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10 William Hatcher

11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA,**
12 **COUNTY OF LOS ANGELES**

13 WILLIAM HATCHER, an individual,

14 Plaintiff,

15 v.

16 CITY OF EL SEGUNDO, EL SEGUNDO
17 FIRE DEPARTMENT and DOES 1-100,

18 Defendants.

19 Case No. **21STCV37399**

20 **COMPLAINT FOR:**

- 21 **1. AGE DISCRIMINATION;**
- 22 **2. PHYSICAL DISABILITY**
- 23 **DISCRIMINATION; and**
- 24 **3. FAILURE TO ACCOMMODATE**
- 25 **PHYSICAL DISABILITY.**

26 **DEMAND FOR JURY TRIAL**

27 Plaintiff William Hatcher, for his Complaint against Defendants City of El Segundo, El
28 Segundo Fire Department and DOES 1 - 100, inclusive, alleges:

PARTIES

1. At all times herein mentioned, Plaintiff William Hatcher ("Plaintiff") was
employed by the City of El Segundo ("City") and the El Segundo Fire Department ("ESFD") as a
Fire inspector/fire prevention specialist and is, and was, an individual over the age of eighteen
residing in Los Angeles County, California.

2. Defendants City, ESFD and Does 1 through 100 are sometimes collectively
referred to as "Employers."

1 3. Plaintiff is informed and believes and thereon alleges that at all times herein
2 mentioned, Defendant City was a municipal public entity under the laws of California, violating
3 laws within the State of California, County of Los Angeles. At all times pertinent hereto,
4 Defendant City owned, controlled, and operated that agency known as the El Segundo Fire
5 Department, also a defendant in this action.

6 4. The true names and capacities, whether corporate, associate, individual, or
7 otherwise, of Defendants DOES 1-100 are unknown to Plaintiff, who therefore sues said
8 Defendants by such fictitious names. Each of the Defendants designated herein as a DOE is
9 negligently or otherwise legally responsible in some manner for the events and happenings herein
10 referred to, and caused injuries and damages proximately thereby to Plaintiff, as herein alleged.
11 Plaintiff will amend this Complaint to show their names and capacities when they have been
12 ascertained.

13 5. At all times herein mentioned, Defendants were the agents, servants, and
14 employees of each other, and at all times relevant hereto were acting within the course and scope
15 of their authority as agents, servants, and/or employees and acting on the implied and actual
16 permission and consent of the City and/or ESFD.

17 6. Both City and ESFD regularly employ five or more employees and therefore City
18 and ESFD are employers as that term is defined in Government Code § 12926(d).

19 7. Plaintiff's date of birth is June 17, 1955. He is age 66.

20 8. Plaintiff was employed by Employers from January 3, 1993 until December 30,
21 2019, as a fire inspector/fire prevention specialist.

22 9. As a fire inspector/fire prevention specialist, Plaintiff's duties involved physically
23 inspecting buildings for potential fire hazards. His duties required that he climb ladders.

24 10. In or around 2017, Plaintiff incurred injuries to both of his knees, which required
25 corrective surgery. The condition of Plaintiff's knees is a physical disability as defined by the Fair
26 Employment & Housing Act.

27 11. In or around April 2017, Plaintiff's treating physician released him to return to
28 work with light duty. Plaintiff's release included a restriction that he not climb ladders. Plaintiff's

1 immediate supervisor Fire Marshall James Carver advised Plaintiff that he could accommodate
2 Plaintiff's disability by assigning him to "desk duty." Carver's superior Fire Chief Chris Donovan
3 refused to assign Plaintiff to desk duty, even though such a position was available. As a result,
4 Plaintiff remained on medical leave. Donovan's refusal to assign Plaintiff to desk duty was
5 motivated by Plaintiff's physical disability and his age.

