHA].”

44. Plaintiff exercised his rights under FEHA and engaged in legally protected activity including, but not limited to, taking protected leave under the Family Medical Leave Act and the California Family Rights Act.

45. Defendant terminated and/or otherwise discriminated against Plaintiff, in whole or in part, in retaliation for Plaintiff exercising his rights guaranteed under the FEHA, as described above.

46. As a direct and proximate result of the acts of Defendant, as alleged above, Plaintiff has suffered and will continue to suffer economic damages, including lost wages and benefits, and other compensatory damages in an amount to be ascertained at the time of trial.

47. As a further direct and proximate result of the acts of Defendant, as alleged above, Plaintiff has suffered mental, physical, and emotional distress, including but not limited to humiliation, anxiety, nervousness, depression, sleeplessness, and have been generally damaged in an amount to be ascertained at the time of trial.

48. As a further direct and proximate result of the acts of Defendant, as alleged above, Plaintiff will continue to expend sums in the future for the treatment of the emotional, physical, and mental injuries sustained by Plaintiff as a result of said Defendant’s acts in an amount to be ascertained at the time of trial.

1           49.       As a further direct and proximate result of the above-described acts of Defendant,  
2 Plaintiff has incurred attorney's fees and costs and, pursuant to the provisions of California  
3 Government Code Section 12965(b), Plaintiff is entitled to the reasonable value of such attorney's  
4 fees.

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6   **THIRD CAUSE OF ACTION**  
7   **FOR VIOLATION OF/INTERFERENCE WITH THE CALIFORNIA**  
8   **FAMILY RIGHTS ACT (CFRA)**  
9   **CAL. GOV. CODE, §§ 12900, et seq. and 12945.2**  
10   **(Against CCSF and DOES 1-20)**

11           50.       Plaintiff re-alleges and incorporates by reference the allegations contained in the  
12 preceding paragraphs as though fully set forth herein.

13           51.       It is an unlawful employment practice under California Government Code section  
14 12945.2 commonly known as the California Family Rights Act ("CFRA"), to interfere with,  
15 restrain, or deny the exercise of, or the attempt to exercise any right provided under CFRA. Cal.  
16 Gov. Code, § 12945.2 (t). A CFRA interference claim "requires only that the employer deny the  
17 employee's entitlement to CFRA-qualified leave." *Moore v. Regents* (2016) 248 Cal.App.4th 216.

18           52.       Defendant is an employer subject to the CFRA in that Defendant employs 50 or  
19 more employees for each working day during each of 20 or more calendar workweeks in the  
20 current or preceding calendar year.

21           53.       Section 12945.2, subdivision (a), provides that the Fair Employment and Housing  
22 Commission "shall adopt a regulation specifying the elements of a reasonable request" for leave  
23 under CFRA. California Code of Regulations, title 2, section 11088, subdivision (b)(2) provides:  
24 "A request to take a CFRA leave is reasonable if it complies with any applicable notice  
25 requirements, as specified in section 11091." A reasonable request is described in relevant parts as  
26 "at least verbal notice sufficient to make the employer aware that the employee needs CFRA leave,  
27 and the anticipated timing and duration of the leave."

28           54.       Employers subject to CFRA, such as Defendant CCSF, is "required to provide  
notice to their employees of the right to request CFRA leave." (Cal. Code Regs., tit. 2, subd. (a).)

1 A failure to notify an employee of his or her rights under CFRA constitutes an interference claim.  
2 Defendant failed to provide Plaintiff with notice regarding his CFRA rights.

3 55. Plaintiff provided Defendant with reasonable notice that he needed to take paternity  
4 leave in writing and verbally. Plaintiff also provided Defendant with information regarding his  
5 intent to take intermittent leave when he returned.

6 56. Plaintiff was eligible for leave under CFRA as he was employed by Defendant for  
7 more than twelve months, he worked at least 1,250 hours during the previous twelve months, and  
8 he was employed at a worksite where 50 or more employees were employed by Defendant within  
9 75 miles of that worksite.

10 57. Plaintiff exercised his right to take CFRA leave for a qualifying CFRA purpose, the  
11 birth of his child.

12 58. Defendant interfered with Plaintiff's ability to take CFRA protected leave by  
13 terminating his employment.

14 59. As a direct and proximate result of the acts of Defendant, as alleged above, Plaintiff  
15 has suffered and will continue to suffer economic damages, including lost wages and benefits, and  
16 other compensatory damages in an amount to be ascertained at the time of trial.

17 60. As a further direct and proximate result of the acts of Defendant, as alleged above,  
18 Plaintiff has suffered mental, emotional, and/or physical distress, and has been generally damaged  
19 in an amount to be ascertained at the time of trial.

20 61. As a further direct and proximate result of the acts of Defendant, as alleged above,  
21 Plaintiff will continue to expend sums in the future for the treatment of the emotional, physical,  
22 and mental injuries sustained by Plaintiff as a result of said Defendant's acts in an amount to be  
23 ascertained at the time of trial.

