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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

RONALD HITTLE,

Plaintiff,

vs.

THE CITY OF STOCKTON,
CALIFORNIA, a municipal corporation;
ROBERT DEIS, in his official capacity and
as an individual; LAURIE MONTES, in her
official capacity and as an individual; and
DOES 1-100 inclusive,

Defendants.

Case No.: 2-12-CV-00766-TLN-KJN

SECOND AMENDED COMPLAINT FOR
DAMAGES FOR

1. RELIGION DISCRIMINATION (FEHA)
2. RELIGION DISCRIMINATION (TITLE VII)
3. RETALIATION (FEHA)
4. RETALIATION (TITLE VII)
5. FAILURE TO PREVENT DISCRIMINATION AND RETALIATION (FEHA)
6. VIOLATION OF 42 USC § 1983

JURY TRIAL DEMANDED

Plaintiff Ronald Hittle brings this action against the City of Stockton, and Does 1 through 100, for general, compensatory, punitive, and statutory damages, costs and attorneys' fees, resulting from the Defendants' unlawful and tortious conduct, as grounds therefore alleges:

PARTIES

1. Plaintiff Ron Hittle ("Hittle") is an individual and is, and was at all times relevant herein, a resident of San Joaquin County, California. At all times relevant herein, Hittle was employed in San Joaquin County, California, and an "employee" as defined by California Government Code § 12926 and 42 USC § 2000e-2(a). Hittle is and, at all times relevant was, a Christian.

1 2. Hittle is informed and believes and thereon alleges that the City of Stockton (“the
2 City”) is a municipal corporation and an “employer” as defined by Gov. Code §§ 12926(d),
3 12940(a), 12940(j)(4)(A), and 42 USC § 2000e(b).

4 3. Hittle is informed and believes and thereon alleges that Robert Deis was a
5 supervisor as defined by Gov. Code § 12926(s), and an agent as defined by 42 USC § 2000e(b).
6 At all times relevant, Deis was an individual and a resident of San Joaquin County. Hittle hereby
7 sues Deis in his official capacity as City Manager for the City of Stockton, and in his individual
8 capacity.

9 4. Hittle is informed and believes and thereon alleges that Laurie Montes was a
10 supervisor as defined by Gov. Code § 12926(s), and an agent as defined by 42 USC § 2000e(b).
11 At all times relevant, Montes was an individual and a resident of San Joaquin County. Hittle
12 hereby sues Montes in her official capacity as Deputy City Manager for the City of Stockton, and
13 in her individual capacity.

14 5. Hittle is not aware of the true names and capacities of the Defendants sued herein
15 as Does 1 through 100, whether individual, corporate, associate, or otherwise, and therefore sues
16 such Defendants by these fictitious names. Hittle will amend this Complaint to allege their true
17 names and capacities when ascertained. Hittle is informed and believes, and on that basis
18 alleges, that each of the fictitiously named Defendants is responsible in some manner for the
19 occurrences herein alleged and that Hittle’s injuries and damages herein alleged were legally
20 caused by such Defendants. Unless otherwise indicated, each Defendant was acting within the
21 course and scope of said agency and/or employment, with the knowledge and/or consent of said
22 co-Defendant.

23 6. Hittle is informed and believes and thereupon alleges that at all times mentioned
24 herein, each of the Defendants, including each Doe defendant, was acting as the agent, servant,
25 employee, partner and/or joint venturer of and was acting in concert with each of the remaining
26 Defendants, including each Doe Defendant, in doing the things herein alleged, while at all times
27 acting within the course and scope of such agency, service, employment partnership, joint

1 venture and/or concert of action. Each Defendant, in doing the acts alleged herein, was acting
2 both individually and within the course and scope of such agency and/or employment, with the
3 knowledge and/or consent of the remaining Defendants.

4 **VENUE AND JURY TRIAL DEMAND**

5 7. Venue is proper under 28 USC § 1391(b)(2) because a substantial part of the
6 events or omissions giving rise to Plaintiff's claim occurred in the subject judicial district. Hittle
7 hereby demands a jury trial.

8 **SUBJECT MATTER JURISDICTION**

9 8. This Court has subject matter jurisdiction over this action under 28 USC § 1331
10 because it arises under the Constitution and laws of the United States (including 42 USC § 1983
11 and Title VII of the 1967 Civil Rights Act) and because there is a substantial question of federal
12 law involved.

