

GRAHAMHOLLIS APC  
3555 FIFTH AVENUE, SUITE 200  
SAN DIEGO, CALIFORNIA 92103

1 GRAHAMHOLLIS APC  
2 Graham S.P. Hollis (SBN 120577)  
3 ghollis@grahamhollis.com  
4 Vilmarie Cordero (SBN 268860)  
5 vcordero@grahamhollis.com  
6 Hali M. Anderson (SBN 261816)  
7 handerson@grahamhollis.com  
8 3555 Fifth Avenue, Suite 200  
9 San Diego, California 92103  
10 Telephone: 619.692.0800  
11 Facsimile: 619.692.0822

12 *Attorneys for Plaintiff Tabatha Gaines*

**ELECTRONICALLY FILED**  
Superior Court of California,  
County of San Diego  
**12/14/2022** at 03:58:10 PM  
Clerk of the Superior Court  
By Vanessa Sezenol, Deputy Clerk

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

9 **COUNTY OF SAN DIEGO**

10 TABATHA GAINES, an individual,

11 Plaintiff,

12 v.

13 SAN DIEGO WORKFORCE  
14 PARTNERSHIP; PETER CALLSTROM; and  
15 DOES 1 THROUGH 50, inclusive,

16 Defendants.

Case No.: 37-2022-00050111-CU-OE-CTL

*Unlimited Civil –  
Amount Demanded Exceeds \$25,000.00*

**PLAINTIFF’S COMPLAINT FOR:**

1. DISCRIMINATION ON THE BASIS OF RACE [Cal. Gov. Code § 12940(a)];
2. DISCRIMINATION ON THE BASIS OF SEX [Cal. Gov. Code § 12940(a)];
3. HARASSMENT ON THE BASIS OF RACE [Cal. Gov. Code § 12940(j)];
4. HARASSMENT ON THE BASIS OF SEX [Cal. Gov. Code § 12940(j)];
5. RETALIATION FOR OPPOSING DISCRIMINATION AND HARASSMENT [Cal. Gov. Code § 12940(h)];
6. FAILURE TO PREVENT DISCRIMINATION, HARASSMENT, AND RETALIATION [Cal. Gov. Code § 12940(k)];
7. RETALIATION FOR REPORTING ILLEGAL ACTIVITY [Cal. Lab. Code § 1102.5]; and
8. WRONGFUL CONSTRUCTIVE TERMINATION IN VIOLATION OF PUBLIC POLICY.

**[JURY TRIAL DEMANDED]**

17 Plaintiff Tabatha Gaines (“Plaintiff”) brings this individual action against Defendant San Diego  
18 Workforce Partnership (“SDWP”), Defendant Peter Callstrom (“Callstrom”), and DOES 1 through 50,  
19 inclusive (collectively, “Defendants”), on the following grounds:  
20  
21  
22  
23  
24  
25

1 **INTRODUCTION**

2 1. Plaintiff brings this individual action against Defendants for their alleged discrimination  
3 on the basis of race and sex, harassment on the basis of race and sex, retaliation for opposing  
4 discrimination and harassment on the basis of race, failure to take reasonable steps to prevent  
5 discrimination, harassment, and retaliation, unlawful retaliation in violation of California Labor Code  
6 (“Labor Code”) § 1102.5; as well as wrongful constructive termination in violation of public policy. This  
7 action arises out of events that occurred during Plaintiff’s employment with Defendants.

8 2. Plaintiff seeks to recover, among other things, statutory, compensatory, and punitive  
9 damages, statutory penalties, interest as allowed by law, injunctive relief, attorneys’ fees, and other  
10 appropriate and just relief for Defendants’ illegal conduct.

11 **THE PARTIES**

12 **A. Plaintiff:**

13 3. Plaintiff Tabatha Gaines is an African American female natural person who is a resident of  
14 the County of San Diego, California, and who, at all relevant times mentioned in this Complaint, was an  
15 employee of Defendant SDWP, and primarily worked under the direction and supervision of Peter  
16 Callstrom, and/or Does 1 through 50 in the County of San Diego, state of California.

17 **B. Defendants:**

18 4. SDWP is a California non-profit organization that purports to help job seekers increase  
19 their economic mobility, help businesses grow, rebuild and thrive equitably, and prepare children and  
20 young adults for entering the workforce.

21 5. Defendant Peter Callstrom is a white male natural person, and at all relevant times  
22 mentioned herein was, employed by SDWP as its President and Chief Executive Officer (“CEO”).  
23 Defendant Callstrom is, and at all relevant times mentioned in this Complaint was, a resident of the County  
24 of San Diego.

25 6. At all relevant times, Defendants were covered by and subject to suit under the FEHA. On  
26 information and belief, SDWP employs in excess of five (5) employees, including Defendant Peter  
27 Callstrom.

28 ///

1 **C. Doe Defendants:**

2 7. Defendants Does 1 through 50, inclusive, are sued under fictitious names pursuant to Code  
3 of Civil Procedure section 474. Each of the fictitiously named defendants participated in the acts alleged  
4 in this Complaint. The true names and capacities of the defendants named as Does 1 through 50, inclusive,  
5 are presently unknown to Plaintiff. Plaintiff will amend this Complaint, setting forth the true names and  
6 capacities of the fictitious defendants, if and when their true names and capacities are ascertained.

7 8. At all times mentioned herein, the acts alleged to have been done and/or caused by each  
8 named defendant are also alleged to have been done and/or caused by each fictitiously named defendant,  
9 and by each of their agents and/or employees who acted within the scope of their agency and/or  
10 employment.

11 9. At all times mentioned herein, each named defendant, including each fictitiously named  
12 defendant, is believed to have acted individually or as an officer, agent, or employee of each of the other  
13 defendants.

14 10. At all times mentioned herein, each named defendant, including each fictitiously named  
15 defendant, acted as an agent, servant, employee, co-conspirator, alter-ego and/or joint venture of each of  
16 the other defendants, and in doing the things alleged herein acted within the course and scope of such  
17 agency, employment, alter-ego and/or in furtherance of the joint venture.

18 11. At all times mentioned herein, the acts and/or omissions of each of the named defendants,  
19 including each fictitiously named defendant, concurrently contributed to the various acts and/or omissions  
20 of each and every one of the other defendants, including each fictitiously named defendant, in proximately  
21 causing the wrongful conduct, harm, and/or damages alleged herein. Each of the named defendants,  
22 including each fictitiously named defendant, approved of, condoned, and/or otherwise ratified each and  
23 every one of the acts and/or omissions complained herein. Each named defendant, including each  
24 fictitiously named defendant, were and are acting with authority of each and every other defendant and/or  
25 are acting as agents of each and every other named defendant or Doe defendant.

