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CIVIL BUSINESS OFFICE 17
CENTRAL DIVISION

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CLERK-SUPERIOR COURT
SAN DIEGO COUNTY, CA

4 Attorneys for Plaintiff, SEYED AHMADI
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F I L E D
Clerk of the Superior Court

6 APR 01 2014
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8 By: _____, Deputy
SUPERIOR COURT OF THE STATE OF CALIFORNIA

9 FOR THE COUNTY OF SAN DIEGO - CENTRAL DIVISION
10

11 SEYED AHMADI,) Case No.37-2014-00009288-CU-OE-CTL
12 Plaintiff,)
13 v.) COMPLAINT FOR:
14 CITY OF SAN DIEGO; and DOES 1 -)
50, inclusive,) (1) AGE DISCRIMINATION;
15 Defendants.) (2) RACE, COLOR, NATIONAL
16) ORIGIN AND/OR ANCESTRY
17) DISCRIMINATION;
18) (3) CONTINUING DISABILITY
19) DISCRIMINATION;
20) (4) CONTINUING FAILURE TO
ACCOMMODATE DISABILITY;
JURY TRIAL DEMANDED
21) (5) FAILURE TO ENGAGE IN THE
GOOD FAITH INTERACTIVE
PROCESS;
22) (6) RETALIATION.
23)
24)
25)
26)
27)
28)

PLAINTIFF SEYED AHMADI complains and alleges as follows:

PARTIES

1. PLAINTIFF SEYED AHMADI is, and at all relevant times
was, a resident of the State of California, County of San
Diego.

2. PLAINTIFF is informed and believes and thereby alleges
that DEFENDANT CITY OF SAN DIEGO is, and at all relevant times
was, a governmental agency organized and existing under and by

1 virtue of the laws of the State of California.

2 3. The true names and capacities of Defendants named
3 herein as Does 1 through 50, inclusive, whether individual,
4 corporate, associate, or otherwise, are unknown to PLAINTIFF
5 who therefore sues such Defendants by fictitious names pursuant
6 to Code of Civil Procedure section 474. PLAINTIFF is informed
7 and believes that Doe Defendants are California residents.
8 PLAINTIFF will amend this complaint to show such true names and
9 capacities when they have been determined.

10 4. PLAINTIFF is informed and believes, and thereby
11 alleges, that each of the defendants herein was at all relevant
12 times the agent, employee or representative of the remaining
13 defendants and was acting at least in part within the scope of
14 such relationship.

15 FACTS COMMON TO ALL CAUSES OF ACTION

16 5. PLAINTIFF is a 62 year-old man of Iranian descent.
17 PLAINTIFF is a current employee of DEFENDANT CITY OF SAN DIEGO,
18 where he has worked for over 27 years as an engineer.

19 6. PLAINTIFF has held the same classification for the past
20 27 years without promotion despite having made continuous
21 efforts to obtain a promotion.

22 7. Over the past 27 years, PLAINTIFF has participated in
23 more than 25 selective processes for promotion. PLAINTIFF has
24 been turned-down each and every time he has applied.

25 8. Originally, when DEFENDANT CITY OF SAN DIEGO made its
26 decision to reject PLAINTIFF's efforts for promotion, it did so
27 on the alleged basis that PLAINTIFF needed more "well-rounded"
28 experience in a variety of traffic engineering and civil

1 engineering capacities. As a result, PLAINTIFF began to
2 volunteer for a wide-variety of projects in the areas of
3 traffic engineering and civil engineering. When his efforts to
4 gain promotion through "well-rounded" experience failed, he was
5 then told that he needed "supervisory" experience.

6 9. PLAINTIFF then acquired four (4) years of experience
7 supervising a staff of ten (10) subordinates. Nonetheless, he
8 continued to be denied promotion. Employees with no supervisory
9 experience were promoted over PLAINTIFF.

