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FILED
CIVIL BUSINESS OFFICE 21
CENTRAL DIVISION

2014 MAR -4 PM 2:53

CLERK SUPERIOR COURT
SAN DIEGO COUNTY, CA

FILED
Clerk of the Superior Court

MAR 04 2014

Attorneys for Plaintiff,
ALICE DANIELS

By: _____ Deput

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA

9 COUNTY OF SAN DIEGO, CENTRAL DIVISION

10 ALICE DANIELS, an individual,

11 Plaintiff,

12 v.

13 THE CITY OF SAN DIEGO, a public entity, and
14 DOES 1 through 25, Inclusive,

15 Defendants.

Case No. 37-2014-00005335-CU-OE-CTL

11 PLAINTIFF'S COMPLAINT FOR:

12 1. DISCRIMINATION ON THE BASIS
13 OF RACE [Cal. Gov't Code §
12940(a)].

14 [JURY TRIAL DEMANDED]

17 COMES NOW THE PLAINTIFF, alleging against Defendants as follows:

18 GENERAL ALLEGATIONS COMMON TO ALL CAUSES OF ACTION

- 19 1. Plaintiff, ALICE DANIELS, (hereinafter "Plaintiff" or "Daniels") is a natural person who
20 is, and at all relevant times was, a resident of the United States and a domiciliary of the
21 State of California.
- 22 2. Plaintiff is informed and believes and thereon alleges that Defendant, THE CITY OF
23 SAN DIEGO (hereinafter "Defendant" or "The City"), is a city in the State of California.
24 The City is an "employer" as defined in the California Fair Employment and Housing Act
25 codified in Government Code section 12900, et seq.
- 26 3. Plaintiff is ignorant to the true names and capacities of the Defendants sued herein as
27 DOES 1 through 25 and therefore sues these defendants by such fictitious names.
28 Plaintiff will amend this Complaint to allege the true names and capacities when they are

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- ascertained.
4. Plaintiff is informed and believes and thereon alleges that each fictitiously named Defendant is responsible in some manner for the occurrences herein alleged, and Plaintiff's injuries and damages as herein alleged are directly, proximately and/or legally caused by Defendant.
5. Plaintiff is informed and believes and thereon alleges that the aforementioned DOES are somehow responsible for the acts alleged herein as the agents, employers, representatives or employees of other named Defendant, and in doing the acts herein alleged were acting within the scope of their agency, employment or representative capacity of said named Defendant.
6. The tortious acts and omissions alleged herein were performed by management level employees of Defendant. Defendant allowed and/or condoned a continuing pattern of discriminatory practices.
7. On or about December 14, 2012, Plaintiff caused to be served on Defendant, an "Internal Discrimination Complaint." Plaintiff's "Internal Discrimination Complaint" is attached hereto as "EXHIBIT A."
8. Plaintiff filed her charge with the California Department of Fair Employment and Housing ("DFEH") on November 15, 2013, and thereafter on that same day received from the DFEH her "right to sue," which is collective attached hereto as "EXHIBIT B."

SPECIFIC FACTUAL ALLEGATIONS

9. Plaintiff re-alleges and incorporates by reference each and every allegation contained in the preceding paragraphs as though fully set forth herein.
10. Plaintiff is a Black female.
11. Defendant hired Plaintiff on or about March 19, 1990, as a "Clerical Assistant" at Defendant's Public Library department. On or about October 1, 1990, Defendant promoted Plaintiff to a Library Clerk position. On or about April 27, 1992, Defendant promoted Plaintiff to a Payroll Specialist position. On or about November 5, 1994, Defendant transferred Plaintiff to a position as a Payroll Specialist with Defendant's

1 Lifeguard department. On or about January 27, 1996, Defendant transferred Plaintiff to a
2 Payroll Specialist in Defendant's Communications and Electrical department. On or
3 about November 14, 2005, Defendant promoted Plaintiff to an Administrative Aide I
4 position for Defendant's Park and Recreation department. On or about May 7, 2007,
5 Defendant promoted Plaintiff to an Administrative Aide II position at Defendant's
6 Purchasing and Contracting department. On or about October 7, 2008, Defendant
7 promoted Plaintiff to an Assistant Management Analyst position overseeing Defendant's
8 Procurement Card Program. On or about March 9, 2009, Defendant promoted Plaintiff to
9 an Associate Management Analyst position.