26 12. At all times mentioned herein there was a unity of interest and ownership between each  
27 named defendant, including each fictitiously named defendant, such that all defendants acted as a single  
28 employer of Plaintiff.

1 13. At all times mentioned herein each named defendant, including each fictitiously named  
2 defendant, exercised supervision and control over the working conditions of Plaintiff, including, but not  
3 limited to, implementing standard policies and procedures of SDWP.

4 **JURISDICTION AND VENUE**

5 14. This Court has subject matter jurisdiction over this action pursuant to California Code of  
6 Civil Procedure (“Code of Civil Procedure”) section 410.10 and because the monetary damages and  
7 restitution sought herein for Defendants’ conduct exceeds the minimum jurisdictional limits of the  
8 Superior Court.

9 15. This Court has personal jurisdiction over Defendants, because SDWP operates in the state  
10 of California, Plaintiff worked for Defendant Callstrom and SDWP in San Diego, California, and  
11 Defendants have caused the injuries alleged herein in the county of San Diego, through its acts, omissions,  
12 and violation of the California Labor Code, California Government Code, and public policy.

13 16. Venue is proper in San Diego County pursuant to Code of Civil Procedure §§ 395(a) and  
14 395.5 because Defendant Callstrom is domiciled in San Diego County, Defendant SDWP transacts  
15 substantial business in San Diego County, and the unlawful acts alleged herein occurred in San Diego  
16 County.

17 **SPECIFIC FACTUAL ALLEGATIONS**

18 17. Plaintiff re-alleges and incorporates by reference, as though fully set forth herein, all  
19 paragraphs of this Complaint.

20 18. Plaintiff, an African American woman, is a hardworking and dedicated employee with a  
21 proven track record of success.

22 19. Plaintiff has been a Human Resources (“HR”) Professional for almost 20 years and has  
23 received and maintains active HR certifications (PHR and SHRM-CP) for the past 12 years. In addition,  
24 Plaintiff has a certificate in Diversity, Equity & Inclusion in the Workplace and an HR Management  
25 Certificate. As such, Plaintiff is skilled in workplace management and issues of diversity, equity, and  
26 inclusion.

27 20. Per the SDWP Diversity Equity & Inclusion Statement, “The Workforce Partnership’s  
28 approach to all diversity, equity and inclusion efforts is to listen, learn and then act.” SDWP’s website

1 goes on to state, “Diversity, equity and inclusion can only be truly achieved if it includes our internal  
2 practices as well. It begins with centering our hiring processes and continues by influencing our day-to-  
3 day practices.”

4 21. In January 2021, Plaintiff was hired as the Director of People of Culture for SDWP,  
5 reporting to Chief Administration Officer (“CAO”) April House (Black female).

6 22. By July 2021, Plaintiff had been promoted to Senior Director and there was discussion  
7 about putting Plaintiff on the “Vice President track”. Plaintiff’s positive work contributions were  
8 highlighted in her performance review.

9 23. In September 2021, CAO House announced she was leaving SDWP. Before CAO House’s  
10 departure, she promoted Plaintiff to Senior Director and also announced to SDWP that Plaintiff would  
11 assume leadership of Diversity, Equity & Inclusion (“DEI”) activities internally and with the Board. Upon  
12 CAO House’s departure, Plaintiff began reporting directly to Callstrom.

13 24. Around this same time (late-August/early September 2021), Plaintiff began having  
14 discussions with Manager of Business Experience Angel Stancer about one of her direct reports who was  
15 a Black male employee. Plaintiff recommended to Stancer that this employee’s performance be effectively  
16 managed using counseling and coaching. Despite Plaintiff’s recommendation and experience with  
17 effective performance coaching, it became clear that Callstrom had already decided to terminate this Black  
18 male employee. Plaintiff explained to Callstrom that she would not advise termination of this employee  
19 given that there were two non-Black employees with similar performance issues who were being treated  
20 more favorably.

21 25. Upon information and belief, Manager Stancer reached out to Plaintiff for help on  
22 managing the employee and reported that she felt pressure to terminate the employee from Callstrom.  
23 Upon information and belief, Manager Stancer was also on board with Plaintiff’s recommendation to  
24 coach and manage this employee but was concerned about Callstrom’s perceptions of her if she didn’t  
25 terminate the employee

26 26. Nevertheless, Callstrom continued to push for termination of this employee and began to  
27 engage in a pattern of unrealistic micromanagement even going so far as to personally start secret shopping  
28 this Black male employee. This was an unprecedented and unnecessary method of oversight and

1 harassment. Although Callstrom said that he would leave the decision to terminate to others, it was clear  
2 that Callstrom left no choice but to terminate this employee. At one point, Callstrom commented, “We  
3 may never get an opportunity like this [to terminate him] again.”

4 27. Callstrom insisted on managing the employee’s every move and continuing to set him up  
5 for failure. Callstrom’s tactics finally proved successful and in November 2021, the Black male employee  
6 was terminated.

7 28. Upon information and belief, this method of extreme micromanagement and harassment  
8 was a pattern and practice which Callstrom would engage in against women and employees of color.  
9 While Callstrom might either hire women and/or people of color, Callstrom would later target these  
10 employees while giving preferential treatment to white male, non-diverse employees.

11 29. In September 2021, Plaintiff shared with Callstrom the results of an Employee Opinion  
12 Survey about DEI concerns related to a program being facilitated by SDWP. Plaintiff explained that Black  
13 applicants were somehow being excluded from the program and being deemed ineligible for the intended  
14 services. Callstrom became agitated with Plaintiff and defensive claiming that Plaintiff was being  
15 accusatory. Plaintiff explained that she was just bringing attention to the potential issue so it could be  
16 addressed. However, after this conversation, Callstrom’s treatment of Plaintiff dramatically changed.

17 30. On September 7, 2021, SDWP hired Brett Stapleton (mixed race male) as the Vice  
18 President of Finance. Stapleton was later promoted to be Chief Financial Officer (“CFO”).

19 31. In October 2021, Plaintiff assumed leadership of the Compliance department.

20 32. On October 13, 2021, Plaintiff requested that she be moved to report directly to CFO  
21 Stapleton instead of Callstrom. But, Callstrom’s targeting of Plaintiff worsened.

22 33. On November 30, 2021, Callstrom informed Plaintiff that she would no longer be the lead  
23 on the DEI Workforce Development Board Committee, nor would she be participating on the Committee  
24 until and unless he invited her in. Callstrom had never attended WDB DEI meetings in the past and this  
25 decision was in direct contravention of the directive from CAO House upon her departure and prior  
26 communications from Callstrom.