10 10. After acquiring "well-rounded" experience, and then
11 "supervisory" experience, PLAINTIFF was then told he would need
12 to become an "expert" in a particular category, and that he
13 would have had a better chance of promotion had he stayed in a
14 single field, as opposed to gaining "well-rounded" experience.

15 11. PLAINTIFF then spent seventeen (17) years working in
16 the traffic operations department, where he gained significant
17 expertise. Nonetheless, when he applied for promotions, other
18 employees with virtually no experience in traffic operations
19 were promoted over PLAINTIFF.

20 12. Management for DEFENDANT CITY OF SAN DIEGO offered a
21 final explanation for their failure to promote PLAINTIFF; that
22 he was not "registered" as a traffic engineer. However,
23 PLAINTIFF has noted that over the course of his career, other
24 employees who were not "well-rounded", who had no "supervisory"
25 experience, and who were not "registered" engineers received
26 promotions over PLAINTIFF and some of the promoted "engineers"
27 did not even posses engineering degrees. On information and
28 belief, none of the "engineers" who have been promoted over

1 PLAINTIFF in the past 15 years (approximately) were of Iranian
2 descent, and none of them were over the age of 40.

3 13. Recently, DEFENDANT CITY OF SAN DIEGO filled four
4 openings for associate traffic engineer positions. Although
5 PLAINTIFF was interviewed for two of the four openings, he was
6 not selected. The employees who were selected were not of
7 Iranian descent, were significantly younger than PLAINTIFF and
8 had less experience than PLAINTIFF.

9 14. Over the course of his 27 years of employment,
10 PLAINTIFF has noticed that most of the employees who have been
11 promoted over him were many years younger than he is; most of
12 them were under the age of 30. Indeed, PLAINTIFF possesses a
13 listing of 18 employees who have been promoted over him since
14 1990. The average age for those 18 employees was approximately
15 27 years-old.

16 15. PLAINTIFF reported unlawful discrimination to the EEOC
17 on April 1, 2013. In October of 2013, PLAINTIFF was pulled-off
18 of his regular job duties and put on a job much lower than his
19 expertise level and given lesser duties.

20 16. As of October 15, 2013, PLAINTIFF had been relegated to
21 administrative tasks for which PLAINTIFF is over-qualified,
22 including data processing. However, PLAINTIFF had developed a
23 disability; carpal tunnel syndrome, which impacts PLAINTIFF's
24 ability to properly move his right arm and right wrist.
25 Despite PLAINTIFF's request for an accommodation to perform a
26 job in his area of expertise that does not require repetitive
27 wrist movement, DEFENDANTS have unreasonably failed to
28 accommodate PLAINTIFF, and PLAINTIFF was placed on a document

1 scanning and filing position. The scanning and filing position
2 was even more stressful on his carpal tunnel syndrome, and
3 exacerbated this serious medical condition. PLAINTIFF's doctor
4 has now recommended that he undergo surgery to his right arm to
5 treat this condition. Only recently, since early February
6 2014, have DEFENDANTS attempted to accommodate PLAINTIFF by
7 shifting him to a bicycle coordinating position.

8 17. A substantial factor in the adverse treatment of
9 PLAINTIFF has been his age, race, color, national origin,
10 ancestry, disability and/or in retaliation for his EEO actions.

11 **FIRST CAUSE OF ACTION**

12 (Age Discrimination in Violation of Government Code § 12940 et
seq. Against DEFENDANT CITY OF SAN DIEGO and DOES 1-5 and 6-15,
Inclusive)

13 14. PLAINTIFF hereby realleges and incorporates by
15 reference herein each and every preceding paragraph of this
16 complaint.

17 19. PLAINTIFF is, and at all relevant time herein was, over
18 forty years of age and thus an employee covered by California
19 Government Code section 12940 prohibiting discrimination in
20 employment on the basis of age.

21 20. DEFENDANTS are, and at all times material hereto were,
22 employers within the meaning of California Government Code
23 section 12926(c) and, as such, barred from discriminating in
24 employment decisions on the basis of age as set forth in
25 California Government Code section 12940.

