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Superior Court of California,
County of San Diego

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Clerk of the Superior Court
By Vanessa Sezenol, Deputy Clerk

7 *Attorneys for Plaintiff Tabatha Gaines*

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

9 **COUNTY OF SAN DIEGO**

10 TABATHA GAINES, an individual,

11 Plaintiff,

12 v.

13 SAN DIEGO WORKFORCE
14 PARTNERSHIP; PETER CALLSTROM; and
15 DOES 1 THROUGH 50, inclusive,

16 Defendants.

17 Case No.: 37-2022-00050111-CU-0E-CTL

18 *Unlimited Civil –
Amount Demanded Exceeds \$25,000.00*

19 **PLAINTIFF'S COMPLAINT FOR:**

1. DISCRIMINATION ON THE BASIS OF RACE [Cal. Gov. Code § 12940(a)];
2. DISCRIMINATION ON THE BASIS OF SEX [Cal. Gov. Code § 12940(a)];
3. HARASSMENT ON THE BASIS OF RACE [Cal. Gov. Code § 12940(j)];
4. HARASSMENT ON THE BASIS OF SEX [Cal. Gov. Code § 12940(j)];
5. RETALIATION FOR OPPOSING DISCRIMINATION AND HARASSMENT [Cal. Gov. Code § 12940(h)];
6. FAILURE TO PREVENT DISCRIMINATION, HARASSMENT, AND RETALIATION [Cal. Gov. Code § 12940(k)];
7. RETALIATION FOR REPORTING ILLEGAL ACTIVITY [Cal. Lab. Code § 1102.5]; and
8. WRONGFUL CONSTRUCTIVE TERMINATION IN VIOLATION OF PUBLIC POLICY.

20 **[JURY TRIAL DEMANDED]**

21 Plaintiff Tabatha Gaines (“Plaintiff”) brings this individual action against Defendant San Diego
22 Workforce Partnership (“SDWP”), Defendant Peter Callstrom (“Callstrom”), and DOES 1 through 50,
23 inclusive (collectively, “Defendants”), on the following grounds:

INTRODUCTION

1. Plaintiff brings this individual action against Defendants for their alleged discrimination
2 on the basis of race and sex, harassment on the basis of race and sex, retaliation for opposing
3 discrimination and harassment on the basis of race, failure to take reasonable steps to prevent
4 discrimination, harassment, and retaliation, unlawful retaliation in violation of California Labor Code
5 (“Labor Code”) § 1102.5; as well as wrongful constructive termination in violation of public policy. This
6 action arises out of events that occurred during Plaintiff’s employment with Defendants.
7

2. Plaintiff seeks to recover, among other things, statutory, compensatory, and punitive
9 damages, statutory penalties, interest as allowed by law, injunctive relief, attorneys’ fees, and other
10 appropriate and just relief for Defendants’ illegal conduct.

THE PARTIES

A. Plaintiff:

3. Plaintiff Tabatha Gaines is an African American female natural person who is a resident of
4 the County of San Diego, California, and who, at all relevant times mentioned in this Complaint, was an
5 employee of Defendant SDWP, and primarily worked under the direction and supervision of Peter
6 Callstrom, and/or Does 1 through 50 in the County of San Diego, state of California.
7

B. Defendants:

4. SDWP is a California non-profit organization that purports to help job seekers increase
9 their economic mobility, help businesses grow, rebuild and thrive equitably, and prepare children and
20 young adults for entering the workforce.

5. Defendant Peter Callstrom is a white male natural person, and at all relevant times
22 mentioned herein was, employed by SDWP as its President and Chief Executive Officer (“CEO”).
23 Defendant Callstrom is, and at all relevant times mentioned in this Complaint was, a resident of the County
24 of San Diego.

6. At all relevant times, Defendants were covered by and subject to suit under the FEHA. On
26 information and belief, SDWP employs in excess of five (5) employees, including Defendant Peter
27 Callstrom.

28 // /

1 **C. Doe Defendants:**

2 7. Defendants Does 1 through 50, inclusive, are sued under fictitious names pursuant to Code
3 of Civil Procedure section 474. Each of the fictitiously named defendants participated in the acts alleged
4 in this Complaint. The true names and capacities of the defendants named as Does 1 through 50, inclusive,
5 are presently unknown to Plaintiff. Plaintiff will amend this Complaint, setting forth the true names and
6 capacities of the fictitious defendants, if and when their true names and capacities are ascertained.

7 8. At all times mentioned herein, the acts alleged to have been done and/or caused by each
8 named defendant are also alleged to have been done and/or caused by each fictitiously named defendant,
9 and by each of their agents and/or employees who acted within the scope of their agency and/or
10 employment.

11 9. At all times mentioned herein, each named defendant, including each fictitiously named
12 defendant, is believed to have acted individually or as an officer, agent, or employee of each of the other
13 defendants.

14 10. At all times mentioned herein, each named defendant, including each fictitiously named
15 defendant, acted as an agent, servant, employee, co-conspirator, alter-ego and/or joint venture of each of
16 the other defendants, and in doing the things alleged herein acted within the course and scope of such
17 agency, employment, alter-ego and/or in furtherance of the joint venture.

18 11. At all times mentioned herein, the acts and/or omissions of each of the named defendants,
19 including each fictitiously named defendant, concurrently contributed to the various acts and/or omissions
20 of each and every one of the other defendants, including each fictitiously named defendant, in proximately
21 causing the wrongful conduct, harm, and/or damages alleged herein. Each of the named defendants,
22 including each fictitiously named defendant, approved of, condoned, and/or otherwise ratified each and
23 every one of the acts and/or omissions complained herein. Each named defendant, including each
24 fictitiously named defendant, were and are acting with authority of each and every other defendant and/or
25 are acting as agents of each and every other named defendant or Doe defendant.

26 12. At all times mentioned herein there was a unity of interest and ownership between each
27 named defendant, including each fictitiously named defendant, such that all defendants acted as a single
28 employer of Plaintiff.

13. At all times mentioned herein each named defendant, including each fictitiously named defendant, exercised supervision and control over the working conditions of Plaintiff, including, but not limited to, implementing standard policies and procedures of SDWP.

JURISDICTION AND VENUE

14. This Court has subject matter jurisdiction over this action pursuant to California Code of Civil Procedure (“Code of Civil Procedure”) section 410.10 and because the monetary damages and restitution sought herein for Defendants’ conduct exceeds the minimum jurisdictional limits of the Superior Court.

15. This Court has personal jurisdiction over Defendants, because SDWP operates in the state of California, Plaintiff worked for Defendant Callstrom and SDWP in San Diego, California, and Defendants have caused the injuries alleged herein in the county of San Diego, through its acts, omissions, and violation of the California Labor Code, California Government Code, and public policy.

16. Venue is proper in San Diego County pursuant to Code of Civil Procedure §§ 395(a) and 395.5 because Defendant Callstrom is domiciled in San Diego County, Defendant SDWP transacts substantial business in San Diego County, and the unlawful acts alleged herein occurred in San Diego County.

SPECIFIC FACTUAL ALLEGATIONS

17. Plaintiff re-alleges and incorporates by reference, as though fully set forth herein, all paragraphs of this Complaint.

18. Plaintiff, an African American woman, is a hardworking and dedicated employee with a proven track record of success.

19. Plaintiff has been a Human Resources (“HR”) Professional for almost 20 years and has received and maintains active HR certifications (PHR and SHRM-CP) for the past 12 years. In addition, Plaintiff has a certificate in Diversity, Equity & Inclusion in the Workplace and an HR Management Certificate. As such, Plaintiff is skilled in workplace management and issues of diversity, equity, and inclusion.

20. Per the SDWP Diversity Equity & Inclusion Statement, "The Workforce Partnership's approach to all diversity, equity and inclusion efforts is to listen, learn and then act." SDWP's website

1 goes on to state, “Diversity, equity and inclusion can only be truly achieved if it includes our internal
2 practices as well. It begins with centering our hiring processes and continues by influencing our day-to-
3 day practices.”

4 21. In January 2021, Plaintiff was hired as the Director of People of Culture for SDWP,
5 reporting to Chief Administration Officer (“CAO”) April House (Black female).

6 22. By July 2021, Plaintiff had been promoted to Senior Director and there was discussion
7 about putting Plaintiff on the “Vice President track”. Plaintiff’s positive work contributions were
8 highlighted in her performance review.