- 10 12. In Plaintiff's position as Administrative Aide II in Defendant's Purchasing and
11 Contracting department, she was responsible for assisting with the coordination of
12 Defendant's Procurement Card Program. This program was for employee expense cards.
- 13 13. In Plaintiff's position as Associate Management Analyst in Defendant's Purchasing and
14 Contracting department, she oversaw and managed Defendant's "Procurement Card
15 Program." In doing so, Plaintiff managed and supervised day-to-day operations of the
16 "Procurement Card Program." She established protocols for card issuance, spending
17 limits, merchant categories, spending authorizations, and usage restriction. Plaintiff also
18 prepared reports on the "Procurement Card Program" to Defendant, and provided training
19 for Defendant's upper management.
- 20 14. In or around October 2011, Plaintiff requested that Defendant reclassify her position to
21 Senior Management Analyst. At that time, Defendant's Director of Purchasing and
22 Contracting Hildred Pepper, Jr. agreed with Plaintiff's request. Pepper signed the
23 necessary paperwork. However, Pepper unexpectedly left his employment with
24 Defendant in late October 2011. Thereafter, Defendant assigned Scott Reese as its interim
25 Director of Purchasing and Contracting. Defendant's Assistant Chief Operations Officer
26 then assigned Ed Plank to serve as the Deputy Director for Defendant's Director of the
27 Purchasing and Contracting department. Plank had no experience in the Purchasing and
28 Contracting Department. Plank was to assist Reese. Upon Plank's arrival, he ignored and

- 1 avoided Plaintiff. Thereafter, Reese agreed with Plaintiff's request to reclassify her
2 position to Senior Management Analyst.
- 3 15. Thereafter, in or around February 2012, Defendant hired Jeffrey Baer to serve as the
4 Director of Purchasing and Contracting.
- 5 16. In or around June 2012, Defendant approved the reclassification of Plaintiff's position to
6 Senior Management Analyst. The reclassification was to become effective in or around
7 March 2013. Plank, however, did not immediately conduct interviews for the new Senior
8 Management Analyst position.
- 9 17. Prior to the reclassification becoming effective, Baer recommended that Plaintiff "work
10 out of class" in the Senior Management Analyst position.
- 11 18. In or around September 2012, Baer left his employment with Defendant. With Baer gone,
12 the ACOO appointed Plank to serve as the interim Director of the Purchasing and
13 Contracting department. Plank assigned Darlene Morrow-Truver to act as the provisional
14 Deputy Director. Morrow-Truver had no experience in the Purchasing and Contracting
15 department. At that point, Plank and Morrow-Truver began conducting interviews for the
16 Senior Management Analyst position.
- 17 19. On or about November 14, 2012, Plaintiff underwent a first interview for the Senior
18 Management Analyst position. The interview panel consisted of Plank, Morrow-Truver
19 and Defendant's Supervising Management Analyst Estella Montoya. Both Plank and
20 Morrow-Truver are Caucasian. Montoya is Hispanic.
- 21 20. Thereafter, on or about November 16, 2012, Plaintiff underwent a second interview for
22 the same position. However, that interview panel consisted only of Plank and Morrow-
23 Truver. Therefore, there was no diversity on the interview panel. Defendant maintains a
24 policy requiring that interview panels contain diversity.
- 25 21. On or about November 30, 2012, Plank informed Plaintiff that she was denied the
26 promotion.
- 27 22. On or about December 3, 2012, Plaintiff met with Morrow-Truver. In this meeting
28 Plaintiff avoided discussing her not receiving the promotion. In response, Morrow-Truver

1 told Plaintiff not to get mad, because not getting mad “shows professionalism.” Morrow-
2 Truver also told Plaintiff that she did not “want to burn any bridges.” Plaintiff felt as
3 though Morrow-Truver was not taking her allegations of racial discrimination seriously.

4 **FIRST CAUSE OF ACTION**

5 **DISCRIMINATION ON THE BASIS OF RACE**

6 **[Cal. Gov’t Code § 12940(a)]**

7 23. Plaintiff re-alleges and incorporates by reference each and every allegation contained in
8 the preceding paragraphs as though fully set forth herein.

