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14 SUPERIOR COURT OF THE STATE OF CALIFORNIA
15 FOR THE COUNTY OF LOS ANGELES
16

17 VINCENT A. CAPELLE,

18 Plaintiff,

19 vs.

20 CITY OF WEST COVINA, and DOES 1 to
21 50, inclusive,

22 Defendants.
23
24

Case No. **26STCV06790**

Assigned for All Purposes to:

COMPLAINT FOR DAMAGES

1. **WHISTLEBLOWER RETALIATION (LABOR CODE § 1102.5)**
2. **FEHA RETALIATION (GOV CODE § 12940 ET SEQ.)**
3. **FAILURE TO PREVENT RETALIATION UNDER FEHA (GOV CODE § 12940 ET SEQ.)**

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GENERAL ALLEGATIONS

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2 1. Plaintiff Vincent Capelle was a person employed in the County of Los Angeles, State
3 of California, and a competent adult. Capelle is a white/Caucasian male.

4 2. Plaintiff is informed and believes and thereon alleges that, at all times relevant hereto,
5 Defendant City of West Covina was and is an entity committing torts and violating laws within the
6 County of Los Angeles, State of California. At all times pertinent hereto, Defendant owned,
7 controlled, and operated the agency known as the City of West Covina Fire Department.

8 3. Plaintiff is informed and believes and thereupon alleges that Defendants DOES 1
9 through 50, inclusive, and each of them, were at all times relevant hereto, residents of the County
10 of Los Angeles, State of California, and/or were agents, partners, and/or joint venturers of
11 Defendants and/or each other, acting as supervisors, managers, administrators, owners, and/or
12 directors or in some other unknown capacity, committing torts in and/or engaged as a matter of
13 commercial actuality in purposeful economic activity within the County of Los Angeles, State of
14 California.

15 4. The true names and capacities of Defendants DOES 1 through 50, and each of them,
16 whether individual, corporate, associate, or otherwise, are unknown to Plaintiff at this time, who
17 therefore sues said Defendants by such fictitious names. Plaintiff will file DOE amendments
18 and/or ask leave of court to amend this complaint to assert the true names and capacities of these
19 Defendants when they have been ascertained. Plaintiff is informed and believes, and upon such
20 information and belief, alleges that each Defendant herein designated as a DOE was and is in some
21 manner negligently, wrongfully, or otherwise responsible and liable to Plaintiff for the injuries and
22 damages hereinafter alleged, and that Plaintiff's damages as herein alleged were proximately
23 caused by their conduct.

24 5. Plaintiff is informed and believes, and thereupon alleges, that at all times material
25 herein the Defendants, and each of them, were the agents, servants, and employees, or ostensible
26 agents, servants, or employees of each other Defendant, and as such, were acting within the course
27 and scope of said agency and employment or ostensible agency and employment, except on those
28 occasions when Defendants were acting as principals, in which case, said Defendants, and each of

1 them, were negligent in the selection, hiring, and use of the other Defendants.

2 6. Plaintiff is further informed and believes, and thereupon alleges, that at all times
3 relevant hereto, Defendants, and each of them, acted in concert and in furtherance of the interests
4 of each other Defendants.

5 7. Plaintiff has complied with and/or exhausted any applicable claims, statutes, and/or
6 administrative and/or internal remedies and/or grievance procedures or is excused from complying
7 therewith. Plaintiff filed Government Claim for Damages pursuant to *Government Code* sections
8 905 and 910, et seq., on or about September 10, 2025. To date, Defendant has not acted on the
9 claim. As such, pursuant to *Government Code* section 912.4 et seq., a refusal to act on the claim
10 shall be deemed to have been a rejection of the claim.

11 8. Plaintiff has filed an administrative complaint with the California Civil Rights
12 Department (“CRD”), substantially alleging the acts and conduct of the City as described herein.
13 The CRD issued a “right-to-sue” notice on March 2, 2026.

14 9. Any requirement for Plaintiff to participate in any further exhaustion of
15 administrative remedies is not required as it is futile.