9 23. In September 2021, CAO House announced she was leaving SDWP. Before CAO House’s
10 departure, she promoted Plaintiff to Senior Director and also announced to SDWP that Plaintiff would
11 assume leadership of Diversity, Equity & Inclusion (“DEI”) activities internally and with the Board. Upon
12 CAO House’s departure, Plaintiff began reporting directly to Callstrom.

13 24. Around this same time (late-August/early September 2021), Plaintiff began having
14 discussions with Manager of Business Experience Angel Stancer about one of her direct reports who was
15 a Black male employee. Plaintiff recommended to Stancer that this employee’s performance be effectively
16 managed using counseling and coaching. Despite Plaintiff’s recommendation and experience with
17 effective performance coaching, it became clear that Callstrom had already decided to terminate this Black
18 male employee. Plaintiff explained to Callstrom that she would not advise termination of this employee
19 given that there were two non-Black employees with similar performance issues who were being treated
20 more favorably.

21 25. Upon information and belief, Manager Stancer reached out to Plaintiff for help on
22 managing the employee and reported that she felt pressure to terminate the employee from Callstrom.
23 Upon information and belief, Manager Stancer was also on board with Plaintiff’s recommendation to
24 coach and manage this employee but was concerned about Callstrom’s perceptions of her if she didn’t
25 terminate the employee

26 26. Nevertheless, Callstrom continued to push for termination of this employee and began to
27 engage in a pattern of unrealistic micromanagement even going so far as to personally start secret shopping
28 this Black male employee. This was an unprecedeted and unnecessary method of oversight and

1 harassment. Although Callstrom said that he would leave the decision to terminate to others, it was clear
2 that Callstrom left no choice but to terminate this employee. At one point, Callstrom commented, “We
3 may never get an opportunity like this [to terminate him] again.”

4 27. Callstrom insisted on managing the employee’s every move and continuing to set him up
5 for failure. Callstrom’s tactics finally proved successful and in November 2021, the Black male employee
6 was terminated.

7 28. Upon information and belief, this method of extreme micromanagement and harassment
8 was a pattern and practice which Callstrom would engage in against women and employees of color.
9 While Callstrom might either hire women and/or people of color, Callstrom would later target these
10 employees while giving preferential treatment to white male, non-diverse employees.

11 29. In September 2021, Plaintiff shared with Callstrom the results of an Employee Opinion
12 Survey about DEI concerns related to a program being facilitated by SDWP. Plaintiff explained that Black
13 applicants were somehow being excluded from the program and being deemed ineligible for the intended
14 services. Callstrom became agitated with Plaintiff and defensive claiming that Plaintiff was being
15 accusatory. Plaintiff explained that she was just bringing attention to the potential issue so it could be
16 addressed. However, after this conversation, Callstrom’s treatment of Plaintiff dramatically changed.

17 30. On September 7, 2021, SDWP hired Brett Stapleton (mixed race male) as the Vice
18 President of Finance. Stapleton was later promoted to be Chief Financial Officer (“CFO”).

19 31. In October 2021, Plaintiff assumed leadership of the Compliance department.

20 32. On October 13, 2021, Plaintiff requested that she be moved to report directly to CFO
21 Stapleton instead of Callstrom. But, Callstrom’s targeting of Plaintiff worsened.

22 33. On November 30, 2021, Callstrom informed Plaintiff that she would no longer be the lead
23 on the DEI Workforce Development Board Committee, nor would she be participating on the Committee
24 until and unless he invited her in. Callstrom had never attended WDB DEI meetings in the past and this
25 decision was in direct contravention of the directive from CAO House upon her departure and prior
26 communications from Callstrom.

27 34. In December 2021, Callstrom removed Plaintiff from the Executive Team Meetings.

28 35. From thereon, Callstrom engaged in a pattern and practice of harassment and retaliation in

1 the form of hyper-focused and relentless micro-management of Plaintiff.

2 36. In March 2022, Callstrom had an executive meeting questioning one of Plaintiff's
3 deliverables. In the meeting, Callstrom intentionally blamed Plaintiff for not meeting deadlines even
4 though he knew Plaintiff has submitted the deliverables for his approval. At the same time, Callstrom
5 instructed Plaintiff not to communicate with the Executive Leadership Team without hearing from him
6 first.

7 37. On March 21, 2022, Plaintiff submitted a formal complaint of discrimination, retaliation,
8 and hostile work environment to her direct supervisor, Brett Stapleton, and Sammy Totah and Althea Salas
9 of the SDWP Board. In the complaint, Plaintiff identified CEO Peter Callstrom as the harasser.

10 38. On March 25, 2022, Ms. Salas informed Plaintiff that SDWP had retained a third-party
11 investigator, to investigate her complaint. As part of this investigation, Plaintiff provided the names of
12 numerous individuals who could substantiate her allegations and who had suffered similar treatment from
13 Callstrom. Plaintiff also explained to the Board and to the investigator that most, if not all, employees
14 were fearful of speaking up because they reasonably believed they would face retaliation from Callstrom.
15 Indirectly or directly retaliating against employees who speak up is a pattern of Callstrom.

16 39. Plaintiff also asked if Callstrom would be placed on a leave of absence while the
17 investigation was ongoing, but this request was denied.

18 40. Effective May 19, 2022, CFO Stapleton left SDWP. On information and belief, CFO
19 Stapleton was forced out of SDWP after he brought financial concerns to Callstrom's attention and insisted
20 on relaying this information to the Board. On information and belief, as soon as CFO Stapleton relayed
21 this information to the Board, Callstrom began retaliating against CFO Stapleton.

22 41. On June 16, 2022, after losing complete faith in the investigation process, seeing no
23 movement by SDWP to address Callstrom's continued misconduct, and after considering the impact to
24 her mental and physical health, Plaintiff resigned from her position as Senior Director of People and
25 Culture and Compliance with SDWP. This decision was not an easy one for Plaintiff, but she felt she had
26 no choice after the continued discrimination, harassment, and retaliation from Callstrom.

27 42. As a result of the discrimination, harassment, and retaliation suffered at work, Plaintiff
28 suffered emotional distress and migraines. Plaintiff sought medical attention for this emotional distress;

1 and sought assistance from the Employee Assistance Program at SDWP.

2 43. After Plaintiff informed SDWP of her resignation, they informed her they were going to
3 post for a Vice President of People and Culture position. This position was previously mapped as a
4 position for Plaintiff before Callstrom began to retaliate against and exclude Plaintiff.

5 44. On or around Plaintiff's last day of employment, SDWP verbally informed Plaintiff of the
6 results of the investigation. Per the Investigator, the results showed that Callstrom engaged in micro-
7 management and he may have been upset at times, but there was no evidence that Callstrom continued to
8 display frustrations after an event was over. The Investigator referenced an email in which Callstrom used
9 a smiley-face emoji as an example of Callstrom not harboring resentment towards Ms. Gaines.

10 45. The third-party investigator also incorrectly found that the mistreatment Plaintiff
11 experienced was the fault of her supervisors—not Callstrom. From Plaintiff's perspective, SDWP tried
12 to blame the conduct on CFO Stapleton even though CFO Stapleton had written Plaintiff a glowing review
13 before Plaintiff's departure.

14 46. In reality, this was a common tactic of Callstrom—to use his direct reports to implement
15 his harassment tactics in an attempt to insulate himself from liability.

16 47. Thus, despite Plaintiff's proven track record of being a reliable and credible employee, and
17 despite the long list of witnesses provided by Plaintiff, her allegations were not taken seriously.

18 48. Upon information and belief, many women and people of color experienced similar
19 targeting and harassing conduct from Callstrom; and had reported it to SDWP in the past. Callstrom
20 would routinely, falsely accuse women and people of color of under-performance and ensure they were
21 managed out. Each time, the employee was either offered a severance agreement with a confidentiality
22 provision or simply terminated, whether it be directly or constructively.

23 49. After being managed out and accused of poor performance, these same employees,
24 including Plaintiff, would go on to have thriving and successful careers away from Callstrom. Meanwhile
25 white, non-diverse male employees would be treated to glass-elevator treatment and enjoy rapid
26 advancement as long as they did not attempt to hold Callstrom accountable.

27 50. Many current and former employees were and are afraid to speak up out of fear of
28 retaliation. Employees continually saw their colleagues make complaints about Callstrom and SDWP

1 repeatedly failed to take any action to stop Callstrom.

2 51. On information and belief, as early as 2020, there was a recommendation from a third-
3 party consultant that Callstrom take a sabbatical due to concerns raised by employees, but this
4 recommendation was ignored.

