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 8

9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
 10 **FOR THE COUNTY OF LOS ANGELES**
 11

12 Case No.: **19STCV15811**

13 ALAN SMITH (an individual)

14 Plaintiff.

15 vs.

16 CITY OF INGLEWOOD (a municipal
 entity), KAREN CASTRO (an
 17 individual), and DOES 1-100, inclusive,

18 Defendants.
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**PLAINTIFF ALAN SMITH'S COMPLAINT
 FOR DAMAGES FOR:**

- (1) DISCRIMINATION ON THE BASIS OF DISABILITY IN VIOLATION OF FEHA;**
- (2) HARASSMENT ON THE BASIS OF DISABILITY IN VIOLATION OF FEHA;**
- (3) FAILURE TO ENGAGE IN THE GOOD FAITH INTERACTIVE PROCESS**
- (4) FAILURE TO PROVIDE REASONABLE ACCOMMODATIONS**
- (5) DISCRIMINATION ON THE BASIS OF RACE IN VIOLATION OF FEHA;**
- (6) HARASSMENT ON THE BASIS OF RACE IN VIOLATION OF FEHA;**
- (7) DISCRIMINATION ON THE BASIS OF SEXUAL ORIENTATION IN VIOLATION OF FEHA;**
- (8) HARASSMENT ON THE BASIS OF SEXUAL ORIENTATION IN**

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- VIOLATION OF FEHA;**
- (9) RETALIATION FOR ENGAGING IN A PROTECTED ACTIVITY IN VIOLATION OF FEHA;**
- (10) FAILURE TO PREVENT DISCRIMINATION, HARASSMENT AND RETALIATION IN VIOLATION OF FEHA;**
- (11) VIOLATION OF LABOR CODE § 1102.5;**
- DEMAND FOR JURY TRIAL**

Plaintiff, Alan Smith, alleges, on the basis of personal knowledge and/or information and belief:

SUMMARY

This is an action by Alan Smith, (“plaintiff” or “Smith”), whose employment with defendants City of Inglewood (a municipal California corporation), Karen Castro (an individual), and DOES 1-100, inclusive, was wrongfully terminated. Smith brings this action against defendants for economic, non-economic, and compensatory damages, pursuant to Civil Code section 3294, pre-judgment interest pursuant to Code of Civil Procedure section 3291, and costs and reasonable attorneys’ fees pursuant to Government Code section 12965(b) and Code of Civil Procedure section 1021.5.

PARTIES

1. *Plaintiff:* Plaintiff Alan Smith is, and at all times mentioned in this Complaint was, a resident of the County of Los Angeles, California.
2. *Defendants:*
 - a. Defendant City of Inglewood (“defendant” or the “City”) is a municipal entity in the County of Los Angeles, California. At all times mentioned in this Complaint, the City, was

1 and is, authorized to operate by the State of California and the United States government and
2 authorized and qualified to do business in California

3 b. Defendant Karen Castro (“Castro”) is an individual, that is, and at all times
4 mentioned in this Complaint was, a resident of the County of Los Angeles, California.

5 c. Defendants Does 1 through 100 are sued under fictitious names pursuant to Code
6 of Civil Procedure section 474. Smith is informed and believes, and on that basis alleges, that
7 each of the defendants sued under fictitious names is in some manner responsible for the wrongs
8 and damages alleged below, in so acting was functioning as the agent, servant, partner, and
9 employee of the co-defendants, and in taking the actions mentioned below was acting within the
10 course and scope of his or her authority as such agent, servant, partner, and employee, with the
11 permission and consent of the co-defendants.

12 2. City of Inglewood, Karen Castro, and Doe defendants 1 to 100 may be collectively
13 referred to as “defendants.”

14 3. *Relationship of defendants:*

15 a. All defendants and all Doe defendants directly and/or indirectly employed Smith,
16 as defined under the regulations, statutes, and interpreting case law, including California
17 Government Code section 12926(d).

18 b. All defendants and all Doe defendants compelled, coerced, aided, and/or abetted
19 the discrimination, retaliation, and harassment alleged throughout, which is prohibited under
20 California Government Code section 12940(i).

21 c. All defendants and all Doe defendants were acting as the agents of all other
22 defendants and employers, as defined under the regulations, statutes, and interpreting case law,
23 including California Government Code section 12926(d).

24 d. All actions of all defendants were taken by employees, supervisors, executives,
25 officers, and directors during employment with all defendants, on behalf of all defendants, and
26 engaged in, authorized, ratified, and approved of the conduct of all other defendants.

27 e. Smith is informed and believes, and on that basis alleges, that, at all times relevant
28 hereto, all defendants, and each of them, were the principals, agents, servants, employers,

1 employees, partners, joint venturers, predecessors in interest, successors in interest, and/or
2 authorized representatives of each of the other defendants, were at all times relevant herein acting
3 within the purpose, course and scope of their agency, service, employment, partnership, joint
4 venture, and/or representation, and were doing so with the knowledge, permission, and consent
5 of their principals, employers, partners, joint venturers, and co-defendants, and each of them.
6 Plaintiff further alleges that each and every defendant was negligent, careless, and legally liable
7 in the selection and hiring of each and every other defendant as its agent, servant, employee,
8 consultant, assistant, representative, partner, and/or joint venturer.

