

Charles S. LiMandri, SBN 110841
cslimandri@limandri.com
Paul M. Jonna, SBN 265389
pjonna@limandri.com
Jeffrey M. Trissell, SBN 292480
jtrissell@limandri.com
Joshua A. Youngkin, SBN 332226
jyoungkin@limandri.com
LiMANDRI & JONNA LLP
as Special Counsel to
THOMAS MORE SOCIETY
P.O. Box 9120
Rancho Santa Fe, CA 92067
Telephone: (858) 759-9930
Facsimile: (858) 759-9938

Attorneys for Plaintiff
Captain Jeffrey Little

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CAPTAIN JEFFREY LITTLE, an
individual,

Plaintiff,

v.

LOS ANGELES COUNTY FIRE
DEPARTMENT, a public entity;
FERNANDO BOITEUX, both in his
personal capacity and in his official
capacity as Lifeguard Division Chief;
ADAM UEHARA, both in his personal
capacity and in his official capacity as
Assistant Lifeguard Chief; ARTHUR
LESTER, both in his personal capacity
and in his official capacity as Section
Chief;

Defendants.

Case No.: 2:24-cv-04353-JLS-PD

**VERIFIED SECOND AMENDED
COMPLAINT FOR:**

- 1. Religious Creed Discrimination /
Failure to Accommodate in Violation
of Title VII of the Civil Rights Act of
1964**
- 2. Religious Creed Discrimination /
Failure to Accommodate in Violation
of FEHA**
- 3. Retaliation in Violation of Title VII
of the Civil Rights Act of 1964**
- 4. Retaliation in Violation of FEHA**
- 5. Failure to Prevent Discrimination,**

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Harassment, and Retaliation in Violation of FEHA

6. Violation of Free Exercise Clause of First Amendment to U.S. Constitution: Not Neutral Due to Animus and Hostility Against Religion

7. Violation of Free Exercise Clause of First Article of California Constitution

JURY TRIAL DEMANDED

INTRODUCTION

1
2 1. Flags have meanings. Nearly one hundred years ago, the U.S. Supreme
3 Court struck down California’s attempt to criminalize the display of a “Red Flag”—a
4 symbol of support for Communism. *Stromberg v. California*, 283 U.S. 359, 361
5 (1931). A decade later, the U.S. Supreme Court struck down West Virginia’s effort to
6 require students to salute the American Flag as a condition of attending public school.
7 *W. Virginia State Bd. of Educ. v. Barnette*, 319 U.S. 624, 625 (1943). And flowing
8 naturally from this, a few decades later, various courts struck down a requirement to
9 salute the American Flag as a condition of government employment. *Russo v. Central*
10 *Sch. Dist. No. 1*, 469 F.2d 623, 633 (2d Cir. 1972); *State v. Lundquist*, 262 Md. 534,
11 554 (1971); *Hanover v. Northrup*, 325 F. Supp. 170, 173 (D. Conn. 1970).

12 2. Promoting the lofty goal of patriotism was widely popular at the time of
13 these cases—the threat of both Communism and Nazism directed the national mood.
14 Thus, when the same issue arose in California courts, the courts dismissed an
15 objection to saluting the American Flag, stating that “[i]t is indeed repugnant to every
16 idea and every consideration of the loyalty and love for our government and political
17 institutions so essential to the maintenance thereof.” *Hardwick v. Bd. of Sch. Trustees*
18 *of Fruitridge Sch. Dist.*, 54 Cal. App. 696, 711 (1921).

19 3. This case presents a debate over a flag—one whose similarity to issues
20 raised a hundred years ago is striking. In March 2023, the Los Angeles County Board
21 of Supervisors passed a resolution requiring that all county-operated facilities fly the
22 Progress Pride Flag during the month of June. Captain Jeffrey Little is a devout
23 Christian who has worked for the Los Angeles County Fire Department as a lifeguard
24 for over 22 years. He eventually rose through the ranks to become a Captain, and is
25 responsible for overseeing his own lifeguard stations and patrols.

26 4. When this resolution passed, Captain Little raised a simple objection: he
27 would like another government employee to be responsible for maintaining the
28 Progress Pride Flag. In his view, doing so would be “to confess by word or act [his]

1 faith therein.” *Barnette*, 319 U.S. at 642. Los Angeles said no. Under both statutory
2 employment law and constitutional law, this was wrong.

3 5. “Anti-discrimination laws undeniably serve valuable interests rooted in
4 equality, justice, and fairness. And in a pluralistic society, these laws foster worthy
5 goals such as inclusion and belonging.” *Fellowship of Christian Athletes v. San Jose*
6 *Unified Sch. Dist. Bd. of Educ.*, 82 F.4th 664, 671 (9th Cir. 2023) (en banc). But
7 forcing Captain Little to raise and fly the Progress Pride Flag “is petty tyranny
8 unworthy of the spirit of this Republic.” *Barnette v. W. Virginia State Bd. of Educ.*, 47
9 F. Supp. 251, 255 (S.D.W. Va. 1942), *aff’d*, *Barnette*, 319 U.S. at 642. The
10 government cannot impose a “blanket requirement” that all employees “mouth
11 support for views they find objectionable.” *Janus v. AFSCME, Council 31*, 585 U.S.
12 878, 892, 907 (2018). Indeed, when the government’s interest is ideological conformity
13 through “the suppression of free expression,” “it is not valid, let alone substantial.”
14 *Moody v. NetChoice, LLC*, 603 U.S. 707, 740 (2024).

15 6. Thus, Plaintiff Captain Jeffrey Little brings this Verified Complaint
16 against Defendant Los Angeles County Fire Department and three of its personnel,
17 seeking both injunctive relief and damages.

18 JURISDICTION AND VENUE

19 7. This court has original jurisdiction of this action pursuant to 28 U.S.C.
20 §§ 1331 and 1343 because Plaintiff’s claims arise under Title VII of the Civil Rights
21 Act of 1964, 42 U.S.C. § 2000(e) *et. seq.*, and 29 C.F.R. § 1605 *et. seq.*; and under 42
22 U.S.C. § 1983 in relation to Defendants’ deprivation of Plaintiff’s constitutional rights
23 to free exercise of religion under the First Amendment to the U.S. Constitution.

24 8. This court has supplemental jurisdiction over all state law claims because
25 they are so related to claims in the action within such original jurisdiction that they
26 form part of the same case or controversy under Article III of the United States
27 Constitution. 28 U.S.C. § 1367(a).

28 ///

1 procedures set forth in this Complaint. Defendant Uehara is sued in both his official
2 and personal capacities, alternatively, for his role both in interpreting and
3 implementing the challenged policies, retaliating against Captain Little, and refusing
4 to extend a religious accommodation to Captain Little.

5 14. Defendant ARTHUR LESTER, at all relevant times, was a Section Chief
6 for the Los Angeles County Fire Department, Lifeguard Division, acting under color
7 of state law. Defendant Lester is responsible for implementing Fire Department
8 policies, practices, customs, and acts, including the challenged policies, practices, and
9 procedures set forth in this Complaint. Defendant Lester is sued in both his official
10 and personal capacities, alternatively, for his role both in interpreting and
11 implementing the challenged policies, retaliating against Captain Little, and refusing
12 to extend a religious accommodation to Captain Little.

13 GENERAL FACTUAL ALLEGATIONS

14 A. The Parties: Government Agency Los Angeles County Fire 15 Department and Devout Christian Lifeguard Jeffrey Little

16 15. Defendant Los Angeles County Fire Department provides firefighting
17 and emergency medical services for the unincorporated parts of Los Angeles County,
18 as well as through contracting with various cities. The Department has three main
19 divisions: (1) Fire Fighting; (2) Emergency Medical Services (Paramedics); and
20 (3) Lifeguards. According to its most recent annual report, the Department is the
21 fourth busiest Fire Department in the country—responsible for protecting the lives
22 and property of over 4 million residents living in 1.25 million housing units across 60
23 cities and all unincorporated areas of Los Angeles County. *See Exhibit 1.*

24 16. The Lifeguard Division is similarly exceptional in scope. It is the largest
25 professional lifeguard service in the world, protecting 72 miles of coastline, 31 miles
26 of sandy beaches, operating 24 lifeguard stations, 159 lifeguard towers, 8 rescue
27 boats, and employing 174 full-time lifeguards and 614 recurrent lifeguards. In 2021,
28 the Lifeguard Division watched over 51 million beach attendees, and made over 9,000

1 ocean rescues. *See* Exhibit 1, p.10.

2 17. Plaintiff Captain Little has been a proud Los Angeles County lifeguard,
3 saving countless lives, for over 22 years. Captain Little's work performance has been
4 exemplary, as is his reputation at work. He eventually rose through the ranks to
5 become a Captain, and is responsible for overseeing his own lifeguard stations and
6 patrols, as explained in the official job description for Lifeguard Captain. **Exhibit 2.**

7 18. Captain Little is also a Christian. Specifically, he is an Evangelical
8 Christian with traditional and orthodox beliefs on marriage, family, and sexual
9 behavior and identity. *See, e.g.,* Lev. 18:1-30; Matt. 5:28; Rom. 1:26-29; 1 Cor. 5:1,
10 6:9; 1 Thess. 4:1-8; Heb. 13:4. These include the traditional Christian views that:

- 11 (1) any form of sexual immorality is sinful and offensive to God;
- 12 (2) that same-sex sexual activity is morally wrong for the individual to
13 engage in and equally wrong for any human society to celebrate;
- 14 (3) that gender and sex are inherently intertwined, and cannot be separated
15 (any more than sex and sexual orientation), and that attempts to do so or
16 to change one's sex are morally wrong;
- 17 (4) that the traditional and only morally acceptable definition of marriage is
18 the complete union of one man and one woman, and that it is not licit to
19 recognize same-sex marriages; and
- 20 (5) that Christians are required to express and show compassion and love
21 toward all individuals, including those who identify as LGBT, while at
22 the same time manifesting their adherence to biblical truths.

23 **B. The County decides to fly the Progress Pride Flag at all County**
24 **facilities during Pride Month 2023**

25 19. On March 7, 2023, the Los Angeles County Board of Supervisors passed
26 a motion titled *Raising the Progress Pride Flag at Los Angeles County Facilities*,
27 attached as **Exhibit 3**. Under that motion, the Board of Supervisors "[d]irect[ed] the
28 Chief Executive Officer to work with all County Departments to explore ways the

1 Progress Pride Flag can be flown at all county facilities.”

2 20. In implementation of that Board motion, on May 25, 2023, the Fire
3 Department issued a memorandum titled EA-231, to all employees, attached as
4 **Exhibit 4**. As stated in the memo, “On March 7, 2023, the Board of Supervisors
5 passed a motion requiring the Progress Pride flag (‘PPF’) to be flown at County
6 facilities during the month of June, which will now be recognized as LGBTQ+ Pride
7 month moving forward. With the exception of Flag Day, June 14th, when the Prisoner
8 of War/Missing in Action flag is flown, the PPF [sic] shall be flown...” It continued,
9 stating that Captains and Site Supervisors must “[e]nsure flags are received and flown
10 throughout the month of June.”

11 21. The Fire Department also provided a flow chart to employees to assist in
12 the interpretation and application of EA-231, as the Progress Pride Flag could only be
13 flown if there were adequate flagpoles and flag clasps available. In most relevant part,
14 EA-231 provided that where only two flags are flown, the U.S. Flag and the Progress
15 Pride Flag would be flown—replacing the California State Flag. A copy of that
16 flowchart is attached as **Exhibit 5**.

17 22. By its terms, EA-231 required Lifeguard Captains and other Site
18 Supervisors, including Captain Little, to ensure that the Progress Pride Flag is
19 appropriately flown (i.e., appropriately handled, raised, lowered, and stored), either
20 personally or through subordinates, every June at all of the Department’s lifeguard
21 facilities in the County with flagpoles and sufficient clasps for mounting the flag.

