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VENTURA  
SUPERIOR COURT  
**FILED**

AUG 15 2016

MICHAEL D. PLANET  
Executive Officer and Clerk  
BY: , Deputy  
MIRIAM HERNANDEZ

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA,  
10 FOR THE COUNTY OF VENTURA

11 ELLIS GREEN, an individual;  
12 Plaintiff

) Case No.: 56-2016-00485281-CU-WT-VTA

) **COMPLAINT AND DEMAND FOR JURY TRIAL**

13 vs.

14 CITY OF SAN BUENAVENTURA, , a  
15 governmental entity; MARK WATKINS,  
16 DAN PARANICK, JENNIFER CURTIS, and  
17 DOES 1 THROUGH 100, INCLUSIVE;  
18 Defendants.

- ) 1. VIOLATION OF CALIFORNIA  
) GOVERNMENT CODE §12940 –  
) FAIR EMPLOYMENT AND  
) HOUSING ACT  
) 2. FAILURE TO MAINTAIN AN  
) ENVIRONMENT FREE FROM  
) HARASSMENT IN VIOLATION OF  
) CALIFORNIA GOVERNMENT  
) CODE §12940 (k)  
) 3. FOR RETALIATION IN VIOLATION  
) OF CALIFORNIA GOVERNMENT  
) CODE SECTION 12940  
) SUBSECTION (h)  
) 4. FOR INTENTIONAL INFLICTION  
) OF EMOTIONAL DISTRESS

19 COMES NOW PLAINTIFF ELLIS GREEN, who alleges as follows:  
20

21 **PARTIES**

- 22 1. Plaintiff ELLIS GREEN, (hereinafter "Plaintiff"), as an individual, was and is at all times a  
23 resident of Ventura County, California. The acts as alleged herein occurred in Ventura County.  
24 2. At all material times, Plaintiff was a resident of the State of California. At all material times,  
25 Plaintiff was employed by Defendant CITY OF SAN BUENAVENTURA (hereinafter Ventura) in the  
26 State of California. At all material times, Plaintiff was employed under the direction of Ventura  
27  
28

2 I am employed in the County of Ventura, State of California. I am over the age of 18 and not a party to  
the within action; my business address is 692 E. Thompson Blvd. CA 93001.

3 On **September 22, 2016** at my place of business, described above, copies of the foregoing document  
4 described as: **PLAINTIFF's FIRST AMENDED COMPLAINT** was served on all interested parties in  
this action by placing a true copy thereof enclosed in sealed envelopes addressed as follows:

5 Traci Parks, Esq.  
6 Burke, Williams & Sorensen, LLP  
444 South Flower Street, Suite 2400  
7 Los Angeles, CA 90071

8 (X) **BY MAIL:** I am "readily familiar" with this firm's practice of collecting and processing  
correspondence for mailing. It is deposited with the U.S. Postal Service on that same day in the ordinary  
9 course of business. I am aware that on motion of party served, service is presumed invalid if the postal  
cancellation date or postage meter date is more than one day after date of deposit for mailing the  
10 affidavit.

11 I caused such envelope(s) with postage thereon fully prepaid to be placed in the United States mail at  
Ventura, California.

12 ( ) **BY CERTIFIED MAIL:** I personally caused such envelope(s) with postage prepaid, requiring a  
return receipt to be placed in the United States mail at Ventura, California in accordance with ordinary  
13 business practices.

14 ( ) **BY PERSONAL SERVICE:** I personally delivered such envelope(s) by hand to the offices of the  
addressee.

15 ( ) **BY FACSIMILE:** I personally served this document to the facsimile numbers of the addressee.

16 ( ) **BY FEDERAL EXPRESS:** I personally placed such envelope(s) for collection and overnight  
17 delivery by Federal Express with delivery fees paid or provided for in accordance with ordinary business  
practices.