5 52. As result of SDWP's failure to take steps to reasonably stop the discrimination, harassment,
6 and retaliation from occurring, Callstrom was enabled to create and maintain a hostile working
7 environment for Plaintiff and other female employees and employees of color.

8 53. On November 21, 2022, SDWP's Policy Board held a closed session meeting to discuss
9 "significant exposure to litigation."

10 54. On November 22, 2022, Callstrom was put on an unexpected leave of absence.

11 55. **Economic damages:** As a consequence of Defendants' conduct, Plaintiff has suffered and
12 will suffer harm, including lost past and future income and employment benefits, reputational harm,
13 damage to her career, penalties, as well as interest on unpaid wages at the legal rate from and after each
14 payday on which those wages should have been paid, in a sum to be proven at trial.

15 56. **Non-economic damages:** As a consequence of Defendants' conduct, Plaintiff has suffered
16 and will suffer psychological and emotional distress, humiliation, and anguish, in a sum to be proven at
17 trial.

18 57. **Punitive damages:** Defendants' conduct constitutes oppression, fraud, and/or malice
19 under California Civil Code section 3294 and, thus entitles Plaintiff to an award of exemplary and/or
20 punitive damages.

21 i. *Malice:* Defendants' conduct was committed with Malice within the meaning of
22 California Civil Code section 3294, including that (a) Defendants acted with intent to cause injury to the
23 Plaintiff and/or acted with reckless disregard for Plaintiff's injury, including by constructively terminating
24 Plaintiff's employment and/or by taking adverse job actions against Plaintiff because of her race, national
25 origin, color, ... and/or good faith complaints, and/or (b) Defendants' conduct was despicable and
26 committed in willful and conscious disregard of Plaintiff's rights, health, and safety, including Plaintiff's
27 right to be free of discrimination, harassment, retaliation, and wrongful termination.

28 // /

ii. *Oppression:* In addition, and/or alternatively, Defendants' conduct was committed with oppression within the meaning California Civil Code section 3294, including that Defendants' actions against plaintiff because of her race, national origin, color, ... and/or good faith complaints were "despicable" and subjected Plaintiff to cruel and unjust hardship, in knowing disregard of Plaintiff's rights to a workplace free of discrimination, harassment, retaliation, and wrongful employment termination.

iii. *Fraud:* In addition, and/or alternatively, Defendants' conduct, as alleged, was fraudulent within the meaning of California Civil Code section 3294, including that Defendants asserted false (pretextual) grounds for constructively terminating Plaintiff's employment and/or other adverse job actions, thereby to cause Plaintiff hardship and deprive her of legal rights.

58. **Attorneys' Fees:** Plaintiff has incurred and continues to incur legal expenses and attorneys' fees as a result of Defendants' conduct.

59. **Exhaustion of Administrative Remedies:** Prior to filing this action, Plaintiff exhausted her administrative remedies by filing a timely administrative complaint with the California Department of Fair Employment and Housing (“DFEH”) on December 14, 2022, and immediately receiving a DFEH “Right to Sue” letter. A true and correct copy of Plaintiff’s “Right to Sue” letter attached hereto as **Exhibit 1** and incorporated herein by reference.

60. Plaintiff believes that additional violations may be discovered and therefore reserves her right to allege additional violations of the law as investigation and discovery warrants. In the event Plaintiff discovers additional violations, she will seek to amend the operative complaint as necessary.

FIRST CAUSE OF ACTION

(By Plaintiff Against Defendant SDWP and/or Does 1 to 50)

DISCRIMINATION BASED ON RACE AND COLOR

[Cal. Gov't. Code § 12940(a)]

61. Plaintiff re-alleges and incorporates by reference, as though fully set forth herein, all paragraphs of this Complaint.

62. The FEHA broadly prohibits discrimination against employees who belong to a “protected class,” such as race. (Cal. Gov. Code §§ 12940, et seq.) Specifically, the FEHA prohibits employers from discriminating against an employee “in compensation or in terms, conditions, or privileges of

1 employment" because of the race of that employee. (Cal. Gov. Code § 12940(a).)

2 63. Indeed, the California Supreme Court has held that one's right to be free from
3 discrimination ... in the workplace is "fundamental." (See *Brown v. Superior Court* (1984) 37 Cal.3d
4 477.)

5 64. Plaintiff is a member of a class protected by FEHA because she identifies her race as being
6 African American.

7 65. Defendant, through its supervisors, agents and/or employees, engaged in a pattern and
8 practice of unlawful discrimination on the basis of race in connection with the terms and conditions of
9 Plaintiff's employment. Plaintiff was treated less favorably because of her race.

10 66. Plaintiff believes that her race was a substantial motivating factors in Defendants'
11 decision to subject Plaintiff to the aforementioned discrimination.

12 67. The unlawful conduct alleged above was engaged in by the officers, directors, supervisors
13 and/or managing agents of Defendants and/or Does 1 to 50, and each of them, who were acting at all times
14 relevant to this Complaint within the scope and course of their employment. Defendants and/or Does 1 to
15 50, and each of them, are therefore liable for the conduct of said agents and employees pursuant to
16 Government Code Section § 12926(d).

17 68. Based on information and belief, other non-diverse, white male employees did not suffer
18 the aforementioned adverse employment actions. Specifically, the other employees were not
19 micromanaged, undermined, and falsely accused of poor performance.

20 69. As set forth above, Defendants, including their supervisors, agents, and/or employees,
21 engaged in and/or ratified, by their actions and/or inaction, through their employees and/or supervisors,
22 acts of discrimination against Plaintiff based upon her protected class.

23 70. As a direct, foreseeable, and proximate result of Defendants' unlawful conduct, Plaintiff
24 has sustained and continues to sustain substantial losses in earnings, related employment benefits, and
25 employment opportunities. Plaintiff has suffered and continues to suffer other economic losses in an
26 amount to be determined at time of trial. Plaintiff has sought to mitigate these damages.

27 71. As a direct, foreseeable, and proximate result of Defendants' unlawful conduct, Plaintiff
28 has suffered and continues to suffer humiliation, emotional distress, loss of reputation, and mental and

1 physical pain and anguish, all to her damage in a sum to be established according to proof.

2 72. In addition to such other damages as may properly be recovered herein, Plaintiff is entitled
3 to, and therefore seeks to recover, prevailing party attorney's fees and costs pursuant to Government Code
4 § 12965(b).

5 73. Plaintiff requests further relief as described in the below prayer.

6 **SECOND CAUSE OF ACTION**

7 **(By Plaintiff Against Defendant SDWP and/or Does 1 to 50)**

8 **DISCRIMINATION BASED ON SEX**

9 **[Cal. Gov't. Code § 12940(a)]**

10 74. Plaintiff re-alleges and incorporates by reference, as though fully set forth herein, all
11 paragraphs of this Complaint.

12 75. The FEHA broadly prohibits discrimination against employees who belong to a "protected
13 class," such as sex. (Cal. Gov. Code §§ 12940, et seq.) Specifically, the FEHA prohibits employers from
14 discriminating against an employee "in compensation or in terms, conditions, or privileges of
15 employment" because of the sex of that employee. (Cal. Gov. Code § 12940(a).)

16 76. Indeed, the California Supreme Court has held that one's right to be free from
17 discrimination ... in the workplace is "fundamental." (*See Brown v. Superior Court* (1984) 37 Cal.3d 477.)

18 77. Plaintiff is a member of a class protected by FEHA because she identifies her sex as being
19 female.

20 78. Defendant, through its supervisors, agents and/or employees, engaged in a pattern and
21 practice of unlawful discrimination on the basis of sex in connection with the terms and conditions of
22 Plaintiff's employment. Plaintiff was treated less favorably because of her race.

23 79. Plaintiff believes that her sex was a substantial motivating factors in Defendants' decision
24 to subject Plaintiff to the aforementioned discrimination.

25 80. The unlawful conduct alleged above was engaged in by the officers, directors, supervisors
26 and/or managing agents of Defendants and/or Does 1 to 50, and each of them, who were acting at all times
27 relevant to this Complaint within the scope and course of their employment. Defendants and/or Does 1 to
28 50, and each of them, are therefore liable for the conduct of said agents and employees pursuant to

1 | Government Code Section § 12926(d).

2 81. Based on information and belief, other non-diverse, white male employees did not suffer
3 the aforementioned adverse employment actions. Specifically, the other employees were not
4 micromanaged, undermined, and falsely accused of poor performance.