22 **C. The inherent expressiveness of flags**

23 23. Flags are inherently symbolic and universally expressive of ideological
24 content. As explained by the Supreme Court, “nearly every society has taken a piece
25 of cloth and ‘endow[ed] it, through the circumstances of its display, with a condensed
26 power’ to speak for the community.” *Shurtleff v. City of Boston*, 596 U.S. 243, 253
27 (2022) (quoting Whitney Smith, *Flags Through the Ages and Across the World* 1-2,
28 32, 34 (1975)). Indeed, “[t]he Court for decades has recognized the communicative

1 connotations of the use of flags.” *Spence v. Washington*, 418 U.S. 405, 410 (1974);
2 *see, e.g., Willson v. Bel-Nor*, 924 F.3d 995, 1001 (8th Cir. 2019); *Dimmitt v.*
3 *Clearwater*, 985 F.2d 1565, 1569 (11th Cir. 1993); *Brown v. Calif. Dep’t of Transp.*,
4 260 F. Supp. 2d 959, 966 (N.D. Cal. 2003).

5 24. The primary, if not exclusive, purpose of flags is to express one or more
6 ideas to the public at large—both through their presentation in a public setting, and
7 through the ceremonial rites relating to proper handling, raising, folding, and
8 presenting of a flag. Such expression is most often made ceremonially via raising the
9 flag on its pole in proper fashion so that the flag can then be seen by the public. This
10 is a precondition to public awareness of the ideas being expressed by those who have
11 personally raised it or required it to be raised.

12 25. Thus, the act of raising a flag, especially in a ceremonial context, is a
13 deliberate action intended to communicate specific messages or ideas to the public.
14 One such aspect of the ceremonial handling of a flag—but not the only one—is the
15 flag salute, which the Supreme Court has described as “a form of utterance,” where
16 symbolism serves as a “shortcut from mind to mind,” symbolizing systems, ideas,
17 institutions, or personalities. *Texas v. Johnson*, 491 U.S. 397, 405 (1989).

18 26. For example, six U.S. servicemen raised the American Flag on February
19 23, 1945, on Mount Suribachi on the island of Iwo Jima. However, the order to raise
20 the flag was given by Marine Corps Lt. Col. Chandler Johnson. This iconic moment,
21 captured in the famous photograph by Joe Rosenthal, became a symbol of hope and
22 perseverance for U.S. forces during World War II, and for the American public, too.
23 The symbolic expression of these ideas via raising of the flag was that of the six
24 servicemen, but also that of Lt. Col. Johnson, who gave the order to raise the flag.

25 **D. The symbolic meaning of the Progress Pride Flag**

26 27. According to the creator of the original Pride Flag, each colored stripe
27 has a specific meaning. The Pride Flag had its origin during the bicentennial
28 celebrations of 1976. “I thought of the original American flag with its thirteen stripes

1 and thirteen stars, the colonies breaking away from England to form the United States.
2 I thought of the vertical red, white, and blue tricolor from the French Revolution, and
3 how both flags owed their beginnings to a riot, a rebellion, or a revolution. I thought
4 a gay nation should have a flag too, to proclaim its own idea of power.”¹

5 28. Thus, when designing the Pride Flag, its creator assigned a meaning to
6 each stripe. “Pink is for sex. Red is for life. Orange is for healing. Yellow is for the
7 sun. Green is for nature. Turquoise is for magic. Blue is for serenity. Purple is for the
8 spirit. Every color has a meaning just like the American flag—symbolism all the
9 way.”² The whole point of the flag is that “[w]e knew that flags were political
10 statements.”³

11 29. Further, as explained by the creator of the Pride Flag, a rainbow was
12 chosen specifically because of its connection to traditional Christian imagery:

13 The idea for the Rainbow Flag had come to me in a dance to a tribal beat,
14 on the wings of angels. Infused with the colors of God’s covenant with
15 humanity, the Rainbow Flag was more than mere cloth; it was a visual
16 metaphor and an active proclamation of power, created and dedicated to
17 gay and lesbian liberation. It declared that sexuality is a beautiful
expression of nature, a human right.⁴...

18 A Rainbow Flag was a conscious choice, natural and necessary. The
19 rainbow came from earliest recorded history as a symbol of hope. In the
20 book of Genesis, it appeared as proof of a covenant between God and all
living creatures.⁵

21 30. Although the original Pride Flag had eight colors, the version that
22 became most popular among the LGBT rights movement in the 1970s and 1980s was
23 limited to six colors. It dropped the artificial hot pink and turquoise, and omitted the
24 indigo color that is present in a seven-color, naturally occurring rainbow. This was

25 _____
26 ¹ Gilbert Baker, *Rainbow Warrior: My Life in Color* 35-36 (2019).

27 ² *Id.* at p.40.

28 ³ *Id.* at p.44.

⁴ *Id.* at p.1.

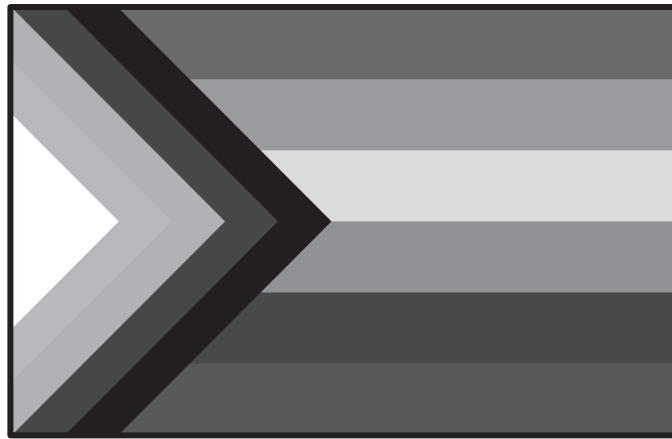
⁵ *Id.* at p.37.

1 done for practical reasons regarding availability of dye and not as a rejection of the
2 symbolism underlying any of the stripes.⁶

3 31. Twenty years after the original Pride Flag debuted, in 1999, the
4 Transgender Pride Flag was created. It also had six stripes, but with alternating colors
5 of baby blue, baby pink, and white. Like the original Pride Flag, both the colors and
6 the ordering of the stripes in the Transgender Pride Flag envisioned specific
7 symbolism.⁷ Lastly, in 2016, the City of Philadelphia added black and brown stripes
8 to the Pride Flag flown in front of its city hall to represent “Black and Latino
9 communities.”⁸

10 32. In 2018, a designer unveiled the Progress Pride Flag, combining elements
11 from these three Pride Flags. He separated the colors of the Transgender Pride Flag and
12 the Philadelphia Pride Flag and placed them in a chevron on the left side of the flag. As
13 he explained “[t]he arrow points to the right to show forward movement, while being
14 along the left edge shows that progress still needs to be made.”⁹

15 33. The specific flag at issue—the Progress Pride Flag—is pictured below:



23
24 ⁶ *Beyond the Rainbow*, University of Central Lancashire Students’ Union (June 9, 2022), <https://www.uclansu.co.uk/news/article/6013/Beyond-The-Rainbow/>.

25 ⁷ *The History of the Transgender Flag*, Point of Pride (Apr. 23, 2015),
26 <https://www.pointofpride.org/blog/the-history-of-the-transgender-flag>.

27 ⁸ Ben Deane, *The Philly Pride flag, explained*, The Philadelphia Inquirer (June 12, 2021), <https://www.inquirer.com/philly-tips/philadelphia-pride-flag-20210612.html>.

28 ⁹ Daniel Quasar, “*Progress*” A PRIDE Flag Reboot, Kickstarter (June 2018), <https://www.kickstarter.com/projects/danielquasar/progress-a-pride-flag-reboot>.

1 34. When the Los Angeles County Board of Supervisors passed its motion
2 relating to the Progress Pride Flag, it noted all of the above symbolism, stating: “The
3 original Pride flag contained eight stripes, each a separate color of the rainbow plus
4 hot pink. They colored [sic] represented sex, life, healing, sunlight, nature, magic and
5 art, serenity, and spirit.” *See* Exhibit 3.

6 35. The Board motion continued: “While there have been several variations
7 of the Pride flag. [sic] in 2019, a version was debuted that included the iconic six
8 rainbow stripes: red, orange, yellow, green, blue and violet, as well as the colors from
9 the Transgender Pride Flag, light blue, pink and white stripes, to embrace the
10 transgender community.” Exhibit 3.

11 36. Thus, as acknowledged in the Board of Supervisors’ motion, the Progress
12 Pride Flag symbolizes and advances a range of controversial viewpoints, both
13 religious and moral, regarding the family, the nature of marriage and human sexuality,
14 certain sexual practices, and the identity, nature, and purpose of the human person.
15 Particular aspects of the Progress Pride Flag were also originally intended by its
16 creators, and echoed by the Board in its motion, to signify “sex,” “magic,” and
17 “spirit,” among other ideological and spiritual notions.

18 **E. Due to the controversial symbolism of the Progress Pride Flag,**
19 **Captain Little requests and receives a religious accommodation**

20 37. As stated above, Captain Little is a devout Christian with bona fide
21 religious beliefs on marriage, sex, and family that conflict with both the intended
22 meaning and public meaning of the Progress Pride Flag—or any Pride Flag—on those
23 same subjects. The views commonly associated with the Progress Pride Flag
24 regarding marriage, sex, and family are in direct conflict with Captain Little’s bona
25 fide and sincerely held religious beliefs on the same subjects. His bona fide and
26 sincerely held religious beliefs require him to reject those views.

27 38. While Captain Little understands that the government can speak its own
28 messages, and thus may promote Pride Month, he believes that he cannot personally

1 do so by raising or maintaining the Progress Pride Flag. Doing so would be to
2 personally participate in, espouse, and promote messages contrary to his sincerely
3 held religious beliefs, similar to how many courts have recognized that Jehovah's
4 Witnesses may not salute or pledge allegiance to the flag of any nation or state. *See,*
5 *e.g., Lawson v. Washington*, 296 F.3d 799, 803 (9th Cir. 2002).

6 39. As stated above, in implementation of the Board motion, the Fire
7 Department issued a memorandum titled EA-231 to all employees on May 25, 2023,
8 requiring the flying of the Progress Pride Flag at locations that were physically able
9 to accommodate it. In practice, not all lifeguard properties have either flag poles or
10 adequate flag clasps, so flying the Pride Flag was not possible at all locations. *See*
11 Exhibits 4-5.

12 40. During this time—the first half of 2023—Captain Little's regular
13 assignment was Area 27 (Will Rogers Beach). For June 1-3, 2023, Captain Little
14 worked Area 27 and no Progress Pride Flag had been delivered by management to be
15 flown. Further, based on the instructions of EA-231, it appeared that the Progress
16 Pride Flag would not be flown at Area 27. However, Captain Little would often work
17 extra shifts at other work locations in the form of "Overtime" (volunteer for extra
18 shifts), "Recall" (forced to work extra shifts), or "Relief" (prescheduled shifts on
19 straight-time).

20 41. For the first two full weeks of June 2023 (June 4-17), Captain Little was
21 taking a pre-scheduled vacation and used this time to consider how he can protect his
22 religious beliefs. At the time, he did not know his options regarding how to respond
23 when EA-231 was first issued. He discussed the issue with a few colleagues and they
24 all expressed fear as they believed raising any objections would tarnish their
25 promotability and eligibility for special assignments. As a result, Captain Little was
26 conflicted. He had always been a low maintenance employee, but his faith was very
27 important to him. However, after conducting some research and praying about it, he
28 decided that he should ask for an exemption on his first day back at work.

1 42. As a result, on June 18, 2023, Captain Little's first day back, he requested
2 a religious accommodation. Captain Little's work schedule is not fixed, nor is it
3 permanent. It changes and is changeable within certain limits, as governed by
4 documents like the memorandum of understanding between the lifeguard's union
5 (LACOLA) and the Fire Department, among others.