9 f. All defendants compelled, coerced, aided, and/or abetted the discrimination,
10 retaliation, and harassment alleged in this Complaint, which conduct is prohibited under
11 California Government Code section 12940(i). All defendants were responsible for the events
12 and damages alleged herein, including on the following bases: (a) defendants committed the acts
13 alleged; (b) at all relevant times, one or more of the defendants was the agent or employee, and/or
14 acted under the control or supervision of, one or more of the remaining defendants and, in
15 committing the acts alleged, acted within the course and scope of such agency and employment
16 and/or is or are otherwise liable for plaintiff's damages; (c) at all relevant times, there existed a
17 unity of ownership and interest between or among two or more of the defendants such that any
18 individuality and separateness between or among those defendants has ceased, and defendants
19 are the alter egos of one another. Defendants exercised domination and control over one another
20 to such an extent that any individuality or separateness of defendants does not, and at all times
21 herein mentioned did not, exist. Adherence to the fiction of the separate existence of defendants
22 would permit abuse of the corporate privilege and would sanction fraud and promote injustice.
23 All actions of all defendants were taken by employees, supervisors, executives, officers, and
24 directors during employment with all defendants, were taken on behalf of all defendants, and
25 were engaged in, authorized, ratified, and approved of by all other defendants.

26 g. Defendants directly and indirectly employed plaintiff Smith, as defined in the Fair
27 Employment and Housing Act ("FEHA") at Government Code section 12926(d).

28 h. In addition, defendants compelled, coerced, aided, and abetted the discrimination,

1 which is prohibited under California Government Code section 12940(i).

2 4. Finally, at all relevant times mentioned herein, all defendants acted as agents of all other
3 defendants in committing the acts alleged herein.

4
5 **VENUE**

6 5. The actions at issue in this case occurred in the State of California, in County of Los
7 Angeles. Under the California Fair Employment and Housing Act, this case can, at plaintiff's
8 choice, be filed:

9 [I]n any county in the state in which the unlawful practice is alleged to have
10 been committed, in the county in which the records relevant to the practice
11 are maintained . . . or in the county in which the aggrieved person would
12 have worked . . .

12 California Government Code § 12965(b) (emphasis added).

13 6. Smith worked and lived in California, and at times, conducted his job duties in the County
14 of Los Angeles.

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16 **FACTS COMMON TO ALL CAUSES OF ACTION**

17 7. *Smith's protected status and activity:*

- 18 a. Smith is African-American.
19 b. Smith suffers from a disability.
20 c. Smith is a gay individual.
21 d. Smith made good faith complaints about the race, disability, and sexual orientation
22 discrimination and harassment he experienced while employed by defendants to
23 defendants' Human Resources Director, Jose Cortes, defendant's Director,
24 Christopher Jackson, defendant's Building Official, Mandhir Singh, and to his
25 supervisors and/or managers.

26 8. Smith applied for the Building Permit Technician position with the City. Smith was
27 evaluated by undergoing an examination consisting of a written and oral test with a panel of
28 subject matter experts. Only the top three scorers are invited for an interview. Smith scored

1 among the top three of all test takers. After two interviews, a physical examination and passing a
2 live scan background check, Smith was offered the position.

3 9. On or around April 17, 2016, defendants hired Smith as the Building Permit Technician
4 for the City.

5 10. As the Building Permit Technician, Smith's duties included processing permits for
6 public entities and agencies. At all times during Smith's employment with defendants, he was
7 competent and capable to perform his job duties and did perform his job duties in an exemplary
8 manner at all times. Smith was typically scheduled to work from 7:00 AM – 5:30 PM. Smith's
9 schedule was set by defendants and he did not possess the authority to hire, fire, or discipline any
10 employees.

11 11. Smith was directly supervised by Senior Plan Check Engineer Ali Pouraghabagher
12 ("Pouraghabagher") and Senior Plan Check Engineer Karen Castro ("Castro"). The City's
13 Building Official was Mandhir Singh ("Singh") and all of the aforementioned individuals
14 reported to the Director/Senior Manager of Economic & Community Development, Christopher
15 Jackson ("Jackson").

16 12. Castro trained Smith on permit processing, reading and interpreting plan submittals,
17 and learning city and state building code ordinances.

18 13. Smith was acknowledged for performing his duties admirably on multiple occasions,
19 both verbally and through department wide emails.

20 14. On or around October 3, 2016, at approximately 10:30 AM, Smith's coworker, Abdul
21 Lachgar ("Lachgar") asked Smith to "close the door and turn to look" at his computer screen.
22 Lachgar proceeded to play a video entitled "Eat Da Poo Poo" in which a Ugandan pastor, Martin
23 Sampa was making hateful, ignorant and demoralizing comments about homosexuality. Martin
24 Sampa begins the video by stating he is the Chairman of the National Taskforce Against
25 Homosexuality. Martin Sampa states his goal is to ensure "homosexuality and sodomy never see
26 the light of legality in [Uganda]." Martin Sampa proceeds to describe his objection to various sex
27 acts he believes are exclusive to homosexuality, including eating feces, and states homosexuality
28 is "sick and deviant."

1 15. As a gay African-American male, Smith found the video to be shocking, offensive and
2 harassing. Accordingly, Smith immediately reported Lachgard's actions to Jackson. Smith
3 specifically informed defendants that he found the incident to be harassing, racist bullying.