5 82. As set forth above, Defendants, including their supervisors, agents, and/or employees,
6 engaged in and/or ratified, by their actions and/or inaction, through their employees and/or supervisors,
7 acts of discrimination against Plaintiff based upon her protected class.

8 83. As a direct, foreseeable, and proximate result of Defendants' unlawful conduct, Plaintiff
9 has sustained and continues to sustain substantial losses in earnings, related employment benefits, and
10 employment opportunities. Plaintiff has suffered and continues to suffer other economic losses in an
11 amount to be determined at time of trial. Plaintiff has sought to mitigate these damages.

12 84. As a direct, foreseeable, and proximate result of Defendants' unlawful conduct, Plaintiff
13 has suffered and continues to suffer humiliation, emotional distress, loss of reputation, and mental and
14 physical pain and anguish, all to her damage in a sum to be established according to proof.

15 85. In addition to such other damages as may properly be recovered herein, Plaintiff is entitled
16 to, and therefore seeks to recover, prevailing party attorney's fees and costs pursuant to Government Code
17 § 12965(b).

18 || 86. Plaintiff requests further relief as described in the below prayer.

THIRD CAUSE OF ACTION

(Plaintiff Against All Defendants and/or Does 1 to 50)

HARASSMENT ON THE BASIS OF RACE

[Cal. Gov't. Code § 12940(j)]

23 87. Plaintiff re-alleges and incorporates by reference, as though fully set forth herein, all
24 paragraphs of this Complaint.

25 88. The FEHA broadly prohibits discrimination, harassment, and retaliation against employees
26 who belong to a “protected class,” such as race, color, and/or national origin. (Cal. Gov’t. Code §§ 12940,
27 et seq.). More specifically, the FEHA, prohibits an employer, ... or any other person, from harassing
28 employees on the basis of race, color, and/or national origin, and further imposes a duty on employers to

1 prevent harassment on the basis of race, color, and/or national origin from occurring. (Cal. Gov't Code §
2 12940(j)(1).)

3 89. Moreover, the California Supreme Court has held that one's right to be free from
4 discrimination and harassment in the workplace is "fundamental." (*See Brown v. Superior Court* (1984)
5 37 Cal.3d 477.) Accordingly, the FEHA's protections are decisively extensive as supervisors or other co-
6 employees can be also be held personally liable for any type of prohibited harassment under FEHA. (Cal.
7 Gov't Code § 12940(j)(3).)

8 90. Plaintiff is a member of a class protected by FEHA because she identifies her race as being
9 African American.

10 91. Defendants, through their supervisors, agents and/or employees, engaged in a pattern and
11 practice of unlawful discrimination on the basis of race in connection with the terms and conditions of
12 Plaintiff's employment.

13 92. Plaintiff believes that her race, a protected characteristic under the FEHA was a substantial
14 motivating factor in Defendants' decision to subject Plaintiff to the aforementioned harassment.

15 93. The unlawful conduct alleged above was engaged in by the officers, directors, supervisors
16 and/or managing agents of Defendants and/or Does 1 to 50, and each of them, who were acting at all times
17 relevant to this Complaint within the scope and course of their employment. Defendants and/or Does 1 to
18 50, and each of them, are therefore liable for the conduct of said agents and employees pursuant to
19 Government Code Section § 12926(d).

20 94. Based on information and belief, other non-diverse, white male employees did not suffer
21 the aforementioned severe, pervasive, and unwelcome conduct. Specifically, the other employees were
22 not micromanaged, undermined, and falsely accused of poor performance.

23 95. Specifically, the other employees were not micromanaged, undermined, and falsely
24 accused of poor performance.

25 96. As set forth above, Defendants, including their supervisors, agents, and/or employees,
26 engaged in and/or ratified, by their actions and/or inaction, through their employees and/or supervisors,
27 acts of harassment against Plaintiff based upon her protected class.

28 97. As a direct, foreseeable, and proximate result of Defendants' unlawful conduct, Plaintiff

1 has sustained and continues to sustain substantial losses in earnings, related employment benefits, and
2 employment opportunities. Plaintiff has suffered and continues to suffer other economic losses in an
3 amount to be determined at time of trial. Plaintiff has sought to mitigate these damages.

4 98. As a direct, foreseeable, and proximate result of Defendants' unlawful conduct, Plaintiff
5 has suffered and continues to suffer humiliation, emotional distress, loss of reputation, and mental and
6 physical pain and anguish, all to her damage in a sum to be established according to proof.

7 99. In addition to such other damages as may properly be recovered herein, Plaintiff is entitled
8 to, and therefore seeks to recover, prevailing party attorney's fees and costs pursuant to Government Code
9 § 12965(b).

10 100. Plaintiff requests further relief as described in the below prayer.

FOURTH CAUSE OF ACTION

(Plaintiff Against All Defendants and/or Does 1 to 50)

HARASSMENT ON THE BASIS OF SEX

14 [Cal. Gov't. Code § 12940(j)]

15 101. Plaintiff re-alleges and incorporates by reference, as though fully set forth herein, all
16 paragraphs of this Complaint.

17 102. The FEHA broadly prohibits discrimination, harassment, and retaliation against employees
18 who belong to a "protected class," such as sex. (Cal. Gov't. Code §§ 12940, et seq.). More specifically,
19 the FEHA, prohibits an employer, ... or any other person, from harassing employees on the basis of sex,
20 and further imposes a duty on employers to prevent harassment on the basis of sex from occurring. (Cal.
21 Gov't Code § 12940(j)(1).)

22 103. Moreover, the California Supreme Court has held that one's right to be free from
23 discrimination and harassment in the workplace is "fundamental." (*See Brown v. Superior Court* (1984)
24 37 Cal.3d 477.) Accordingly, the FEHA's protections are decisively extensive as supervisors or other co-
25 employees can be also be held personally liable for any type of prohibited harassment under FEHA. (Cal.
26 Gov't Code § 12940(j)(3).)

27 104. Plaintiff is a member of a class protected by FEHA because she identifies her sex as being
28 female.

1 105. Defendants, through their supervisors, agents and/or employees, engaged in a pattern and
2 practice of unlawful discrimination on the basis of sex in connection with the terms and conditions of
3 Plaintiff's employment.

4 106. Plaintiff believes that her sex, a protected characteristic under the FEHA was a substantial
5 motivating factor in Defendants' decision to subject Plaintiff to the aforementioned harassment.

6 107. The unlawful conduct alleged above was engaged in by the officers, directors, supervisors
7 and/or managing agents of Defendants and/or Does 1 to 50, and each of them, who were acting at all times
8 relevant to this Complaint within the scope and course of their employment. Defendants and/or Does 1 to
9 50, and each of them, are therefore liable for the conduct of said agents and employees pursuant to
10 Government Code Section § 12926(d).

11 108. Based on information and belief, other non-diverse, white male employees did not suffer
12 the aforementioned severe, pervasive, and unwelcome conduct. Specifically, the other employees were
13 not micromanaged, undermined, and falsely accused of poor performance.

14 109. As set forth above, Defendants, including their supervisors, agents, and/or employees,
15 engaged in and/or ratified, by their actions and/or inaction, through their employees and/or supervisors,
16 acts of harassment against Plaintiff based upon her protected class.

17 110. As a direct, foreseeable, and proximate result of Defendants' unlawful conduct, Plaintiff
18 has sustained and continues to sustain substantial losses in earnings, related employment benefits, and
19 employment opportunities. Plaintiff has suffered and continues to suffer other economic losses in an
20 amount to be determined at time of trial. Plaintiff has sought to mitigate these damages.

21 111. As a direct, foreseeable, and proximate result of Defendants' unlawful conduct, Plaintiff
22 has suffered and continues to suffer humiliation, emotional distress, loss of reputation, and mental and
23 physical pain and anguish, all to her damage in a sum to be established according to proof.

24 112. In addition to such other damages as may properly be recovered herein, Plaintiff is entitled
25 to, and therefore seeks to recover, prevailing party attorney's fees and costs pursuant to Government Code
26 § 12965(b).

27 113. Plaintiff requests further relief as described in the below prayer.

28 ///

FIFTH CAUSE OF ACTION

(Plaintiff Against Defendant SDWP and/or Does 1 to 50)

RETALIATION FOR OPPOSING DISCRIMINATION AND HARASSMENT

[Cal. Gov't Code §§12940(h)]

5 114. Plaintiff re-alleges and incorporates by reference, as though fully set forth herein, all
6 paragraphs of this First Amended Complaint.