18 Executed on **September 22, 2016** at Ventura, California.

19 I declare under penalty of perjury under the laws of the state of California that the above is true  
20 and correct.

21   
22 Charlyn Summerfield  
23  
24  
25  
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27  
28

1 management, Ventura supervisors, and other Ventura employees, including  
2 WATKINS (hereinafter Watkins), who is the City Manager for Defendant Ventura, Defendant DAN  
3 PARANICK (hereinafter PARANICK), who is the City Manager for Defendant Ventura and  
4 Defendant JENNIFER CURTIS (hereinafter Curtis), who in January, 2014, became the new Director  
5 of the Human Resources Department of Defendant Ventura.

6 3. Plaintiff is informed and believes and based upon such information and belief alleges that  
7 Defendant Ventura is a municipal corporation in Ventura County, California.

8 4. Plaintiff is further informed and believes and based upon such information and belief alleges  
9 that Defendant Watkins is a resident of California, and was at all material times acting within the  
10 course and scope of his employment as a City Manager for Defendant, Ventura.

11 5. Plaintiff is further informed and believes and based upon such information and belief alleges  
12 that Defendant Paranic is a resident of California, and was at all material times acting within the  
13 course and scope of his employment as Assistant Manager for Defendant Ventura.

14 6. Plaintiff is further informed and believes and based upon such information and belief alleges  
15 that Defendant Curtis is a resident of California, and was at all material times acting within the course  
16 and scope of her employment as a supervisor and department director for Defendant Ventura.

17 7. Plaintiff is ignorant of the true names and capacities of the defendants identified as DOES 1  
18 THROUGH 100, inclusive, and sues these defendants by such fictitious names under California Code  
19 of Civil Procedure Section 474. Plaintiff will amend this complaint and add the true names of these  
20 defendants when ascertained.

21 8. Plaintiff is informed and believes and based upon such information and belief allege that each  
22 defendant, including those named fictitiously, were acting as the agent and/or employee of each of the  
23 other defendants, and in doing the acts alleged herein, was acting within the course and scope of such  
24 employment or agency.

25 9. Plaintiff is further informed and believes, and based upon such information and belief contends  
26 that Complaints against all named Defendants were timely filed with the Department of Fair  
27 Employment and Housing, "right-to-sue-notices" against all named Defendants were obtained, and the  
28 "right-to-sue" notices were personally served on all named Defendants. Plaintiff now files this action  
with the Ventura Superior Court.

FACTUAL ALLEGATIONS

10. Plaintiff is a 62 year old African American male who worked for the City of Ventura for 15 years. He was hired as Ventura's Risk Manager and was tasked with creating the City's Risk Management Division while reporting to the Human Resources Director hereinafter ("HR"). Plaintiff was, in addition to being the only male and only African American in the City of Ventura's Human Resources Department at the start of his employment, he was also the highest ranking African American manager on Ventura's staff throughout his employment and at the time of his termination by Ventura. Plaintiff had good employment evaluations demonstrating that he was a good employee throughout his career at Ventura.

11. On July 3, 2015, Plaintiff was terminated from his employment with the City of San Buenaventura.

12. During January, 2014, Jennifer Curtis hereinafter ("Curtis") became the new HR Director for Ventura and became Plaintiff's supervisor. From the beginning of her employment, Curtis began a course of action in which she cultivated negative critiques and comments regarding Plaintiff's professional performance from his coworkers, staff and outside contractors. These actions by Curtis, along with frequent cursing, yelling profane sexist comments, bad mouthing and undermining of Plaintiff continued into June, 2015. During this period, Curtis specifically told Plaintiff that she did not, "think that you fit in here", that she thought Plaintiff to be a "relie", and criticized Plaintiff in front of other co-workers, staff members, and subordinates. Curtis specifically called Plaintiff a liar and accused him of being dishonest (forgery). All accusations were completely untrue.