6 43. In his written request, Captain Little made the broad and open-ended ask
7 "to be exempt [from] adhering to EA-231" because compliance with it could violate
8 his religious beliefs in myriad ways. *See Exhibit 6*. For example, the flying of the
9 Progress Pride Flag in his own workspace could be interpreted as a personal
10 endorsement of its message. *See Brown v. Polk Cnty., Iowa*, 61 F.3d 650, 659 (8th Cir.
11 1995) (government wrongly ordered employee to remove religious poster from his
12 office and Bible from his desk); *Swanson v. Flores*, No. 3:23-cv-2021, 2025 WL
13 97601, at *8 (S.D. Cal. Jan. 14, 2025) (similar).

14 44. Later that day, he was informed by Fire Department Section Chief
15 Danielle McMillon that they could schedule an Interactive Process Meeting (IPM)
16 with Ms. Renée Nuanes-Delgadillo of the Fire Department's Risk Management and
17 Disability Management and Compliance, Leadership and Professional Standards
18 Bureau, for the next day.

19 45. On June 19, 2023, Captain Little participated in the Interactive Process
20 Meeting involving both lifeguards from the Fire Department and personnel from
21 human resources. During that meeting, he explained that, under EA-231, the Progress
22 Pride Flag should not be flown at Area 27 and he requested that it not be flown. In the
23 alternative, he requested to be moved to a site not flying the Pride Flag. He explained
24 that his religious beliefs did not allow him to raise the Progress Pride Flag or ensure
25 that it is raised and properly flown.

26 46. At the conclusion of the meeting, the Fire Department agreed to Captain
27 Little's request for a religious accommodation. The Fire Department agreed to
28 Captain Little's request by promising: (1) to move him to a site not flying the Progress

1 Pride Flag; (2) that he need not personally raise the flag; and (3) that he need not
2 ensure/oversee raising or flying of the flag because, if he were assigned to
3 headquarters, he would not serve as supervisor.

4 47. This accommodation appeared to be a practical solution because there
5 were several sites that had not flown the Progress Pride Flag during the entire month
6 of June. Working with his immediate supervisors, Captain Little negotiated a move to
7 Area 17 and Area 33 for the remaining days in June.

8 48. At Area 17, Captain Little would be the supervisor overseeing the entire
9 Area, which included three sub-areas manned by Lifeguards: Dockweiler North,
10 Dockweiler South, and El Segundo. The Fire Department agreed that that Progress
11 Pride Flag would not be flown at Area 17 and they had not mandated it be flown at
12 any time in June leading up to the day of the IPM on June 18.

13 49. At Area 33 (Malibu Beach), Captain Little would not be responsible for
14 the Progress Pride Flag being flown at Zuma Lifeguard Headquarters, since that was
15 the responsibility of the Headquarters Captain working at Area 30. Thus, although the
16 Progress Pride Flag would be flown, Captain Little would not be the site supervisor
17 in charge of ensuring it is raised and would be far from it in the field. Even though
18 Captain Little had to extend his commute by a full hour to move to the alternate beach
19 of Area 17, protecting his religious beliefs while accomplishing his job duties was
20 important to him.

21 50. On behalf of the Fire Department, Assistant Lifeguard Chief Adam
22 Uehara was present for and participated in the Interactive Process Meeting. Chief
23 Uehara agreed on behalf of the Fire Department to the above terms. Section Chief
24 McMillon was also present for and participated in the Interactive Process Meeting.
25 Shortly after the terms of the accommodation were finalized, Assistant Lifeguard
26 Chief Uehara communicated with Lifeguard Division Chief Fernando Boiteux about
27 the meeting, the accommodation, and its terms.

28 51. As stated above, a result of the accommodation, Captain Little believed

1 he would be able to work in Area 17—which includes the subareas of the Dockweiler
2 North, Dockweiler South, and El Segundo lifeguard stations—without either violating
3 his religious beliefs or running afoul of EA-231. As of June 19, 2023, none of these
4 sites were then flying the Progress Pride Flag or were even capable of doing so, due
5 to insufficient flag clasps on the halyards of the flagpoles at the sites, and a lack of
6 Progress Pride Flags at any of the sites. Further, none of these Area 17 sites had ever
7 before flown the Progress Pride Flag.

8 52. During the Interactive Process Meeting, Captain Little agreed with the
9 Fire Department to be assigned to Area 33 for the month of June for his base schedule.
10 They also agreed that for his upcoming recall day of June 21, 2023, he would be
11 assigned to Area 17. They agreed that when he served at any headquarters subarea,
12 where the Progress Pride Flag was being flown, that he would not serve as
13 Headquarters Captain. By another lifeguard filling that role, that individual would
14 assume responsibility for ensuring that the Progress Pride Flag is flown.

15 53. Going forward, per the accommodation, Captain Little was to negotiate
16 arrangements with others assigned to various sites to avoid a conflict between his
17 religious beliefs and compliance with EA-231. Those arrangements could include
18 shift swapping, use of recall exemption, and use of leave benefit time as a last resort.

19 **F. The practical reasonableness of granting Captain Little a religious**
20 **accommodation**

21 54. The Fire Department’s decision to grant Captain Little a religious
22 accommodation made perfect sense as it required no substantial increase of
23 expenditures. It would be simple to make basic rearrangements of shifts and schedules
24 and the Fire Department has many employees it already pays who could substitute for
25 any Progress Pride Flag-related duties in June. Indeed, in an analogous situation, the
26 San Diego City Fire Department adopted “an all-volunteer parade” policy after losing
27 in litigation when it ordered personnel to participate in a Gay Pride Parade. *See*
28 *Ghiotto v. City of San Diego*, No. D055029, 2010 WL 4018644, at *27 (Cal. Ct. App.

1 Oct. 14, 2010).

2 55. There was also no real likelihood that requiring another supervisor to
3 monitor and ensure proper flying of the Progress Pride Flag would be an impact that
4 goes on to affect the conduct of the Fire Department, Lifeguard Division, in its core
5 function of providing lifeguard services to beachgoers. Because the Fire Department
6 is a government employer, Captain Little’s rights are doubly protected: “a government
7 employer ... must ...provide religious accommodations under Title VII, and ‘must
8 abide by the First Amendment’ in doing so.” *Does 1-11 v. Univ. of Colorado*, 100 F.4th
9 1251, 1280 (10th Cir. 2024).

10 56. Here, the accommodation complied with the First Amendment. Captain
11 Little’s job duties involve serving as a lifeguard, not affirming by word or deed
12 ideological views that he does not espouse. Thus, his job requirement—as laid out in
13 the lifeguard job description—to “ensur[e] the enforcement of all rules and
14 ordinances,” cannot be read in the abstract, but must be tethered to lifeguard duties.
15 *See* Exhibit 2.

16 57. As explained by the Supreme Court, the government may not “posit an
17 excessively broad job description” and thereby “treat[] everything teachers and coaches
18 say in the workplace as government speech subject to government control.” *Kennedy*
19 *v. Bremerton Sch. Dist.*, 597 U.S. 507, 531 (2022). Nor may the government impose a
20 “blanket requirement” that all employees “mouth support for views they find
21 objectionable.” *Janus v. AFSCME, Council 31*, 585 U.S. 878, 892, 907 (2018).

22 58. As concisely explained by the Virginia Supreme Court, “[m]ath teachers
23 must teach math, science teachers must teach science, history teachers must teach
24 history, and so on. But none of them can be compelled into the service of controversial
25 ‘religious, political, [or] ideological causes.’” *Vlaming v. W. Point Sch. Bd.*, 895
26 S.E.2d 705, 739 (Va. 2023) (quoting *Wooley v. Maynard*, 430 U.S. 705, 714 (1977)).

27 59. The role of Lifeguard Captain is a public safety position. It cannot be
28 transformed from a public safety role into the role of spokesperson for elected County

officials, over the objection of the employee. Conveyance of the County Supervisors’ message via flag raising, whether directly or indirectly, about “sex, life, healing, sunlight, nature, magic and art, serenity, and spirit” would not—from the standpoint of the reasonable public safety employee—be an expected part of compliance with the job requirement to “ensure the enforcement of all [public safety] rules and ordinances.” *See Geraghty v. Jackson Loc. Sch. Dist. Bd. of Educ.*, No. 5:22-cv-2237, 2024 WL 3758499, at *11 (N.D. Ohio Aug. 12, 2024).

60. Directly or indirectly raising the Progress Pride Flag is government speech *only when* done pursuant to official duties of the governmental employee. Thus, an order from a superior to a subordinate to fly the Progress Pride Flag would reasonably appear to the subordinate as an affirmation by the superior of the message, values, or ideas commonly associated with the Progress Pride Flag.

61. Whenever a Lifeguard Captain raises a flag, directly or indirectly, to communicate a message that has no relationship at all to public safety (and that is not a government flag), that speech does not become government speech merely because it occurs on government property. Whether by raising the Progress Pride Flag oneself or by ordering another to do so, flying the Progress Pride Flag is pure expression. Public messaging, ideological or otherwise, is not and has never been among the official duties of the Lifeguard Captain in the Lifeguard Division of the Fire Department of the County of Los Angeles.

G. Captain Little’s religious accommodation is suddenly and maliciously revoked

62. On June 21, 2023, Captain Little was assigned by recall to work at Redondo Beach, where the Progress Pride Flag was being flown. Because of the accommodation, he arranged with Section Chief McMillon to change the assignment from Redondo Beach to Area 17. Specifically, Captain Little found a willing colleague to trade the shift so that Captain Little could work at Area 17 and Section Chief McMillon approved and coordinated the shift trade. Section Chief McMillon

1 understood then that the reassignment to Area 17 was made in order to comply with
2 the terms of the religious accommodation as it then existed.

3 63. However, prior to June 21, 2023, Lifeguard Division Chief Boiteux had
4 communicated to others in Lifeguard Division management, including Section Chief
5 Lester, that he believed no religious accommodation should be extended to Captain
6 Little, contrary to the accommodation negotiated between Captain Little, other Fire
7 Department management, and human resources personnel. This was because of
8 Lifeguard Chief Boiteux's animus against Captain Little's religious beliefs. Chief
9 Boiteux communicated to Section Chief Lester that the flagpoles at the Area 17 sites
10 should be modified so that they could fly Progress Pride Flags, despite the assignment
11 of Captain Little to that station.

12 64. Due to this conversation between Lifeguard Chief Boiteux and Section
13 Chief Lester, on the morning of June 21, 2023, Section Chief Lester brought
14 additional flag clasps and Progress Pride Flags to each of the three sub-area sites of
15 Area 17. As stated above, before he did so there had not been sufficient clasps at any
16 site of Area 17 to fly the Progress Pride Flag, and as such the sites also did not have
17 any of the flags stored there.

18 65. In the early hours of June 21, 2023, Section Chief Lester added clasps to
19 the halyards of the flagpoles of the Area 17 sites by ordering lifeguards who were
20 present to do so. Section Chief Lester did this so that the sites of Area 17 would from
21 then on become subject to the terms of EA-231, imposing flag-related duties on the
22 Captain or Site Supervisor assigned to any of the Area 17 sites. Section Chief Lester
23 knew this would be Captain Little as of approximately 10:30 a.m. on June 21, 2023.

24 66. Section Chief Lester knew Captain Little had an accommodation
25 negotiated with and through the human resources department. Nonetheless, Section
26 Chief Lester sought to defeat that religious accommodation due to his animus against
27 Captain Little's religious beliefs.

28 67. Prior to June 21, 2023, Section Chief Lester knew of Captain Little's

1 traditional Christian religious beliefs on marriage, sex, and family as a result of prior
2 communication with Captain Little on those subjects. He also knew that by adding
3 flag clasps and raising Progress Pride Flags at the Area 17 sites, he would be creating
4 a conflict with Captain Little's religious beliefs and religious accommodation. Section
5 Chief Lester acted as he did out of animus toward the religious beliefs of Captain
6 Little, and with the specific intent to cause a religious conflict for him.