9 24. At all times mentioned herein, California Government Code section 12940 *et seq.* was in
10 full force and effect and was binding on Defendant. This section required Defendant, as
11 employers, to refrain from discrimination against any employee on the basis of, *inter alia*,
12 race.

13 25. Plaintiff believes and thereon alleges that her race was a substantial motivating factor in
14 Defendant’s adverse action directed against her as set forth herein. Notably, Plaintiff
15 believes and thereon alleges that Defendant failed to promote her based on her race.

16 26. As a direct, foreseeable, and proximate result of Defendant’s conduct, Plaintiff has
17 sustained and continues to sustain substantial losses in earnings, employment benefits,
18 employment opportunities, and Plaintiff has suffered other economic losses in an amount
19 to be determined at time of trial. Plaintiff has sought to mitigate these damages.

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

24 28. In addition to such other damages as may properly be recovered herein, Plaintiff is
25 entitled to recover prevailing party attorneys’ fees pursuant to Government Code section
26 12965(b).

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WHEREFORE, Plaintiff prays for the following relief:

1. For compensatory damages, including loss of wages, promotional opportunities, benefits and other opportunities of employment, according to proof;
2. For special damages in an amount according to proof;
3. For mental and emotional distress damages;
4. For back pay, front pay and other monetary relief;
5. For costs of suit, including attorney's fees as permitted by law, including those available pursuant to Government Code section 12965(b);
6. For an award of interest, including prejudgment interest, at the legal rate as permitted by law;
7. Injunctive relief;
8. For such other and further relief as the Court deems proper and just under all the circumstances.

PLAINTIFF ALICE DANIELS demands a jury trial on all issues in this case.

DATED: February 28, 2014

GRUENBERG LAW



JOSHUA D. GRUENBERG, ESQ.
COREY P. HANRAHAN, ESQ.
BENJAMIN S. SILVER, ESQ.
Attorneys for Plaintiff,
ALICE DANIELS

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EXHIBIT A

(1) PLAINTIFF'S "INTERNAL DISCRIMINATION COMPLAINT"

**CITY OF SAN DIEGO
INTERNAL DISCRIMINATION COMPLAINT FORM**

Name Alice Daniels
Address 210 69th St
Employee ID # 162154 Sex Female

Home Phone # (619) 795-2693
City, Zip San Diego, CA 92114
Race African American

EMPLOYMENT INFORMATION (City of San Diego)

Classification Associate Mgmt Analyst Work Location CCP - 2nd Floor Phone # (619) 533-4083
Supervisor's Name/Title Darlene Morrow-Truver Phone # (619)

BASIS OF COMPLAINT

Sexual Harassment _____ National Origin _____ Disability _____ Race X Gender _____
Sexual Orientation _____ Retaliation _____ Religion _____ Age X Other _____

I believe I was discriminated against by being (check only those that apply):

Terminated:

- Fired
 Laid Off
 Forced to Quit
 Resigned

Refused:

- Employment
 Promotion
 Transfer
 Reinstatement

Treated Differently:

- Harassed
 Unequal Pay
 Demoted
 Maternity Leave
 Discipline
 Accommodation

Other (Please Specify) _____

COMPLAINT FILED AGAINST

Name Ed Plank
Classification (Interim) Director

Phone # (619) 236-7163
Department Purchasing & Contracting

Name Darlene Morrow-Truver
Classification (provisional) Deputy Director

Phone # (619) 236-6158
Department Purchasing & Contracting

PROSPECTIVE WITNESSES

<u>Name</u>	<u>Address</u>	<u>Telephone #</u>
<u>Beverly Asbill-Gumbs</u>	<u>CCP - 2nd Floor MS56P</u>	<u>(619) 236-5923</u>
<u>Karan Wolff</u>	<u>CCP - 2nd Floor MS56P</u>	<u>(619) 236-7131</u>
<u>Nora Nugent</u>	<u>CAB - 8th Floor</u>	<u>(619) 533-3948</u>
<u>Yolanda Kelly</u>	<u>CCP - 2nd Floor MS56P</u>	<u>(619) 235-5743</u>

NATURE OF COMPLAINT: Please state the nature of your discrimination complaint. Be specific. If more space is needed, you may attach additional pages. The facts stated should include the date, time, place, witnesses, individual(s) involved, circumstances surrounding the complaint, and additional pertinent information. This information is necessary in order to fully investigate and conclude your complaint.

see attached

What reasons were given for actions taken against you?