27 34. In December 2021, Callstrom removed Plaintiff from the Executive Team Meetings.

28 35. From thereon, Callstrom engaged in a pattern and practice of harassment and retaliation in

1 the form of hyper-focused and relentless micro-management of Plaintiff.

2 36. In March 2022, Callstrom had an executive meeting questioning one of Plaintiff's  
3 deliverables. In the meeting, Callstrom intentionally blamed Plaintiff for not meeting deadlines even  
4 though he knew Plaintiff has submitted the deliverables for his approval. At the same time, Callstrom  
5 instructed Plaintiff not to communicate with the Executive Leadership Team without hearing from him  
6 first.

7 37. On March 21, 2022, Plaintiff submitted a formal complaint of discrimination, retaliation,  
8 and hostile work environment to her direct supervisor, Brett Stapleton, and Sammy Totah and Althea Salas  
9 of the SDWP Board. In the complaint, Plaintiff identified CEO Peter Callstrom as the harasser.

10 38. On March 25, 2022, Ms. Salas informed Plaintiff that SDWP had retained a third-party  
11 investigator, to investigate her complaint. As part of this investigation, Plaintiff provided the names of  
12 numerous individuals who could substantiate her allegations and who had suffered similar treatment from  
13 Callstrom. Plaintiff also explained to the Board and to the investigator that most, if not all, employees  
14 were fearful of speaking up because they reasonably believed they would face retaliation from Callstrom.  
15 Indirectly or directly retaliating against employees who speak up is a pattern of Callstrom.

16 39. Plaintiff also asked if Callstrom would be placed on a leave of absence while the  
17 investigation was ongoing, but this request was denied.

18 40. Effective May 19, 2022, CFO Stapleton left SDWP. On information and belief, CFO  
19 Stapleton was forced out of SDWP after he brought financial concerns to Callstrom's attention and insisted  
20 on relaying this information to the Board. On information and belief, as soon as CFO Stapleton relayed  
21 this information to the Board, Callstrom began retaliating against CFO Stapleton.

22 41. On June 16, 2022, after losing complete faith in the investigation process, seeing no  
23 movement by SDWP to address Callstrom's continued misconduct, and after considering the impact to  
24 her mental and physical health, Plaintiff resigned from her position as Senior Director of People and  
25 Culture and Compliance with SDWP. This decision was not an easy one for Plaintiff, but she felt she had  
26 no choice after the continued discrimination, harassment, and retaliation from Callstrom.

27 42. As a result of the discrimination, harassment, and retaliation suffered at work, Plaintiff  
28 suffered emotional distress and migraines. Plaintiff sought medical attention for this emotional distress;

1 and sought assistance from the Employee Assistance Program at SDWP.

2 43. After Plaintiff informed SDWP of her resignation, they informed her they were going to  
3 post for a Vice President of People and Culture position. This position was previously mapped as a  
4 position for Plaintiff before Callstrom began to retaliate against and exclude Plaintiff.

5 44. On or around Plaintiff's last day of employment, SDWP verbally informed Plaintiff of the  
6 results of the investigation. Per the Investigator, the results showed that Callstrom engaged in micro-  
7 management and he may have been upset at times, but there was no evidence that Callstrom continued to  
8 display frustrations after an event was over. The Investigator referenced an email in which Callstrom used  
9 a smiley-face emoji as an example of Callstrom not harboring resentment towards Ms. Gaines.

10 45. The third-party investigator also incorrectly found that the mistreatment Plaintiff  
11 experienced was the fault of her supervisors—not Callstrom. From Plaintiff's perspective, SDWP tried  
12 to blame the conduct on CFO Stapleton even though CFO Stapleton had written Plaintiff a glowing review  
13 before Plaintiff's departure.

14 46. In reality, this was a common tactic of Callstrom—to use his direct reports to implement  
15 his harassment tactics in an attempt to insulate himself from liability.

16 47. Thus, despite Plaintiff's proven track record of being a reliable and credible employee, and  
17 despite the long list of witnesses provided by Plaintiff, her allegations were not taken seriously.

18 48. Upon information and belief, many women and people of color experienced similar  
19 targeting and harassing conduct from Callstrom; and had reported it to SDWP in the past. Callstrom  
20 would routinely, falsely accuse women and people of color of under-performance and ensure they were  
21 managed out. Each time, the employee was either offered a severance agreement with a confidentiality  
22 provision or simply terminated, whether it be directly or constructively.

23 49. After being managed out and accused of poor performance, these same employees,  
24 including Plaintiff, would go on to have thriving and successful careers away from Callstrom. Meanwhile  
25 white, non-diverse male employees would be treated to glass-elevator treatment and enjoy rapid  
26 advancement as long as they did not attempt to hold Callstrom accountable.

27 50. Many current and former employees were and are afraid to speak up out of fear of  
28 retaliation. Employees continually saw their colleagues make complaints about Callstrom and SDWP



1 repeatedly failed to take any action to stop Callstrom.

2 51. On information and belief, as early as 2020, there was a recommendation from a third-  
3 party consultant that Callstrom take a sabbatical due to concerns raised by employees, but this  
4 recommendation was ignored.

5 52. As result of SDWP’s failure to take steps to reasonably stop the discrimination, harassment,  
6 and retaliation from occurring, Callstrom was enabled to create and maintain a hostile working  
7 environment for Plaintiff and other female employees and employees of color.

8 53. On November 21, 2022, SDWP’s Policy Board held a closed session meeting to discuss  
9 “significant exposure to litigation.”

10 54. On November 22, 2022, Callstrom was put on an unexpected leave of absence.

11 55. **Economic damages:** As a consequence of Defendants’ conduct, Plaintiff has suffered and  
12 will suffer harm, including lost past and future income and employment benefits, reputational harm,  
13 damage to her career, penalties, as well as interest on unpaid wages at the legal rate from and after each  
14 payday on which those wages should have been paid, in a sum to be proven at trial.

15 56. **Non-economic damages:** As a consequence of Defendants’ conduct, Plaintiff has suffered  
16 and will suffer psychological and emotional distress, humiliation, and anguish, in a sum to be proven at  
17 trial.

18 57. **Punitive damages:** Defendants’ conduct constitutes oppression, fraud, and/or malice  
19 under California Civil Code section 3294 and, thus entitles Plaintiff to an award of exemplary and/or  
20 punitive damages.