7 68. Nevertheless, Captain Little's religious accommodation was transfer to
8 a site not flying the Progress Pride Flag. At 10:30 a.m. on June 21, 2023, Captain
9 Little arrived at work. Upon arriving at Area 17 on June 21, 2023, Captain Little
10 enforced the terms of his religious accommodation by lowering the Progress Pride
11 Flags, so that he would be working in a site not flying the Progress Pride Flag, as
12 mutually agreed.

13 69. Prior to lowering the Progress Pride Flags at Area 17, Captain Little
14 asked the lifeguards assigned to each sub-area that he was supervising whether they
15 objected to his doing so; no staff objected. Thus, with the permission of the Ocean
16 Lifeguard Specialists then stationed at Dockweiler, he took down the flags in specific
17 reliance on his religious accommodation. That was between 11:30 a.m. and 2:30 p.m.

18 70. Later that day, at about 2:45 p.m., the Fire Department informed Captain
19 Little by Microsoft Teams that his religious accommodation had been revoked. Later
20 that day, at around 5:45 p.m., Section Chief Lester also verbally directly ordered
21 Captain Little to re-raise the Progress Pride Flags that he had lowered.

22 71. In his words, demeanor, and tone, Section Chief Lester's conduct toward
23 Captain Little in the circumstance was abusive, inappropriate, harassing, and
24 discriminatory. Further, Section Chief Lester's conduct was motivated by animus
25 toward Captain Little's religious beliefs. He acted this way toward Captain Little
26 because of Captain Little's religious beliefs and in retaliation for Captain Little
27 seeking a religious accommodation.

28 72. Captain Little refused Section Chief Lester's verbal order to personally

1 re-raise the Progress Pride Flags after lowering them. He refused to do so, in part,
2 because that would have made the Area 17 sites noncompliant with the religious
3 accommodation, and he was confused and flustered over its sudden revocation.

4 73. At the end of the day on June 21, 2023, Assistant Lifeguard Chief Uehara
5 confirmed the denial of any religious accommodation for Captain Little. Assistant
6 Lifeguard Chief Uehara also denied Captain Little his right to use already earned
7 employment benefits, including paid leave, as a means to avoid the conflict between
8 his religious beliefs and compliance with EA-231.

9 74. Thus, on June 21, 2023, without justification or notice, the Fire
10 Department abruptly ended the interactive process and refused Captain Little any
11 accommodation, less than two days after granting an accommodation. This was a
12 violation of Title VII and FEHA. The Department could easily grant Captain Little a
13 religious accommodation to EA-231 without undue burden to itself because other
14 Captains or Site Supervisors who do not have any religious objection could have
15 complied with EA-231 on his behalf.

16 75. On June 22, 2023, Lifeguard Division Chief Fernando Boiteux issued a
17 written Direct Order to Captain Little to fly the Progress Pride Flag or ensure that the
18 Progress Pride Flag is flown as instructed in EA-231, which is attached as **Exhibit 7**.
19 The written Direct Order was hand-delivered by Chief Boiteux to Captain Little. It
20 states: “You are hereby ordered to: (1) Fly the Progress Pride Flag (PPF) as instructed
21 in Executive Action-231 (EA-231) during the month of June; OR (2) Ensure that the
22 PPF is flown as instructed in EA-231 during the month of June,” and “Failure to
23 comply with this order will be considered insubordination and subject to disciplinary
24 action, which could include suspension and/or discharge from County service.”

25 76. When doing so, Chief Boiteux told Captain Little that “You need to stop
26 what you are doing,” “You are an LA County employee; that’s the only thing that
27 matters,” and “Your religious beliefs do not matter; you are an LA County employee.”
28 He repeated multiple times, “You are an LA County employee” and “Your religious

1 beliefs do not matter” in an instance of religious discrimination combined with
2 physical intimidation.

3 77. Lifeguard Chief Boiteux is 6’4” tall and weighs 220 pounds. Captain
4 Little is aware that Chief Boiteux is also trained in martial arts. He delivered his
5 message to Captain Little in a violent and angry manner while standing over Captain
6 Little—who is only 5’9” tall and weighs 150 pounds. Captain Little believes that the
7 specific intent of Chief Boiteux’s demeanor was to be physically intimidating.

8 **H. Captain Little files a religious discrimination complaint with the**
9 **Fire Department, and is retaliated against**

10 78. On June 22, 2023, at 11:58 a.m., Captain Little filed a County Policy of
11 Equity “CPOE” administrative complaint with the Fire Department for religious
12 discrimination and harassment, which is attached as **Exhibit 8**. As stated in that
13 administrative complaint, Captain Little’s “shift on 6/21 was changed to
14 accommodate my religious beliefs so I would not have to work an area that flew the
15 pride flag.” But, as stated above, Section Chief Lester went to that area to order the
16 Progress Pride Flag flown. So, Captain Little said, “I felt like I was being targeted or
17 entrapped by Chief Lester and my religious beliefs were not being taken seriously,”
18 and “I believe that the actions by Chief Lester are retaliatory in nature.” The Fire
19 Department later notified Captain Little that it had received his County Policy of
20 Equity (CPOE) complaint, and was investigating it. The notice is attached as
21 **Exhibit 9**.

22 79. On that same day, June 22, 2023, Chief Boiteux informed Captain Little
23 that he was the subject of an internal administrative investigation for lowering the
24 Progress Pride Flag during his shift the day prior. The notice of that investigation is
25 attached as **Exhibit 10**. On June 22, 2023, Chief Boiteux also delivered Captain Little
26 a “Notice of Instruction,” attached as **Exhibit 11**, which stated that: “All Department
27 employees, *irrespective of personal beliefs*, are expected to comply with EA-231,
28 which includes raising the flag as instructed.” (Emphasis added.)

1 80. The Direct Order and Notice of Instruction specified that Captain Little
2 is responsible for either flying the Progress Pride Flag as instructed in EA-231 or
3 ensuring that it is flown. As such, whenever assigned to a site at which the Progress
4 Pride Flag must be flown, and at which Captain Little could not ensure through
5 another employee that the Progress Pride Flag is flown, by the terms of these
6 documents Captain Little would be personally responsible for flying the Progress
7 Pride Flag as instructed in EA-231.

8 81. Between June 22, 2023, and May 23, 2024, the Fire Department refused
9 to engage in the interactive process with Captain Little to negotiate a reasonable
10 religious accommodation. This violated both Title VII and FEHA. The Department is
11 legally obliged to engage in the interactive process with Captain Little concerning his
12 requested religious accommodation.

13 82. Further, upon information and belief, the Fire Department breached
14 Captain Little's right to employment-related privacy. The Department, through the
15 persons discussed above, disclosed to unauthorized recipients that Captain Little
16 requested a religious accommodation to not raise the Progress Pride Flag. This breach
17 of privacy led to the following incidents:

- 18 A. On June 23, 2023, Captain Little was suspended from his role on the
19 background investigation unit, which conducts investigations of
20 emergency incidents, resulting in a significant loss of overtime, income,
21 and prestige. When this happened, Captain Little asked the individual
22 informing him why it was happening. The tenor and cadence of the
23 individual's response indicated to Captain Little that he was
24 uncomfortable with Captain Little's questions and he responded with
25 words to the effect of: "I'm just following orders, don't shoot the
26 messenger." On information and belief, that individual's demeanor was
27 indicating that he knew or suspected that the suspension was retaliatory.
- 28 B. On June 28, 2023, Captain Little received via the U.S. Mail a death threat

1 against him and his children, attached as **Exhibit 12**. The death threat was
2 printed by hand in letters that alternate in color and said: “Jeff F*** you
3 and your Jesus. Your hate won’t be tolerated. We know where you live and
4 work. You better pay respect to our pride flag or we will f*** you up. We
5 know about your cute little girls and aren’t afraid to rape the s*** out of
6 them if you don’t honor us. You are a fascist pig and deserve to die.”

7 C. On June 30, 2023, the Fire Department notified Captain Little that it
8 received second and third County Policy of Equity (CPOE) complaints
9 against him, which it was investigating. The notices are attached as
10 **Exhibit 13** and **Exhibit 14**. These alleged complaints, ICMS #2023-
11 120504 and ICMS #2023-120591, are pretextual and retaliatory.

12 83. On or about July 20, 2023, at 2:00 p.m., Captain Little spoke with
13 investigator Justa Lopez of the County’s CPOE Investigative Unit regarding his own
14 complaint. During the investigative call, Captain Little added to his CPOE complaint
15 the June 22, 2023, Direct Order, the June 22, 2023, Notice of Instruction, the June 22,
16 2023, Notice of Investigation, the June 22, 2023, actions of Chief Boiteux, and the
17 receipt of the June 28, 2023, death threat. He asked Ms. Lopez whether he had to
18 supplement his June 22, 2023, CPOE complaint in writing. She told him that was not
19 necessary, and she deemed the additional facts part of his CPOE complaint.

20 84. However, on July 28, 2023, the Fire Department informed Captain Little
21 that the conduct he had complained about did not violate the CPOE. The notice is
22 attached as **Exhibit 15**. The Department did not take any actions to protect Captain
23 Little from previous and future religious discrimination, harassment, and retaliation.

24 85. On September 14, 2023, with respect to the Department’s investigation
25 into Captain Little’s lowering of the Progress Pride Flag, the Department notified him
26 that an administrative interview of him would occur on September 21, 2023. That
27 notice is attached as **Exhibit 16**. Then, on February 7, 2024, the Fire Department
28 notified Captain Little that he had violated the County Policy of Equity, and that

1 administrative action may follow—a retaliatory outcome of the pretextual
2 investigation launched in June 2023. The notice is attached as **Exhibit 17**.

3 86. On July 16, 2024, the Fire Department presented Captain Little with an
4 intent to suspend letter, authored by Deputy Fire Chief Robert Harris of Central
5 Regional Operations Bureau, and which was issued earlier (but not delivered) on July
6 12, 2024. The intended and proposed suspension is for 15 eight-hour days without
7 pay, or three work weeks. The suspension letter is attached as **Exhibit 18** (with
8 exhibits omitted).

9 87. On October 24, 2024, the Fire Department presented Captain Little with
10 a notice of suspension letter. That letter informed Captain Little that he would serve
11 his suspension in November 2024, which he did. The suspension letter is attached as
12 **Exhibit 19**. It states: “You are hereby advised that any further violation of the
13 County’s policies and procedures, or the Department’s Standards of Behavior, may be
14 grounds for more serious disciplinary action, including discharge.”

15 88. The suspension was ordered because the Department sought to retaliate
16 against Captain Little for failing to comply with EA-231 and instead conforming the
17 flags at Area 17 to the agreed to accommodation on June 21, 2023, and for holding
18 the religious beliefs that prompted Captain Little to seek the accommodation in the
19 first place.

20 89. Both letters indicate that Captain Little had to seek approval from the
21 Fire Department before lowering the Progress Pride Flags in Area 17 to conform the
22 flagpoles to the religious accommodation. But nowhere does either letter cite to any
23 authority for this proposition.

24 90. The letters also indicate that conforming the flagpoles in Area 17 to the
25 religious accommodation failed to show support for and inclusivity of the LGBT
26 community. The letters conclude that discipline lies primarily for the act of lowering
27 the Progress Pride Flags without prior authorization to do so, but nowhere do letters
28 address or even mention the then-existing religious accommodation, even though the

1 accommodation is referenced 57 times in the Investigation Reports.

2 91. The omission of the critical subject of the religious accommodation from
3 the analysis of the facts and applicable standards is not accidental. It is deliberate. The
4 grounds stated in the analysis for the intended and proposed discipline are utterly
5 pretextual.