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

17 10. In or around November of 2017, Capelle was hired by the City of West Covina (the
18 “City”), as the Assistant Fire Chief for the West Covina Fire Department (the “Department” or
19 “WCFD”). In or around September of 2019, Capelle was promoted to the position of Chief of the
20 Department.

21 11. Between approximately September of 2019 and June of 2020, City Council Member
22 Tony Wu began to make harassing comments toward Capelle on account of his race/color. On one
23 occasion, Wu stated in a public forum that he would “spank” Capelle if he did not lower overtime
24 use by his employees. Wu would not talk that way toward people of color. Capelle reasonably
25 believed that such conduct amounted to unlawful harassment and discrimination based on race and
26 subsequently engaged in protected activity by reporting the harassing and discriminatory comment
27 to his superior, City Manager David Carmany.

28 12. Defendant did not take any action to prevent future harassment against Capelle.

1 13. In or around July of 2020, Wu again threatened Capelle, based on his race/color, to
2 unlawfully withhold firefighting resources. Wu told Capelle that if the firefighter’s union backed
3 candidate Collen Rozatti, Wu would withhold firefighting resources for Capelle’s department. Wu
4 also threatened to withhold firefighting resources if Capelle did not reduce the overtime worked by
5 his firefighters. Capelle, believing the threats from Wu were violations of local, state, or federal
6 rules or regulations, reported the information to City Manager Carmany. Capelle had reasonable
7 cause to believe that the information he disclosed was a violation of state or federal statute, or a
8 violation of or noncompliance with a local, state, or federal rule or regulation, including but not
9 limited to extortion, harassment, discrimination, fraud, public corruption, and/or other violations,
10 including, but not limited to, *Gov. Code* sections 3204, 12940 et seq., *Penal Code* sections 518 and
11 *532, Labor Code* section 1101.

12 14. In or around July of 2021, Capelle also reported to City Manager Carmany that his
13 working conditions were hostile, unhealthy, retaliatory, and stressful because of Wu’s unlawful
14 treatment. Capelle reasonably believed that the information he disclosed to Carmany amounted to
15 unlawful harassment and/or hostile working environment.

16 15. That same day, in retaliation for his protected activity, Capelle received a negative
17 evaluation. The negative evaluation was issued without any valid justification for the poor ratings.
18 Capelle was then threatened that if he continued to report unlawful conduct, or if he filed a
19 worker’s compensation claim for stress, he would lose his job.

20 16. From 2020 to 2024, Capelle would repeatedly request additional staffing and would
21 be subjected to more threats and harassment from Wu. Wu would regularly use foul language
22 toward Capelle and make the same threat about supporting other candidates.

23 17. In or around April of 2022, Wu harassed and retaliated against Capelle by calling and
24 cursing at him because Capelle took a picture with another council member, despite the fact that
25 Capelle took the photograph while he was off-duty.

26 18. In or around April of 2022, Wu harassed and retaliated against Capelle by yelling at
27 Capelle at the end of a badge pinning ceremony where Capelle’s peers, subordinates, and
28 community members were present. At the event, Wu yelled, “Chief, what the fuck is your

1 problem?" After Capelle walked outside, Wu continued to yell and curse at him. This occurred in
2 the presence of City Manager Carmany, other city staff dignitaries, and Capelle's family. As Wu
3 was cursing, Capelle pleaded with City Manager Carmany to intervene and protect him from the
4 abuse, however, Carmany stood there watching and did not intervene.

5 19. In or around October of 2022, believing that he had been subjected to unlawful
6 harassment and retaliation, Capelle drafted a memorandum to City Manager Carmany reporting
7 some of the unlawful harassment and retaliation. Capelle also provided a copy of the memorandum
8 to the Human Resources Department. Capelle's memorandum outlined the above-described
9 conduct and additional unlawful/retaliatory conduct such as not providing Capelle a new vehicle
10 like other Department heads; failing to investigate other reports of harassment and not allowing
11 him to have sufficient staff while other city departments were growing in personnel.

12 20. In or around mid-2023, Capelle met with the new Acting City Manager, Paulina
13 Morales. Capelle brought Morales up to speed on the harassment and retaliation he had been
14 suffering, hoping that she would take proactive steps to keep him safe in the workplace.