4 16. On or about October 10, 2016, at approximately 1:00 PM, Smith met with Cortes and
5 Jackson to discuss his October 3, 2016 report. Smith, Cortes and Jackson discussed at length how
6 Lachgar's actions were offensive and harassing. Cortes and Jackson ended the meeting by
7 informing Smith that they will "look into it." Prior to this incident Smith made it a point to keep
8 his sexual orientation private in the workplace.

9 17. On or about October 12, 2016, defendants held a Division-wide meeting led by Jackson.
10 After the meeting, Lachgar was escorted out by Human Resources. Cortes and Jackson held a
11 second meeting with Smith on this day and informed Smith that they were still investigating the
12 incident.

13 18. On or about October 13, 2016, Smith arrived at work and greeted his coworkers as
14 usual, but was met with complete silence for the first time. Smith felt an overwhelming sense of
15 embarrassment as it became clear his coworkers were discriminating against him for his sexual
16 orientation, which they had just learned, and retaliating against Smith for reporting Lachgar's
17 conduct and/or for his race and/or sexual orientation.

18 19. Castro, who was training Smith as of two days ago, now no longer trained Smith and
19 instead started training an intern "Carl." When Smith attempted to ask Castro, his supervisor, any
20 questions he was met with silence.

21 20. After October 13, 2016, Castro embarked on a mission to ostracize Smith from all of
22 Smith's coworkers by making harassing comments in Smith's presence. Castro told other
23 employees "he will throw you under the bus," "he will sell you out," "he cannot be trusted," and
24 called Smith, "a fucking liar."

25 21. On or around October 31, 2016, Smith heard Castro refer to Smith as a "sissy panda"
26 to multiple employees, including Anita Castellano. Castro's comment is a derogatory reference
27 to Smith's sexual orientation. Castro's frequent attacks on Smith, in his presence and outside of
28 his presence, had the intended chilling effect on Smith's coworkers, who no longer spoke to or

1 acknowledged Smith in any way.

2 22. Defendants' constant and continuous harassing conduct and specifically Castro, toward
3 Smith were devastating to him, bringing him to tears on many occasions. Smith complained of
4 his mistreatment to the City's managers, employees and agents, including, but not limited to
5 Mandhir Singh ("Singh"). Smith informed Singh that he feels harassed and mistreated. Singh
6 admitted he has heard Castro's disparaging and harassing comments and advised Smith to "keep
7 your head down until the holiday break, it will pass."

8 23. Despite Smith's numerous complaints about Castro's reprehensible behavior, Castro
9 was never reprimanded or investigated for her discriminatory, retaliatory and harassing conduct.
10 The City's failure to act exacerbated Smith's emotional distress, depression, anxiety and stress,
11 creating an unbearable work environment and Defendants were aware that by failing to take
12 action, Smith would suffer emotional distress. It became increasingly clear defendants hoped
13 their mistreatment of Smith would force Smith to resign.

14 24. Smith attempted to follow Singh's directive to "hang in there," until after the holiday
15 break. Upon returning from the holiday break on or about January 4, 2017, Smith was still greeted
16 by his coworkers with silence and glares and immediately felt harassed and singled out based on
17 his race, sexual orientation and/or his good faith complaints regarding discrimination, harassment
18 and/or retaliation.

19 25. At the start of the work day Smith placed his Swiss Army bag under his desk, after
20 leaving his office for a short while, upon returning, Smith saw that his bag had been moved.
21 Smith looked inside his bag and was horrified to find a vulgar "fleshlight" sex toy had been placed
22 inside his bag. Smith immediately felt offended, harassed, shocked and disgusted by the act.

23 26. Smith reported to Daniyel Brown ("Brown"), of Human Resources, that one of his
24 coworkers has placed the "fleshlight" sex toy in his bag. Smith reported to Brown that he felt so
25 mortified that he could not continue working in the office that day. Brown asked Smith to bring
26 the bag to her office. Smith could feel the snickering of his coworkers from the corners of his
27 eyes as he walked down the hallway to Brown's office. Smith provided Brown with the bag and
28 emailed Cortes and Leonca Cahee regarding the incident.

1 27. On or about January 10, 2017, Smith had a meeting with Cortes and Assistant City
2 Manager, Michael Falkow (“Falkow”) to discuss the January 4, 2017, “fleshlight” sex toy
3 incident. Due to Smith’s prior experiences with Cortes, he was even more uncomfortable in the
4 meeting as Cortes had already demonstrated her animus towards him over the prior two months.
5 Cortes and Falkow assured Smith they would investigate the sex toy incident. Smith described
6 how the sex toy incident was the culmination of months of discriminatory bullying and
7 harassment. Further, Smith informed Cortes and Falkow that the harassment and bullying has
8 caused Smith severe depression, stress and anxiety. Smith informed Cortes and Falkow that he
9 wanted to seek counseling to help cope with the hostile work environment. Smith, Cortes and
10 Falkow set January 16, 2017, as the date for Smith’s return to work.

11 28. On January 12, 2017, two days after Smith’s meeting with Cortes and Falkow,
12 defendants ordered Smith to attend a “fit for duty” psychological exam before Smith would be
13 allowed to return to work.

14 29. On January 18, 2017, Smith attended his mandatory “fit for duty” examination. On
15 February 2, 2017, Smith received his results which stated he was not fit to return to work.

16 30. On February 10, 2017, Smith emailed defendants for an update on Smith’s complaint
17 about harassment and discrimination.