21 i. *Malice:* Defendants’ conduct was committed with Malice within the meaning of  
22 California Civil Code section 3294, including that (a) Defendants acted with intent to cause injury to the  
23 Plaintiff and/or acted with reckless disregard for Plaintiff’s injury, including by constructively terminating  
24 Plaintiff’s employment and/or by taking adverse job actions against Plaintiff because of her race, national  
25 origin, color, ... and/or good faith complaints, and/or (b) Defendants’ conduct was despicable and  
26 committed in willful and conscious disregard of Plaintiff’s rights, health, and safety, including Plaintiff’s  
27 right to be free of discrimination, harassment, retaliation, and wrongful termination.

28 ///



1 employment” because of the race of that employee. (Cal. Gov. Code § 12940(a).)

2 63. Indeed, the California Supreme Court has held that one’s right to be free from  
3 discrimination ... in the workplace is “fundamental.” (See *Brown v. Superior Court* (1984) 37 Cal.3d  
4 477.)

5 64. Plaintiff is a member of a class protected by FEHA because she identifies her race as being  
6 African American.

7 65. Defendant, through its supervisors, agents and/or employees, engaged in a pattern and  
8 practice of unlawful discrimination on the basis of race in connection with the terms and conditions of  
9 Plaintiff’s employment. Plaintiff was treated less favorably because of her race.

10 66. Plaintiff believes that her race was a substantial motivating factors in Defendants’  
11 decision to subject Plaintiff to the aforementioned discrimination.

12 67. The unlawful conduct alleged above was engaged in by the officers, directors, supervisors  
13 and/or managing agents of Defendants and/or Does 1 to 50, and each of them, who were acting at all times  
14 relevant to this Complaint within the scope and course of their employment. Defendants and/or Does 1 to  
15 50, and each of them, are therefore liable for the conduct of said agents and employees pursuant to  
16 Government Code Section § 12926(d).

17 68. Based on information and belief, other non-diverse, white male employees did not suffer  
18 the aforementioned adverse employment actions. Specifically, the other employees were not  
19 micromanaged, undermined, and falsely accused of poor performance.

20 69. As set forth above, Defendants, including their supervisors, agents, and/or employees,  
21 engaged in and/or ratified, by their actions and/or inaction, through their employees and/or supervisors,  
22 acts of discrimination against Plaintiff based upon her protected class.

23 70. As a direct, foreseeable, and proximate result of Defendants’ unlawful conduct, Plaintiff  
24 has sustained and continues to sustain substantial losses in earnings, related employment benefits, and  
25 employment opportunities. Plaintiff has suffered and continues to suffer other economic losses in an  
26 amount to be determined at time of trial. Plaintiff has sought to mitigate these damages.

27 71. As a direct, foreseeable, and proximate result of Defendants’ unlawful conduct, Plaintiff  
28 has suffered and continues to suffer humiliation, emotional distress, loss of reputation, and mental and

1 physical pain and anguish, all to her damage in a sum to be established according to proof.

2 72. In addition to such other damages as may properly be recovered herein, Plaintiff is entitled  
3 to, and therefore seeks to recover, prevailing party attorney's fees and costs pursuant to Government Code  
4 § 12965(b).

5 73. Plaintiff requests further relief as described in the below prayer.

6 **SECOND CAUSE OF ACTION**

7 **(By Plaintiff Against Defendant SDWP and/or Does 1 to 50)**

8 **DISCRIMINATION BASED ON SEX**

9 **[Cal. Gov't. Code § 12940(a)]**

10 74. Plaintiff re-alleges and incorporates by reference, as though fully set forth herein, all  
11 paragraphs of this Complaint.

12 75. The FEHA broadly prohibits discrimination against employees who belong to a "protected  
13 class," such as sex. (Cal. Gov. Code §§ 12940, et seq.) Specifically, the FEHA prohibits employers from  
14 discriminating against an employee "in compensation or in terms, conditions, or privileges of  
15 employment" because of the sex of that employee. (Cal. Gov. Code § 12940(a).)

16 76. Indeed, the California Supreme Court has held that one's right to be free from  
17 discrimination ... in the workplace is "fundamental." (*See Brown v. Superior Court* (1984) 37 Cal.3d 477.)

18 77. Plaintiff is a member of a class protected by FEHA because she identifies her sex as being  
19 female.

20 78. Defendant, through its supervisors, agents and/or employees, engaged in a pattern and  
21 practice of unlawful discrimination on the basis of sex in connection with the terms and conditions of  
22 Plaintiff's employment. Plaintiff was treated less favorably because of her race.

23 79. Plaintiff believes that her sex was a substantial motivating factors in Defendants' decision  
24 to subject Plaintiff to the aforementioned discrimination.

25 80. The unlawful conduct alleged above was engaged in by the officers, directors, supervisors  
26 and/or managing agents of Defendants and/or Does 1 to 50, and each of them, who were acting at all times  
27 relevant to this Complaint within the scope and course of their employment. Defendants and/or Does 1 to  
28 50, and each of them, are therefore liable for the conduct of said agents and employees pursuant to

1 Government Code Section § 12926(d).

2 81. Based on information and belief, other non-diverse, white male employees did not suffer  
3 the aforementioned adverse employment actions. Specifically, the other employees were not  
4 micromanaged, undermined, and falsely accused of poor performance.

5 82. As set forth above, Defendants, including their supervisors, agents, and/or employees,  
6 engaged in and/or ratified, by their actions and/or inaction, through their employees and/or supervisors,  
7 acts of discrimination against Plaintiff based upon her protected class.

8 83. As a direct, foreseeable, and proximate result of Defendants' unlawful conduct, Plaintiff  
9 has sustained and continues to sustain substantial losses in earnings, related employment benefits, and  
10 employment opportunities. Plaintiff has suffered and continues to suffer other economic losses in an  
11 amount to be determined at time of trial. Plaintiff has sought to mitigate these damages.

12 84. As a direct, foreseeable, and proximate result of Defendants' unlawful conduct, Plaintiff  
13 has suffered and continues to suffer humiliation, emotional distress, loss of reputation, and mental and  
14 physical pain and anguish, all to her damage in a sum to be established according to proof.

15 85. In addition to such other damages as may properly be recovered herein, Plaintiff is entitled  
16 to, and therefore seeks to recover, prevailing party attorney's fees and costs pursuant to Government Code  
17 § 12965(b).

18 86. Plaintiff requests further relief as described in the below prayer.

19 **THIRD CAUSE OF ACTION**

20 **(Plaintiff Against All Defendants and/or Does 1 to 50)**

21 **HARASSMENT ON THE BASIS OF RACE**

22 **[Cal. Gov't. Code § 12940(j)]**

23 87. Plaintiff re-alleges and incorporates by reference, as though fully set forth herein, all  
24 paragraphs of this Complaint.