15 21. In or around July of 2024, Capelle met with then City Manager Paulina Morales.
16 Capelle reported to her that Wu had instructed Capelle to approve fire building permits for several
17 businesses within the city. Capelle reported that Wu had instructed him to approve plans for the
18 business, even if they were not in full compliance with applicable codes. Capelle told Morales that
19 he was unwilling to commit such fraud.

20 22. Capelle had reasonable cause to believe that such conduct was a violation of state or
21 federal statute, or a violation of or noncompliance with a local, state, or federal rule or regulation,
22 including but not limited to extortion, harassment, discrimination, fraud, public corruption, and/or
23 other violations, including, but not limited to, *Gov. Code* section 12940 et seq., *Penal Code*
24 sections 518 and 532, *Cal. Code Regs.*, tit. 19, et seq.

25 23. In or around October of 2024, Capelle learned that City Manager Morales and her
26 staff had pressured other fire personnel to approve inspection(s) that were not up to code. Capelle
27 opposed this unlawful conduct to Morales and refused to participate in the conduct because it
28 would violate the law. Morales reasonably believed that Capelle would report her unlawful conduct

1 to others including, but not limited to law enforcement.

2 24. During numerous times during his employment, Capelle also reported to Defendant
3 that various fire stations were in violation of Cal/OSHA statutes. Such reports include, but are not
4 limited to: Fire Station 1 needed to be closed due to unsafe conditions; Fire Station 3 had illegal
5 construction, unsafe sleeping quarters, no egress, and a leaky roof that contained mold; Fire Station
6 4 had illegal construction, unsafe sleeping quarters, no egress, and open walls; Fire Station 5 had
7 illegal construction, unsafe sleeping quarters, no egress, a leaky roof, and potential mold.

8 25. Capelle also reported unsafe vehicle exhaust systems to the Defendant.

9 26. In or around November of 2024, in retaliation for reports of unlawful conduct and/or
10 in anticipation of his report of unlawful conduct, Morales issued Capelle a notice indicating that his
11 employment would be terminated. Morales indicated that Capelle had one opportunity for an
12 appeal.

13 27. In anticipation for the appeal, Capelle requested documents related to the termination.
14 However, in continued retaliation, the City refused to provide any relevant documents. In or around
15 March of 2025, in retaliation for his protected activity, Morales terminated Capelle from his
16 employment.

17 28. Each of Defendants' actions described above amounts to an adverse employment
18 action against Capelle and/or the pattern of conduct, taken as a whole, materially and adversely
19 affected the terms, conditions, or privileges of Capelle's employment. Each adverse employment
20 action was in retaliation for Capelle's protected activity. Additionally, the above-described conduct
21 was reasonably likely and did impair Capelle's job performance, prospects for advancement, and
22 prospects for other employment. Capelle has suffered economic, non-economic, and/or
23 emotional/physical damages as a result of Defendants' conduct.

24 **FIRST CAUSE OF ACTION**

25 **FOR WHISTLEBLOWER RETALIATION (LABOR CODE SECTION 1102.5)**

26 **AGAINST DEFENDANTS, AND EACH OF THEM**

27 29. Plaintiff incorporates and re-alleges into this Cause of Action each and every
28 allegation in the foregoing paragraphs as if fully restated herein.

1 30. Pursuant to *Labor Code* section 1102.5, it is unlawful for an employer to retaliate
2 against an employee for disclosing information, or because the employer believes that the employee
3 disclosed or may disclose information, to a government or law enforcement agency, to a person with
4 authority over the employee or another employee who has the authority to investigate, discover, or
5 correct the violation or noncompliance, or for providing information to, or testifying before, any
6 public body conducting an investigation, hearing, or inquiry, if the employee has reasonable cause to
7 believe that the information discloses a violation of state or federal statute, or a violation of or
8 noncompliance with a local, state, or federal rule or regulation, regardless of whether disclosing the
9 information is part of the employee's job duties.