18 31. On or about February 19, 2017, Smith called Cortes to inquire about the status of
19 defendants’ investigation into the harassment Smith endured and whether any actions were taken
20 to rectify the situation. Cortes was unable to confirm any investigation or other action had taken
21 place on Smith’s behalf. On or about February 22, 2017, Cortes informed Smith that he will not
22 be allowed to return until cleared by the City’s physician, Dr. Schaffer.

23 32. Smith was never permitted to return to work after complaining about defendants’
24 ongoing harassment on January 4, 2017. On or about May 16, 2017, defendants’ terminated
25 Smith’s employment stating the termination was because Smith “[d]id not [p]ass [p]robation.”

26 33. Defendants’ stated reason for terminating was false and mere pretext as defendants’
27 real reason for terminating Smith’s employment was for wrongful, illegal, discriminatory and/or
28 retaliatory purposes related to his disability, sexual orientation, race and his good faith complaints

1 regarding discrimination, harassment, retaliation, and/or other conduct that Smith reasonably
2 believed to be illegal.

3 34. Following the termination, Smith continued to suffer severe symptoms of emotional
4 distress including, but not limited to depression, anxiety, stress, nausea, and anxiety.

5 35. *Economic damages:* As a consequence of defendants' conduct, Smith has suffered and
6 will suffer harm, including lost past and future income and employment benefits, stock options,
7 damage to his career, and lost wages, overtime, unpaid expenses, and penalties, as well as interest
8 on unpaid wages at the legal rate from and after each payday on which those wages should have
9 been paid, in a sum to be proven at trial.

10 36. *Non-economic damages:* As a consequence of defendants' conduct, Smith has suffered
11 and will suffer psychological and emotional distress, humiliation, and mental and physical pain
12 and anguish, in a sum to be proven at trial.

13 a. *Malice:* Defendants' conduct was committed with malice within the meaning of
14 California Civil Code section 3294, including that (a) defendants acted with intent to cause injury
15 to Smith and/or acted with reckless disregard for Smith's injury, including by terminating Smith's
16 employment and/or taking other adverse job actions against Smith because of his disability, race,
17 sexual orientation, and/or good faith complaints, and/or (b) defendants' conduct was despicable
18 and committed in willful and conscious disregard of Smith's rights, health, and safety, including
19 Smith's right to be free of discrimination, harassment, retaliation, and wrongful employment
20 termination.

21 b. *Oppression:* In addition, and/or alternatively, defendants' conduct was committed
22 with oppression within the meaning of California Civil Code section 3294, including that
23 defendants' actions against Smith because of his sexual orientation, race, disability, and/or good
24 faith complaints were "despicable" and subjected Smith to cruel and unjust hardship, in knowing
25 disregard of Smith's rights to a work place free of discrimination, harassment, retaliation, and
26 wrongful employment termination.

27 c. *Fraud:* In addition, and/or alternatively, defendants' conduct, as alleged, was
28 fraudulent within the meaning of California Civil Code section 3294, including that defendants

1 asserted false (pretextual) grounds for terminating Smith’s employment and/or other adverse job
2 actions, thereby to cause Smith hardship and deprive him of legal rights.

3 37. *Attorneys’ fees:* Smith has incurred and continues to incur legal expenses and
4 attorneys’ fees.

5 38. *Exhaustion of administrative remedies:* Prior to filing this action, Smith exhausted his
6 administrative remedies by filing a timely administrative complaint with the Department of Fair
7 Employment and Housing (“DFEH”) and receiving a DFEH right-to-sue letter.

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10 **FIRST CAUSE OF ACTION**

11 **(Violation of FEHA (Government Code § 12900, *et seq.*)**

12 **(Disability Discrimination — Against City of Inglewood and**

13 **Does 1 to 100, Inclusive)**

14 39. The allegations set forth in paragraphs 1 through 38 are re-alleged and incorporated
15 herein by reference.

16 40. Plaintiff’s actual, perceived, and/or history of disability and/or characteristics protected
17 by FEHA, Government Code section 12900, *et seq.*, were motivating factors in defendants’
18 decision to terminate plaintiff’s employment, not to retain, hire, or otherwise employ plaintiff in
19 any position, to refuse to accommodate plaintiff, to refuse to engage in the interactive process,
20 and/or take other adverse job actions against plaintiff.

21 41. Defendants’ conduct, as alleged, violated FEHA, Government Code section 12900, *et*
22 *seq.*, and defendants committed unlawful employment practices, including by the following,
23 separate bases for liability:

24 a. Discharging, barring, refusing to transfer, retain, hire, select,
25 and/or employ, and/or otherwise discriminating against plaintiff, in whole or in part
26 on the basis of plaintiff’s actual, perceived, and/or history of disability and/or other
27 protected characteristics, in violation of Government Code section 12940(a);

28 b. Failing to accommodate plaintiff’s actual, perceived, and/or

1 history of disability, in violation of Government Code section 12940(m);

2 c. Failing to engage in a timely, good faith interactive process to
3 determine reasonable accommodation, in violation of Government Code section
4 12940(n);

5 d. Failing to take all reasonable steps to prevent discrimination,
6 harassment, and retaliation based on actual, perceived, and/or history of disability,
7 in violation of Government Code section 12940(k);

8 e. Retaliating against plaintiff for seeking to exercise rights
9 guaranteed under FEHA and/or opposing defendants' failure to provide such rights,
10 including rights of reasonable accommodation, rights of interactive process, leave
11 rights, and/or the right to be free of discrimination, in violation of Government
12 Code section 12940(h);

13 f. Failing to provide plaintiff with the requisite statutory leave,
14 violating notice and/or other procedural requisites of leave, and/or retaliating
15 against plaintiff for taking leave, in violation of Government Code section 12945.2

16 42. As a proximate result of defendants' willful, knowing, and intentional discrimination
17 against plaintiff, plaintiff has sustained and continues to sustain substantial losses of earnings and
18 other employment benefits.