7 115. The FEHA prohibits retaliation against any person for making a complaint under the
8 FEHA, assisting another in making such a complaint, or for opposing any action in the workplace that
9 would constitute an action of the FEHA, i.e., engaging in a “protected activity.” (Cal. Gov. Code §
10 12940(h).) A protected activity may include making a charge, testifying, assisting, or participating in any
11 manner in proceedings or hearings under FEHA statutes, or opposing acts made unlawful by FEHA
12 statutes. (*Ibid.*)

13 116. Further, an employee who honestly and reasonably believes that an employer is committing
14 a wrong recognized by California law may not be terminated for trying to oppose or report that behavior.
15 (*Yanowitz v. L 'Oreal USA, Inc.* (2005) 36 Cal.4th 1028, 1044.)

16 117. An employee “need not explicitly and directly inform their employer that they believe the
17 employer’s conduct was discriminatory or otherwise forbidden by FEHA.” (*Castro-Ramirez v.*
18 *Dependable Highway Express, Inc.* (2016) 2 Cal.App.5th 1028, 1046.) Rather, the relevant inquiry is
19 “whether the employee’s communications to the employer sufficiently convey the employee’s reasonable
20 concerns that the employer has acted or is acting in an unlawful discriminatory manner.” (*Husman v.*
21 *Toyota Motor Credit Corp.* (2017) 12 Cal.App.5th 1168, 1193.)

22 118. Plaintiff was engaged in the protected activity of opposing and reporting harassing and
23 discriminatory conduct to Defendants. Specifically, Plaintiff informed Callstrom that a Black male
24 employee was being treated less favorably and that a program facilitated by SDWP was excluding Black
25 applicants. Additionally, Plaintiff, and several others, complained about Callstrom's discriminatory,
26 harassing, and retaliatory conduct, but SDWP dismissed these complaints. Callstrom engaged in pattern
27 and practice of retaliating against employees for reporting concerns.

28 || 119. Plaintiff believes that her race and sex as well as the substance of her complaints were

1 substantial motivating factors in Defendants' decision to subject Plaintiff to retaliate against Plaintiff.

2 120. The unlawful conduct alleged above was engaged in by the officers, directors, supervisors
3 and/or managing agents of Defendants and/or Does 1 to 50, and each of them, who were acting at all times
4 relevant to this Complaint within the scope and course of their employment. Defendants and/or Does 1 to
5 50, and each of them, are therefore liable for the conduct of said agents and employees pursuant to
6 Government Code Section § 12926(d).

7 121. As set forth above, Defendants, including their supervisors, agents, and/or employees,
8 engaged in and/or ratified, by their actions and/or inaction, through their employees and/or supervisors,
9 acts of harassment against Plaintiff based upon her protected class.

10 122. As a direct, foreseeable, and proximate result of Defendants' unlawful conduct, Plaintiff
11 has sustained and continues to sustain substantial losses in earnings, related employment benefits, and
12 employment opportunities. Plaintiff has suffered and continues to suffer other economic losses in an
13 amount to be determined at time of trial. Plaintiff has sought to mitigate these damages.

14 123. As a direct, foreseeable, and proximate result of Defendants' unlawful conduct, Plaintiff
15 has suffered and continues to suffer humiliation, emotional distress, loss of reputation, and mental and
16 physical pain and anguish, all to her damage in a sum to be established according to proof.

17 124. In addition to such other damages as may properly be recovered herein, Plaintiff is entitled
18 to, and therefore seeks to recover, prevailing party attorney's fees and costs pursuant to Government Code
19 § 12965(b).

20 125. Plaintiff requests further relief as described in the below prayer.

21 **SIXTH CAUSE OF ACTION**

22 **(Plaintiff Against Defendant SDWP and/or Does 1 to 50)**

23 **FAILURE TO PREVENT DISCRIMINATION, HARASSMENT, AND RETALIATION**

24 **[Cal. Gov't Code §§12940(k)]**

25 126. Plaintiff re-alleges and incorporates by reference, as though fully set forth herein, all
26 paragraphs of this Complaint.

27 127. The FEHA imposes an affirmative and mandatory duty on employers "to take all
28 reasonable steps necessary to prevent discrimination and harassment from occurring." (Cal. Gov. Code §

1 12940(k); *see also Northrop Grumman Corp. v. Workers' Comp. Appeals Bd.* (2002) 103 Cal.App.4th
2 1021, 1035.) Reasonable steps include, at a minimum, "immediate corrective action that is reasonably
3 calculated to (1) end the current harassment and (2) to deter future harassment." (*M.F. v. Pacific Pearl*
4 *Hotel Management LLC* (2017) 16 Cal.App.5th 693, 701.)

5 128. Moreover, in accordance with the "fundamental public policy of eliminating discrimination
6 in the workplace under the FEHA," California courts have concluded that "retaliation is a form of
7 discrimination actionable under [Gov. Code] section 12940, subdivision (k)." (*Taylor v. City of Los*
8 *Angeles Dept. of Water & Power* (2006) 144 Cal.App.4th 1216, 1240 [disapproved on other grounds in
9 *Jones v. The Lodge at Torrey Pines Partnership* (2008) 42 Cal.4th 1158]; Dept. of Fair Employment &
10 Housing v. M&N Financing Corp. (2021) 69 Cal.App.5th 434, 445.)

11 129. During her employment, Plaintiff was subjected to race discrimination, harassment, and
12 retaliation for opposing and reporting Defendants' discriminatory and harassing conduct, as set forth
13 herein.

14 130. Defendants failed to take all reasonable steps necessary to prevent the unlawful
15 discrimination, harassment and retaliation committed against Plaintiff. Plaintiff was engaged in the
16 protected activity of opposing and reporting harassing and discriminatory conduct to Defendants.
17 Specifically, Plaintiff informed Callstrom that a Black male employee was being treated less favorably
18 and that a program facilitated by SDWP was excluding Black applicants. Additionally, Plaintiff, and
19 several others, complained about Callstrom's discriminatory, harassing, and retaliatory conduct, but
20 SDWP dismissed these complaints.

21 131. Plaintiff used all of Defendants' available reporting mechanisms and her complaints were
22 still ignored. On information and belief, other employees experienced this same indifference and lack of
23 response from SDWP.

24 132. Defendants, through its agents and/or supervisors, knew or should have known of the
25 discriminatory, harassing, and retaliatory conduct and failed to take immediate and appropriate corrective
26 action to permanently end and further deter unlawful behavior.

27 133. Plaintiff believes that her race, color, and/or national origin, and/or some combination of
28 these protected characteristics under the FEHA were substantial motivating factors in Defendants'

1 decision to subject Plaintiff to the aforementioned harassment.

2 134. The unlawful conduct alleged above was engaged in by the officers, directors, supervisors
3 and/or managing agents of Defendants and/or Does 1 to 50, and each of them, who were acting at all times
4 relevant to this Complaint within the scope and course of their employment. Defendants and/or Does 1 to
5 50, and each of them, are therefore liable for the conduct of said agents and employees pursuant to
6 Government Code Section § 12926(d).

7 135. As set forth above, Defendants, including their supervisors, agents, and/or employees,
8 engaged in and/or ratified, by their actions and/or inaction, through their employees and/or supervisors,
9 acts of harassment against Plaintiff based upon her protected class.

10 136. As a direct, foreseeable, and proximate result of Defendants' unlawful conduct, Plaintiff
11 has sustained and continues to sustain substantial losses in earnings, related employment benefits, and
12 employment opportunities. Plaintiff has suffered and continues to suffer other economic losses in an
13 amount to be determined at time of trial. Plaintiff has sought to mitigate these damages.

14 137. As a direct, foreseeable, and proximate result of Defendants' unlawful conduct, Plaintiff
15 has suffered and continues to suffer humiliation, emotional distress, loss of reputation, and mental and
16 physical pain and anguish, all to her damage in a sum to be determined at trial.

17 138. As a direct, foreseeable, and proximate result of Defendants' unlawful conduct, Plaintiff
18 has incurred and will continue to incur psychological and medical expenses all to her damage in a sum to
19 be established according to proof.

20 139. In addition to such other damages as may properly be recovered herein, Plaintiff is entitled
21 to, and therefore seeks to recover, prevailing party attorney's fees and costs pursuant to Government Code
22 § 12965(b).

23 140. Plaintiff requests further relief as described in the below prayer.