25 88. The FEHA broadly prohibits discrimination, harassment, and retaliation against employees  
26 who belong to a "protected class," such as race, color, and/or national origin. (Cal. Gov't. Code §§ 12940,  
27 et seq.). More specifically, the FEHA, prohibits an employer, ... or any other person, from harassing  
28 employees on the basis of race, color, and/or national origin, and further imposes a duty on employers to

1 prevent harassment on the basis of race, color, and/or national origin from occurring. (Cal. Gov't Code §  
2 12940(j)(1).)

3 89. Moreover, the California Supreme Court has held that one's right to be free from  
4 discrimination and harassment in the workplace is "fundamental." (*See Brown v. Superior Court* (1984)  
5 37 Cal.3d 477.) Accordingly, the FEHA's protections are decisively extensive as supervisors or other co-  
6 employees can be also be held personally liable for any type of prohibited harassment under FEHA. (Cal.  
7 Gov't Code § 12940(j)(3).)

8 90. Plaintiff is a member of a class protected by FEHA because she identifies her race as being  
9 African American.

10 91. Defendants, through their supervisors, agents and/or employees, engaged in a pattern and  
11 practice of unlawful discrimination on the basis of race in connection with the terms and conditions of  
12 Plaintiff's employment.

13 92. Plaintiff believes that her race, a protected characteristic under the FEHA was a substantial  
14 motivating factor in Defendants' decision to subject Plaintiff to the aforementioned harassment.

15 93. The unlawful conduct alleged above was engaged in by the officers, directors, supervisors  
16 and/or managing agents of Defendants and/or Does 1 to 50, and each of them, who were acting at all times  
17 relevant to this Complaint within the scope and course of their employment. Defendants and/or Does 1 to  
18 50, and each of them, are therefore liable for the conduct of said agents and employees pursuant to  
19 Government Code Section § 12926(d).

20 94. Based on information and belief, other non-diverse, white male employees did not suffer  
21 the aforementioned severe, pervasive, and unwelcome conduct. Specifically, the other employees were  
22 not micromanaged, undermined, and falsely accused of poor performance.

23 95. Specifically, the other employees were not micromanaged, undermined, and falsely  
24 accused of poor performance.

25 96. As set forth above, Defendants, including their supervisors, agents, and/or employees,  
26 engaged in and/or ratified, by their actions and/or inaction, through their employees and/or supervisors,  
27 acts of harassment against Plaintiff based upon her protected class.

28 97. As a direct, foreseeable, and proximate result of Defendants' unlawful conduct, Plaintiff

1 has sustained and continues to sustain substantial losses in earnings, related employment benefits, and  
2 employment opportunities. Plaintiff has suffered and continues to suffer other economic losses in an  
3 amount to be determined at time of trial. Plaintiff has sought to mitigate these damages.

4 98. As a direct, foreseeable, and proximate result of Defendants' unlawful conduct, Plaintiff  
5 has suffered and continues to suffer humiliation, emotional distress, loss of reputation, and mental and  
6 physical pain and anguish, all to her damage in a sum to be established according to proof.

7 99. In addition to such other damages as may properly be recovered herein, Plaintiff is entitled  
8 to, and therefore seeks to recover, prevailing party attorney's fees and costs pursuant to Government Code  
9 § 12965(b).

10 100. Plaintiff requests further relief as described in the below prayer.

11 **FOURTH CAUSE OF ACTION**

12 **(Plaintiff Against All Defendants and/or Does 1 to 50)**

13 **HARASSMENT ON THE BASIS OF SEX**

14 **[Cal. Gov't. Code § 12940(j)]**

15 101. Plaintiff re-alleges and incorporates by reference, as though fully set forth herein, all  
16 paragraphs of this Complaint.

17 102. The FEHA broadly prohibits discrimination, harassment, and retaliation against employees  
18 who belong to a "protected class," such as sex. (Cal. Gov't. Code §§ 12940, et seq.). More specifically,  
19 the FEHA, prohibits an employer, ... or any other person, from harassing employees on the basis of sex,  
20 and further imposes a duty on employers to prevent harassment on the basis of sex from occurring. (Cal.  
21 Gov't Code § 12940(j)(1).)

22 103. Moreover, the California Supreme Court has held that one's right to be free from  
23 discrimination and harassment in the workplace is "fundamental." (*See Brown v. Superior Court* (1984)  
24 37 Cal.3d 477.) Accordingly, the FEHA's protections are decisively extensive as supervisors or other co-  
25 employees can be also be held personally liable for any type of prohibited harassment under FEHA. (Cal.  
26 Gov't Code § 12940(j)(3).)

27 104. Plaintiff is a member of a class protected by FEHA because she identifies her sex as being  
28 female.

1 105. Defendants, through their supervisors, agents and/or employees, engaged in a pattern and  
2 practice of unlawful discrimination on the basis of sex in connection with the terms and conditions of  
3 Plaintiff's employment.

4 106. Plaintiff believes that her sex, a protected characteristic under the FEHA was a substantial  
5 motivating factor in Defendants' decision to subject Plaintiff to the aforementioned harassment.

6 107. The unlawful conduct alleged above was engaged in by the officers, directors, supervisors  
7 and/or managing agents of Defendants and/or Does 1 to 50, and each of them, who were acting at all times  
8 relevant to this Complaint within the scope and course of their employment. Defendants and/or Does 1 to  
9 50, and each of them, are therefore liable for the conduct of said agents and employees pursuant to  
10 Government Code Section § 12926(d).

11 108. Based on information and belief, other non-diverse, white male employees did not suffer  
12 the aforementioned severe, pervasive, and unwelcome conduct. Specifically, the other employees were  
13 not micromanaged, undermined, and falsely accused of poor performance.

14 109. As set forth above, Defendants, including their supervisors, agents, and/or employees,  
15 engaged in and/or ratified, by their actions and/or inaction, through their employees and/or supervisors,  
16 acts of harassment against Plaintiff based upon her protected class.

17 110. As a direct, foreseeable, and proximate result of Defendants' unlawful conduct, Plaintiff  
18 has sustained and continues to sustain substantial losses in earnings, related employment benefits, and  
19 employment opportunities. Plaintiff has suffered and continues to suffer other economic losses in an  
20 amount to be determined at time of trial. Plaintiff has sought to mitigate these damages.

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

24 112. In addition to such other damages as may properly be recovered herein, Plaintiff is entitled  
25 to, and therefore seeks to recover, prevailing party attorney's fees and costs pursuant to Government Code  
26 § 12965(b).

27 113. Plaintiff requests further relief as described in the below prayer.