19 43. As a proximate result of defendants' willful, knowing, and intentional discrimination
20 against plaintiff, plaintiff has suffered and continues to suffer humiliation, emotional distress, and
21 physical and mental pain and anguish, all to his damage in a sum according to proof.

22 44. Plaintiff has incurred and continues to incur legal expenses and attorneys' fees.
23 Pursuant to Government Code section 12965(b), plaintiff is entitled to recover reasonable
24 attorneys' fees and costs (including expert costs) in an amount according to proof.

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1 **SECOND CAUSE OF ACTION**

2 **(Violation of FEHA (Government Code § 12900, *et seq.*)**

3 **(Disability/Medical Condition Harassment — Disability**

4 **Discrimination — Against City of Inglewood, Karen Castro and**

5 **Does 1 to 100, Inclusive)**

6 45. The allegations set forth in paragraphs 1 through 44 are re-alleged and incorporated
7 herein by reference.

8 46. Defendants' conduct, as alleged, violated FEHA, Government Code section 12900,
9 *et seq.*, and defendants committed unlawful employment practices, including by the following,
10 separate bases for liability:

11 a. Harassing plaintiff and/or creating a hostile work
12 environment, in whole or in part on the basis of plaintiff's disability, medical
13 condition and/or other protected characteristics, in violation of Government Code
14 section 12940(j);

15 b. Failing to take all reasonable steps to prevent discrimination,
16 harassment, and retaliation based on medical condition/disability, in violation of
17 Government Code section 12940(k).

18 47. As a proximate result of defendants' willful, knowing, and intentional harassment of
19 plaintiff, plaintiff has sustained and continues to sustain substantial losses of earnings and other
20 employment benefits.

21 48. As a proximate result of defendants' willful, knowing, and intentional harassment of
22 plaintiff, plaintiff has suffered and continues to suffer humiliation, emotional distress, and
23 physical and mental pain and anguish, all to his damage in a sum according to proof.

24 49. Plaintiff has incurred and continues to incur legal expenses and attorneys' fees.
25 Pursuant to Government Code section 12965(b), plaintiff is entitled to recover reasonable
26 attorneys' fees and costs (including expert costs) in an amount according to proof.

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1 **THIRD CAUSE OF ACTION**

2 **(Violation of FEHA (Government Code § 12900, et seq.) (Failure**
3 **to Engage in Interactive Process — Against City of Inglewood**
4 **and Does 1 to 100, Inclusive)**

5 50. The allegations set forth in paragraphs 1 through 49 are re-alleged and incorporated
6 herein by reference.

7 51. Defendants' conduct, as alleged, violated FEHA, Government Code section 12900, et
8 seq., and defendants committed unlawful employment practices, including by the following bases
9 for liability: failing to engage in a timely, good faith interactive process to determine reasonable
10 accommodation in violation of Government Code section 12940(n).

11 52. As a proximate result of defendants' willful, knowing, and intentional discrimination
12 against plaintiff, plaintiff has sustained and continues to sustain substantial losses of earnings and
13 other employment benefits.

14 53. As a proximate result of defendants' willful, knowing, and intentional discrimination
15 against plaintiff, plaintiff has suffered and continues to suffer humiliation, emotional distress, and
16 physical and mental pain and anguish, all to his damage in a sum according to proof.

17 54. Plaintiff has incurred and continues to incur legal expenses and attorneys' fees.
18 Plaintiff is at present unaware of the precise amounts of these expenses and fees and will seek
19 leave of court to amend this Complaint when the amounts are full known.

20 **FOURTH CAUSE OF ACTION**

21 **(Violation of FEHA (Government Code § 12900, et seq.) (Failure**
22 **to Provide Reasonable Accommodations — Against City of**
23 **Inglewood and Does 1 to 100, Inclusive)**

24 55. The allegations set forth in paragraphs 1 through 54 are re-alleged and incorporated
25 herein by reference.

26 56. Defendants' conduct, as alleged, violated FEHA, Government Code section 12900, et
27 seq., and defendants committed unlawful employment practices, including by the following bases
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1 for liability: failing to provide reasonable accommodation in violation of Government Code
2 section 12940(m).

3 57. As a proximate result of defendants' willful, knowing, and intentional discrimination
4 against plaintiff, plaintiff has sustained and continues to sustain substantial losses of earnings and
5 other employment benefits.

6 58. As a proximate result of defendants' willful, knowing, and intentional discrimination
7 against plaintiff, plaintiff has suffered and continues to suffer humiliation, emotional distress, and
8 physical and mental pain and anguish, all to his damage in a sum according to proof.

9 59. Plaintiff has incurred and continues to incur legal expenses and attorneys' fees.
10 Plaintiff is at present unaware of the precise amounts of these expenses and fees and will seek
11 leave of court to amend this Complaint when the amounts are full known.

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13 **FIFTH CAUSE OF ACTION**

14 **(Violation of FEHA (Government Code § 12900, *et seq.*) (Race**
15 **Discrimination — Against City of Inglewood and Does 1 to 100,**
16 **Inclusive)**

17 60. The allegations set forth in paragraphs 1 through 59 are re-alleged and incorporated
18 herein by reference.