13 **GENERAL ALLEGATIONS**

14 9. In March of 1987, Hittle began working for the City of Stockton Fire Department
15 as a firefighter. Over the years, he rose through the Department to attain the rank of Chief.

16 10. On or about July 9, 2010, Hittle had an introductory meeting with Bob Deis, the
17 newly appointed City Manager for the City of Stockton. Deis asked Hittle for his personal
18 background, whereupon Hittle remarked that he was a devout Christian and that his religion
19 instilled in him strong values of honesty and integrity. Deis cut Hittle off and changed the
20 subject.

21 11. In mid-2010, Laurie Montes, the Deputy City Manager for the City of Stockton,
22 told Hittle that he and his staff members needed to improve their leadership skills, and that they
23 should attend leadership training.

24 12. Heeding Montes' advice, on August 5 and 16, 2010, Hittle and three fellow
25 Stockton Fire Department officers—Matt Duaine, Paul Willette, and Jonathan Smith—attended
26 a Christian-affiliated leadership seminar in Livermore, California called the Willow Creek
27 Global Leadership Summit. The men paid the attendance fee out of their own funds, and dressed
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1 in plain clothes when attending. The other officers share a common bond, Christian fellowship.
2 Hittle notified the City of his upcoming attendance at the Willow Creek event before the event
3 when he placed the item on a City public calendar intended for upper management and
4 accessible to , among others, both Defendants Deis and Montes.

5 13. At all times Hittle was a devout Christian who would frequently share his faith
6 with anyone he could, including Defendants Deis and Montes. Hittle believed that by attending a
7 leadership conference like the Willow Creek Global Summit, he would satisfy the City's
8 requirement that he improve his leadership skills, while at the same time doing so in a manner
9 consistent with his religious beliefs i.e. Christian Values are great leadership values. Hittle
10 believed that his attendance at the summit to be a religious practice within his understanding of
11 his faith. Before he was fired, he explained this to the City which fired him nevertheless, and put
12 it in writing in an August 24, 2011 "Notice of Intent to Terminate Employment."

13 14. In or about September of 2010, an anonymous letter was sent to City Hall, stating
14 that Hittle held a property interest in a cabin retreat in along with other firefighters and Dave
15 Macedo, President of the International Association of Firefighters Local 456. Soon thereafter, a
16 highly negative article was printed in the Stockton Record, which claimed that Hittle was so
17 close to the union as to cloud his professional judgment.

18 15. In fact, Hittle and Macedo had kept property interests in a cabin in Dorrington,
19 California for five years, along with Matt Duaima (Battalion Chief, Stockton F.D.), Al Anton
20 (Captain, retired, Stockton F.D.), and the men's wives. Nevertheless, it was common practice
21 among senior Fire Department officers and police department managers and the Chief to pool
22 their resources to purchase real estate, boats, etc. and those persons were not fired for their
23 association with one another as was Hittle.

24 16. At the time of purchase, Hittle held the title of Deputy Chief; and Macedo held
25 the title of Captain and was not yet president of the firefighters' union. However, after he became
26 President of the firefighters union, Hittle's association with Macedo is protected since it its
27 illegal under state and federal law to punish and or retaliate against workers for advocating for
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1 union rights. Hittle felt this association, even after Macedo became president of the union,
2 furthered the City's interests by his having a good social and working relationship with Macedo.
3 However Deis was angry with Hittle for his association with Macedo because, at this time, the
4 City was in a fight with the union over closure of a station house, and Measure H that would
5 remove union members' right to binding arbitration of disputes and would weaken protection for
6 the Fire Department managers by an stripping Civil Service Protection from them. Furthermore,
7 weeks before Hittle attended the Willow Creek Global Leadership Summit, Montes recited
8 rumors to Hittle that Hittle had organized a "Christian coalition" within the ranks of the Fire
9 Department, and that this was improper. Hittle protested to her stating that there was nothing
10 wrong with this group and that the City can't tell him not to do it. Montes brought this up to
11 Hittle at least twice and he protested the same way each time.

12 17. In or about October of 2010, Montes told Hittle that she was aware that he had
13 attended a Christian-affiliated seminar and that was unacceptable for him to have done so despite
14 his telling her that it was consistent with his faith and attended by secular and religious leaders
15 from private and public sector.