28 ///



**FIFTH CAUSE OF ACTION**

**(Plaintiff Against Defendant SDWP and/or Does 1 to 50)**

**RETALIATION FOR OPPOSING DISCRIMINATION AND HARASSMENT**

**[Cal. Gov't Code §§12940(h)]**

114. Plaintiff re-alleges and incorporates by reference, as though fully set forth herein, all paragraphs of this First Amended Complaint.

115. The FEHA prohibits retaliation against any person for making a complaint under the FEHA, assisting another in making such a complaint, or for opposing any action in the workplace that would constitute an action of the FEHA, i.e., engaging in a “protected activity.” (Cal. Gov. Code § 12940(h).) A protected activity may include making a charge, testifying, assisting, or participating in any manner in proceedings or hearings under FEHA statutes, or opposing acts made unlawful by FEHA statutes. (Ibid.)

116. Further, an employee who honestly and reasonably believes that an employer is committing a wrong recognized by California law may not be terminated for trying to oppose or report that behavior. (*Yanowitz v. L'Oreal USA, Inc.* (2005) 36 Cal.4th 1028, 1044.)

117. An employee “need not explicitly and directly inform their employer that they believe the employer’s conduct was discriminatory or otherwise forbidden by FEHA.” (*Castro-Ramirez v. Dependable Highway Express, Inc.* (2016) 2 Cal.App.5th 1028, 1046.) Rather, the relevant inquiry is “whether the employee’s communications to the employer sufficiently convey the employee’s reasonable concerns that the employer has acted or is acting in an unlawful discriminatory manner.” (*Husman v. Toyota Motor CreditCorp.* (2017) 12 Cal.App.5th 1168, 1193.)

118. Plaintiff was engaged in the protected activity of opposing and reporting harassing and discriminatory conduct to Defendants. Specifically, Plaintiff informed Callstrom that a Black male employee was being treated less favorably and that a program facilitated by SDWP was excluding Black applicants. Additionally, Plaintiff, and several others, complained about Callstrom’s discriminatory, harassing, and retaliatory conduct, but SDWP dismissed these complaints. Callstrom engaged in pattern and practice of retaliating against employees for reporting concerns.

119. Plaintiff believes that her race and sex as well as the substance of her complaints were

1 substantial motivating factors in Defendants’ decision to subject Plaintiff to retaliate against Plaintiff.

2 120. The unlawful conduct alleged above was engaged in by the officers, directors, supervisors  
3 and/or managing agents of Defendants and/or Does 1 to 50, and each of them, who were acting at all times  
4 relevant to this Complaint within the scope and course of their employment. Defendants and/or Does 1 to  
5 50, and each of them, are therefore liable for the conduct of said agents and employees pursuant to  
6 Government Code Section § 12926(d).

7 121. As set forth above, Defendants, including their supervisors, agents, and/or employees,  
8 engaged in and/or ratified, by their actions and/or inaction, through their employees and/or supervisors,  
9 acts of harassment against Plaintiff based upon her protected class.

10 122. As a direct, foreseeable, and proximate result of Defendants’ unlawful conduct, Plaintiff  
11 has sustained and continues to sustain substantial losses in earnings, related employment benefits, and  
12 employment opportunities. Plaintiff has suffered and continues to suffer other economic losses in an  
13 amount to be determined at time of trial. Plaintiff has sought to mitigate these damages.

14 123. As a direct, foreseeable, and proximate result of Defendants’ unlawful conduct, Plaintiff  
15 has suffered and continues to suffer humiliation, emotional distress, loss of reputation, and mental and  
16 physical pain and anguish, all to her damage in a sum to be established according to proof.

17 124. In addition to such other damages as may properly be recovered herein, Plaintiff is entitled  
18 to, and therefore seeks to recover, prevailing party attorney’s fees and costs pursuant to Government Code  
19 § 12965(b).

20 125. Plaintiff requests further relief as described in the below prayer.

21 **SIXTH CAUSE OF ACTION**

22 **(Plaintiff Against Defendant SDWP and/or Does 1 to 50)**

23 **FAILURE TO PREVENT DISCRIMINATION, HARASSMENT, AND RETALIATION**

24 **[Cal. Gov’t Code §§12940(k)]**

25 126. Plaintiff re-alleges and incorporates by reference, as though fully set forth herein, all  
26 paragraphs of this Complaint.

27 127. The FEHA imposes an affirmative and mandatory duty on employers “to take all  
28 reasonable steps necessary to prevent discrimination and harassment from occurring.” (Cal. Gov. Code §

1 12940(k); *see also Northrop Grumman Corp. v. Workers' Comp. Appeals Bd.* (2002) 103 Cal.App.4th  
2 1021, 1035.) Reasonable steps include, at a minimum, "immediate corrective action that is reasonably  
3 calculated to (1) end the current harassment and (2) to deter future harassment." (*M.F. v. Pacific Pearl*  
4 *Hotel Management LLC* (2017) 16 Cal.App.5th 693, 701.)

5 128. Moreover, in accordance with the "fundamental public policy of eliminating discrimination  
6 in the workplace under the FEHA," California courts have concluded that "retaliation is a form of  
7 discrimination actionable under [Gov. Code] section 12940, subdivision (k)." (*Taylor v. City of Los*  
8 *Angeles Dept. of Water & Power* (2006) 144 Cal.App.4th 1216, 1240 [disapproved on other grounds in  
9 *Jones v. The Lodge at Torrey Pines Partnership* (2008) 42 Cal.4th 1158]; Dept. of Fair Employment &  
10 Housing v. M&N Financing Corp. (2021) 69 Cal.App.5th 434, 445.)

11 129. During her employment, Plaintiff was subjected to race discrimination, harassment, and  
12 retaliation for opposing and reporting Defendants' discriminatory and harassing conduct, as set forth  
13 herein.

14 130. Defendants failed to take all reasonable steps necessary to prevent the unlawful  
15 discrimination, harassment and retaliation committed against Plaintiff. Plaintiff was engaged in the  
16 protected activity of opposing and reporting harassing and discriminatory conduct to Defendants.  
17 Specifically, Plaintiff informed Callstrom that a Black male employee was being treated less favorably  
18 and that a program facilitated by SDWP was excluding Black applicants. Additionally, Plaintiff, and  
19 several others, complained about Callstrom's discriminatory, harassing, and retaliatory conduct, but  
20 SDWP dismissed these complaints.

21 131. Plaintiff used all of Defendants' available reporting mechanisms and her complaints were  
22 still ignored. On information and belief, other employees experienced this same indifference and lack of  
23 response from SDWP.