19 61. Plaintiff is protected by FEHA, Government Code section 12900, *et seq.*, from
20 discrimination based on plaintiff's race, which was a motivating factor in defendants' decision to
21 terminate plaintiff's employment, not to retain, hire, or otherwise employ plaintiff in any position,
22 to refuse to accommodate plaintiff, to refuse to engage in the interactive process, and/or take
23 other adverse job actions against plaintiff.

24 62. Defendants' conduct, as alleged, violated FEHA, Government Code section 12900, *et*
25 *seq.*, and defendants committed unlawful employment practices, including by the following,
26 separate bases for liability:

- 27 a. Discharging, barring, refusing to transfer, retain, hire, select,
28 and/or employ, and/or otherwise discriminating against plaintiff, in whole or in part

1 on the basis of plaintiff's actual and/or perceived race, in violation of Government
2 Code section 12940(a);

3 b. Failing to take all reasonable steps to prevent discrimination,
4 harassment, and retaliation based on actual, and/or perceived race, in violation of
5 Government Code section 12940(k);

6 c. Retaliating against plaintiff for seeking to exercise rights
7 guaranteed under FEHA and/or opposing defendants' failure to provide such rights,
8 including right to be free of discrimination, in violation of Government Code section
9 12940(h);

10 63. As a proximate result of defendants' willful, knowing, and intentional discrimination
11 against plaintiff, plaintiff has sustained and continues to sustain substantial losses of earnings and
12 other employment benefits.

13 64. As a proximate result of defendants' willful, knowing, and intentional discrimination
14 against plaintiff, plaintiff has suffered and continues to suffer humiliation, emotional distress, and
15 physical and mental pain and anguish, all to his damage in a sum according to proof.

16 65. Plaintiff has incurred and continues to incur legal expenses and attorneys' fees.
17 Pursuant to Government Code section 12965(b), plaintiff is entitled to recover reasonable
18 attorneys' fees and costs (including expert costs) in an amount according to proof.

19
20 **SIXTH CAUSE OF ACTION**

21 **(Violation of FEHA (Government Code § 12900, *et seq.*)**

22 **(Harassment on the Basis of Race — Against City of Inglewood,**

23 **Karen Castro, and Does 1 to 100, Inclusive)**

24 66. The allegations set forth in paragraphs 1 through 65 are re-alleged and incorporated
25 herein by reference.

26 67. Defendants' conduct, as alleged, violated FEHA, Government Code section 12900,
27 *et seq.*, and defendants committed unlawful employment practices, including by the following,
28 separate bases for liability:

1 a. Harassing plaintiff and/or creating a hostile work environment, in whole or in part
2 on the basis of plaintiff's race, in violation of Government Code section 12940(j);

3 b. Failing to take all reasonable steps to prevent discrimination, harassment, and
4 retaliation based on plaintiff's race, in violation of Government Code section 12940(k).

5 68. As a proximate result of defendants' willful, knowing, and intentional harassment of
6 plaintiff, plaintiff has sustained and continues to sustain substantial losses of earnings and other
7 employment benefits.

8 69. As a proximate result of defendants' willful, knowing, and intentional harassment of
9 plaintiff, plaintiff has suffered and continues to suffer humiliation, emotional distress, and
10 physical and mental pain and anguish, all to his damage in a sum according to proof.

11 70. Plaintiff has incurred and continues to incur legal expenses and attorneys' fees.
12 Pursuant to Government Code section 12965(b), plaintiff is entitled to recover reasonable
13 attorneys' fees and costs (including expert costs) in an amount according to proof.

14
15 **SEVENTH CAUSE OF ACTION**

16 **(Violation of FEHA (Government Code § 12900, et seq.) (Sexual**
17 **Orientation Discrimination — Against City of Inglewood and**
18 **Does 1 to 100, Inclusive)**

19 71. The allegations set forth in paragraphs 1 through 70 are re-alleged and incorporated
20 herein by reference.

21 72. At all times herein mentioned, the FEHA, Government Code § 12940 et. seq., was in
22 full force and effect and binding on defendants. These statutes required defendants to refrain
23 from discriminating against any employee on the basis of sexual orientation.

24 73. Plaintiff is a gay individual.

25 74. Plaintiff's sexual orientation, Government Code section 12900, et seq., was motivating
26 factors in defendants' decision to terminate plaintiff's employment, not to retain, hire, or
27 otherwise employ plaintiff in any position, to refuse to accommodate plaintiff, and/or take other
28 adverse job actions against plaintiff.

1 75. Defendants' conduct, as alleged, violated FEHA, Government Code section 12900, *et*
2 *seq.*, and defendants committed unlawful employment practices, including by the following,
3 separate bases for liability:

4 a. Discharging, barring, refusing to transfer, retain, hire, select,
5 and/or employ, and/or otherwise discriminating against plaintiff, in whole or in part
6 on the basis of plaintiff's actual and/or perceived sexual orientation, in violation of
7 Government Code section 12940(a);

8 b. Failing to take all reasonable steps to prevent discrimination,
9 harassment, and retaliation based on actual and/or perceived sexual orientation, in
10 violation of Government Code section 12940(k);

11 c. Retaliating against plaintiff for seeking to exercise rights
12 guaranteed under FEHA and/or opposing defendants' failure to provide such rights,
13 including right to be free of discrimination, in violation of Government Code section
14 12940(h);

15 76. As a proximate result of defendants' willful, knowing, and intentional discrimination
16 against plaintiff, plaintiff has sustained and continues to sustain substantial losses of earnings and
17 other employment benefits.