13. Plaintiff has and had, during his employment at Ventura, a life-threatening illness, End-Stage Renal Disease [ESRD], which required constant and consistent hemodialysis treatments at his home or an offsite hemodialysis center. Ventura was aware of this medical necessity and the fact that failure to dialyze is life threatening. The previous HR director, Jenny Roney, had reviewed the matter and provided Plaintiff an accommodation that was not only reasonable and necessary, but also achievable. Plaintiff was granted reasonable accommodations so that he could receive his hemodialysis treatments and continue to be a productive employee for the City of Ventura. This was done successfully for more than four (4) years prior to Curtis' arrival at Ventura.

1 14. Subsequent to Curtis' arrival at Ventura, she was informed of Plaintiff's approved reasonable  
2 accommodations but required Plaintiff to present a new reasonable accommodation request. Plaintiff  
3 provided Curtis with another written request for continuance of accommodations previously agreed  
4 upon by Ventura. Curtis never responded to the formal request and told Plaintiff that he had to work  
5 the hours that he was scheduled for. Curtis told Plaintiff that the previously provided reasonable  
6 accommodations for him under the ADAA would no longer be honored because she did not believe  
7 that such was the obligation of Ventura as an employer. Curtis denied Plaintiff due process under  
8 Ventura's ADA Compliance Plan and refused to provide Plaintiff an Interactive Process.

9 15. The actions complained of herein were undertaken by, directed by and/or condoned by and with  
10 the direct knowledge, supervision and input of Mark Watkins and Dan Paranic. Watkins and Paranic  
11 were aware of the actions by Curtis and agreed with them in their positions with Ventura.

12 **FIRST CAUSE OF ACTION**

13 **Failure to Engage in a Timely, Good Faith Interactive Process**  
14 **(California Government Code §12940(n))**

15 16. Plaintiff incorporates all of the paragraphs 1 –15, inclusive as though fully set forth herein.

16 17. At all relevant times herein, Defendant Ventura regularly employed more than five (5)  
17 employees, bringing Defendant Ventura within the provisions of California Government Code Section  
18 12904 et. seq. Government Code §12940(n) requires employers to "engage in a timely, good faith,  
19 interactive process with the employee or applicant to determine effective reasonable accommodations,  
20 if any, in response to a request for reasonable accommodation by an employee or applicant with a known  
21 physical or mental disability or known medical condition."

22 18. Government Code §12940(n) further requires employers to initiate the interactive process once  
23 they are on notice that an accommodation may be needed. An employer is on notice when an employee  
24 with a known physical disability requests a reasonable accommodation, or when the employer  
25 becomes aware of the need for accommodation through a third-party or by observation.

26 19. Plaintiff's chronic kidney failure is a disability within the meaning of California Government  
27 Code §12926 in that it limits his ability to engage in a major life activity, working, and affected several  
28 of his body systems, including but not limited to, the genitourinary and immunological systems.

20. Plaintiff's disability was known to Ventura prior to 2014. Plaintiff's disability became  
known to Defendant Curtis during January 2014, shortly after she was hired as the new Human

Resources Director at Ventura. Curtis required Plaintiff to present a new reasonable accommodation request. Plaintiff provided Curtis with another written request for continuance of his reasonable accommodations including diagnosis detailing Plaintiff's medical condition. Curtis, not the City of Ventura, ever responded to the formal request.

21. Once on notice, Defendants were required to grant the accommodation requested by Plaintiff, or reject it after due consideration and initiate discussion with him regarding alternative accommodations [ 2 C.C. R. §7294(c)(1)]. The employer's duty to engage in the interactive process includes analyzing the particular job involved and the essential functions of the job, and, in consultation with the employee, identifying potential accommodations and assessing them with respect to their effectiveness in permitting the employee to perform the essential functions of the job or to enjoy equivalent benefits and privileges of employment compared to non-disabled employees [2 C.C. R. §§7294(c)(5) & (7)].