SEVENTH CAUSE OF ACTION

(Plaintiff Against All Defendants and/or Does 1 to 50)

RETALIATION FOR REPORTING ILLEGAL ACTIVITY

[Cal. Lab. Code §1102.5]

28 || 141. Plaintiff re-alleges and incorporates by reference, as though fully set forth herein, all

1 paragraphs of this Complaint.

2 142. Pursuant to California Labor Code §1102.5, an employer, or any person acting on behalf
3 of the employer, is prohibited from retaliating against an employee for disclosing information, or because
4 the employer believes that the employee disclosed or may disclose information, to a government or law
5 enforcement agency, to a person with authority over the employee or another employee who has the
6 authority to investigate, discover, or correct the violation or noncompliance, or for providing information
7 to, or testifying before, any public body conducting an investigation, hearing, or inquiry, if the employee
8 has reasonable cause to believe that the information discloses a violation of state or federal statute, or a
9 violation of or noncompliance with a local, state, or federal rule or regulation, regardless of whether
10 disclosing the information is part of the employee's job duties. (Cal. Lab. Code §1102.5)

11 143. In order to establish a *prima facie* case of retaliation under California Labor Code
12 §1102.5(b), the plaintiff must demonstrate that he or she engaged in a protected activity as set forth in
13 Section 1102.5, that the employer subjected him or her to an adverse employment action, and a causal link
14 between the two. (*McVeigh v. Recology San Francisco* (2013) 213 Cal.App.4th 443, 468.)

15 144. A plaintiff who successfully prosecutes her claim for retaliation in violation of Section
16 1102.5 may recover compensatory damages, including economic and emotional distress damages.
17 (*Gardenhire v. Housing Authority of the City of Los Angeles* (2000) 85 Cal.App.4th 236, 237, 240-241.)

18 145. Plaintiff was engaged in the protected activity of opposing and reporting harassing and
19 discriminatory conduct (reporting violations of FEHA) to Defendants. Specifically, Plaintiff informed
20 Callstrom that a Black male employee was being treated less favorably and that a program facilitated by
21 SDWP was excluding Black applicants. Additionally, Plaintiff, and several others, complained about
22 Callstrom's discriminatory, harassing, and retaliatory conduct, but SDWP dismissed these complaints.
23 When Plaintiff voiced her concerns, Callstrom responded by retaliating against Plaintiff. Even after
24 Plaintiff complained, SDWP did nothing and allowed Callstrom to continue his campaign of
25 discrimination, harassment, and retaliation.

26 146. Defendants allowed Plaintiff to be subjected to oppressive retaliatory actions and conduct,
27 including taking away job duties, excluding her from meetings and committees, micromanaging her work,
28 criticizing her work performance, subjecting her to intolerable working conditions, adversely affecting

1 her ability to perform her job responsibilities, and other such adverse employment actions, which
2 ultimately resulted in her constructive wrongful termination.

3 147. The unlawful conduct alleged above was engaged in by the officers, directors, supervisors
4 and/or managing agents of Defendants and/or Does 1 to 50, and each of them, who were acting at all times
5 relevant to this Complaint within the scope and course of their employment. Defendants and/or Does 1 to
6 50, and each of them, are therefore liable for the conduct of said agents and employees pursuant to
7 Government Code Section § 12926(d).

8 148. As set forth above, Defendants, including their supervisors, agents, and/or employees,
9 engaged in and/or ratified, by their actions and/or inaction, through their employees and/or supervisors,
10 acts of harassment against Plaintiff based upon her protected class.

11 149. As a direct, foreseeable, and proximate result of Defendants' unlawful conduct, Plaintiff
12 has sustained and continues to sustain substantial losses in earnings, related employment benefits, and
13 employment opportunities. Plaintiff has suffered and continues to suffer other economic losses in an
14 amount to be determined at time of trial. Plaintiff has sought to mitigate these damages.

15 150. As a direct, foreseeable, and proximate result of Defendants' unlawful conduct, Plaintiff
16 has suffered and continues to suffer humiliation, emotional distress, loss of reputation, and mental and
17 physical pain and anguish, all to her damage in a sum to be determined at trial.

18 151. In addition to such other damages as may properly be recovered herein, Plaintiff is entitled
19 to, and therefore seeks to recover, prevailing party attorney's fees and costs pursuant to Government Code
20 § 12965(b).

21 152. Plaintiff requests further relief as described in the below prayer.

EIGHTH CAUSE OF ACTION

(Plaintiff Against Defendant SDWP and/or Does 1 to 50)

WRONGFUL CONSTRUCTIVE TERMINATION IN VIOLATION OF PUBLIC POLICY

25 153. Plaintiff re-alleges and incorporates by reference, as though fully set forth herein, all
26 paragraphs of this Complaint.

27 154. California law prohibits an employer from terminating an employee in violation of
28 fundamental public policies. California law establishes that the fundamental public policy of the State of

1 California is, in part to protect and safeguard the right and opportunity of all persons to see and hold
2 employment free from discrimination, harassment, and retaliation, and retaliation for engaging in
3 protected activity. These fundamental public policies are codified under, inter alia, California Government
4 Code § 12940, et. seq., California Government Code § 12945.2, and Article I, Section 8 of the California
5 Constitution.

6 155. Based on the information contained herein, Defendants violated all of California's
7 fundamental public policies by constructively terminating Plaintiff's employment.

8 156. The unlawful conduct alleged above was engaged in by the officers, directors, supervisors
9 and/or managing agents of Defendants and/or Does 1 to 50, and each of them, who were acting at all times
10 relevant to this Complaint within the scope and course of their employment. Defendants and/or Does 1 to
11 50, and each of them, are therefore liable for the conduct of said agents and employees pursuant to
12 Government Code Section § 12926(d).

13 157. Plaintiff endured discrimination, harassment, and retaliation from Callstrom. When she
14 reported it, her complaints were dismissed and Plaintiff was gaslighted and told her perception of her
15 experience was not valid.

16 158. As set forth above, Defendants, including their supervisors, agents, and/or employees,
17 engaged in and/or ratified, by their actions and/or inaction, through their employees and/or supervisors,
18 acts of harassment against Plaintiff based upon her protected class.

19 159. As a direct, foreseeable, and proximate result of Defendants' unlawful conduct, Plaintiff
20 has sustained and continues to sustain substantial losses in earnings, related employment benefits, and
21 employment opportunities. Plaintiff has suffered and continues to suffer other economic losses in an
22 amount to be determined at time of trial. Plaintiff has sought to mitigate these damages.

23 160. As a direct, foreseeable, and proximate result of Defendants' unlawful conduct, Plaintiff
24 has suffered and continues to suffer humiliation, emotional distress, loss of reputation, and mental and
25 physical pain and anguish, all to her damage in a sum to be determined at trial.

26 161. In addition to such other damages as may properly be recovered herein, Plaintiff is entitled
27 to, and therefore seeks to recover, prevailing party attorney's fees and costs pursuant to Government Code
28 § 12965(b).

162. Plaintiff requests further relief as described in the below prayer.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for the following relief:

- a. For general, compensatory, and special damages as set forth through the complaint according to proof with prejudgment interest thereon to the extent allowable by law;
- b. For punitive damages in an amount necessary to make an example of and to punish Defendants, and to deter future similar misconduct;
- c. For damages for emotional distress, fear, humiliation, grief, nervousness, worry, sadness, anger, frustration, embarrassment, helplessness, stress, and related emotional and mental anguish in an amount to be determined by the jury at the trial of this matter;
- d. For back pay, front pay, and other monetary relief, as permitted by law;
- e. For attorneys' fees and litigation costs, as permitted by law;
- f. For pre- and post- judgment interest, as permitted by law;
- g. For a mandatory injunction requiring Defendants to implement and maintain policies and procedures to effectively train and supervise employees in FEHA's prohibitions against racial discrimination, harassment, and retaliation; and
- h. Any other relief, the Court may deem as just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury on all claims.

Dated: December 14, 2022

GRAHAMHOLLIS APC

By:

GRAHAM S.P. HOLLIS
VILMARIE CORDERO
HALI M. ANDERSON
Attorneys for Plaintiff Tabatha Gaines

EXHIBIT 1



Civil Rights Department

2218 Kausen Drive, Suite 100 | Elk Grove | CA | 95758
800-884-1684 (voice) | 800-700-2320 (TTY) | California's Relay Service at 711
calcivilrights.ca.gov | contact.center@dfeh.ca.gov

December 14, 2022

Hali Anderson
3555 5th Ave, Ste 200
San Diego, CA 92103-5057

RE: **Notice to Complainant's Attorney**
CRD Matter Number: 202212-19141814
Right to Sue: Gaines / San Diego Workforce Partnership et al.