6 12. In May 2017, Plaintiff's physician released him to return to work without
7 restrictions. But Chief Donovan did not permit Plaintiff to return to his customary position of fire
8 inspector/fire prevention specialist. Rather, Donovan assigned Plaintiff to desk duty, where he
9 could have, and should have, assigned him in April 2017. Donovan's refusal to return Plaintiff to
10 his customary position was motivated by Plaintiff's physical disability and age.

11 13. In June 2017, a City retained physician examined Plaintiff and found him fit for
12 duty. As a result of this examination, Chief Donovan returned Plaintiff to his customary position,
13 but doubled his workload, making Plaintiff responsible to inspect 600 locations instead of 300.
14 When Plaintiff complained, Donovan told Plaintiff, "it's a young man's job." There existed no
15 legitimate reason to double Plaintiff's workload. In doing so, Donovan was motivated by
16 Plaintiff's physical disability and age and intended to force Plaintiff to leave City's employ
17 because of his physical disability and age.

18 14. Donovan's double workload assignments continued through 2017, 2018 and 2019.
19 Plaintiff complied with Donovan's directive, but eventually was unable to keep up with this
20 unreasonable and discriminatory workload assignment. No reasonable person could have done so.
21 Rather, Plaintiff's work environment became so hostile that any reasonable person would have
22 been compelled to leave City's employ.

23 15. As a result, Plaintiff retired from City on December 30, 2019. Plaintiff's retirement
24 constitutes a constructive discharge.

25 16. On January 28, 2021, Plaintiff filed an administrative complaint with the
26 Department of Fair Employment and Housing ("DFEH"), naming as respondents the City and
27 ESFD alleging claims for physical disability discrimination, failure to accommodate a physical
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1 disability and constructive discharge based on disability and age. That same day, the DFEH issued
2 to Plaintiff a Right To Sue Notice.

3 **FIRST CAUSE OF ACTION**

4 **Age Discrimination in Violation of *Government Code* §12940(a) - Against City and ESFD**

5 17. Plaintiff repeats and realleges each of the allegations set forth above.

6 18. Government Code §12940(a) prohibits an employer from discriminating against an
7 employee in terms and conditions of employment because of the employee's age.

8 19. Employers' actions towards Plaintiff constitute disparate treatment based on
9 unlawful age-related reasons. Such discrimination was a substantial motivating factor, but not the
10 sole factor, in causing Plaintiff's damages.

11 20. Employers' age discrimination acts against Plaintiff as set forth herein are and were
12 unlawful, discriminatory and retaliatory in violation of Cal. Gov. Code §12940 et seq., and
13 resulted in damages and injury to Plaintiff, as alleged herein, including but not limited to lost
14 wages and benefits according to proof at the time of trial.

15 21. As a direct, foreseeable and proximate result of Employers' discriminatory conduct,
16 individually and collectively, Plaintiff suffered and continues to suffer humiliation,
17 embarrassment, anxiety, mental anguish and emotional distress and related physical maladies.
18 Said conduct has adversely affected his personal health and well-being, which includes medical
19 expenses and that may include medical expenses that are anticipated into the future. Plaintiff's
20 damages are continuing, in an amount not yet determined, but in excess of the jurisdictional
21 minimum of this Court.

22 22. As a further legal result of the above-described conduct of Employers, and each of
23 them, Plaintiff has and will continue to incur attorneys' fees and costs in an amount according to
24 proof. Plaintiff is entitled to an award of attorneys' fees and costs under Government Code
25 § 12965(b).

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1 SECOND CAUSE OF ACTION

2 **Physical Disability Discrimination in Violation of *Government Code* § 12940(a)**
3 **(Against City and ESFD)**

4 23. Plaintiff repeats and realleges all the allegations set forth above.

5 24. Plaintiff suffered from physical limitations as set forth above and was therefore a
6 member of the class of persons protected from disability discrimination under Cal. Gov't Code
7 §12940(a).