6 **I. Developments in advance of and during Pride Month 2024**

7 92. On March 15, 2024, Ms. Ashley Hudson from the County Equity
8 Oversight Panel notified Captain Little by email that the Panel was “in receipt of a
9 County Policy of Equity complaint that was either filed by you or filed on your
10 behalf,” which email is attached as **Exhibit 20**. Ms. Hudson further requested that
11 Captain Little contact her “within five (5) business days of the date of this letter so
12 we can schedule a clarifying interview.”

13 93. On March 21, 2024, Captain Little responded to Ms. Hudson via letter
14 from counsel, which is attached as **Exhibit 21**, with redundant exhibits omitted. In
15 the letter, Captain Little clarified that he had filed charges with the Equal Employment
16 Opportunity Commission (“EEOC”) and the California Civil Rights Department
17 (“CRD”), and asked her to forward the letter to the County’s legal counsel. Captain
18 Little further requested that Ms. Hudson confirm that the letter had been forwarded to
19 legal counsel for further engagement and resolution of his claims.

20 94. Nobody from the County responded to Captain Little’s letter dated
21 March 21, 2024. So, on April 19, 2024, Captain Little replied again to Ms. Hudson,
22 via letter from counsel, attached as **Exhibit 22** (again with redundant exhibits
23 omitted). In this comprehensive, 11-page letter, Captain Little explained in detail and
24 with documentary support the basis for his claims against the Fire Department and his
25 request for a religious accommodation and other remedies.

26 95. Captain Little further advised Ms. Hudson that the EEOC and CRD had
27 each provided him with a Right to Sue letter, that she had never acknowledged his
28 letter dated March 21, 2024, and that he would timely file a complaint by June 24,

1 2024, at the absolute latest should the County and the Fire Department fail to engage
2 in a good faith negotiation of his claims. Captain Little also requested
3 acknowledgment of receipt of the letter, and further requested that the letter be
4 forwarded to legal counsel for the County and the Fire Department. In the interest of
5 avoiding litigation, Captain Little requested a substantive response no later than May
6 3, 2024.

7 96. In his April 19, 2024 letter, Captain Little also stated that he was willing
8 to mediate the dispute before June 1 (the start of Pride Month). That is the date by
9 which Captain Little would again be put at risk of violation of his religious beliefs
10 because he would again become subject to compliance with EA-231 via the Fire
11 Department's Direct Order, which had not been withdrawn or rescinded.

12 97. By May 8, 2024, neither the County nor the Fire Department had
13 responded to Captain Little's letters from counsel. So, instead, Captain Little directly
14 emailed Ms. Renée Nuanes-Delgadillo—the human resources officer that he had
15 spoken and emailed with in June through August 2023. *See Exhibit 23*. His
16 discussions with her had stalled in August 2023 because she could not confirm
17 whether the Progress Pride Flag would be flown every June, and stated that Captain
18 Little should renew his request the next year.

19 98. So, in accordance with Ms. Nuanes-Delgadillo's instruction, in his May
20 8, 2024, email, Captain Little renewed his request for a religious accommodation from
21 having to raise the Progress Pride Flag during June 2024. To ensure a timely
22 discussion, Captain Little requested that the religious accommodation process resume
23 by no later than the end of the following week, or May 17, 2024.

24 99. The Fire Department ignored counsel's letters dated March 21 and April
25 19, 2024, requesting engagement on the request for a standing exemption from
26 compliance with EA-231. And, even though Captain Little did exactly as the Fire
27 Department requested, the Department ignored his May 8 email until May 23, when
28 the Fire Department suggested holding another meeting. This uncertain response

1 came too late; Captain Little had no choice but to seek judicial relief.

2 100. On Friday, May 24, 2024, Captain Little initiated this action. As stated
3 above, Captain Little had been attempting to seek a religious accommodation for a
4 full year—since June 2023. But he received no response from anyone at the County
5 until May 23, when Risk Management Officer Renée Nuanes-Delgadillo sought an
6 Interactive Process Meeting with Captain Little on either May 28 or May 29, 2024.

7 101. Captain Little responded via email later on May 23, accepting the May
8 29 meeting date. On Wednesday, May 29, 2024, Captain Little attended the
9 Interactive Process Meeting. That meeting was conducted by Ms. Nuanes-Delgadillo
10 as well as Captain Little’s direct report, Chief Kyle Power, and a union representative,
11 Gregory Crum.

12 102. The meeting was entirely informational. Captain Little explained the
13 nature of his religious beliefs, his need for a religious accommodation, and proposed
14 practical means of achieving that accommodation. Ms. Nuanes-Delgadillo took this
15 information down to present it to more senior officials with the Fire Department. No
16 decision was made at the meeting, but a follow-up meeting was scheduled for Friday,
17 May 31, 2024.

18 103. On Thursday, May 30, 2024, the Fire Department issued a new directive
19 relating to Pride Month, titled “EA-232.” The prior directive, issued for Pride Month
20 2023, was titled “EA-231.” A true and correct copy of EA-232 is attached as
21 **Exhibit 24**. In relevant part, EA-232 states: “Fire Captains/Unit Supervisors shall ...
22 [e]nsure PPFs [Progress Pride Flags] are flown throughout the month of June at
23 Department facilities within their respective jurisdiction per Attachment A.” EA-232
24 also includes a FAQ to explain that not all Fire Department facilities will be flying
25 the Progress Pride Flag, depending on whether it is practical to do so.

26 104. EA-232 is a significant change of position by the Fire Department from
27 June 2023’s EA-231, which required that, at locations only able to fly two flags, the
28 Progress Pride Flag must replace the California State Flag. The May 30, 2024 policy,

1 EA-232, restores the California State Flag to its place of honor, behind only the Flag
2 of the United States of America. *See* Cal. Gov. Code § 431.

3 105. However, EA-232 also states that “Department members are also
4 encouraged to reflect on and celebrate LGBTQ+ history and community,” that “[l]ast
5 year we faced challenges with compliance at several Department facilities,” and that
6 “compliance is not optional,” as though no religious accommodation could be
7 provided at all, no matter the circumstances or costs. Thus, EA-232 continues the
8 County’s goal of ideological conformity.

9 106. The Fire Department does not say in EA-231 nor in EA-232 why
10 compliance is “not optional” for those with a sincere religious objection, nor does it
11 say why a religious accommodation could not apply, nor does it specify how or why
12 non-compliance due to religious accommodation would burden the Fire Department,
13 nor to what extent there would be such a burden.

14 107. On Friday, May 31, 2024, Captain Little attended the second Interactive
15 Process Meeting, for which a summary memo by the Fire Department is attached as
16 **Exhibit 25**. At that meeting, Ms. Nuanes-Delgadillo explained that the Fire
17 Department had determined that it would offer Captain Little a partial religious
18 accommodation. Specifically, because of his work shift—which starts after the
19 Progress Pride Flag needs to be raised (at approximately 7:00 a.m.), and ends before
20 it needs to be lowered—Ms. Nuanes-Delgadillo explained that the Fire Department
21 could agree that Captain Little would not be personally responsible for raising or
22 lowering the Progress Pride Flag.

23 108. However, Ms. Nuanes-Delgadillo explained that Captain Little would
24 still be personally responsible for enforcing compliance with EA-232 and ensuring
25 that his subordinates comply. Thus, for example, if Captain Little arrived on site and
26 found that the Progress Pride Flag had not been raised, or had been positioned
27 incorrectly, he would still be responsible for ensuring its correction. Ms. Nuanes-
28 Delgadillo “explained that an essential job duty of a lifeguard captain is to supervise,

1 which includes ensuring that staff comply with policies, procedures, and directives,
2 which include EAs, and this essential job function cannot be removed as it would be
3 an undue hardship.” *See* Exhibit 25, p.2.

4 109. Captain Little responded by explaining that this was not satisfactory as
5 it would still violate his sincere religious beliefs to enforce compliance and ensure his
6 subordinates were properly flying the Progress Pride Flag. Captain Little also
7 indicated that it was foreseeable that the Progress Pride Flag might not be raised
8 because he believes and is informed that other Fire Department personnel have similar
9 religious objections to his. His shift could also change such that he would need to be
10 present when the flag is raised or lowered.

11 110. But Ms. Nuanes-Delgadillo simply responded that Captain Little would
12 need to follow regular protocol if an employee is being insubordinate. She insisted
13 “that to remove this essential job function would result in another lifeguard captain
14 having to supervise the staff at Area 33 by having someone come in on their day off
15 or having a lifeguard captain from another area to come to that location.” *See* Exhibit
16 25, p.2. But this was not true. Because the beaches are so large and lifeguards are
17 spaced far from each other, they regularly communicate with each other using their
18 cell phones, radios, or other devices. Another captain would just need to call or text
19 the lifeguards at Captain Little’s beaches periodically to check in with them.

20 111. Ms. Nuanes-Delgadillo also explained that the Fire Department would
21 not offer Captain Little a standing religious accommodation. Instead, he would have
22 to renew his request in advance of every June—and go through new rounds of
23 Interactive Process Meetings.

24 112. Captain Little also raised the issue of the Direct Order which mandates
25 Captain Little’s specific, personal compliance with EA-231 under threat of discipline
26 for noncompliance. Ms. Nuanes-Delgadillo denied Captain Little’s request for
27 suspension of that Direct Order and denied Captain Little’s request to remove the
28 Direct Order from his personnel file. This is significant in part because the

1 Department has yet to clarify: (1) whether the Direct Order applies to EA-232 (or only
2 EA-231); and (2) the relationship between EA-231 and EA-232 (whether the later
3 supersedes or simply amends the prior). It is also significant because the Direct Order
4 says that Captain Little’s failure to ensure raising of the Progress Pride Flag could
5 lead to his discharge.

6 113. Over the weekend of June 1-2, 2024, Captain Little secured an effective
7 accommodation by working with his direct report, Chief Kyle Power. For the month
8 of June, Captain Little was assigned to two locations: three days per week at Area 33
9 (comprising Nicholas Beach, Point Dume Beach, and Malibu Beach), and one day per
10 week at Zuma Headquarters. After walking the beach, Captain Little and Chief Power
11 thy were able to confirm that—under the terms of the new EA-232—none of the
12 lifeguard stations in Area 33 would be flying the Progress Pride Flag, because at each
13 location, “The flagpole is ... not able to accommodate *three* flags.” See Exhibit 24,
14 attch. B, p.1 (emphasis added).

15 114. With respect to Captain Little’s one day per week posting at Zuma
16 Headquarters, where the Progress Pride Flag would be flown during the month of
17 June, Captain Little was able to find another Captain who was willing to trade shifts
18 for a location where the Progress Pride Flag would not be flying—and Chief Power
19 approved the requested shift change.

20 115. However, because the Fire Department refused to grant Captain Little a
21 workable and complete religious accommodation for both past and future threats,
22 including refusing him a standing accommodation for future Pride Months, Captain
23 Little will need to prosecute this action and seek both a preliminary and permanent
24 injunction.

25 **J. Captain Little’s need for a declaration of his constitutional rights**

26 116. Although Captain Little was very pleased that he was able to secure a
27 practical accommodation of his religious beliefs in June 2024, he still needs
28 prospective relief from this court. The absence of a clear process for requesting and

1 obtaining a religious accommodation—as shown through the tangle of emails and
2 meetings discussed above—leaves the issue of whether Captain Little’s constitutional
3 rights in the future will be violated completely uncertain.

4 117. This risk is made worse by the fact that there is no list of sites to which
5 the Progress Pride Flag policy currently applies or is expected to apply within any
6 time. And, as this case reveals, an accommodation can be granted by the Fire
7 Department one day, *de facto* rescinded the following day without notice to the
8 employee, and then become a basis for discipline when the employee still believes in
9 good faith that the accommodation has not been rescinded, and acts accordingly.