10 31. Plaintiff engaged in legally protected activities under *Labor Code* section 1102.5 and
11 1102.6 by reporting what he reasonably believed to be a violation of state or federal statute, or a
12 violation of noncompliance with a local, state, or federal rule or regulation, including but not limited
13 to unlawful discrimination, unlawful harassment, unlawful hostile work environment, unlawful
14 retaliation, fraud, bribery, extortion, prohibited political coercion, including, but not limited to
15 *Government Code* sections 3204, 8547, and 12940, et seq., *Penal Code* sections 518 and 532, *Labor*
16 *Code* section 1101, 1102.5, 6400, 6401, *Cal. Code Regs.*, tit. 19, et seq. and tit. 24, et seq., *Health*
17 *and Safety Code* sections 13872.5, 13146, 13146.2, 13146.5, *Business and Professions Code* section
18 17200, et seq., *Building and Standards Codes*, *OSHA Title 8*, sections 3215, 3362 and/or other
19 applicable federal and state statutes, regulations, or rules.

20 32. After Plaintiff reported what he reasonably believed to be a violation of state or
21 federal statute, or a violation of noncompliance with a local, state, or federal rule or regulation,
22 Defendants, and each of them, retaliated against Plaintiff by taking the above-described adverse
23 actions against him. Said actions of retaliation were a direct violation of *Labor Code* section 1102.5,
24 and pursuant to *Labor Code* section 1102.6, Defendants, and each of them, have the burden of proof
25 to demonstrate by clear and convincing evidence that each of the adverse employment actions
26 alleged herein would have occurred for legitimate, independent reasons even if Plaintiff had not
27 engaged in activities protected by *Labor Code* section 1102.5.

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1 33. A contributing cause/factor for Defendants, and each of them, engaging in the
2 foregoing adverse employment actions against Plaintiff was to retaliate against him for reporting
3 what he reasonably believed to be a violation of state or federal statute, or a violation of or
4 noncompliance with a local, state, or federal rule or regulation.

5 34. As a legal result of the conduct of Defendants, and each of them, Plaintiff has
6 suffered and will continue to suffer physical, mental, and emotional injuries, pain, distress, suffering,
7 anguish, fright, nervousness, grief, anxiety, worry, shame, shock, humiliation, betrayal as well as
8 other unpleasant physical, mental, and emotional reactions, damages to reputation, and other non-
9 economic damages, in a sum to be ascertained according to proof.

10 35. As a further legal result of the conduct of Defendants, and each of them, Plaintiff has
11 suffered loss of income, wages, earnings, and earning capacity, loss to his pension, inability to
12 promote, and other economic loss, causing Plaintiff to sustain damages in an amount to be
13 ascertained according to proof.

14 36. As a further legal result of the conduct of Defendant, and each of them, Plaintiff has
15 suffered other incidental and consequential damages, in an amount according to proof.

16 37. As a further legal result of the conduct of the Defendant, and each of them, Plaintiff is
17 entitled to attorneys' fees and costs in an amount according to proof, pursuant to Labor Code section
18 1102.5.

19 38. As a further legal result of the conduct of Defendants, and each of them, Plaintiff is
20 entitled to prejudgment interest pursuant to *California Civil Code* Section 3287.

21 39. Plaintiff further requests that the Court render appropriate injunctive or other
22 extraordinary relief to remedy the violations and to prevent future violations of a like or similar
23 nature, including, but not limited to, the granting of a permanent injunction enjoining Defendants,
24 and each of them from any further violations of *Labor Code* section 1102.5.

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1 employee's job performance and prospects for advancement.

2 48. As a further legal result of the conduct of Defendants, and each of them, Plaintiff
3 suffered other incidental and consequential damages, in an amount according to proof.

4 49. As a further legal result of the conduct of Defendants, and each of them, Plaintiff is
5 entitled to attorneys' fees pursuant to *Government Code* section 12965 and costs in an amount
6 according to proof.

7 50. As a further legal result of the conduct of Defendants, and each of them, Plaintiff is
8 entitled to prejudgment interest pursuant to *California Civil Code* section 3287 and/or any other
9 provision of law providing for prejudgment interest.

10 51. For declaratory relief that Defendants engaged in unlawful retaliation in the
11 workplace and that the Defendant must provide additional training to its employee on the topic of
12 retaliation. The training must include preventing retaliation, recognizing retaliation, reporting
13 retaliation, and investigating retaliation.