8 25. Within three years from the date of the most recent act of discrimination, Plaintiff
9 filed a charge of disability discrimination with the DFEH and received a right to sue notice.

10 26. Government Code § 12940(a) prohibits an employer from discriminating against an
11 employee in terms and conditions of employment because of the employee's physical disability.

12 27. Employers discriminated against Plaintiff as set forth above. As a direct,
13 foreseeable and proximate result of Employers' discriminatory conduct, individually and
14 collectively, Plaintiff suffered and continues to suffer humiliation, embarrassment, anxiety, mental
15 anguish and emotional distress and related physical maladies. Said conduct has adversely affected
16 his personal health and well-being, which includes medical expenses and that may include medical
17 expenses that are anticipated into the future. Plaintiff's damages are continuing, in an amount not
18 yet determined, but in excess of the jurisdictional minimum of this Court.

19 28. As a direct, foreseeable and proximate result of the Employers' discriminatory
20 conduct, individually and collectively, Plaintiff suffered and continues to suffer losses in earnings
21 and other employment benefits all to his damage in an amount in excess of the minimum
22 jurisdictional limits of this Court, the precise amount of which will be proven at trial.

23 29. As a further legal result of the above-described conduct of Employers, and each of
24 them, Plaintiff has and will continue to incur attorneys' fees and costs in an amount according to
25 proof. Plaintiff is entitled to an award of attorneys' fees and costs under Government Code
26 §12965(b).

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1 **THIRD CAUSE OF ACTION**

2 **Failure to Accommodate a Physical Disability in Violation of *Government Code* §**
3 **12940(m)(1) (Against City and ESFD)**

4 30. Plaintiff repeats and realleges all of the allegations set forth above.

5 31. Government Code §12940(m)(1) requires that an employer reasonably
6 accommodate an employee's known disability.

7 32. Employers were aware of Plaintiff's physical disabilities alleged herein.

8 33. Employers violated Government Code §12940(m)(1) as set forth above. As a
9 direct, foreseeable and proximate result of Employers' discriminatory conduct, individually and
10 collectively, Plaintiff suffered and continues to suffer humiliation, embarrassment, anxiety, mental
11 anguish and emotional distress and related physical maladies. Said conduct has adversely affected
12 his personal health and well-being, which includes medical expenses and that may include medical
13 expenses that are anticipated into the future. Plaintiff's damages are continuing, in an amount not
14 yet determined, but in excess of the jurisdictional minimum of this Court.

15 34. As a direct, foreseeable and proximate result of the Employers' discriminatory
16 conduct, individually and collectively, Plaintiff suffered and continues to suffer losses in earnings
17 and other employment benefits all to his damage in an amount in excess of the minimum
18 jurisdictional limits of this Court, the precise amount of which will be proven at trial.

19 35. As a further legal result of the above-described conduct of Employers, and each of
20 them, Plaintiff has and will continue to incur attorneys' fees and costs in an amount according to
21 proof. Plaintiff is entitled to an award of attorneys' fees and costs under Government Code
22 §12965(b).

23 **PRAAYER FOR RELIEF**

24 WHEREFORE, Plaintiff requests entry of judgment in his favor and against Employers,
25 inclusive, as follows:

26 A. For compensatory damages, in an amount to be proven at trial;

27 B. For medical expenses and loss of earnings, in an amount to be proven at trial;

28 C. For consequential damages, in an amount to be proven at trial;

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- D. For prejudgment interest;
- E. For reasonable costs of the suit and attorneys' fees pursuant to statute; and
- F. For such further and other relief as the Court may deem just, proper, and appropriate.

DEMAND FOR JURY TRIAL

Plaintiff demands trial by jury on all causes of action and claims alleged herein.

DATED: October 11, 2021

RESPECTFULLY SUBMITTED,
LIPELES LAW GROUP, APC

By: 

Kevin A. Lipeles, Esq.
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Julian B. Bellenghi, Esq.
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William Hatcher