26 21. DEFENDANTS have continuously discriminated against
27 PLAINTIFF based upon his age in violation of California
28 Government Code section 12940 by engaging in a course of

1 conduct which has included, but is not limited to, the actions
2 alleged above.

3 22. PLAINTIFF filed timely charges of continuing age
4 discrimination with the Department of Fair Employment and
5 Housing (DFEH). PLAINTIFF is informed and believes that the
6 DFEH has issued right to sue notices pursuant to California
7 Government Code section 12965(b) permitting PLAINTIFF to bring
8 this action. Therefore, PLAINTIFF has exhausted all of his
9 administrative remedies.

10 23. As a proximate result of DEFENDANTS' continuing
11 discrimination against PLAINTIFF, PLAINTIFF has suffered and
12 continues to suffer substantial losses in earnings, bonuses,
13 deferred compensation, retirement benefits, and other
14 employment benefits and has suffered and continues to suffer
15 embarrassment, humiliation, harm to reputation, anxiety,
16 frustration and mental anguish all to his damage in an amount
17 according to proof.

18 24. DEFENDANTS committed the acts stated herein
19 maliciously, fraudulently, and oppressively, with the wrongful
20 intention of injuring PLAINTIFF, from an improper and evil
21 motive amounting to malice, and in conscious disregard of
22 PLAINTIFF's rights. PLAINTIFF is thus entitled to recover
23 punitive damages from all DEFENDANTS except DEFENDANT CITY OF
24 SAN DIEGO in an amount according to proof.

25 25. As a result of DEFENDANT'S unlawful acts as alleged
26 herein, PLAINTIFF is entitled to reasonable attorneys' fees and
27 costs of suit as provided by California Government Code section
28 12965(b).

SECOND CAUSE OF ACTION

(Continuing Race, Color, National Origin and/or Ancestry Discrimination in Violation of California Govt. Code § 12490 Against DEFENDANT CITY OF SAN DIEGO; and DOES 1-5 and 10-20; Inclusive)

26. PLAINTIFF hereby realleges and incorporates by reference herein each and every preceding paragraph of this complaint.

27. PLAINTIFF was at all times material hereto an employee covered by California Govt. Code § 12940 prohibiting discrimination in employment on the basis of race, color, national origin and/or ancestry.

28. DEFENDANTS are, and at all times material hereto were, employers within the meaning of California Govt. Code § 12926(c) and, as such, barred from discriminating in employment decisions on the basis of race, color, national origin, and/or ancestry as set forth in California Govt. Code § 12940.

29. DEFENDANTS have continuously discriminated against PLAINTIFF on the basis of race, color, national origin and/or ancestry in violation of California Govt. Code § 12940 by engaging in a course of conduct which included, but is not limited to, at least some of the acts set forth above.

30. PLAINTIFF filed timely charges of continuing race, color, national origin and/or ancestry discrimination with the Department of Fair Employment and Housing (DFEH). Plaintiff is informed and believes that the DFEH has issued right to sue notices pursuant to California Government Code section 12965(b) permitting PLAINTIFF to bring this action. Therefore, PLAINTIFF has exhausted all of his administrative remedies.

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1 31. As a proximate result of DEFENDANTS' continuing
2 discrimination against PLAINTIFF on the basis of race, color,
3 national origin and/or ancestry, PLAINTIFF has suffered losses
4 in earnings, bonuses, deferred compensation and other
5 employment benefits, and suffered, and continues to suffer,
6 embarrassment, humiliation, harm to reputation frustration and
7 mental anguish all to his damage in an amount according to
8 proof.

9 32. DEFENDANTS committed the acts stated herein
10 maliciously, fraudulently, and oppressively, with the wrongful
11 intention of injuring PLAINTIFF, from an improper and evil
12 motive amounting to malice, and in conscious disregard of
13 PLAINTIFF's rights. PLAINTIFF is thus entitled to recover
14 punitive damages from all DEFENDANTS except DEFENDANT CITY OF
15 SAN DIEGO in an amount according to proof.