Dear Hali Anderson:

Attached is a copy of your complaint of discrimination filed with the Civil Rights Department (CRD) pursuant to the California Fair Employment and Housing Act, Government Code section 12900 et seq. Also attached is a copy of your Notice of Case Closure and Right to Sue.

Pursuant to Government Code section 12962, CRD will not serve these documents on the employer. You must serve the complaint separately, to all named respondents. Please refer to the attached Notice of Case Closure and Right to Sue for information regarding filing a private lawsuit in the State of California. A courtesy "Notice of Filing of Discrimination Complaint" is attached for your convenience.

Be advised that the CRD does not review or edit the complaint form to ensure that it meets procedural or statutory requirements.

Sincerely,

Civil Rights Department



Civil Rights Department

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800-884-1684 (voice) | 800-700-2320 (TTY) | California's Relay Service at 711
calcivilrights.ca.gov | contact.center@dfeh.ca.gov

December 14, 2022

RE: Notice of Filing of Discrimination Complaint

CRD Matter Number: 202212-19141814

Right to Sue: Gaines / San Diego Workforce Partnership et al.

To All Respondent(s):

Enclosed is a copy of a complaint of discrimination that has been filed with the Civil Rights Department (CRD) in accordance with Government Code section 12960. This constitutes service of the complaint pursuant to Government Code section 12962. The complainant has requested an authorization to file a lawsuit. A copy of the Notice of Case Closure and Right to Sue is enclosed for your records.

This matter may qualify for CRD's Small Employer Family Leave Mediation Pilot Program. Under this program, established under Government Code section 12945.21, a small employer with 5 -19 employees, charged with violation of the California Family Rights Act, Government Code section 12945.2, has the right to participate in CRD's free mediation program. Under this program both the employee requesting an immediate right to sue and the employer charged with the violation may request that all parties participate in CRD's free mediation program. The employee is required to contact the Department's Dispute Resolution Division prior to filing a civil action and must also indicate whether they are requesting mediation. The employee is prohibited from filing a civil action unless the Department does not initiate mediation within the time period specified in section 12945.21, subdivision (b) (4), or until the mediation is complete or is unsuccessful. The employee's statute of limitations to file a civil action, including for all related claims not arising under section 12945.2, is tolled from the date the employee contacts the Department regarding the intent to pursue legal action until the mediation is complete or is unsuccessful. You may contact CRD's Small Employer Family Leave Mediation Pilot Program by emailing DRDOnlinerequests@dfeh.ca.gov and include the CRD matter number indicated on the Right to Sue notice.

Please refer to the attached complaint for a list of all respondent(s) and their contact information.

No response to CRD is requested or required.

Sincerely,



STATE OF CALIFORNIA | Business, Consumer Services and Housing Agency

GAVIN NEWSOM, GOVERNOR

KEVIN KISH, DIRECTOR

Civil Rights Department

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December 14, 2022

Tabatha Gaines
3555 Fifth Avenue, Suite 200
San Diego, 92103

RE: Notice of Case Closure and Right to Sue
CRD Matter Number: 202212-19141814
Right to Sue: Gaines / San Diego Workforce Partnership et al.

Dear Tabatha Gaines:

This letter informs you that the above-referenced complaint filed with the Civil Rights Department (CRD) has been closed effective December 14, 2022 because an immediate Right to Sue notice was requested.

This letter is also your Right to Sue notice. According to Government Code section 12965, subdivision (b), a civil action may be brought under the provisions of the Fair Employment and Housing Act against the person, employer, labor organization or employment agency named in the above-referenced complaint. The civil action must be filed within one year from the date of this letter.

This matter may qualify for CRD's Small Employer Family Leave Mediation Pilot Program. Under this program, established under Government Code section 12945.21, a small employer with 5 -19 employees, charged with violation of the California Family Rights Act, Government Code section 12945.2, has the right to participate in CRD's free mediation program. Under this program both the employee requesting an immediate right to sue and the employer charged with the violation may request that all parties participate in CRD's free mediation program. The employee is required to contact the Department's Dispute Resolution Division prior to filing a civil action and must also indicate whether they are requesting mediation. The employee is prohibited from filing a civil action unless the Department does not initiate mediation within the time period specified in section 12945.21, subdivision (b) (4), or until the mediation is complete or is unsuccessful. The employee's statute of limitations to file a civil action, including for all related claims not arising under section 12945.2, is tolled from the date the employee contacts the Department regarding the intent to pursue legal action until the mediation is complete or is unsuccessful. Contact CRD's Small Employer Family Leave Mediation Pilot Program by emailing



Civil Rights Department

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calcivilrights.ca.gov | contact.center@dfeh.ca.gov

DRDOnlinerequests@dfeh.ca.gov and include the CRD matter number indicated on the Right to Sue notice.

To obtain a federal Right to Sue notice, you must contact the U.S. Equal Employment Opportunity Commission (EEOC) to file a complaint within 30 days of receipt of this CRD Notice of Case Closure or within 300 days of the alleged discriminatory act, whichever is earlier.

Sincerely,

Civil Rights Department

**COMPLAINT OF EMPLOYMENT DISCRIMINATION
BEFORE THE STATE OF CALIFORNIA
Civil Rights Department
Under the California Fair Employment and Housing Act
(Gov. Code, § 12900 et seq.)**

In the Matter of the Complaint of

Tabatha Gaines

CRD No. 202212-19141814

Complainant,

vs.

San Diego Workforce Partnership
9246 Lightwave Avenue, #210
San Diego, CA 92123

Peter Callstrom
9246 Lightwave Avenue, #210
San Diego, CA 92123

Respondents

1. Respondent **San Diego Workforce Partnership** is an employer subject to suit under the California Fair Employment and Housing Act (FEHA) (Gov. Code, § 12900 et seq.).

2. Complainant is naming **Peter Callstrom** individual as Co-Respondent(s).

3. Complainant **Tabatha Gaines**, resides in the City of **San Diego**, State of **California**.

4. Complainant alleges that on or about **June 16, 2022**, respondent took the following adverse actions:

Complainant was harassed because of complainant's race, sex/gender,

Complainant was discriminated against because of complainant's race, sex/gender and as a result of the discrimination was forced to quit, denied hire or promotion, denied work opportunities or assignments.

Complainant experienced retaliation because complainant reported or resisted any form of discrimination or harassment and as a result was forced to quit, denied hire or promotion, denied work opportunities or assignments.

1 **Additional Complaint Details:** Claimant Tabatha Gaines (“Claimant”), an African American
2 woman, is a hardworking and dedicated employee with a proven track record of success.

3 Claimant has been a Human Resources (“HR”) Professional for almost 20 years and has
4 received and maintains active HR certifications (PHR and SHRM-CP) for the past 12 years.
5 In addition, Claimant has a certificate in Diversity, Equity & Inclusion in the Workplace and
6 an HR Management Certificate. As such, Claimant is skilled in workplace management and
7 issues of diversity, equity, and inclusion.

8 Per the Respondent San Diego Workforce Partnership (“SDWP”) Diversity Equity &
9 Inclusion Statement, “The Workforce Partnership’s approach to all diversity, equity and
10 inclusion efforts is to listen, learn and then act.” SDWP’s website goes on to state,
11 “Diversity, equity and inclusion can only be truly achieved if it includes our internal practices
12 as well. It begins with centering our hiring processes and continues by influencing our day-
13 to-day practices.”

14 In January 2021, Claimant was hired as the Director of People of Culture for SDWP,
15 reporting to Chief Administration Officer (“CAO”) April House (Black female).

16 By July 2021, Claimant had been promoted to Senior Director and there was discussion
17 about putting Claimant on the “Vice President track”. Claimant’s positive work contributions
18 were highlighted in her performance review.

19 In September 2021, CAO House announced she was leaving SDWP. Before CAO House’s
20 departure, she promoted Claimant to Senior Director and also announced to SDWP that
21 Claimant would assume leadership of Diversity, Equity & Inclusion (“DEI”) activities internally
22 and with the Board. Upon CAO House’s departure, Claimant began reporting directly to
23 Callstrom.