24 132. Defendants, through its agents and/or supervisors, knew or should have known of the  
25 discriminatory, harassing, and retaliatory conduct and failed to take immediate and appropriate corrective  
26 action to permanently end and further deter unlawful behavior.

27 133. Plaintiff believes that her race, color, and/or national origin, and/or some combination of  
28 these protected characteristics under the FEHA were substantial motivating factors in Defendants'

1 decision to subject Plaintiff to the aforementioned harassment.

2 134. The unlawful conduct alleged above was engaged in by the officers, directors, supervisors  
3 and/or managing agents of Defendants and/or Does 1 to 50, and each of them, who were acting at all times  
4 relevant to this Complaint within the scope and course of their employment. Defendants and/or Does 1 to  
5 50, and each of them, are therefore liable for the conduct of said agents and employees pursuant to  
6 Government Code Section § 12926(d).

7 135. As set forth above, Defendants, including their supervisors, agents, and/or employees,  
8 engaged in and/or ratified, by their actions and/or inaction, through their employees and/or supervisors,  
9 acts of harassment against Plaintiff based upon her protected class.

10 136. As a direct, foreseeable, and proximate result of Defendants' unlawful conduct, Plaintiff  
11 has sustained and continues to sustain substantial losses in earnings, related employment benefits, and  
12 employment opportunities. Plaintiff has suffered and continues to suffer other economic losses in an  
13 amount to be determined at time of trial. Plaintiff has sought to mitigate these damages.

14 137. As a direct, foreseeable, and proximate result of Defendants' unlawful conduct, Plaintiff  
15 has suffered and continues to suffer humiliation, emotional distress, loss of reputation, and mental and  
16 physical pain and anguish, all to her damage in a sum to be determined at trial.

17 138. As a direct, foreseeable, and proximate result of Defendants' unlawful conduct, Plaintiff  
18 has incurred and will continue to incur psychological and medical expenses all to her damage in a sum to  
19 be established according to proof.

20 139. In addition to such other damages as may properly be recovered herein, Plaintiff is entitled  
21 to, and therefore seeks to recover, prevailing party attorney's fees and costs pursuant to Government Code  
22 § 12965(b).

23 140. Plaintiff requests further relief as described in the below prayer.

24 **SEVENTH CAUSE OF ACTION**

25 **(Plaintiff Against All Defendants and/or Does 1 to 50)**

26 **RETALIATION FOR REPORTING ILLEGAL ACTIVITY**

27 **[Cal. Lab. Code §1102.5]**

28 141. Plaintiff re-alleges and incorporates by reference, as though fully set forth herein, all

1 paragraphs of this Complaint.

2 142. Pursuant to California Labor Code §1102.5, an employer, or any person acting on behalf  
3 of the employer, is prohibited from retaliating against an employee for disclosing information, or because  
4 the employer believes that the employee disclosed or may disclose information, to a government or law  
5 enforcement agency, to a person with authority over the employee or another employee who has the  
6 authority to investigate, discover, or correct the violation or noncompliance, or for providing information  
7 to, or testifying before, any public body conducting an investigation, hearing, or inquiry, if the employee  
8 has reasonable cause to believe that the information discloses a violation of state or federal statute, or a  
9 violation of or noncompliance with a local, state, or federal rule or regulation, regardless of whether  
10 disclosing the information is part of the employee’s job duties. (Cal. Lab. Code §1102.5)

11 143. In order to establish a prima facie case of retaliation under California Labor Code  
12 §1102.5(b), the plaintiff must demonstrate that he or she engaged in a protected activity as set forth in  
13 Section 1102.5, that the employer subjected him or her to an adverse employment action, and a causal link  
14 between the two. (*McVeigh v. Recology San Francisco* (2013) 213 Cal.App.4th 443, 468.)

15 144. A plaintiff who successfully prosecutes her claim for retaliation in violation of Section  
16 1102.5 may recover compensatory damages, including economic and emotional distress damages.  
17 (*Gardenhire v. Housing Authority of the City of Los Angeles* (2000) 85 Cal.App.4th 236, 237, 240-241.)

18 145. Plaintiff was engaged in the protected activity of opposing and reporting harassing and  
19 discriminatory conduct (reporting violations of FEHA) to Defendants. Specifically, Plaintiff informed  
20 Callstrom that a Black male employee was being treated less favorably and that a program facilitated by  
21 SDWP was excluding Black applicants. Additionally, Plaintiff, and several others, complained about  
22 Callstrom’s discriminatory, harassing, and retaliatory conduct, but SDWP dismissed these complaints.  
23 When Plaintiff voiced her concerns, Callstrom responded by retaliating against Plaintiff. Even after  
24 Plaintiff complained, SDWP did nothing and allowed Callstrom to continue his campaign of  
25 discrimination, harassment, and retaliation.

26 146. Defendants allowed Plaintiff to be subjected to oppressive retaliatory actions and conduct,  
27 including taking away job duties, excluding her from meetings and committees, micromanaging her work,  
28 criticizing her work performance, subjecting her to intolerable working conditions, adversely affecting

1 her ability to perform her job responsibilities, and other such adverse employment actions, which  
2 ultimately resulted in her constructive wrongful termination.

3 147. The unlawful conduct alleged above was engaged in by the officers, directors, supervisors  
4 and/or managing agents of Defendants and/or Does 1 to 50, and each of them, who were acting at all times  
5 relevant to this Complaint within the scope and course of their employment. Defendants and/or Does 1 to  
6 50, and each of them, are therefore liable for the conduct of said agents and employees pursuant to  
7 Government Code Section § 12926(d).

8 148. As set forth above, Defendants, including their supervisors, agents, and/or employees,  
9 engaged in and/or ratified, by their actions and/or inaction, through their employees and/or supervisors,  
10 acts of harassment against Plaintiff based upon her protected class.

11 149. As a direct, foreseeable, and proximate result of Defendants' unlawful conduct, Plaintiff  
12 has sustained and continues to sustain substantial losses in earnings, related employment benefits, and  
13 employment opportunities. Plaintiff has suffered and continues to suffer other economic losses in an  
14 amount to be determined at time of trial. Plaintiff has sought to mitigate these damages.

15 150. As a direct, foreseeable, and proximate result of Defendants' unlawful conduct, Plaintiff  
16 has suffered and continues to suffer humiliation, emotional distress, loss of reputation, and mental and  
17 physical pain and anguish, all to her damage in a sum to be determined at trial.

18 151. In addition to such other damages as may properly be recovered herein, Plaintiff is entitled  
19 to, and therefore seeks to recover, prevailing party attorney's fees and costs pursuant to Government Code  
20 § 12965(b).