16 33. As a result of DEFENDANTS' discriminatory acts as
17 alleged herein, PLAINTIFF is entitled to reasonable attorneys'
18 fees and costs of suit as provided by California Govt. Code §
19 12965(b).

THIRD CAUSE OF ACTION

(Continuing Disability Discrimination in Violation of the Fair Employment Housing Act (Government Code § 12940, et seq.), Against DEFENDANT CITY OF SAN DIEGO; and DOES 1-5 and 15-25, inclusive)

23 34. PLAINTIFF hereby realleges and incorporates by
24 reference herein each and every preceding paragraph of this
25 Complaint as though fully set forth herein.

26 35. PLAINTIFF was at all times material hereto, an employee
27 covered by the FEHA prohibiting discrimination in employment on
28 the basis of physical and/or mental disabilities.

11

1 36. DEFENDANT CITY OF SAN DIEGO was at all times material
2 hereto an employer within the meaning of the provisions of the
3 FEHA and, as such, barred from discriminating in employment
4 decisions on the basis of physical and/or mental disabilities
5 as set forth in the FEHA.

6 37. PLAINTIFF has, and at all times relevant to this
7 lawsuit, had a disability within the meaning of the FEHA.
8 Furthermore, DEFENDANTS at all times relevant hereto regarded
9 PLAINTIFF as having a disability within the meaning of the
10 FEHA, he has a record of having a disability within the meaning
11 of the FEHA and/or he has a condition which could lead to a
12 disability within the meaning of the FEHA. DEFENDANTS owed a
13 duty to PLAINTIFF not to adversely treat him even in part
14 because of his disability.

15 38. DEFENDANTS have continually discriminated against
16 PLAINTIFF in violation of the FEHA and related provisions of
17 law by engaging in a course of continuing conduct that included
18 the conduct previously alleged above.

19 39. PLAINTIFF filed timely charges of continuing disability
20 discrimination with the DFEH. Plaintiff is informed and
21 believes that the DFEH has issued right to sue notices pursuant
22 to California Government Code section 12965(b) permitting
23 Plaintiff to bring this action. PLAINTIFF has therefore
24 exhausted all of his administrative remedies.

25 40. As a proximate result of DEFENDANTS' continuing
26 discrimination against PLAINTIFF, PLAINTIFF has suffered and
27 continues to suffer substantial losses incurred in earnings,
28 bonuses, deferred compensation, retirement and benefits, and

1 other employment benefits and has suffered and continues to
2 suffer embarrassment, humiliation, harm to reputation and
3 mental anguish all to his damage in an amount according to
4 proof.

5 41. DEFENDANTS committed the acts alleged herein
6 maliciously, fraudulently and oppressively, with the wrongful
7 intention of injuring PLAINTIFF, from an improper and evil
8 motive amounting to malice, and in conscious disregard of
9 PLAINTIFF's rights. PLAINTIFF is thus entitled to recover
10 punitive damages from all DEFENDANTS except DEFENDANT CITY OF
11 SAN DIEGO in an amount according to proof.

12 42. As a result of DEFENDANTS' continuing discriminatory
13 acts as alleged herein, PLAINTIFF is entitled to reasonable
14 attorneys' fees and costs of said suit as provided by the FEHA.

15 FOURTH CAUSE OF ACTION

16 (Failure to Accommodate a Disability Against DEFENDANT CITY OF
17 SAN DIEGO; and DOES 1-5 and 30-40, inclusive; Cal. Gov. Code §
18 12940, et seq.)

19 43. PLAINTIFF hereby realleges, and incorporates by
20 reference herein, each and every preceding paragraph of this
Complaint.