I was told by the (Interim) Director that I was denied promotion because they found someone with a better skill-set.

State the specific reasons you believe the action taken against you was the result of discrimination.

I have been performing the duties of Sr. Management Analyst for 3 years, which is the the time that I took over the Procurement Card Program (P-card). I have been working in the industry for 5 1/2 years. I am certified for this unique program and have the education necessary. There is no way someone else had a better skill-set.

Indicate any direct evidence (statements or documents) which would help prove what you are saying.

Darlene Morrow-Truver called me into her office on December 3rd & told me that once you get to that level?? you (meaning I) needed to have a certain skill-set to see the overall picture. If I've been running the program at that level for all this time & certified which shows mastery of the program, then that statement was unjustifiable.

List the names, job titles of those persons who were treated the same, more favorably, or less favorably than you.

Beverly Asbill-Gumbs, Sr. Procurement Specialist has also experienced disparate treatment in Purchasing & Contracting.

REMEDY REQUESTED

I would like to be put in a position comparable to the one that I was denied and compensated for money lost. I want Purchasing & Contracting to stop the discriminatory practices.

I HEREBY CERTIFY THAT THE INFORMATION CONTAINED IN THIS COMPLAINT IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE. I FULLY UNDERSTAND THAT I HAVE THE RIGHT TO FILE THIS COMPLAINT WITH THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION AND/OR THE DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING, AND I AM NOT REQUIRED TO PARTICIPATE IN THE INTERNAL DISCRIMINATION COMPLAINT PROCESS PRIOR TO FILING WITH AN OUTSIDE AGENCY.


Complainant's Signature

12/14/12
Date



THE CITY OF SAN DIEGO

December 17, 2012

Alice L. Daniels
210 - 69th Street
San Diego, CA 92114

Dear Ms. Daniels:

We have received and reviewed the Internal Discrimination Complaint form and the supporting documents which you submitted to this office to initiate an investigation of your allegations of disparate treatment based on race and age.

You will be contacted if it is determined that additional information is necessary in order to conclude the investigation of these charges.

In the event you have additional information pertinent to your complaint, or should you wish to amend or withdraw your complaint, please contact the Equal Employment Investigations Office at the earliest possible date. The telephone number is (619) 236-7133; the address is 1200 Third Avenue, Suite 1501, San Diego, CA 92101.

Please be advised that you may also file a complaint with the Federal Equal Employment Opportunity Commission or the State Department of Fair Employment and Housing.

Sincerely,

Harold Barclay
Equal Employment Investigations Manager

HB/bb



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EXHIBIT B

- (1) PLAINTIFF'S CHARGE FILED WITH THE DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING (DFEH).
- (2) PLAINTIFF'S RIGHT TO SUE LETTER FROM THE DFEH.

**COMPLAINT OF DISCRIMINATION UNDER THE PROVISIONS OF THE
CALIFORNIA FAIR EMPLOYMENT AND HOUSING ACT**DFEH NUMBER
171547-77670-R

I ALLEGE THAT I EXPERIENCED	Discrimination
ON OR BEFORE	Nov 30, 2012
BECAUSE OF MY	Age - 40 and over, Color, Race
AS A RESULT, I WAS	Denied promotion

STATEMENT OF FACTS

On November 30, 2012, I was denied a permanent promotion to the position of Senior Management Analyst by Ed Plank [Interim] Director and Darlene Morrow-Truver [Provisional] Deputy Director of Purchasing Contracting. I held this position working out-of-class responsible for overseeing and managing and conducting audits of the Procurement Card Program since September 2009. It is a very unique position in which I was only person in the City who had the experience and credentials to run the program. Therefore, it is apparent that that I was discriminated against based on my race and age. As a result, I was harmed that affects my career, job outlook and earning potential. My situation was not the only act of discrimination. For instance, there were two Sr. Procurement Specialists 1 Black female and 1 White male, the Black female was denied the opportunity to work out of class [OCA] as a Principal Procurement Specialist when it should have been rotated among the two Sr. Procurement Specialist as it states in the Personnel Manual H-3,2 "The appointing authority will provide equal opportunity on a rotational basis for out-of-class assignment". Instead, only the White male was singled out to work out of class with additional compensation, and given an office. The Black female had to remain in a cubicle with no opportunity to gain new skills, earn additional compensation and/or fairly compete for that job or other promotional opportunities as they become available. It was also observed that Mr. Plank showed no respect or common courtesy to his Executive Assistant who was African American female. On several occasions he would disregard her go to others for help or information, though she was the person that he should have gone to for questions and assistance as she was his assistant and had the answers. This is just part of some of the disparate treatment that was occurring. Case #488-2-13-200146