16 18. Hittle protested this, saying that he attended a leadership seminar at Montes'
17 behest, that it was highly beneficial for his professional development, and that it did not matter
18 that the seminar was Christian in its character; the focus of the seminar was leadership
19 development, albeit Christian based.

20 19. Soon thereafter, on or about November 1, 2010, Hittle was summoned to the
21 office of the City Manager, Robert Deis. With Montes also present, Deis presented Hittle with a
22 list of approximately ten alleged violations of City policy, including Hittle's attendance at a
23 religious-themed seminar, his permitting subordinates to attend the seminar with him, and his co-
24 ownership of the cabin retreat. Deis told Hittle that unless he accepted a demotion to Battalion
25 Chief, he would be investigated for these purported violations. Deis even threatened Hittle,
26 saying words to the effect of "I'll drag your name through the mud," "the investigation will be
27 embarrassing for you and your family," and "you will probably win in a long, expensive legal
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1 battle, but your reputation will suffer irreparable harm.” Further, Montes indicated that even if
2 Hittle did accept the demotion, the alleged violations would remain in his file and so, could be
3 used against him later. Hittle protested this proposed action by Deis as being illegal religious
4 and association discrimination and refused to accept the lower position.

5 20. In or around March of 2011, another negative article appeared in the Stockton
6 Record, this time criticizing Hittle for his attendance of the Willow Creek Summit.

7 21. On or about March 31, 2011, Hittle was placed on paid administrative leave while
8 the allegations against him were, at the instigation of Deis and/or Montes, investigated.

9 22. Over the course of two days in April of 2011, Hittle was interviewed at great
10 length by an investigator, acting on behalf of the City, by the name of Trudy Largent. Largent
11 interrogated Hittle on the subjects of the seminar, his personal religious beliefs and those of the
12 other firefighters who attended the seminar, his property interest in the Dorrington cabin, and his
13 hiring of a consultant, George Liepart, with whom Hittle was engaged in a project to build a
14 church school. They share a common bond, namely Christian brotherhood and spent much time
15 praying together for the success for church school. Additionally, although Hittle, at Largent’s
16 request, provided names of persons who could substantiate his own testimony, none of those
17 persons were ever contacted.

18 23. At no time did the City of Stockton inform Hittle that attending a Christian
19 Leadership Conference with other Fire Managers would subject him to termination and the City
20 never attempted to accommodate Hittle by discussing with him alternatives to attending the
21 Willow Creek Summit. In addition, Deis and Montes were on constructive, if not actual notice of
22 his intent to attend Willow Creek by virtue of Hittle placing the event on a public electronic
23 calendar accessible to all upper management including Deis and Montes. Moreover the contract
24 with Liepart was approved by the then City Manager and City Council with advice from the
25 City’s attorney’s office and with full knowledge of Hittle’s relationship with Liepart. Moreover,
26 the contract was long since completed in 2008.

1 24. In addition, Hittle protested his association with Leipart and Macedo as being in
2 violation of his rights. Leipart started working for the City fire department prior to Hittle
3 becoming the fire chief. Chief Gillis hired Leipart directly and, as a Department head, this
4 contract was within his contract authority. Leipart was hired to work with City administration
5 and the Firefighter's Union to bring trust back into the organization.

6 25. Hittle was appointed Chief in March of 2006. The City wanted to continue with
7 Leipart's work so Hittle had to take it to the council for approval in June of 2006. This was a
8 consent council item that night and one of the council members pulled it to ask Hittle questions
9 about Leipart's performance. It passed unanimously. The Church school (VCMS) that the
10 discharge letter speaks about, started in fall of 2004, well before Hittle was the Fire Chief. Hittle
11 was not in any financial business activity involving VCMS during his time as Chief.

12 26. The charge against Hittle contained in the August 24, 2011 letter "Intent to
13 Remove From City Service that he failed to investigate Leipart's fundraising efforts is false.
14 An internal investigation was conducted after being ordered by Hittle and the result of the
15 investigation was inconclusive. Moreover, the City alleged in its letter of "Intent to Remove
16 From City Service," dated August 24, 2011 that this violated the City policy against "conduct
17 adverse to the welfare and/or good reputation of the City." In fact, no such policy existed and the
18 Defendants Deis and Montes knew it when it terminated Hittle.