14 52. For affirmative relief, Plaintiff seeks an injunction restraining Defendants from
15 continuing or maintaining any rule, policy, practice, custom, or usage which is retaliatory in nature
16 against any employee making a complaint, when such employee reasonably believes and reports
17 information that is a violation of law related to discrimination, harassment, or retaliation.

18 53. For affirmative relief, Plaintiff seeks an injunction restraining Defendants, along with
19 their supervising employees, agents, and all those subject to their control or acting in concert with
20 them, from causing, encouraging, condoning or permitting the practice of retaliation, discrimination,
21 or harassment.

22 **THIRD CAUSE OF ACTION**

23 **FAILURE TO PREVENT HARASSMENT OR RETALIATION IN VIOLATION OF THE**

24 **FEHA (GOV. CODE § 12940, ET SEQ.)**

25 **AGAINST DEFENDANTS, AND EACH OF THEM**

26 54. Plaintiff incorporates and re-alleges into this Cause of Action each and every
27 allegation in the foregoing paragraphs as if fully restated herein.

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1 55. Government Code section 12940, et seq., makes it an unlawful employment practice
2 for an employer to fail to take all reasonable steps necessary to prevent discrimination, harassment,
3 or retaliation from occurring.

4 56. Defendants, and each of them, knew that Plaintiff was a male white/Caucasian,
5 Defendants, and each of them believed that Plaintiff had opposed and reported discrimination,
6 harassment, and/or retaliation, and was continuously being subjected to adverse employment actions.
7 Defendants, through their acts and omissions, violated *Government Code* section 12940, et seq., by
8 failing to take all reasonable steps to prevent retaliation by subjecting Plaintiff to adverse
9 employment actions.

10 57. Plaintiff's protected activities, race/color and/or reporting of
11 harassment/discrimination were a substantial motivating factor for the adverse employment actions
12 of Defendants, and each of them.

13 58. Said actions and conduct of Defendants, and each of them, consisting of the
14 aforementioned retaliation and harassment against Plaintiff, constituted unlawful employment
15 practices under California *Government Code* section 12940, et seq.

16 59. The aforementioned unlawful employment practices on the part of the Defendants,
17 and each of them, were a substantial factor in causing damages and injuries to Plaintiff, as set forth
18 below.

19 60. As a legal result of the conduct of Defendants, and each of them, Plaintiff has
20 suffered and will continue to suffer physical, mental, and emotional injuries, pain, distress, suffering,
21 anguish, fright, nervousness, grief, anxiety, worry, shame, shock, humiliation, betrayal as well as
22 other unpleasant physical, mental, and emotional reactions, damages to reputation, and other non-
23 economic damages, in a sum to be ascertained according to proof.

24 61. As a further legal result of the conduct of Defendants, and each of them, Defendants
25 subjected Plaintiff to conduct that is reasonably likely to impair Plaintiff's and a reasonable
26 employee's job performance and prospects for advancement.

27 62. As a further legal result of the conduct of Defendants, and each of them, Plaintiff
28 suffered other incidental and consequential damages, in an amount according to proof.

1 must provide additional training to its employees on the topics of preventing, recognizing, reporting,
2 and investigating harassment and retaliation in the workplace;

3 5. For any possible past and future health care, services, supplies, medicines, health care
4 appliances, modalities, and other related expenses in a sum to be ascertained according to proof;

5 6. Costs and Attorneys' fees pursuant to California Labor Code section 1102.5 and/or
6 Government Code section 12965 (b); or any other applicable statute;

7 7. Costs of suit herein;

8 8. Pre-judgment interest and post-judgment interest; and

9 9. Such other and further relief as the Court may deem proper.

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11 **DEMAND FOR JURY TRIAL**

12 Plaintiff Vincent Capelle hereby demands a Trial by Jury.

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16 Dated: March 1, 2026

LAW OFFICE OF BIJAN DARVISH

/s/ Bijan Darvish

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18 By: _____

BIJAN DARVISH
Attorneys for Plaintiff
VINCENT A. CAPELLE