22. Defendants did not grant Plaintiff's request for a reasonable accommodation, nor did they identify and evaluate alternative accommodations or discuss those alternatives with Plaintiff. Instead, they simply ignored Plaintiff's request and behaved as though his disability did not exist. Plaintiff verbally requested reasonable accommodations on multiple later occasions. Ms. Curtis refused to engage in any discussion of other possible accommodations.

23. Defendants' failure to engage in a timely, good faith, interactive process with Plaintiff after being placed on notice of the need for a reasonable accommodation is an unlawful employment practice in violation of the FEHA. Cal. Gov. Code §12940(n).

24. As a direct result of Defendants' acts and failures to act as alleged herein, Plaintiff has suffered and continues to suffer economic loss and damages, physical ailments, emotional distress, and attorneys' fees and costs in an amount to be proven at trial.

#### **SECOND CAUSE OF ACTION**

##### **Failure to Provide Reasonable Accommodation (California Government Code §12940(m))**

25. Plaintiff incorporates all of the paragraphs 1 –24, inclusive as though fully set forth herein.

26. California Government Code §12940(m) makes it an unlawful employment practice for an employer to fail to make a reasonable accommodation for the known physical or mental disability of an employee. Employers must make reasonable accommodations for disabilities of employees

1 unless they engage in the interactive process and demonstrate that accommodation would impose  
2 an undue hardship. 2 C.C.R. §7293.9(a).

3 27. Plaintiff made several requests for continuance of reasonable accommodations, beginning  
4 in January 2014, when, pursuant to Ms. Curtis' request, he presented her with a formal request to  
5 continue his reasonable accommodation. Curtis never responded to any of Plaintiff's requests and  
6 did not provide reasonable accommodations for Plaintiff.

7 28. As a direct and proximate result of Defendants' acts and failures to act, as alleged herein  
8 Plaintiff has suffered and continues to suffer economic loss and damages, physical ailments,  
9 emotional distress, and attorneys' fees and costs in an amount to be proven at trial.

10 **THIRD CAUSE OF ACTION**  
11 **Violation of FEHA Harassment Provision**  
**(California Government Code §12940(j)(1)(2)(3)(C)(k))**

12 29. Plaintiff incorporates all of the paragraphs 1 –28, inclusive as though fully set forth herein.

13 30. Plaintiff is informed and believes that his sex, his race, his gender and his age, were the  
14 motivating factors behind Defendants' harassment of him.

15 31. Defendant Ventura and Defendant Curtis were at all material times employers within the  
16 meaning of California Government Code Section 12926 (d) and, as such, barred from harassment,  
17 discriminating or retaliating in employment decisions on the basis of sex, gender, age or race as set forth  
18 in California Government Code Section 12940(a). Plaintiff contends Ventura is strictly liable for  
19 Defendant Curtis's unlawful conduct because Defendant Curtis was at all times herein a supervisor as  
20 defined in California Government Code Section 12926(r). Additionally, Defendant Ventura knew or  
21 should have known of Defendant Curtis's harassment of employees because much of Defendant Curtis's  
22 offensive behavior was made in the presence of Ventura employees and supervisors. Thus, Defendant  
23 Ventura knew or should have known Defendant Curtis would harass Plaintiff or other older male  
24 employees of color. Defendant Ventura continued to employ Defendant Curtis and thereby failed to  
25 protect its employees, including Plaintiff, from harassment in the workplace.

26 32. Defendants Ventura and Defendant Curtis engaged in a pattern and practice of harassing  
27 employees, including Plaintiff, on the basis of sex, gender, race and age in violation of California  
28 Government Code Sections 12940 and 12940 (j)(1)) by engaging in a course of conduct that included

1 | subjecting Plaintiff to harassment and hostility because of his sex, gender, race and age.

2 | 33. Defendant Ventura failed to exercise reasonable care to prevent and promptly correct the  
3 | harassing and discriminatory behavior perpetrated upon Plaintiff.