19 27. That same letter that Hittle received was, signed by Defendant Deis, This letter
20 boldly admits that he was being fired him for his attendance at a "Christian" leadership
21 seminar entitled "Global Leadership Summit." However, many government leaders and private
22 business men and women attend this seminar each year. In addition, the policy procedures
23 allegedly violated, by Hittle, City Manager Directive FIN-08 and Article C Section 11 of the Fire
24 Department's Procedure Manual were in fact not violated by Hittle and defendant Deis and
25 Montes knew it but fired him anyway. If his attendance did, in fact, violate City Policy, the City
26 failed to accommodate his religious beliefs by letting him attend and instead fired him for it.

1 28. The other eight reasons for terminating Hittle are either disguises for the real
2 illegal reasons or are simply too vague for understanding or simply not true.

3 29. The City of Stockton regularly supports the annual “San Joaquin County Prayer
4 Leadership Breakfast” that has been held at its city owned Civic Auditorium which is, and has
5 been, attended regularly by top City Officials, including but not limited to police and
6 firefighters in uniform none of whom were terminated for their attendance . This is evidence of
7 disparate treatment.

8 30. On or about October 3, 2011, Hittle’s employment with the City was terminated.

9 31. On February 29, 2012, Hittle presented a claim with the City in compliance with
10 the Government Claims Act. On information and belief, Hittle alleges that the claim has or will
11 be rejected or deemed rejected by operation of law.

12 32. Accordingly, on or about February 29, 2012, Hittle filed a complaint with the
13 Department of Fair Employment and Housing (DFEH) against the City of Stockton, alleging
14 religion discrimination, association discrimination, harassment, retaliation, failure to prevent
15 discrimination or retaliation, and termination. Hittle received a right to sue notice from the
16 DFEH that same day and served it on the City Clerk by fax.

17 33. Additionally, on March 1, 2012, Hittle filed a complaint with the federal Equal
18 Employment Opportunity Commission (EEOC), alleging the same violations as set forth in
19 paragraph 25, above. The EEOC issued a right to sue notice May 18, 2012.

20 34. The list of misconduct by the City in the above allegations is a partial list only,
21 and by way of example.

22 35. Since being fired from the City, Hittle has suffered economic damages, including
23 loss of wages, loss of benefits, medical expenses and other past and future economic damages.
24 Hittle has also suffered emotional distress and physical symptoms as a result of this prolonged
25 harassment, retaliation and termination of employment. As a further result of the wrongful acts
26 of Defendants, and each of them, Hittle has been forced to hire attorneys to prosecute his claims
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1 herein, and has incurred and is expected to incur attorneys' fees and costs in connection
2 therewith.

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4 **FIRST CAUSE OF ACTION**
5 **VIOLATION OF CALIFORNIA GOVERNMENT CODE § 12940(a)**
6 **(Religion Discrimination - FEHA)**
7 **Against the City of Stockton and Does 1-100**

8 36. Hittle hereby realleges and incorporates by reference Paragraphs 1 through 35
9 above as though fully set forth herein, except as said paragraphs are inconsistent with the
10 allegations of this cause of action.

11 37. The Fair Employment and Housing Act (FEHA) explicitly prohibits an employer
12 from refusing to hire or employ a person, discharging a person from employment, or
13 discriminating against such person in compensation or in terms, conditions or privileges of
14 employment on the basis of a religious creed, pursuant to Gov. Code § 12940(a) under either a
15 disparate treatment theory and/or a failure to accommodate theory.

16 38. The City at all times material herein was Hittle's employer pursuant to
17 Government Code section 12926(d) and was therefore barred from discriminating in its
18 employment decisions on the basis of a religious creed pursuant to Government Code section
19 12940(a).

20 39. At all times herein mentioned, Hittle was qualified for his position with the City.

21 40. Nonetheless, as set forth above, the City discriminated against Hittle based upon
22 his religious creed, in violation of Government Code section 12940(a) under either the disparate
23 treatment theory and/or a failure to accommodate theory.

24 41. As a direct and legal result of the defendants' discriminatory actions against him,
25 Hittle has suffered emotional distress and physical symptoms, pain and suffering, has lost
26 income and related benefits, past and future, and medical expenses.

27 42. Wherefore, Hittle has been damaged as set forth below and requests relief as
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SECOND CAUSE OF ACTION
VIOLATION OF 42 USC § 2000e-2(a)(1)
(Religion Discrimination – Title VII)
Against the City of Stockton and Does 1-100

43. Hittle hereby realleges and incorporates by reference Paragraphs 1 through 42 above as though fully set forth herein, except as said paragraphs are inconsistent with the allegations of this cause of action.