10 118. Further, the Fire Department can change the applicability of its Progress
11 Pride Flag policy by adding or removing flag clasps as it likes, or by altering flagpoles
12 as it likes, which it may decide to do just to undermine the ability of an employee to
13 know how to seek an accommodation. It can also change at will and without notice
14 or input to whom or to which positions the policy will apply. That is, *who* an applicant
15 for accommodation might be from day to day, or *whether* an applicant could receive
16 an accommodation under any iteration of the Progress Pride Flag policy, therefore
17 depends on variables outside the applicant’s knowledge and control.

18 119. Because the Fire Department’s Progress Pride Flag policy is open ended,
19 ill defined, subject to change at any moment, silent on the accommodation process,
20 highly discretionary in application, and believed by current Fire Department
21 management to be free of any religion-based exemption, Captain Little’s
22 accommodation requests have naturally changed over time as more of the practical
23 details of the policy have come to light at different times.

24 120. Any changes in Captain Little’s accommodation request during the
25 negotiation process have been made in response to changes to the Progress Pride Flag
26 policy, as written and as applied. As a result, any changes to the request for
27 accommodation over time and in response to the Fire Department’s changed positions
28 should be understood as clarifications, not abrupt changes.

1 121. Captain Little does not have a religious objection to temporarily or
2 incidentally passing by a Progress Pride Flag while performing his official duties. His
3 religious objection arises when the Fire Department redirects him away from his
4 official lifeguard duties in order to attend to the Progress Pride Flag in any manner
5 that would, in the mind of a reasonable observer, associate Captain Little with the
6 public message of the flag.

7 122. Thus, for example, to the extent that the Progress Pride Flag policy, as
8 applied by Fire Department management to Captain Little, requires him to be
9 physically present for and in the vicinity of any Progress Pride Flag raising ceremony
10 for no reason other than to be present, Captain Little would raise a religious objection
11 to being required to participate.

12 **K. Exhaustion of administrative remedies**

13 123. Captain Little filed an administrative complaint against Defendant the
14 Los Angeles County Fire Department with the EEOC within the applicable statutory
15 period concerning his claims arising under Title VII of the Civil Rights Act of 1964,
16 as amended (“Title VII”).

17 124. Specifically, on March 11, 2024, Captain Little filed a charge with the
18 EEOC against the Fire Department based on discrimination and retaliation in
19 violation of Title VII, which the EEOC designated as Charge No. 480-2024-02766.

20 125. On March 26, 2024, the United States Department of Justice (DOJ)
21 issued to Captain Little a Determination of Charge and Notice of Your Right to Sue
22 on EEOC Charge No. 480-2024-02766. This complaint was filed within ninety days
23 of Plaintiff receiving the right-to-sue letter from DOJ.

24 126. Captain Little also timely filed an administrative complaint against
25 Defendant the Los Angeles County Fire Department with the California Civil Rights
26 Department (“CRD”) for religious discrimination and retaliation in employment in
27 violation of California’s anti-discrimination laws.

28 127. Specifically, on February 29, 2024, Captain Little filed a complaint of

1 discrimination with the CRD against the Fire Department based on religious
2 discrimination and retaliation under Cal. Gov. Code § 12926 *et seq*, which the CRD
3 designated as CRD Matter Number 202403-23805101.

4 128. On February 29, 2024, the CRD issued to Captain Little a Notice of Case
5 Closure and Right to Sue on the CRD complaint.

6 **CLAIMS FOR RELIEF**

7 **FIRST CLAIM FOR RELIEF**

8 **Religious Creed Discrimination / Failure to Accommodate**

9 **in Violation of Title VII of the Civil Rights Act of 1964**

10 **(By Captain Little Against the Fire Department)**

11 129. Plaintiff Little incorporates by reference all allegations contained in the
12 preceding paragraphs as though fully set forth herein.

13 130. Title VII prohibits an employer from discriminating against an employee
14 “because of such individual’s ... religion.” 42 U.S.C. § 2000e-2(a)(1). This “includes
15 all aspects of religious observance and practice, as well as belief, unless an employer
16 demonstrates that he is unable to reasonably accommodate an employee’s ... religious
17 observance or practice without undue hardship on the conduct of the employer’s
18 business.” *Id.* at § 2000e(j).

19 131. In other words, it is “unlawful ‘for an employer not to make reasonable
20 accommodations, short of undue hardship, for the religious practices of his employees
21 and prospective employees.’” *Opuku-Boateng v. California*, 95 F.3d 1461, 1467 (9th
22 Cir. 1996) (quoting *Trans World Airlines, Inc. v. Hardison*, 432 U.S. 63, 74 (1977)).

23 132. To establish a *prima facie* claim for failure to accommodate a plaintiff
24 must present evidence that: “(1) [he] had a bona fide religious belief, the practice of
25 which conflicted with an employment duty; (2) [he] informed [his] employer of the
26 belief and conflict; and (3) the employer threatened [him] with or subjected [him] to
27 discriminatory treatment, including discharge, because of [his] inability to fulfill the
28 job requirements.” *Heller v. EBB Auto Co.*, 8 F.3d 1433, 1438 (9th Cir. 1993); *see*

1 *also EEOC v. Townley Eng'g & Mfg. Co.*, 859 F.2d 610, 614 n.5 (9th Cir. 1988)
2 (“*Townley*”) (threat of adverse action is sufficient).

3 133. Here, (1) Plaintiff Little adheres to traditional Christian beliefs regarding
4 the moral illicitness of same-sex sexual activity, the immutability of sex regardless of
5 gender identity, and the view that all people are children of God regardless of their
6 skin color. As a result, he has a sincerely held religious belief, based on deeply and
7 sincerely held religious, moral, and ethical convictions, that he cannot personally
8 raise, ensure raising, maintain, or fly the Progress Pride Flag.

9 134. Also, as a result of his faith, Plaintiff Little fully supports efforts to
10 ensure that all homosexual, transgender, or people of color are treated kindly, with
11 respect, and are not discriminated against. But his religious beliefs preclude him from
12 affirming in any manner the ideological or philosophical premises espoused by the
13 Progress Pride Flag.

14 135. (2) The Fire Department also knew of the conflict between Plaintiff
15 Little’s religious beliefs and his job’s requirement of personally raising, ensuring
16 raising, maintaining or otherwise affirming the Progress Pride Flag because Plaintiff
17 Little requested a religious accommodation from doing so on June 19, 2023. In
18 initially granting that request for a reasonable accommodation, the Fire Department
19 acceded to the sincerity of Plaintiff Little’s religious beliefs.

20 136. Yet the Fire Department has provided no reasonable accommodation
21 options for Plaintiff Little and confirmed that he will be subject to discipline and
22 eventual termination for failure to personally raise, ensure raising, maintain or
23 otherwise affirm the Progress Pride Flag. The Fire Department would not even
24 negotiate on the issue. The Department informed Plaintiff Little that it would not
25 provide him with a religious accommodation and that he had no choice but to comply
26 with EA-231. The Fire Department did not explore reasonable alternatives for
27 accommodating Plaintiff Little.

28 137. Lastly, (3) the Fire Department has both subjected Plaintiff Little to

1 adverse employment action for non-compliance with EA-231, and has threatened to
2 subject him to adverse employment action in the future for non-compliance with EA-
3 232. Retrospectively, because Plaintiff Little failed to fly the Progress Pride Flag at
4 his worksite, and instead lowered the flag, as stated above, the Fire Department
5 subjected Captain Little to an investigation, placed him on unpaid administrative
6 leave, subjected him to hostile personal attacks, and removed him from the
7 Background Investigation Unit.

8 138. Prospectively, as stated above, the Direct Order which was issued to
9 Plaintiff Little stated that “[f]ailure to comply with this order will be considered
10 insubordination and subject to disciplinary action, which could include suspension
11 and/or discharge from County service.” *See* Exhibit 7. Further, the notice of
12 suspension letter stated that “any further violation of the County’s policies and
13 procedures, or the Department’s Standards of Behavior, may be grounds for more
14 serious disciplinary action, including discharge.” *See* Exhibit 19. And in the latest
15 religious accommodation meeting, the Fire Department that it will not accommodate
16 Captain Little’s request to be exempt from “ensuring that staff comply with policies,
17 procedures, and directives, which include EAs.” *See* Exhibit 25.

18 139. Once the plaintiff has made out a *prima facie* case for discrimination, the
19 burden then shifts to the employer to show that it could not have reasonably
20 accommodated the plaintiff’s religious beliefs without undue hardship. *Groff v.*
21 *DeJoy*, 600 U.S. 447, 468 (2023). Not only does the burden of *proving* an undue
22 hardship fall on Defendant here, “at a minimum, the employer was required to
23 negotiate with the employee in an effort reasonably to accommodate [his] religious
24 beliefs.” *EEOC v. Hacienda Hotel*, 881 F.2d 1504, 1513 (9th Cir. 1989), *overruled*
25 *on other grounds by Burlington Indus., Inc. v. Ellerth*, 524 U.S. 742 (1998).

26 140. To establish the defense of “undue hardship,” the Fire Department must
27 demonstrate that any of the accommodations proposed by Plaintiff Little would
28 impose a burden that is “substantial in the overall context of an employer’s business.”

1 *Groff*, 600 U.S. at 468. “[A] coworker’s dislike of ‘religious practice and expression
2 in the workplace’ or [dislike of] ‘the mere fact [of] an accommodation’ is not
3 ‘cognizable to factor into the undue hardship inquiry.’” *Id.* at 472.

4 141. Further, “a hardship that is attributable to employee animosity [or
5 ‘adverse customer reaction’] to a particular religion, to religion in general, or to the
6 very notion of accommodating religious practice cannot be considered ‘undue.’ If bias
7 or hostility to a religious practice or a religious accommodation provided a defense to
8 a reasonable accommodation claim, Title VII would be at war with itself.” *Id.*

9 142. In addition, any “undue hardship” must be “on the conduct of the
10 employer’s business.” *Townley*, 859 F.2d at 615 (citing 42 U.S.C. § 2000e(j)). As the
11 Fire Department has operated without flying the Progress Pride Flag for years, and
12 currently excuses locations without flagpoles or flag clasps from flying one,
13 accommodating Plaintiff Little cannot be said to be an “undue hardship *on the conduct*
14 *of the employer’s business.*” *Id.* (emphasis added).

15 143. As a direct and proximate result of the Fire Department’s discriminatory
16 actions against Plaintiff Little, as alleged herein, Plaintiff Little has suffered harm in
17 the form of special damages, including but not limited to, back pay, front pay, pre-
18 judgment and post-judgment interest, punitive damages, and compensatory damages
19 and other affirmative relief necessary to eradicate the effects of the Fire Department’s
20 unlawful employment practices.

21 144. As a further direct and proximate result of the Fire Department’s
22 discriminatory actions against Plaintiff Little, as alleged herein, Plaintiff Little has
23 suffered harm in the form of general damages including, but not limited to, emotional
24 pain, suffering, inconvenience, loss of enjoyment of life, humiliation, and loss of civil
25 rights, in an amount to be determined at trial.

26 145. Plaintiff Little further seeks a declaration that the Fire Department has
27 discriminated against him and has violated his legal rights by failing to provide a
28 reasonable accommodation of his religious beliefs.

1 146. Plaintiff Little found it necessary to engage the services of private
2 counsel to vindicate his rights under the law. Plaintiff Little is therefore entitled to an
3 award of attorneys' fees and costs pursuant to 42 U.S.C. § 2000e-5(k).

4 **SECOND CLAIM FOR RELIEF**

5 **Religious Creed Discrimination / Failure to Accommodate**
6 **in Violation of FEHA, Cal. Gov. Code § 12940(a)**
7 **(By Captain Little Against the Fire Department)**

8 147. Plaintiff Little incorporates by reference all allegations contained in the
9 preceding paragraphs as though fully set forth herein.