**COMPLAINT OF DISCRIMINATION UNDER THE PROVISIONS OF THE
CALIFORNIA FAIR EMPLOYMENT AND HOUSING ACT**DFEH NUMBER
171547-77670-R**SIGNED UNDER PENALTY OF PERJURY**

I wish to pursue this matter in court. I hereby request that the Department of Fair Employment and Housing provide a right to sue. I understand that if I want a federal right to sue notice, I must visit the U.S. Equal Employment Opportunity Commission (EEOC) to file a complaint within 30 days of receipt of the DFEH "Notice of Case Closure and Right to Sue," or within 300 days of the alleged discriminatory act, whichever is earlier.

I have not been coerced into making this request, nor do I make it based on fear of retaliation if I do not do so. I understand it is the Department of Fair Employment and Housing's policy to not process or reopen a complaint once the complaint has been closed on the basis of "Complainant Elected Court Action."

By submitting this complaint, I am declaring under penalty of perjury under the laws of the State of California that, to the best of my knowledge, all information contained in this complaint is true and correct, except matters stated on my information and belief, and I declare that those matters I believe to be true.

Verified by Alice Daniels, Complainant, and dated on Nov 15, 2013 at San Diego, California.



DEPARTMENT OF FAIR EMPLOYMENT & HOUSING

2218 Kausen Drive, Suite 100 | Elk Grove | CA | 95758
800-884-1684 | Videophone 916-226-5265 | TTY 800-700-2320
www.dfeh.ca.gov | email: contact.center@dfeh.ca.gov

Nov 15, 2013

Alice Daniels
210 69th Street
San Diego, California 92114

RE: Notice of Case Closure and Right to Sue
DFEH Matter Number: 171547-77670-R
Right to Sue: Daniels / City of San Diego, Ed Plank

Dear Alice Daniels:

This letter informs you that the above-referenced complaint was filed with the Department of Fair Employment and Housing (DFEH) has been closed effective Nov 15, 2013 because an immediate Right to Sue notice was requested. DFEH will take no further action on the complaint.

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.

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

Sincerely,

Department of Fair Employment and Housing

Enclosures

cc: City of San Diego
Darlene Morrow-Truver City of San Diego



DEPARTMENT OF FAIR EMPLOYMENT & HOUSING

2218 Kausen Drive, Suite 100 | Elk Grove | CA | 95758
800-884-1684 | Videophone 916-226-5285 | TTY 800-700-2320
www.dfeh.ca.gov | email: contact.center@dfeh.ca.gov

Nov 15, 2013

RE: Notice of Filing of Discrimination Complaint

DFEH Number: 171547-77670-R

Right to Sue: Daniels / City of San Diego

To All Respondent(s):

Enclosed is a copy of an complaint of discrimination that has been filed with the Department of Fair Employment and Housing (DFEH) in accordance with Government Code section 12960. This constitutes service of the complaint pursuant to Government Code section 12962. A copy of the Notice of Case Closure and Right to Sue is enclosed for your records.

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

No response to DFEH is requested or required.

Sincerely,

Department of Fair Employment and Housing

**COMPLAINT OF DISCRIMINATION UNDER THE PROVISIONS OF THE
CALIFORNIA FAIR EMPLOYMENT AND HOUSING ACT**DFEH NUMBER
171547-77670-RCOMPLAINANT
Alice Daniels

NAMED IS THE EMPLOYER, PERSON, AGENCY, ORGANIZATION OR GOVERNMENT ENTITY WHO DISCRIMINATED AGAINST ME

RESPONDENT	ADDRESS	PHONE
City of San Diego Ed Plank	202 C Street San Diego CA 92101	619236198