4 | 34. Further, Doe defendants and each of them, aided and abetted Defendant Ventura and Defendant  
5 | Curtis in engaging in illegal discrimination on the basis of sex, gender, race and age against other  
6 | employees, including subjecting Plaintiff to harassment and hostility because of his sex, gender, race  
7 | and age in violation of California Government Code Section 12940.

8 | 35. Plaintiff filed a timely charge of discrimination and retaliation with the California Department  
9 | of Fair Employment and Housing and has received a right to sue letter. Thus, Plaintiff has exhausted  
10 | his administrative remedies.

11 | 36. As a proximate result of Defendants' conduct, Plaintiff has suffered and continues to suffer  
12 | substantial damages.

13 | 37. As a proximate result of Defendants' conduct, Plaintiff has suffered and continues to suffer  
14 | embarrassment, anxiety, panic, humiliation, shame, shock, and severe emotional distress.

15 | **FOURTH CAUSE OF ACTION**  
16 | **Violation of FEHA Discrimination Provision**  
17 | **(California Government Code §§12926; 12940(a)(k); 12941)**

18 | 38. Plaintiff incorporates all of the paragraphs 1 – 37, inclusive as though fully set forth herein.

19 | 39. Plaintiff is informed and believes that his sex, his race, his gender, his age and his disability  
20 | [ESRD], were the motivating factors behind Defendants' discrimination of him. The Fair Employment  
21 | and Housing Act (FEHA), Government Code §12926, et seq., requires employers with five or more  
22 | employees to avoid illegal discrimination and harassment. California Government Code 12940(a)  
23 | makes it an unlawful employment practice for employers to discriminate "because of the race, religious  
24 | creed, color, national origin, ancestry, physical disability (. . .)". Defendants failed to take all reasonable  
25 | steps necessary to prevent discrimination and harassment from occurring.

26 | 40. Defendant Ventura and Defendant Curtis were at all material times employers within the  
27 | meaning of California Government Code Section 12926 (d) and, as such, barred from discriminating,  
28 | harassing or retaliating in employment decisions on the basis of sex, gender, age, race or physical  
disability as set forth in California Government Code Section 12940(a). Plaintiff contends Ventura is

strictly liable for Defendant Curtis's unlawful conduct because Defendant Curtis was at all times herein a supervisor as defined in California Government Code Section 12926(r). Additionally, Defendant Ventura knew or should have known of Defendant Curtis's discrimination of employees because much of Defendant Curtis's offensive behavior was made in the presence of Ventura employees and supervisors. Thus, Defendant Ventura knew or should have known Defendant Curtis would discriminate against Plaintiff or other older male employees of color and employees with disabilities. Defendant Ventura continued to employ Defendant Curtis and thereby failed to protect its employees, including Plaintiff, from discrimination in the workplace.

41. Defendants Ventura and Defendant Curtis engaged in a pattern and practice of harassment and discrimination against employees, including Plaintiff, on the basis of sex, gender, race, age and disabilities in violation of California Government Code Sections 12940 and 12940 (j)(1) by engaging in a course of conduct that included subjecting Plaintiff to discrimination, harassment and hostility because of his sex, gender, race, age and disability.

42. Defendant Ventura failed to exercise reasonable care to prevent and promptly correct the harassing and discriminatory behavior perpetrated upon Plaintiff.

43. Further, Doe defendants and each of them, aided and abetted Defendant Ventura and Defendant Curtis in engaging in illegal discrimination on the basis of sex, gender, race, age and disability against other employees, including subjecting Plaintiff to discrimination, harassment and hostility because of his sex, gender, race, age and disability in violation of California Government Code Section 12940.

44. Plaintiff filed a timely charge of discrimination and retaliation with the California Department of Fair Employment and Housing and has received a right to sue letter. Thus, Plaintiff has exhausted his administrative remedies.

45. As a proximate result of Defendants' conduct, Plaintiff has suffered and continues to suffer substantial damages.

46. As a proximate result of Defendants' conduct, Plaintiff has suffered and continues to suffer embarrassment, anxiety, panic, humiliation, shame, shock, and severe emotional distress.