10 148. The Fair Employment and Housing Act prohibits an employer from
11 discriminating against an employee "because of the ... religious creed" of such
12 individual. Cal. Gov. Code § 12940(a). This includes accommodating an employee's
13 "religious belief or observance," if there are "reasonable alternative means" of
14 achieving the employer's needs. *Id.* at subd. (l). The only difference is that, under
15 FEHA, it is easier for a plaintiff to show irreparable harm. *Keene v. City and Cnty. of*
16 *San Francisco*, No. 24-1574, 2025 WL 341831, at *2 (9th Cir. Jan. 30, 2025)

17 149. For the exact same reasons as stated in the preceding allegations
18 regarding the First Claim for Relief, the Fire Department has discriminated against
19 Plaintiff Little by refusing to accommodate his religious beliefs.

20 150. As a direct and proximate result of the Fire Department's discriminatory
21 actions against Plaintiff Little, Plaintiff Little has suffered harm in the form of special
22 damages, including but not limited to, back pay, front pay, pre-judgment and post-
23 judgment interest, punitive damages, and compensatory damages and other
24 affirmative relief necessary to eradicate the effects of the Fire Department's unlawful
25 employment practices.

26 151. As a further direct and proximate result of the Fire Department's
27 discriminatory actions against Plaintiff Little, Plaintiff Little has suffered harm in the
28 form of general damages including, but not limited to, emotional pain, suffering,

1 inconvenience, loss of enjoyment of life, humiliation, and loss of civil rights, in an
2 amount to be determined at trial.

3 152. Plaintiff Little further seeks a declaration that the Fire Department has
4 discriminated against him and has violated his legal rights by failing to provide a
5 reasonable accommodation of his religious beliefs.

6 153. Plaintiff Little found it necessary to engage the services of private
7 counsel to vindicate his rights under the law. Plaintiff Little is therefore entitled to an
8 award of attorneys' fees and costs pursuant to Cal. Gov. Code § 12965(c)(6) and Cal.
9 Civ. Proc. Code § 1021.5.

10 **THIRD CLAIM FOR RELIEF**

11 **Retaliation in Violation of Title VII of the Civil Rights Act of 1964**

12 **(By Captain Little Against the Fire Department)**

13 154. Plaintiff Little incorporates by reference all allegations contained in the
14 preceding paragraphs as though fully set forth herein.

15 155. Title VII prohibits an employer from retaliating against an employee
16 "because he has opposed any practice made an unlawful employment practice by this
17 subchapter, or because he has made a charge, testified, assisted, or participated in any
18 manner in an investigation, proceeding, or hearing under this subchapter." 42 U.S.C.
19 § 2000e-3(a).

20 156. Here, in his employment with the Fire Department, Plaintiff Little
21 engaged in protected activity by requesting a religious accommodation and exemption
22 from being forced to personally raise, ensure raising, maintain or otherwise affirm the
23 Progress Pride Flag.

24 157. Plaintiff Little's request for a religious accommodation was protected
25 under Title VII of the Civil Rights Act. As stated above, Plaintiff Little requested a
26 religious accommodation on June 19, 2023, which was granted but then immediately
27 rescinded the next day.

28 158. Almost immediately after, various Fire Department personnel retaliated

1 against Plaintiff Little, by angrily confronting him and ordering him to raise the
2 Progress Pride Flag, by removing him from his role on the background investigation
3 unit, by filing pretextual complaints against him, and informing third-parties of his
4 religious accommodation request—leading to a death threat being mailed to his home.

5 159. Plaintiff Little’s protected activities were a substantial motivating reason
6 for the Fire Department’s retaliation against him.

7 160. The Fire Department’s retaliatory conduct was a substantial factor in
8 causing harm to Plaintiff Little.

9 161. The above-described retaliatory harassment of Plaintiff Little was
10 performed by, or ratified by, a managing agent or officer of the Fire Department,
11 including without limitation, Lifeguard Division Chief Fernando Boiteux, Assistant
12 Lifeguard Chief Adam Uehara, and Section Chief Arthur Lester.

13 162. These acts were done with malice, fraud, oppression, and reckless
14 disregard of Plaintiff Little’s rights. Further, said actions were despicable in character
15 and warrant the imposition of punitive damages in a sum sufficient to punish and deter
16 the Fire Department’s future conduct.

17 163. As a direct and proximate result of the Fire Department’s retaliatory
18 actions against Plaintiff Little, as alleged herein, Plaintiff Little has suffered harm in
19 the form of special damages, including but not limited to, back pay, front pay, pre-
20 judgment and post-judgment interest, punitive damages, and compensatory damages
21 and other affirmative relief necessary to eradicate the effects of the Fire Department’s
22 unlawful employment practices.

23 164. As a further direct and proximate result of the Fire Department’s
24 retaliatory actions against Plaintiff Little, as alleged herein, Plaintiff Little has
25 suffered harm in the form of general damages including, but not limited to, emotional
26 pain, suffering, inconvenience, loss of enjoyment of life, humiliation, and loss of civil
27 rights, in an amount to be determined at trial.

28 165. Plaintiff Little further seeks a declaration that the Fire Department has

1 retaliated against him and has violated his legal rights.

2 166. Plaintiff Little found it necessary to engage the services of private
3 counsel to vindicate his rights under the law. Plaintiff Little is therefore entitled to an
4 award of attorneys' fees and costs pursuant to 42 U.S.C. § 2000e-5(k).

5 **FOURTH CLAIM FOR RELIEF**

6 **Retaliation in Violation of FEHA, Cal. Gov. Code §§ 12940(h), 12940(l)(4)**

7 **(By Captain Little Against the Fire Department)**

8 167. Plaintiff Little incorporates by reference all allegations contained in the
9 preceding paragraphs as though fully set forth herein.

10 168. The Fair Employment and Housing Act prohibits an employer from
11 "discriminat[ing] against any person because the person has opposed any practices
12 forbidden under this part or because the person has filed a complaint, testified, or
13 assisted in any proceeding under this part." Cal. Gov. Code § 12940(h). This includes
14 a specific prohibition on an employer "retaliat[ing] or otherwise discriminat[ing]
15 against a person for requesting [a religious] accommodation under this subdivision,
16 regardless of whether the request was granted." *Id.* at subd. (l)(4).

17 169. For the exact same reasons as stated in the preceding allegations
18 regarding the Third Claim for Relief, the Fire Department has retaliated against
19 Plaintiff Little for requesting an accommodation for his religious beliefs.

20 170. As a direct and proximate result of the Fire Department's retaliatory
21 actions against Plaintiff Little, Plaintiff Little has suffered harm in the form of special
22 damages, including but not limited to, back pay, front pay, pre-judgment and post-
23 judgment interest, punitive damages, and compensatory damages and other
24 affirmative relief necessary to eradicate the effects of the Fire Department's unlawful
25 employment practices.

26 171. As a further direct and proximate result of the Fire Department's
27 retaliatory actions against Plaintiff Little, Plaintiff Little has suffered harm in the form
28 of general damages including, but not limited to, emotional pain, suffering,

1 inconvenience, loss of enjoyment of life, humiliation, and loss of civil rights, in an
2 amount to be determined at trial.

3 172. Plaintiff Little further seeks a declaration that the Fire Department has
4 retaliated against him and has violated his legal rights.

5 173. Plaintiff Little found it necessary to engage the services of private
6 counsel to vindicate his rights under the law. Plaintiff Little is therefore entitled to an
7 award of attorneys' fees and costs pursuant to Cal. Gov. Code § 12965(c)(6) and Cal.
8 Civ. Proc. Code § 1021.5.

9 **FIFTH CLAIM FOR RELIEF**

10 **Failure to Prevent Discrimination, Harassment, and Retaliation**

11 **in Violation of FEHA, Cal. Gov. Code § 12940(k)**

12 **(By Captain Little Against the Fire Department)**

13 174. Plaintiff Little incorporates by reference all allegations contained in the
14 preceding paragraphs as though fully set forth herein.

15 175. The Fair Employment and Housing Act prohibits an employer from
16 "fail[ing] to take all reasonable steps necessary to prevent discrimination and
17 harassment from occurring." Cal. Gov. Code § 12940(k).

18 176. For the exact same reasons as stated in the preceding allegations
19 regarding the Third Claim for Relief, the Fire Department has failed to take all
20 reasonable steps to prevent employees from discriminating against and harassing
21 Plaintiff Little due to his religious beliefs.

22 177. As a direct and proximate result of the Fire Department's failure to take
23 reasonable actions, Plaintiff Little has suffered harm in the form of special damages,
24 including but not limited to, back pay, front pay, pre-judgment and post-judgment
25 interest, punitive damages, and compensatory damages and other affirmative relief
26 necessary to eradicate the effects of the Fire Department's unlawful employment
27 practices.

28 178. As a further direct and proximate result of the Fire Department's failure

1 to take reasonable actions, Plaintiff Little has suffered harm in the form of general
2 damages including, but not limited to, emotional pain, suffering, inconvenience, loss
3 of enjoyment of life, humiliation, and loss of civil rights, in an amount to be
4 determined at trial.

5 179. Plaintiff Little further seeks a declaration that the Fire Department failed
6 to take reasonable actions to protect him and has violated his legal rights.

7 180. Plaintiff Little found it necessary to engage the services of private
8 counsel to vindicate his rights under the law. Plaintiff Little is therefore entitled to an
9 award of attorneys' fees and costs pursuant to Cal. Gov. Code § 12965(c)(6).

10 **SIXTH CLAIM FOR RELIEF**

11 **Violation of Free Exercise Clause of U.S. Constitution (42 U.S.C. § 1983):**

12 **Not Neutral Due to Animus and Hostility Against Religion**

13 **(By Captain Little Against All Defendants)**

14 181. Plaintiff Little incorporates by reference all allegations contained in the
15 preceding paragraphs as though fully set forth herein.

16 182. The First Amendment to the U.S. Constitution provides that "Congress
17 shall make no law respecting an establishment of religion, or prohibiting the free
18 exercise thereof[.]" U.S. Const. amend. I. This Free Exercise Clause applies to the
19 states through the Due Process Clause of the Fourteenth Amendment. *Cantwell v.*
20 *Connecticut*, 310 U.S. 296 (1940).

21 183. The Free Exercise Clause "protects not only the right to harbor religious
22 beliefs inwardly and secretly. It does perhaps its most important work by protecting
23 the ability of those who hold religious beliefs of all kinds to live out their faiths in
24 daily life through 'the performance of (or abstention from) physical acts.'" *Kennedy*
25 *v. Bremerton Sch. Dist.*, 597 U.S. 507, 524 (2022) (quoting *Employment Div. v. Smith*,
26 494 U.S. 872, 877 (1990)).

27 184. Under the Free Exercise Clause, "government actions coupled with
28 'official expressions of hostility to religion ... [are] inconsistent with what the Free

1 Exercise Clause requires ... [and] must be set aside.” *Fellowship of Christian Athletes*
2 *v. San Jose Unified Sch. Dist. Bd. of Educ.*, 82 F.4th 664, 690 (9th Cir. 2023) (en
3 banc) (original alteration) (quoting *Masterpiece Cakeshop, Ltd. v. Colorado C. R.*
4 *Comm’n*, 584 U.S. 617, 639 (2018)).

5 185. “[I]n cases like that [courts] ‘set aside’ such policies without further
6 inquiry.” *Kennedy v. Bremerton Sch. Dist.*, 597 U.S. 507, 525 n.1 (2022). “That is
7 because government action motivated by religious animus cannot be narrowly tailored
8 to advance a compelling governmental interest.” *Does 1-11 v. Univ. of Colorado*, 100
9 F.4th 1251, 1269 (10th Cir. 2024) (quotations omitted).