21 44. PLAINTIFF at all relevant times suffered from a
22 disability within the meaning of FEHA. Furthermore, DEFENDANTS
23 have at all times relevant hereto regarded Plaintiff as having
24 a disability within the meaning of FEHA. Furthermore,
25 PLAINTIFF has a record of having a disability within the
26 meaning of FEHA.

27 45. DEFENDANTS are, and at all times material hereto were,
28 employers within the meaning of California Govt. Code §

1 12926(c) and, as such, required to make reasonable
2 accommodation of disabilities as set forth in FEHA.

3 46. DEFENDANTS have failed to accommodate PLAINTIFF's
4 disability in continuing violation of California Government
5 Code § 12940 by engaging in a continuing course of conduct as
6 alleged above.

7 47. PLAINTIFF filed timely charges of continuing failure
8 to accommodate his disability with the California Department of
9 Fair Employment and Housing ("DFEH"). Plaintiff is informed
10 and believes that the DFEH has issued right to sue notices
11 pursuant to California Government Code section 12965(b)
12 permitting her to bring this action. Therefore, PLAINTIFF has
13 exhausted all of his administrative remedies.

14 48. As a proximate result of DEFENDANTS' continuing
15 failure to accommodate the disability of PLAINTIFF, PLAINTIFF
16 has suffered and continues to suffer substantial losses in
17 earnings, bonuses, deferred compensation and other employment
18 benefits and has suffered and continues to suffer emotional
19 distress all to her damage in an amount according to proof.

20 49. DEFENDANTS committed the acts alleged herein
21 maliciously, fraudulently and oppressively, with the wrongful
22 intention of injuring PLAINTIFF, from an improper and evil
23 motive amounting to malice, and in conscious disregard of
24 PLAINTIFF's rights. PLAINTIFF is thus entitled to recover
25 punitive damages from all DEFENDANTS except for DEFENDANT CITY
26 OF SAN DIEGO in an amount according to proof.

27 50. As a result of DEFENDANTS' failure to accommodate
28 PLAINTIFF's disability as alleged herein, PLAINTIFF is entitled

1 to reasonable attorneys' fees and costs of said suit as
2 provided by California Government Code Section 12965(b)

3 FIFTH CAUSE OF ACTION

4 (Failure to Engage in the Required Interactive Process of
5 Accommodation Against DEFENDANT CITY OF SAN DIEGO; and DOES 1-5
and 35-45, inclusive; Cal. Gov. Code § 12940, et seq.)

6 51. PLAINTIFF hereby realleges and incorporates by
7 reference herein each and every preceding paragraph of this
8 Complaint.

9 52. DEFENDANTS were obligated to engage in the interactive
10 process of reasonable accommodation for PLAINTIFF's disability.

11 53. DEFENDANTS failed to engage in the interactive process
12 of reasonable accommodation for PLAINTIFF.

13 54. PLAINTIFF filed timely charges of failure to engage in
14 the required interactive process of accommodation with the
15 DFEH. Plaintiff is informed and believes that the DFEH has
16 issued right to sue notices pursuant to California Government
17 Code section 12965(b) permitting Plaintiff to bring this
18 action. Therefore, PLAINTIFF has exhausted all of his
19 administrative remedies.

20 55. As a proximate result of DEFENDANTS' continuing
21 failure to engage in the required interactive process of
22 reasonable accommodation, PLAINTIFF has suffered and continues
23 to suffer substantial losses in earnings, bonuses, deferred
24 compensation and other employment benefits and has suffered and
25 continues to suffer emotional distress all to his damage in an
amount according to proof.

27 56. DEFENDANTS failed to engage in the required
28 interactive process alleged herein maliciously, fraudulently

1 and oppressively, with the wrongful intention of injuring
2 PLAINTIFF, from an improper and evil motive amounting to
3 malice, and in conscious disregard of PLAINTIFF's rights.
4 PLAINTIFF is thus entitled to recover punitive damages from all
5 DEFENDANTS, except DEFENDANT CITY OF SAN DIEGO in an amount
6 according to proof.