24 62. As a further direct and proximate result of the above-described acts of Defendant,  
25 Plaintiff has incurred attorney's fees and costs and, pursuant to the provisions of California  
26 Government Code section 12965(b), Plaintiff is entitled to the reasonable value of such attorney's  
27 fees.  
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1           63.       The conduct of Defendant, as alleged above, was a substantial factor in causing  
2 Plaintiff's harm, as described above.

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4                                 **FOURTH CAUSE OF ACTION**  
5                                 **FOR UNLAWFUL RETALIATION IN VIOLATION OF CFRA**  
6                                 **CAL. GOV. CODE, § 12900, et seq. and 12945.2**  
7                                 **(Against CCSF and DOES 1-20)**

8           64.       Plaintiff re-alleges and incorporates by reference the allegations contained in the  
9 preceding paragraphs as though fully set forth herein.

10          65.       California Government Code section 12945.2(l) makes it an unlawful employment  
11 practice for an employer to discriminate and/or discharge an employee for exercising any right to  
12 family care or medical leave under the CFRA.

13          66.       Plaintiff engaged in protected conduct by requesting and taking paternity leave.

14          67.       Defendant terminated and/or otherwise discriminated against Plaintiff in retaliation  
15 for exercising his rights under CFRA by requesting and taking paternity leave in violation of  
16 California Government Code section 12945.2(l).

17          68.       As a direct and proximate result of the acts of Defendant as alleged above, Plaintiff  
18 has suffered and will continue to suffer economic damages, including lost wages and benefits, and  
19 other compensatory damages in an amount to be ascertained at the time of trial.

20          69.       As a further direct and proximate result of the acts of Defendant as alleged above,  
21 Plaintiff has suffered mental, emotional, and/or physical distress, and has been generally damaged  
22 in an amount to be ascertained at the time of trial.

23          70.       As a further direct and proximate result of the acts of Defendant as alleged above,  
24 Plaintiff will continue to expend sums in the future for the treatment of the emotional, physical,  
25 and mental injuries sustained by Plaintiff as a result of said Defendant's acts in an amount to be  
26 ascertained at the time of trial.

27          71.       As a further direct and proximate result of the above-described acts of Defendant,  
28 Plaintiff has incurred attorney's fees and costs and, pursuant to the provisions of California

1 Government Code section 12965(b), Plaintiff is entitled to the reasonable value of such attorney's  
2 fees.

3 72. The conduct of Defendant as alleged above was a substantial factor in causing  
4 Plaintiff's harm, as described above.

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6 **FIFTH CAUSE OF ACTION**  
7 **RETALIATION IN VIOLATION OF FEHA,**  
8 **CAL. GOV. CODE § 12940 ET SEQ.**  
9 **(Against CCSF and DOES 1-20)**

10 73. Plaintiff re-alleges and incorporates by reference the allegations contained in the  
11 preceding paragraphs as though fully set forth herein.

12 74. California Government Code §§ 12940(h) and 12926(m) provides that it is an  
13 unlawful employment practice for an employer or any other person to retaliate against an  
14 employee for opposing an unlawful employment practice, filing a complaint of discrimination or  
15 harassment, or participating in any investigation or proceeding involving a claim of  
16 discriminatory treatment.

17 75. Defendant violated Government Code §§ 12940 and 12926(m) when it retaliated  
18 against Plaintiff in the terms and conditions of employment and took adverse employment  
19 actions against Plaintiff for reporting and lodging complaints of discriminatory treatment in the  
20 workplace.

21 76. Defendant's conduct toward Plaintiff, as alleged above, constitutes an unlawful  
22 employment practice in violation of California Government Code § 12940.

23 77. As a direct and proximate result of Defendant's retaliatory conduct, Plaintiff has  
24 suffered substantial losses in earnings, damage to his professional reputation, lost wages and  
25 other employment benefits, attorney's fees, medical expenses, future earnings and benefits, costs  
26 of suit, embarrassment and anguish. Plaintiff has been held up to great derision and  
27 embarrassment with fellow workers, friends, members of the community and family, and  
28 continues to suffer emotional distress.

1       78. Defendant's actions have caused and continue to cause Plaintiff substantial losses  
2 in earnings, significant injuries to his professional reputation, lost wages and other employment  
3 benefits, attorneys' fees, future earnings and benefits, cost of suit, humiliation, embarrassment  
4 and anguish.

5                           **SIXTH CAUSE OF ACTION**  
6                           **FAILURE TO PREVENT RETALIATION**  
7                           **IN VIOLATION OF CFRA**  
8                           **(Against CCSF and DOES 1-20)**

9       79. Plaintiff re-alleges and incorporates by reference the allegations contained in the  
10 preceding paragraphs as though fully set forth herein.

11       80. In violation of the FEHA, Defendant failed to take all reasonable steps necessary  
12 to prevent harassment and discrimination against its employees.