NO. OF EMPLOYEES	MOST RECENT DISCRIMINATION TOOK PLACE	TYPE OF EMPLOYER
10000	Nov 30, 2012	State/Local Govt

CO-RESPONDENT(S)	ADDRESS
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Darlene Morrow-Truver City of San
Diego

Unknown - Retired



DEPARTMENT OF FAIR EMPLOYMENT & HOUSING

2218 Kausan Drive | Suite 100 | Elk Grove | CA 95750-7115
(916) 478-7251 | TTY (800) 700-2320 | Videophones for the DEAF (916) 226-6285 | Fax (916) 478-7329
www.dfeh.ca.gov

Mr. Scott Chadwick
Director of Human Resources
City of San Diego
1200 3rd Avenue, Suite 200 MS 56p
San Diego, CA 92101

EEOC Number: 488-2013-00146
Alice Daniels v City of San Diego
Date: December 17, 2012

NOTICE TO COMPLAINANT AND RESPONDENT

[] 4800 Stockdale Hwy., Suite 216
H Bakersfield, CA 93309
(805) 385-2728

This is to advise you that the above-referenced complaint is being referred to the California Department of Fair Employment and Housing (DFEH) by the U.S. Equal Employment Opportunity Commission (EEOC). The complaint will be filed in accordance with California Government Code section 12960. This notice constitutes service pursuant to Government Code section 12962.

[] Bay Area Regional Office
M 1515 City Street, Suite 701
Oakland, CA 94612
(510) 622-2341

No response to the DFEH is required by the respondent.

[] 1777 Ahwahil Avenue, Suite 101
C Fresno, CA 93720
(559) 344-4750

The EEOC will be responsible for the processing of this complaint. DFEH will not be conducting an investigation into this matter. EEOC should be contacted directly for any discussion of the charge. DFEH is closing its case on the basis of "processing waived to another agency."

[] 1955 West Seventh Street,
R/S Suite 1400
Los Angeles, CA 90017
(213) 439-6799

NOTICE TO COMPLAINANT OF RIGHT-TO-SUE

[] Sacramento District Office
E 2218 Kausan Drive, Suite 100
Elk Grove, CA 95750
(916) 478-7230

Since DFEH will not be issuing an accusation, this letter is also your right-to-sue notice. According to Government Code section 12965, subdivision (b), you may bring a civil action 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 lawsuit may be filed in a State of California Superior Court. Government Code section 12965, subdivision (b), provides that such a civil action must be brought within one year from the date of this notice. Pursuant to Government Code section 12965, subdivision (d)(1), this one-year period will be tolled during the pendency of the EEOC's investigation of your complaint. You should consult an attorney to determine with accuracy the date by which a civil action must be filed. This right to file a civil action may be waived in the event a settlement agreement is signed. Questions about the right to file under federal law should be referred to the EEOC.

[] 2570 North First Street, Suite 480
G San Jose, CA 95131
(408) 325-0344

The DFEH does not retain case records beyond three years after a complaint is filed.

Remember: This Right-To-Sue Notice allows you to file a private lawsuit in State court.

Sincerely,

[Handwritten signature]

TIMOTHY M. MUSCAT
Chief of Enforcement

CHARGE OF DISCRIMINATION

This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.

Charge Presented To: Agency(ies) Charge No(s):

FEPA
 EEOC

488-2013-00146

California Department Of Fair Employment & Housing

and EEOC

State or local Agency, if any

Name (indicate Mr., Ms., Mrs.)

Alice Daniels

Home Phone (Incl. Area Code)

(619) 795-2693

Date of Birth

11-19-1957

Street Address

City, State and ZIP Code

210 69th St, San Diego, CA 92114

Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)

Name

CITY OF SAN DIEGO

No. Employees, Members

500 or More

Phone No. (Include Area Code)

(619) 236-6000

Street Address

City, State and ZIP Code

1200 3rd Ave. Suite 200 MS 56p, San Diego, CA 92101

Name

No. Employees, Members

Phone No. (Include Area Code)

Street Address

City, State and ZIP Code

DISCRIMINATION BASED ON (Check appropriate box(es).)