7 57. As a result of DEFENDANTS' conduct as alleged herein,
8 PLAINTIFF is entitled to reasonable attorneys' fees and costs
9 of said suit as provided by California Govt. Code Section
10 12965(b).

11 SIXTH CAUSE OF ACTION
12 (Retaliation in Violation of FEHA
13 Against DEFENDANTS CITY OF SAN DIEGO and DOES 1-5 and 40-50;
14 Inclusive)

15 58. PLAINTIFF hereby realleges and incorporates by
16 reference herein each and every preceding paragraph of this
complaint.

17 59. PLAINTIFF was at all times material hereto an employee
18 covered by California Government Code section 12940, which
19 prohibits retaliation against an employee for exercising rights
20 under FEHA. PLAINTIFF has exercised rights under the FEHA.

21 60. PLAINTIFF is informed and believes, and thereon
22 alleges, that DEFENDANTS are, and at all times material hereto
23 have been, employers within the meaning of California
24 Government Code section 12926(c).

25 61. DEFENDANTS have retaliated against PLAINTIFF in
26 violation of FEHA, by engaging in a course of conduct,
27 including but not limited to those acts described above.

28 ///

1 62. PLAINTIFF timely filed charges of retaliation in
2 violation of FEHA with the DFEH. Plaintiff is informed and
3 believes that the DFEH has issued right to sue notices pursuant
4 to California Government Code section 12965(b) permitting
5 Plaintiff to bring this action. Therefore, PLAINTIFF has
6 exhausted all of his administrative remedies.

7 63. As a proximate result of DEFENDANTS' violation of
8 PLAINTIFF's rights, PLAINTIFF has suffered and continues to
9 suffer substantial losses in earnings, benefits, accrued sick
10 and vacation time, and other employment benefits and has
11 suffered and continues to suffer emotional distress all to his
12 damage in an amount according to proof.

13 . 64. DEFENDANTS committed the acts stated herein
14 maliciously, fraudulently, and oppressively, with the wrongful
15 intention of injuring PLAINTIFF, from an improper and evil
16 motive amounting to malice, and in conscious disregard of
17 PLAINTIFF's rights. PLAINTIFF is thus entitled to recover
18 punitive damages from all DEFENDANTS except DEFENDANT CITY OF
19 SAN DIEGO in an amount according to proof.

20 65. As a result of DEFENDANTS' violation of PLAINTIFF'S
21 rights as alleged herein, PLAINTIFF is entitled to reasonable
22 attorneys' fees and costs of said suit as provided by
23 California Govt. Code § 12965(b).

PRAYER

WHEREFORE, PLAINTIFF requests relief as follows:

- 26 1. For damages according to proof including loss of
27 earnings, deferred compensation and other employment benefits;
28 2. For compensatory damages for losses resulting from

humiliation, mental anguish, harm to reputation, frustration and emotional distress according to proof;

3. For interest on the amount of losses incurred in earnings, deferred compensation and other employee benefits at the prevailing rates;

4. That DEFENDANTS, their agents, successors, employees and those acting in concert, be enjoined permanently from engaging in each of the unlawful practices, policies, usages and customs set forth herein;

5. For promotion of PLAINTIFF to a position from which he has been wrongfully denied or a comparable position in DEFENDANTS' organization and all benefits attendant thereto that would have been afforded PLAINTIFF but for said discrimination;

6. For a declaration that DEFENDANTS engaged in age discrimination; race, disability, color, national origin and/or ancestry discrimination; retaliated against PLAINTIFF; failed to reasonably accommodate PLAINTIFF's disability, and/or failed to engage in the required interactive process of accommodation;

7. For an award of punitive damages against all DEFENDANTS except DEFENDANT CITY OF SAN DIEGO;

8. For costs of suit including reasonable attorneys fees;

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

GRADY AND ASSOCIATES

DATED: March 28, 2014

By:

DENNIS M. GRADY, Esq.
Attorneys for Plaintiff
SEYED AHMADI