10 186. “The constitutional benchmark is ‘government *neutrality*,’ not
11 ‘governmental avoidance of bigotry.” *Roberts v. Neace*, 958 F.3d 409, 415 (6th Cir.
12 2020). Thus, it is inappropriate for government officials to describe religious beliefs
13 as a pretextual justification for discrimination, or akin to “slavery” and “the
14 Holocaust.” *See Masterpiece Cakeshop*, 584 U.S. at 635-36; *accord Church of the*
15 *Lukumi Babalu Aye, Inc. v. City of Hialeah*, 508 U.S. 520, 541 (1993) (describing
16 religious practice as “an abomination”).

17 187. And viewing “neutrality” as secularism, and thereby “disqualify[ing]”
18 recipients from a public benefit “solely because they are religious” is also
19 unconstitutional. *Carson v. Makin*, 596 U.S. 767, 785 (2022). The government acts
20 with hostility, not neutrality, when it “endorse[s] the impermissible view ‘that
21 religious beliefs cannot legitimately be carried into the public sphere or commercial
22 domain, implying that religious beliefs and persons are less than fully welcome...’”
23 *New Hope Family Services, Inc. v. Poole*, 966 F.3d 145, 168, n.22 (2d Cir. 2020)
24 (quoting *Masterpiece Cakeshop*, 584 U.S. at 634).

25 188. Here, Plaintiff Little’s religious beliefs preclude him from raising the
26 Progress Pride Flag—either personally or through an agent. They further preclude
27 him from honoring or otherwise expressing support for the Progress Pride Flag, either
28 verbally, through physical gesture, or through physical proximity that would be

1 reasonably understood as endorsement.

2 189. Compelling Plaintiff Little to personally raise, ensure raising, maintain,
3 or otherwise affirm the Progress Pride Flag or leave his employment with the Fire
4 Department is a substantial burden on Plaintiff Little's free exercise of religion.

5 190. As stated above, after Captain Little was granted a religious
6 accommodation, but prior to June 21, 2023, Lifeguard Division Chief Boiteux and
7 Section Chief Lester conspired to practically defeat Captain Little's religious
8 accommodation by modifying the flagpoles at the Area 17 sites so that they could fly
9 Progress Pride Flags, despite the assignment of Captain Little to that station. This was
10 done out of religious animus.

11 191. In addition, on June 21, 2023, after Captain Little's religious
12 accommodation was revoked, Section Chief Lester directly ordered Captain Little to
13 raise the Progress Pride Flag that he had lowered. In his words, demeanor, and tone,
14 Section Chief Lester's conduct toward Captain Little in the circumstance was abusive,
15 inappropriate, harassing, and discriminatory. Further, Section Chief Lester's conduct
16 was motivated by animus toward Captain Little's religious beliefs. He acted this way
17 toward Captain Little because of Captain Little's religious beliefs and in retaliation
18 for Captain Little seeking a religious accommodation.

19 192. At the end of the day on June 21, 2023, Assistant Lifeguard Chief Adam
20 Uehara confirmed the denial of any religious accommodation for Captain Little and
21 denied his right to use his already earned employment benefits, including paid leave,
22 as a means for him to avoid the conflict that would be caused by compelled
23 compliance with EA-231 and violation of his bona fide and sincerely held religious
24 beliefs.

25 193. In June 22, 2023, Lifeguard Division Chief Fernando Boiteux issued a
26 Direct Order to Captain Little to fly the Progress Pride Flag and ensure that the
27 Progress Pride Flag is flown as instructed in EA-231. When doing so, he told Captain
28 Little that "You need to stop what you are doing," "You are an LA County employee;

1 that's the only thing that matters," and "Your religious beliefs do not matter; you are
2 an LA County employee." He repeated multiple times, "You are an LA County
3 employee" and "Your religious beliefs do not matter" in an instance of religious
4 discrimination combined with physical intimidation.

5 194. Lifeguard Chief Boiteux is 6'4" tall and weighs 220 pounds. Captain
6 Little is aware that Chief Boiteux is also trained in martial arts. He delivered his
7 message to Captain Little in a violent and angry manner while standing over Captain
8 Little—who is only 5'9" tall and weighs 150 pounds. Captain Little believes that the
9 specific intent of Chief Boiteux's demeanor was to be physically intimidating.

10 195. As a result, the Fire Department's policies must be set aside without
11 further inquiry and not applied to Captain Little.

12 196. The Fire Department's policies, and its enforcement of those policies,
13 violates Plaintiff Little's right to free exercise of religion as guaranteed by the First
14 Amendment to the United States Constitution. Plaintiff Little has no adequate remedy
15 at law and will suffer serious and irreparable harm to his constitutional rights unless
16 Defendants are enjoined from implementing and enforcing the Fire Department's
17 policies.

18 197. Pursuant to 42 U.S.C. § 1983, Plaintiff Little is entitled to nominal and
19 actual damages, declaratory relief, and temporary, preliminary, and permanent
20 injunctive relief invalidating and restraining enforcement of the Fire Department's
21 policies.

22 198. Plaintiff Little found it necessary to engage the services of private
23 counsel to vindicate his rights under the law. Plaintiff Little is therefore entitled to an
24 award of attorneys' fees and costs pursuant to 42 U.S.C. § 1988.

25 **SEVENTH CLAIM FOR RELIEF**

26 **Violation of Free Exercise Clause of First Article to California Constitution**

27 **(By Captain Little Against All Defendants)**

28 199. Plaintiff Little incorporates by reference all allegations contained in the

1 preceding paragraphs as though fully set forth herein.

2 200. The First Article of the California Constitution provides that “[f]ree
3 exercise and enjoyment of religion without discrimination or preference are
4 guaranteed.” Cal. Const. art. I, § 4. This Free Exercise Clause is interpreted using a
5 pre-1990 federal test. *Smith v. Fair Emp. & Hous. Comm’n*, 12 Cal. 4th 1143, 1179
6 (1996) (plurality); *Valov v. Dep’t of Motor Vehicles*, 132 Cal. App. 4th 1113, 1126 &
7 n.7 (2005).

8 201. Under this standard, there is a simple, “two-fold analysis which calls for
9 a determination of, first, whether the application of the statute imposes any burden
10 upon the free exercise of the defendant’s religion, and second, if it does, whether some
11 compelling state interest justifies the infringement.” *Montgomery v. Bd. of Ret.*, 33
12 Cal. App. 3d 447, 451 (1973) (quoting *People v. Woody*, 61 Cal. 2d 716, 719 (1964)).

13 202. Alternatively, “California case law suggests that analysis of a claim of
14 the constitutional right to the free exercise of religion is generally similar under both
15 federal and state constitutional law.” *Vernon v. City of Los Angeles*, 27 F.3d 1385,
16 1392 (9th Cir. 1994).

17 203. Here, Plaintiff Little’s religious beliefs preclude him from raising the
18 Progress Pride Flag—either personally or through an agent. They further preclude
19 him from honoring or otherwise expressing support for the Progress Pride Flag, either
20 verbally, through physical gesture, or through physical proximity that would be
21 reasonably understood as endorsement.

22 204. Compelling Plaintiff Little to personally raise, ensure raising, maintain,
23 or otherwise affirm the Progress Pride Flag or leave his employment with the Fire
24 Department is a substantial burden on Plaintiff Little’s free exercise of religion.

25 205. For the exact same reasons as stated in the preceding allegations
26 regarding the Sixth Claim for Relief, the Fire Department has discriminated against
27 Plaintiff Little.

28 206. As a result, the Fire Department’s policies must meet strict scrutiny

1 and/or should be set aside without further inquiry. But the Fire Department has no
2 compelling interest in requiring Plaintiff Little to raise the Progress Pride Flag, and
3 requiring him to do so is not the least restrictive means of achieving any such interest.

4 207. The Fire Department's policies, and its enforcement of those policies,
5 violates Plaintiff Little's right to free exercise of religion as guaranteed by the First
6 Article of the California Constitution. Plaintiff Little has no adequate remedy at law
7 and will suffer serious and irreparable harm to his constitutional rights unless
8 Defendants are enjoined from implementing and enforcing the Fire Department's
9 policies.

10 208. Plaintiff Little is entitled to nominal and actual damages, declaratory
11 relief, and temporary, preliminary, and permanent injunctive relief invalidating and
12 restraining enforcement of the Fire Department's policies.

13 209. Plaintiff Little found it necessary to engage the services of private
14 counsel to vindicate his rights under the law. Plaintiff Little is therefore entitled to an
15 award of attorneys' fees pursuant to Cal. Civ. Proc. Code § 1021.5.

16 **PRAYER FOR RELIEF**

17 WHEREFORE, Plaintiff Captain Jeffrey Little prays for the following relief,
18 as allowed by each of the above-stated causes of action:

19 1. For an award of compensatory damages proximately caused by
20 Defendants' discriminatory and retaliatory conduct, including for past pecuniary loss,
21 future pecuniary loss, and nonpecuniary loss. Compensatory damages should include,
22 but not be limited to:

23 A. An award of damages of back pay, including all forms of
24 compensation (wages and benefits) that Plaintiff would have
25 earned from Defendants from June 20, 2023, until the date of trial.

26 B. An award of damages for future salary (if reinstatement is not
27 ordered), benefits and bonuses, and other forms of compensation
28 that Defendants would have paid to Plaintiff but for the wrongful

1 conduct of Defendants, in an amount according to proof at trial.

2 C. For an award of damages for Plaintiff's severe emotional distress,
3 in an amount according to proof at trial.

4 2. For an order that Defendants are to reinstate Plaintiff to his background
5 investigation role, with any raises and promotions that Plaintiff should have received
6 but for Defendants' discrimination and retaliation against Plaintiff.

7 3. For an order that Defendants are to grant Plaintiff a standing exemption
8 from raising or flying the Progress Pride Flag from any work site, or ordering others
9 to do so, or otherwise maintain the flag, no renewal required, whether in the month of
10 June or in another month, for the entirety of his employment by Defendants.

11 4. For an order that Defendants are to withdraw from Plaintiff's personnel
12 file all negative material that might impact performance reviews, promotions, career
13 progression, or the like.

14 5. For an award of punitive damages or other penalties recoverable by law.

15 6. For an order and judgment declaring that Defendants' policies, as applied
16 to Plaintiff, violate the First Amendment to the U.S. Constitution and First Article of
17 the California Constitution.

18 7. For an order temporarily, preliminarily, and permanently enjoining and
19 prohibiting Defendants from enforcing their unlawful policies against Plaintiff, and
20 from engaging in any practices or conduct that chills Plaintiff's free exercise of
21 religion.

22 8. For an award of reasonable attorneys' fees and costs pursuant to all
23 applicable statutes or legal principles, including 42 U.S.C. § 2000e-5(k), Cal. Gov.
24 Code § 12965(c)(6), and Cal. Civ. Proc. Code § 1021.5.

25 9. For orders requiring senior management of the Department, including
26 but not limited to Fernando Boiteux, Adam Uehara, and Arthur Lester, to enroll in and
27 complete certain EEOC and Fair Treatment classes, including the following: SHRM:
28 US Employment Law and Compliance, a 5-week live online program; SHRM:

1 Creating an Inclusive Workplace, eLearning; Harassment and Diversity: Respecting
2 Differences, Managers Version, DVD Learning; SHRM: Employee Relations:
3 Creating a Positive Work Environment, two-week Live Online Program; SHRM:
4 Employment Laws: What Supervisors Need to Know - Corporate, eLearning.

5 10. For any other relief that is just and proper.

6 **DEMAND FOR JURY TRIAL**

7 Plaintiff hereby demands a trial by jury on all triable issues.

8 LiMANDRI & JONNA LLP

9
10 Dated: February 10, 2025

By: 

11 Charles S. LiMandri

12 Paul M. Jonna

13 Jeffrey M. Trissell

14 Joshua A. Youngkin

Attorneys for Plaintiff

Captain Jeffrey Little