18 77. As a proximate result of defendants' willful, knowing, and intentional discrimination
19 against plaintiff, plaintiff has suffered and continues to suffer humiliation, emotional distress, and
20 physical and mental pain and anguish, all to his damage in a sum according to proof.

21 78. Plaintiff has incurred and continues to incur legal expenses and attorneys' fees.
22 Pursuant to Government Code section 12965(b), plaintiff is entitled to recover reasonable
23 attorneys' fees and costs (including expert costs) in an amount according to proof.

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1 **EIGHTH CAUSE OF ACTION**

2 **(Violation of FEHA (Government Code § 12900, *et seq.*)**

3 **(Harassment Based on Sexual Orientation — Against City of**

4 **Inglewood, Karen Castro, and Does 1 to 100, Inclusive)**

5 79. The allegations set forth in paragraphs 1 through 78 are re-alleged and incorporated
6 herein by reference.

7 80. At all times herein mentioned, the FEHA, Government Code § 12940 *et. seq.*, was in
8 full force and effect and binding on defendants. These statutes required defendants to refrain
9 from discriminating against any employee on the basis of sexual orientation.

10 81. Defendants' conduct, as alleged, violated FEHA, Government Code section 12900,
11 *et seq.*, and defendants committed unlawful employment practices, including by the following,
12 separate bases for liability:

13 a. Harassing plaintiff and/or creating a hostile work environment, in whole or in part
14 on the basis of plaintiff's actual and/or perceived sexual orientation, in violation of Government
15 Code section 12940(j);

16 b. Failing to take all reasonable steps to prevent discrimination, harassment, and
17 retaliation based on plaintiff's actual and/or perceived sexual orientation, in violation of
18 Government Code section 12940(k).

19 82. As a proximate result of defendants' willful, knowing, and intentional harassment of
20 plaintiff, plaintiff has sustained and continues to sustain substantial losses of earnings and other
21 employment benefits.

22 83. As a proximate result of defendants' willful, knowing, and intentional harassment of
23 plaintiff, plaintiff has suffered and continues to suffer humiliation, emotional distress, and
24 physical and mental pain and anguish, all to his damage in a sum according to proof.

25 84. Plaintiff has incurred and continues to incur legal expenses and attorneys' fees.
26 Pursuant to Government Code section 12965(b), plaintiff is entitled to recover reasonable
27 attorneys' fees and costs (including expert costs) in an amount according to proof.
28

1 **NINTH CAUSE OF ACTION**

2 **(Violation of FEHA (Government Code § 12900, *et seq.*)**

3 **(Retaliation for Engaging in a Protected Activity— Against City**
4 **of Inglewood and Does 1 to 100, Inclusive)**

5 85. The allegations set forth in paragraphs 1 through 84 are re-alleged and incorporated
6 herein by reference.

7 86. Plaintiff's engagement in protected activity, including good faith complaints and/or
8 opposition to discrimination and harassment based on disability, race, sexual orientation and/or
9 good faith complaints protected by FEHA, Government Code section 12900, *et seq.*, as well as
10 to defendants' failure to accommodate his disability and failure to engage in the interactive
11 process, were motivating factors in defendants' decision to terminate plaintiff's employment, not
12 to retain, hire, or otherwise employ plaintiff in any position, and/or to take other adverse job
13 actions against plaintiff.

14 87. Defendants' conduct, as alleged, violated FEHA, Government Code section 12900,
15 *et seq.*, and defendants committed unlawful employment practices, including by the following,
16 separate bases for liability:

17 a. Demoting, discharging, barring, refusing to retain, refusing to transfer, hire, select,
18 and/or employ, and/or otherwise discriminating against plaintiff, in whole or in part on the basis
19 of plaintiff's disability, race, sexual orientation, good faith complaints and/or other protected
20 characteristics by FEHA, Government Code section 12900, *et seq.*, in violation of Government
21 Code section 12940(a);

22 b. Harassing plaintiff and/or creating a hostile work environment, in whole or in part
23 on the basis of plaintiff's disability, race, sexual orientation, in violation of Government Code
24 section 12940(j);

25 c. Failing to take all reasonable steps to prevent discrimination, harassment, and
26 retaliation based on plaintiff's disability, race, sexual orientation, and/or good faith complaints in
27 violation of Government Code section 12940(k);

28 d. Retaliating against plaintiff for seeking to exercise rights guaranteed under FEHA

1 and/or opposing defendants' failure to provide such rights, including rights of reasonable
2 accommodation, rights of interactive process, leave rights, and/or the right to be free of
3 harassment and discrimination, in violation of Government Code section 12940(h);

4 e. Failing to accommodate plaintiff's actual, perceived, and/or history of disability, in
5 violation of Government Code section 12940(m);

6 f. Failing to engage in a timely, good faith interactive process to determine reasonable
7 accommodation, in violation of Government Code section 12940(n);

8 g. Creating a hostile work environment, in whole or in part on the basis of plaintiff's
9 disability, race, sexual orientation, and/or other protected characteristics, in violation of
10 Government Code section 12940(j);

11 h. Retaliating against plaintiff for seeking to exercise rights guaranteed under FEHA
12 and/or opposing defendants' failure to provide such rights, including rights of reasonable
13 accommodation, rights of interactive process, leave rights, and/or the right to be free of
14 discrimination, in violation of Government Code section 12940(h);

15 i. Failing to provide plaintiff with requisite statutory leave, violating notice and/or
16 other procedural requisites of leave, and/or retaliating against plaintiff for taking leave, in
17 violation of Government Code section 12945.2.