24 Around this same time (late-August/early September 2021), Claimant began having
25 discussions with Manager of Business Experience Angel Stancer about one of her direct
26 reports who was a Black male employee. Claimant recommended to Stancer that this
27 employee’s performance be effectively managed using counseling and coaching. Despite
28 Claimant’s recommendation and experience with effective performance coaching, it became
clear that Callstrom had already decided to terminate this Black male employee. Claimant
explained to Callstrom that she would not advise termination of this employee given that
there were two non-Black employees with similar performance issues who were being
treated more favorably.

Upon information and belief, Manager Stancer reached out to Claimant for help on
managing the employee and reported that she felt pressure to terminate the employee from
Callstrom. Upon information and belief, Manager Stancer was also on board with Claimant’s
recommendation to coach and manage this employee but was concerned about Callstrom’s
perceptions of her if she didn’t terminate the employee

1 Nevertheless, Respondent/SDWP President and Chief Executive Officer Peter Callstrom
2 continued to push for termination of this employee and began to engage in a pattern of
3 unrealistic micromanagement even going so far as to personally start secret shopping this
4 Black male employee. This was an unprecedented and unnecessary method of oversight
5 and harassment. Although Callstrom said that he would leave the decision to terminate to
6 others, it was clear that Callstrom left no choice but to terminate this employee. At one
7 point, Callstrom commented, "We may never get an opportunity like this [to terminate him]
8 again."

9 Callstrom insisted on managing the employee's every move and continuing to set him up for
10 failure. Callstrom's tactics finally proved successful and in November 2021, the Black male
11 employee was terminated.

12 Upon information and belief, this method of extreme micromanagement and harassment
13 was a pattern and practice which Callstrom would engage in against women and employees
14 of color. While Callstrom might either hire women and/or people of color, Callstrom would
15 later target these employees while giving preferential treatment to white male, non-diverse
16 employees.

17 In September 2021, Claimant shared with Callstrom the results of an Employee Opinion
18 Survey about DEI concerns related to a program being facilitated by SDWP. Claimant
19 explained that Black applicants were somehow being excluded from the program and being
20 deemed ineligible for the intended services. Callstrom became agitated with Claimant and
21 defensive claiming that Claimant was being accusatory. Claimant explained that she was
22 just bringing attention to the potential issue so it could be addressed. However, after this
23 conversation, Callstrom's treatment of Claimant dramatically changed.

24 On September 7, 2021, SDWP hired Brett Stapleton (mixed race male) as the Vice
25 President of Finance. Stapleton was later promoted to be Chief Financial Officer ("CFO").

26 In October 2021, Claimant assumed leadership of the Compliance department.

27 On October 13, 2021, Claimant requested that she be moved to report directly to CFO
28 Stapleton instead of Callstrom. But, Callstrom's targeting of Claimant worsened.

29 On November 30, 2021, Callstrom informed Claimant that she would no longer be the lead
30 on the DEI Workforce Development Board Committee, nor would she be participating on the
31 Committee until and unless he invited her in. Callstrom had never attended WDB DEI
32 meetings in the past and this decision was in direct contravention of the directive from CAO
33 House upon her departure and prior communications from Callstrom.

34 In December 2021, Callstrom removed Claimant from the Executive Team Meetings.

35 From thereon, Callstrom engaged in a pattern and practice of harassment and retaliation in
36 the form of hyper-focused and relentless micro-management of Claimant.

1 In March 2022, Callstrom had an executive meeting questioning one of Claimant's
2 deliverables. In the meeting, Callstrom intentionally blamed Claimant for not meeting
3 deadlines even though he knew Claimant has submitted the deliverables for his approval.
At the same time, Callstrom instructed Claimant not to communicate with the Executive
Leadership Team without hearing from him first.

4 On March 21, 2022, Claimant submitted a formal complaint of discrimination, retaliation, and
5 hostile work environment to her direct supervisor, Brett Stapleton, and Sammy Totah and
Althea Salas of the SDWP Board. In the complaint, Claimant identified CEO Peter Callstrom
6 as the harasser.

7 On March 25, 2022, Ms. Salas informed Claimant that SDWP had retained a third-party
investigator, to investigate her complaint. As part of this investigation, Claimant provided
8 the names of numerous individuals who could substantiate her allegations and who had
suffered similar treatment from Callstrom. Claimant also explained to the Board and to the
9 investigator that most, if not all, employees were fearful of speaking up because they
reasonably believed they would face retaliation from Callstrom. Indirectly or directly
10 retaliating against employees who speak up is a pattern of Callstrom.

11 Claimant also asked if Callstrom would be placed on a leave of absence while the
investigation was ongoing, but this request was denied.
12

13 Effective May 19, 2022, CFO Stapleton left SDWP. On information and belief, CFO
14 Stapleton was forced out of SDWP after he brought financial concerns to Callstrom's
attention and insisted on relaying this information to the Board. On information and belief,
as soon as CFO Stapleton relayed this information to the Board, Callstrom began retaliating
15 against CFO Stapleton.

16 On June 16, 2022, after losing complete faith in the investigation process, seeing no
movement by SDWP to address Callstrom's continued misconduct, and after considering
17 the impact to her mental and physical health, Claimant resigned from her position as Senior
Director of People and Culture and Compliance with SDWP. This decision was not an easy
18 one for Claimant, but she felt she had no choice after the continued discrimination,
harassment, and retaliation from Callstrom.
19

20 As a result of the discrimination, harassment, and retaliation suffered at work, Claimant
suffered emotional distress and migraines. Claimant sought medical attention for this
21 emotional distress; and sought assistance from the Employee Assistance Program at
SDWP.
22

23 After Claimant informed SDWP of her resignation, they informed her they were going to post
for a Vice President of People and Culture position. This position was previously mapped
as a position for Claimant before Callstrom began to retaliate against and exclude Claimant.
24

25 On or around Claimant's last day of employment, SDWP verbally informed Claimant of the
results of the investigation. Per the Investigator, the results showed that Callstrom engaged
26

1 in micro-management and he may have been upset at times, but there was no evidence that
2 Callstrom continued to display frustrations after an event was over. The Investigator
3 referenced an email in which Callstrom used a smiley-face emoji as an example of Callstrom
not harboring resentment towards Ms. Gaines.

4 The third-party investigator also incorrectly found that the mistreatment Claimant
5 experienced was the fault of her supervisors—not Callstrom. From Claimant’s perspective,
6 SDWP tried to blame the conduct on CFO Stapleton even though CFO Stapleton had
written Claimant a glowing review before Claimant’s departure.

7 In reality, this was a common tactic of Callstrom—to use his direct reports to implement his
harassment tactics in an attempt to insulate himself from liability.

8 Thus, despite Claimant’s proven track record of being a reliable and credible employee, and
9 despite the long list of witnesses provided by Claimant, her allegations were not taken
seriously.

10 Upon information and belief, many women and people of color experienced similar targeting
11 and harassing conduct from Callstrom; and had reported it to SDWP in the past. Callstrom
12 would routinely, falsely accuse women and people of color of under-performance and
ensure they were managed out. Each time, the employee was either offered a severance
agreement with a confidentiality provision or simply terminated, whether it be directly or
constructively.

13 After being managed out and accused of poor performance, these same employees,
14 including Claimant, would go on to have thriving and successful careers away from
15 Callstrom. Meanwhile white, non-diverse male employees would be treated to glass-
elevator treatment and enjoy rapid advancement as long as they did not attempt to hold
16 Callstrom accountable.

17 Many current and former employees were and are afraid to speak up out of fear of
18 retaliation. Employees continually saw their colleagues make complaints about Callstrom
and SDWP repeatedly failed to take any action to stop Callstrom.

19 On information and belief, as early as 2020, there was a recommendation from a third-party
20 consultant that Callstrom take a sabbatical due to concerns raised by employees, but this
recommendation was ignored.

21 As result of SDWP’s failure to take steps to reasonably stop the discrimination, harassment,
22 and retaliation from occurring, Callstrom was enabled to create and maintain a hostile
working environment for Claimant and other female employees and employees of color.

23 On November 21, 2022, SDWP’s Policy Board held a closed session meeting to discuss
“significant exposure to litigation.”

25 On November 22, 2022, Callstrom was put on an unexpected leave of absence.

1 VERIFICATION

2 I, **Hali Anderson**, am the **Attorney** in the above-entitled complaint. I have read the
3 foregoing complaint and know the contents thereof. The matters alleged are based
4 on information and belief, which I believe to be true.

5 On December 14, 2022, I declare under penalty of perjury under the laws of the State
6 of California that the foregoing is true and correct.

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San Diego, CA