RACE COLOR SEX RELIGION NATIONAL ORIGIN
 RETALIATION AGE DISABILITY GENETIC INFORMATION
 OTHER (Specify)

DATE(S) DISCRIMINATION TOOK PLACE

Earliest

Latest

11-13-2012

11-30-2012

CONTINUING ACTION

THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):

- I. I applied for the advertised position of Senior Management Analyst on or about November 13, 2012. On or about November 30, 2012 I became aware that a younger, White applicant who with less experience was selected. I have been employed by the City of San Diego since on or about March 19, 1990.
- II. I was told by Ed Plank, Interim Director and Darlene Morrow-Truver, Provisional Deputy Director, that the selectee had a better skill set.
- III. I believe that I have been discriminated against based on my race (Black) in violation of Title VII of the Civil Rights Act of 1964, as amended and based on my age (55) in violation of the Age Discrimination in Employment Act of 1967, as amended.

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

I declare under penalty of perjury that the above is true and correct.

NOTARY - When necessary for State and Local Agency Requirements

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

SIGNATURE OF COMPLAINANT

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (month, day, year)

Dec 17, 2012

Date

Charging Party Signature

PRIVACY ACT STATEMENT: Under the Privacy Act of 1974, Pub. Law 93-579, authority to request personal data and its uses are:

1. **FORM NUMBER/TITLE/DATE.** EEOC Form 5, Charge of Discrimination (11/09).
2. **AUTHORITY.** 42 U.S.C. 2000e-5(b), 29 U.S.C. 211, 29 U.S.C. 626, 42 U.S.C. 12117, 42 U.S.C. 2000ff-6.
3. **PRINCIPAL PURPOSES.** The purposes of a charge, taken on this form or otherwise reduced to writing (whether later recorded on this form or not) are, as applicable under the EEOC anti-discrimination statutes (EEOC statutes), to preserve private suit rights under the EEOC statutes, to invoke the EEOC's jurisdiction and, where dual-filing or referral arrangements exist, to begin state or local proceedings.
4. **ROUTINE USES.** This form is used to provide facts that may establish the existence of matters covered by the EEOC statutes (and as applicable, other federal, state or local laws). Information given will be used by staff to guide its mediation and investigation efforts and, as applicable, to determine, conciliate and litigate claims of unlawful discrimination. This form may be presented to or disclosed to other federal, state or local agencies as appropriate or necessary in carrying out EEOC's functions. A copy of this charge will ordinarily be sent to the respondent organization against which the charge is made.
5. **WHETHER DISCLOSURE IS MANDATORY; EFFECT OF NOT GIVING INFORMATION.** Charges must be reduced to writing and should identify the charging and responding parties and the actions or policies complained of. Without a written charge, EEOC will ordinarily not act on the complaint. Charges under Title VII, the ADA or GINA must be sworn to or affirmed (either by using this form or by presenting a notarized statement or unsworn declaration under penalty of perjury); charges under the ADEA should ordinarily be signed. Charges may be clarified or amplified later by amendment. It is not mandatory that this form be used to make a charge.

NOTICE OF RIGHT TO REQUEST SUBSTANTIAL WEIGHT REVIEW

Charges filed at a state or local Fair Employment Practices Agency (FEPA) that dual-files charges with EEOC will ordinarily be handled first by the FEPA. Some charges filed at EEOC may also be first handled by a FEPA under worksharing agreements. You will be told which agency will handle your charge. When the FEPA is the first to handle the charge, it will notify you of its final resolution of the matter. Then, if you wish EEOC to give Substantial Weight Review to the FEPA's final findings, you must ask us in writing to do so within 15 days of your receipt of its findings. Otherwise, we will ordinarily adopt the FEPA's finding and close our file on the charge.

NOTICE OF NON-RETALIATION REQUIREMENTS

Please **notify** EEOC or the state or local agency where you filed your charge **if retaliation is taken against you or others** who oppose discrimination or cooperate in any investigation or lawsuit concerning this charge. Under Section 704(a) of Title VII, Section 4(d) of the ADEA, Section 503(a) of the ADA and Section 207(f) of GINA, it is unlawful for an *employer* to discriminate against present or former employees or job applicants, for an *employment agency* to discriminate against anyone, or for a *union* to discriminate against its members or membership applicants, because they have opposed any practice made unlawful by the statutes, or because they have made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under the laws. The Equal Pay Act has similar provisions and Section 503(b) of the ADA prohibits coercion, intimidation, threats or interference with anyone for exercising or enjoying, or aiding or encouraging others in their exercise or enjoyment of, rights under the Act.