18 88. As a proximate result of defendants' willful, knowing, and intentional retaliation
19 against plaintiff, plaintiff has sustained and continues to sustain substantial losses of earnings and
20 other employment benefits.

21 89. As a proximate result of defendants' willful, knowing, and intentional retaliation
22 against plaintiff, plaintiff has suffered and continues to suffer humiliation, emotional distress, and
23 physical and mental pain and anguish, all to his damage in a sum according to proof.

24 90. Plaintiff has incurred and continues to incur legal expenses and attorneys' fees.
25 Pursuant to Government Code section 12965(b), plaintiff is entitled to recover reasonable
26 attorneys' fees and costs (including expert costs) in an amount according to proof.

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TENTH CAUSE OF ACTION
(Failure to Prevent Discrimination, Harassment, and Retaliation
in Violation of FEHA (Government Code § 12940(k))— Against
Walt Disney World Co., Walt Disney Parks and Resorts U.S.,
Inc. and Does 1 to 100, Inclusive)

91. The allegations set forth in paragraphs 1 through 90 are re-alleged and incorporated herein by reference.

92. At all times herein mentioned, FEHA, Government Code section 12940(k), was in full force and effect and was binding on defendants. This statute states that it is an unlawful employment practice in California for an employer “to fail to take all reasonable steps necessary to prevent discrimination and harassment from occurring.” Prior to filing the instant Complaint, plaintiff filed a timely administrative charge with the DFEH and received a right-to-sue notice.

93. During the course of plaintiff’s employment, defendants failed to prevent their employees from engaging in intentional actions that resulted in plaintiff’s being treated less favorably because of plaintiff’s protected status (*i.e.*, disability, race, sexual orientation and/or participation in protected activities and/or his good faith complaints and opposition). During the course of plaintiff’s employment, defendants failed to prevent their employees from engaging in unjustified employment practices against employees on the basis of such protected classes. During the course of plaintiff’s employment, defendants failed to prevent a pattern and practice by their employees of intentional discrimination on the basis of engagement in protected activity and protected status.

94. Plaintiff believes and on that basis alleges that his protected status and/or engagement in a protected activity was a substantial motivating factor in defendants’ employees’ discrimination and retaliation against him.

95. As a proximate result of defendants’ willful, knowing, and intentional misconduct, plaintiff has sustained and continues to sustain substantial losses of earnings and other employment benefits.

96. As a proximate result of defendants’ willful, knowing, and intentional misconduct,

1 plaintiff has suffered and continues to suffer humiliation, emotional distress, and physical and
2 mental pain and anguish, all to his damage in a sum according to proof.

3 97. Plaintiff has incurred and continues to incur legal expenses and attorneys' fees.
4 Plaintiff is at present unaware of the precise amounts of these expenses and fees and will seek
5 leave of court to amend this Complaint when the amounts are fully known.

6
7 **ELEVENTH CAUSE OF ACTION**

8 **(Violations of Labor Code § 1102.5, et seq.—**

9 **Against The City of Inglewood and Does 1 to 100, Inclusive)**

10 98. The allegations set forth in paragraphs 1 through 97 are re-alleged and incorporated
11 herein by reference.

12 99. At all relevant times, Labor Code section 1102.5 was in effect and was binding on
13 defendants. This statute prohibits defendants from retaliating against any employee, including
14 plaintiff, for raising complaints of illegality.

15 100. Plaintiff raised complaints of illegality while he worked for defendants, and defendants
16 retaliated against him by terminating his employment. Specifically, plaintiff reported the
17 unlawful discrimination and retaliation he was experiencing from defendants on the basis of his
18 disability, race, sexual orientation.

19 101. As a proximate result of defendants' willful, knowing, and intentional violations of
20 Labor Code section 1102.5, plaintiff has suffered and continues to suffer humiliation, emotional
21 distress, and mental and physical pain and anguish, all to his damage in a sum according to proof.

22 102. As a result of defendants' adverse employment actions against plaintiff, plaintiff has
23 suffered general and special damages in sums according to proof.

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1 **PRAYER**

2 WHEREFORE, plaintiff, Alan Smith, prays for judgment against defendants as follows:

- 3 1. For general and special damages according to proof;
- 4 2. For pre-judgment and post-judgment interest on all damages awarded;
- 5 3. For reasonable attorneys' fees;
- 6 4. For costs of suit incurred;
- 7 5. For such other and further relief as the Court may deem just and proper.

8

9 ADDITIONALLY, plaintiff, Alan Smith, demands trial of this matter by jury. The amount

10 demanded exceeds \$25,000.00 (Government Code § 72055).

11 Dated: May 6, 2019

12 **SOUTHERN CALIFORNIA**
13 **LABOR LAW GROUP, P.C.**

14 By: 

15 _____
16 Michael Zelman, Esq.
17 Taylor M. Prainito, Esq.
18 Parth N. Shah, Esq.
19 Attorneys for Plaintiff,

20 ALAN SMITH

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