13       81. In perpetrating the above-described conduct, Defendant engaged in a pattern,  
14 practice, policy, and custom of unlawful harassment and discrimination. Said conduct on the part  
15 of Defendant constituted a policy, practice, tradition, custom, and usage that denied Plaintiff  
16 protections of the FEHA.

17       82. At all relevant time periods Defendant failed to make an adequate response and  
18 investigation into the conduct of its officers, directors, and/or managing agents. The aforesaid  
19 patterns and practices established a policy, custom, practice, or usage within the organization of  
20 CCSF that condoned, encouraged, tolerated, sanctioned, ratified, approved of, and/or acquiesced  
21 in unlawful harassment and discrimination towards employees of CCSF including, but not limited  
22 to, Plaintiff.

23       83. At all relevant time periods there existed within the organization of CCSF a pattern  
24 and practice of conduct by its personnel that resulted in harassment and discrimination including,  
25 but not limited to, conduct directed at Plaintiff.

26       84. On information and belief, CCSF did not provide adequate harassment and  
27 discrimination training with respect to its employees and managers.

28       85. CCSF failed to take reasonable steps of conducting a thorough investigation into  
whether its employees and managers committed harassment and discrimination in the workplace.

1           86.       CCSF knew, or reasonably should have known, that the failure to provide any or  
2 adequate education, training, and information as to their personnel policies and practices  
3 regarding harassment and discrimination would result in retaliation. Providing adequate  
4 education, training, and information as to their personnel policies and practices regarding  
5 harassment and discrimination was a reasonable step that CCSF could have taken, but did not  
6 take, to prevent harassment and discrimination in the workplace.

7           87.       The failure of CCSF to take the above-mentioned reasonable steps to prevent  
8 harassment and discrimination constituted deliberate indifference to the rights of employees of  
9 CCSF including, but not limited to, Plaintiff.

10          88.       By reason of the conduct of Defendant as alleged herein, Plaintiff has necessarily  
11 retained attorneys to prosecute the within action. Plaintiff therefore is entitled to reasonable  
12 attorney's fees and litigation expenses, including expert witness fees and costs, incurred in  
13 bringing the within action.

14          89.       As a result of Defendant's actions, Plaintiff sustained economic damages to be  
15 proven at trial. As a further result of Defendant's actions, Plaintiff suffered non-economic losses  
16 including, but not limited to, emotional distress resulting in damages to be proven at trial.

17          90.       The above harassing and discriminatory conduct and failure to take reasonable  
18 steps to prevent the same violates California's FEHA, Cal. Gov. Code §§ 12940 *et seq.*, and  
19 California public policy and entitles Plaintiff to all categories of damages, including exemplary  
20 or punitive damages.

21          91.       The conduct of Defendant and/or their agents/employees as described herein was  
22 malicious and/or oppressive and done with a willful and conscious disregard for Plaintiff's rights  
23 and for the deleterious consequences of Defendant's actions. Consequently, Plaintiff is entitled  
24 to punitive damages.

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1 **PRAYER FOR RELIEF**

2 Plaintiff prays for judgment against Defendant as follows:

3 1. For a money judgment representing compensatory damages including lost wages,  
4 earnings, retirement benefits and other employee benefits, and all other sums of money, together  
5 with interest on these amounts;

6 2. That Defendant be ordered to make restitution to Plaintiff due to its unfair  
7 competition, including disgorgement of their wrongfully obtained revenues, earnings, profits,  
8 compensation, and benefits, pursuant to California Business and Professions Code §§ 17203 and  
9 17204;

10 3. That Defendant be enjoined from continuing the unlawful course of conduct as  
11 alleged herein;

12 4. For a money judgment for mental pain and emotional distress;

13 5. For an award of punitive damages;

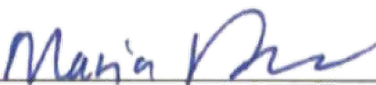
14 6. For costs of suit and attorney fees;

15 7. For prejudgment and post judgment interest;

16 8. For any other relief the Court finds just and proper.  
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19 Dated: July 14, 2020

LAW OFFICES OF TANYA GOMERMAN

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22 \_\_\_\_\_  
23 Maria Bourn  
24 Attorney for Plaintiff  
25 CHRISTOPHER WIROWEK

26 Dated: July 14, 2020

LAW OFFICES OF PELAYES & YU, APC

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28 \_\_\_\_\_  
29 Tom Yu, Esq.  
30 Attorney for Plaintiff  
31 CHRISTOPHER WIROWEK



1  
2 **DEMAND FOR JURY TRIAL**

3 Plaintiff demands trial of all issues by jury.

4 Dated: July 14, 2020

LAW OFFICES OF TANYA GOMERMAN

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7 \_\_\_\_\_  
8 Maria Bourn, Esq.  
9 Attorneys for Plaintiff  
10 CHRISTOPHER WIROWEK

11 Dated: July 14, 2020

LAW OFFICES OF PELAYES & YU, APC

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13 \_\_\_\_\_  
14 Tom Yu, Esq.  
15 Attorney for Plaintiff  
16 CHRISTOPHER WIROWEK  
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