44. Title VII of the 1967 Civil Rights Act explicitly prohibits an employer from discharging or otherwise discriminating against any individual with respect to his or her compensation, terms, conditions, or privileges of employment on the basis of religion. 42 USC § 2000e-2(a)(1).

45. The City was at all times material hereto Hittle's employer pursuant to 42 USC § 2000e(b) and was therefore barred from discriminating in its employment decisions on the basis of religion, pursuant to 42 USC § 2000e-2(a)(1).

46. At all times herein mentioned, Hittle was qualified for his position with the City.

47. Nonetheless, as set forth above, the City terminated Hittle based upon his religion in violation of 42 USC § 2000e-2(a)(1) and put it in its August 24, 2011 letter to Hittle announcing the City's intent to terminate him. This termination is under a disparate treatment and/or failure to accommodate theory.

48. As a direct and legal result of Defendants' conduct, Hittle has suffered emotional distress and physical symptoms, pain and suffering, has lost income and related benefits, past and future, and has incurred medical expenses.

49. Wherefore, Hittle has been damaged as set forth below and requests relief as hereafter provided.

THIRD CAUSE OF ACTION
VIOLATION OF GOVERNMENT CODE SECTION 12945(h)
(Retaliation - FEHA)
Against the City of Stockton and Does 1-100

1 57. The City was at all times material hereto Hittle's employer pursuant to 42 USC §
2 2000e(b) and was therefore barred from retaliating against him pursuant to 42 USC § 2000e-3(a).

3 58. Nonetheless, as set forth above, the City retaliated against Hittle in violation of
4 42 USC section 2000e-2(a)(1).

5 59. As a direct and legal result of Defendants' conduct, Hittle has suffered emotional
6 distress and physical symptoms, pain and suffering, has lost income and related benefits, past
7 and future, and has incurred medical expenses.

8 60. Wherefore, Hittle has been damaged as set forth below and requests relief as
9 hereafter provided.

10 **FIFTH CAUSE OF ACTION**
11 **VIOLATION OF GOVERNMENT CODE § 12940(k)**
12 **(Failure to Prevent Discrimination and Retaliation - FEHA)**
13 **Against the City of Stockton and Does 1-100**

14 61. Hittle hereby realleges and incorporates by reference Paragraphs 1 through 60
15 above as though fully set forth herein, except as said paragraphs are inconsistent with the
16 allegations of this cause of action.

17 62. The FEHA requires an employer to "take all reasonable steps necessary to prevent
18 discrimination and harassment from occurring." Gov. Code § 12940(k),

19 63. The City at all times material hereto was Hittle's employer pursuant to
20 Government Code section 12926(d), and was therefore required to prevent discrimination and
21 retaliation. Gov. Code § 12940(k).

22 64. The City knew or should have known of the discrimination on the part of its
23 employees, supervisors, managers, such as Deis and Montes and Does 1-100, inclusive.

24 65. Nevertheless, as set forth above, the City did nothing to rectify or prevent said
25 discrimination and retaliation. Instead, the City consented to, encouraged, permitted, and/or
26 acquiesced to the discrimination and retaliation, ultimately terminating Hittle.

2. For statutory attorneys' fees and costs, including those available under 42 U.S.C. 2000e-5(k) and FRCP 54(d)(1);
3. For post-judgment interest according to any applicable provision of law or as otherwise permitted by law; and
4. For such other and further relief as the court deems just and proper.

As to the SIXTH Cause of Action:

1. For compensatory, special, and general damages, including lost wages and related benefits, medical expenses, and emotional distress in an amount according to proof, but in excess of the minimum jurisdictional limit of this Court;
2. For punitive and/or exemplary damages as to defendants Deis and Montes;
3. For statutory attorneys' fees and costs, including those available under 42 USC § 1983;
4. For prejudgment and post-judgment interest according to any applicable provision of law or as otherwise permitted by law, according to proof; and
5. For such other and further relief as the Court deems proper.

Dated: April 11, 2018

LAW OFFICES OF MARK S. ADAMS

By _____ (s)
MARK S. ADAMS
Attorneys for Plaintiff
RONALD HITTLE