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**FIFTH CAUSE OF ACTION**

**Failure to Maintain an Environment Free from Harassment and Discrimination  
(California Government Code §12940(k))**

47. Plaintiff incorporates all of the paragraphs 1 – 46, inclusive, though fully set forth herein.
48. Defendant Ventura failed to take all reasonable steps to prevent discrimination and harassment against Plaintiff from occurring, and to take immediate and appropriate corrective action to remedy the harassment, in violation of California Government Code Section 12940, Subsection (k).
49. As a proximate result of Defendants' conduct, Plaintiff has suffered and continues to suffer embarrassment, anxiety, panic, humiliation, shame, shock, and severe emotional distress.

**SIXTH CAUSE OF ACTION**

**Violation of FEHA Retaliation Provision  
(California Government Code §12940(h))**

50. Plaintiff incorporates all of the paragraphs 1 – 49, inclusive as though fully set forth herein.
52. California Government Code § 12940(h) provides that it is an unlawful employment practice to discriminate against any person because the person has opposed any practices forbidden by FEHA.
53. Plaintiff opposed Defendants' violations of §§12940(m) and (n) and 12945(3) by repeatedly requesting reasonable accommodation for his disability, ESRD, and by attempting to engage Defendants in the interactive process.
54. Defendants Ventura and Defendant Curtis have retaliated against Plaintiff in violation of California Government Code Section 12940, Subsection (h), by engaging in a course of retaliatory conduct, including, among other things, that conduct set forth above when he complained about harassment and hostility and other conduct described herein. This retaliation, carried out by Defendant Ventura and its employees acting within the course and scope of their employment, continued until Plaintiff was removed from the work place environment.
55. As a direct and proximate result of Defendants' acts and failures to act as alleged herein, Plaintiff has suffered and continues to suffer economic loss and damages, physical ailments, emotional distress, and attorneys' fees and costs in an amount to be proven at trial.

**SEVENTH CAUSE OF ACTION**

**(Intentional Infliction of Emotional Distress)**

56. Plaintiff incorporates all of the paragraphs 1 – 55, inclusive, as though fully set forth herein.

1 57. The conduct set forth hereinabove and directed at Plaintiff was an  
2 abuse of the authority and position of Defendants Ventura and Defendant Curtis. Said conduct was  
3 intended to cause severe emotional distress, or was done in conscious disregard of the probability of  
4 causing such distress. Said conduct exceeded the inherent risks of employment and was not the sort of  
5 conduct normally expected to occur in the workplace.

6 58. Defendants Ventura and Defendant Curtis abused their positions of authority toward Plaintiff  
7 and engaged in conduct intended to humiliate Plaintiff and to convey the message that he was  
8 powerless to defend his rights. Defendant Ventura abused its authority and directly injured Plaintiff  
9 by its ratification of Defendant Curtis's acts and by its Human Resources Department employees' and  
10 other Ventura executives' actions in failing to protect and violating the privacy of Plaintiff.  
11

12 59. The foregoing conduct did in fact cause Plaintiff to suffer extreme emotional distress. As a  
13 proximate result of Defendants' conduct, Plaintiff has suffered and continues to suffer embarrassment,  
14 anxiety, panic, humiliation, shame, shock, and severe emotional distress.  
15

16 **PRAYER**

17 WHEREFORE, Plaintiff ELLIS GREEN prays as follows:

- 18 1. For special, emotional distress, and economic damages,
- 19 2. For general and non-economic damages according to proof;
- 20 3. For prejudgment interest at the prevailing legal rate;
- 21 4. For costs of suit;
- 22 5. For attorney's fees, where applicable;
- 23 6. For such other relief which the court deems just and proper.

24 DATED: August 12, 2016

BAMIEH & ERICKSON, PLC

26 By 

27 RON BAMIEH, ESQ.  
28 DAVID R. RING, ESQ.  
Attorneys for PLAINTIFF