21 152. Plaintiff requests further relief as described in the below prayer.

22 **EIGHTH CAUSE OF ACTION**

23 **(Plaintiff Against Defendant SDWP and/or Does 1 to 50)**

24 **WRONGFUL CONSTRUCTIVE TERMINATION IN VIOLATION OF PUBLIC POLICY**

25 153. Plaintiff re-alleges and incorporates by reference, as though fully set forth herein, all  
26 paragraphs of this Complaint.

27 154. California law prohibits an employer from terminating an employee in violation of  
28 fundamental public policies. California law establishes that the fundamental public policy of the State of

1 California is, in part to protect and safeguard the right and opportunity of all persons to see and hold  
2 employment free from discrimination, harassment, and retaliation, and retaliation for engaging in  
3 protected activity. These fundamental public policies are codified under, inter alia, California Government  
4 Code § 12940, et. seq., California Government Code § 12945.2, and Article I, Section 8 of the California  
5 Constitution.

6 155. Based on the information contained herein, Defendants violated all of California's  
7 fundamental public policies by constructively terminating Plaintiff's employment.

8 156. The unlawful conduct alleged above was engaged in by the officers, directors, supervisors  
9 and/or managing agents of Defendants and/or Does 1 to 50, and each of them, who were acting at all times  
10 relevant to this Complaint within the scope and course of their employment. Defendants and/or Does 1 to  
11 50, and each of them, are therefore liable for the conduct of said agents and employees pursuant to  
12 Government Code Section § 12926(d).

13 157. Plaintiff endured discrimination, harassment, and retaliation from Callstrom. When she  
14 reported it, her complaints were dismissed and Plaintiff was gaslighted and told her perception of her  
15 experience was not valid.

16 158. As set forth above, Defendants, including their supervisors, agents, and/or employees,  
17 engaged in and/or ratified, by their actions and/or inaction, through their employees and/or supervisors,  
18 acts of harassment against Plaintiff based upon her protected class.

19 159. As a direct, foreseeable, and proximate result of Defendants' unlawful conduct, Plaintiff  
20 has sustained and continues to sustain substantial losses in earnings, related employment benefits, and  
21 employment opportunities. Plaintiff has suffered and continues to suffer other economic losses in an  
22 amount to be determined at time of trial. Plaintiff has sought to mitigate these damages.

23 160. As a direct, foreseeable, and proximate result of Defendants' unlawful conduct, Plaintiff  
24 has suffered and continues to suffer humiliation, emotional distress, loss of reputation, and mental and  
25 physical pain and anguish, all to her damage in a sum to be determined at trial.

26 161. In addition to such other damages as may properly be recovered herein, Plaintiff is entitled  
27 to, and therefore seeks to recover, prevailing party attorney's fees and costs pursuant to Government Code  
28 § 12965(b).

1 162. Plaintiff requests further relief as described in the below prayer.

2 **PRAYER FOR RELIEF**

3 WHEREFORE, Plaintiff prays for the following relief:

- 4 a. For general, compensatory, and special damages as set forth through the complaint  
5 according to proof with prejudgment interest thereon to the extent allowable by  
6 law;
- 7 b. For punitive damages in an amount necessary to make an example of and to punish  
8 Defendants, and to deter future similar misconduct;
- 9 c. For damages for emotional distress, fear, humiliation, grief, nervousness, worry,  
10 sadness, anger, frustration, embarrassment, helplessness, stress, and related  
11 emotional and mental anguish in an amount to be determined by the jury at the trial  
12 of this matter;
- 13 d. For back pay, front pay, and other monetary relief, as permitted by law;
- 14 e. For attorneys' fees and litigation costs, as permitted by law;
- 15 f. For pre- and post- judgment interest, as permitted by law;
- 16 g. For a mandatory injunction requiring Defendants to implement and maintain  
17 policies and procedures to effectively train and supervise employees in FEHA's  
18 prohibitions against racial discrimination, harassment, and retaliation; and
- 19 h. Any other relief, the Court may deem as just and proper.

20 **DEMAND FOR JURY TRIAL**

21 Plaintiff hereby demands a trial by jury on all claims.

22  
23 Dated: December 14, 2022

GRAHAMHOLLIS APC

24  
25 By: 

26 GRAHAM S.P. HOLLIS  
27 VILMARIE CORDERO  
28 HALI M. ANDERSON  
*Attorneys for Plaintiff Tabatha Gaines*



# **EXHIBIT 1**



## Civil Rights Department

2218 Kausen Drive, Suite 100 | Elk Grove | CA | 95758  
800-884-1684 (voice) | 800-700-2320 (TTY) | California's Relay Service at 711  
calcivilrights.ca.gov | contact.center@dfeh.ca.gov

December 14, 2022

Hali Anderson  
3555 5th Ave, Ste 200  
San Diego, CA 92103-5057

**RE: Notice to Complainant's Attorney**  
CRD Matter Number: 202212-19141814  
Right to Sue: Gaines / San Diego Workforce Partnership et al.

Dear Hali Anderson:

Attached is a copy of your complaint of discrimination filed with the Civil Rights Department (CRD) pursuant to the California Fair Employment and Housing Act, Government Code section 12900 et seq. Also attached is a copy of your Notice of Case Closure and Right to Sue.

**Pursuant to Government Code section 12962, CRD will not serve these documents on the employer.** You must serve the complaint separately, to all named respondents. Please refer to the attached Notice of Case Closure and Right to Sue for information regarding filing a private lawsuit in the State of California. A courtesy "Notice of Filing of Discrimination Complaint" is attached for your convenience.

Be advised that the CRD does not review or edit the complaint form to ensure that it meets procedural or statutory requirements.

Sincerely,

Civil Rights Department



## Civil Rights Department

KEVIN KISH, DIRECTOR

2218 Kausen Drive, Suite 100 | Elk Grove | CA | 95758  
800-884-1684 (voice) | 800-700-2320 (TTY) | California's Relay Service at 711  
calcivilrights.ca.gov | contact.center@dfeh.ca.gov

December 14, 2022

**RE: Notice of Filing of Discrimination Complaint**

CRD Matter Number: 202212-19141814

Right to Sue: Gaines / San Diego Workforce Partnership et al.

To All Respondent(s):

Enclosed is a copy of a complaint of discrimination that has been filed with the Civil Rights Department (CRD) in accordance with Government Code section 12960. This constitutes service of the complaint pursuant to Government Code section 12962. The complainant has requested an authorization to file a lawsuit. A copy of the Notice of Case Closure and Right to Sue is enclosed for your records.

This matter may qualify for CRD's Small Employer Family Leave Mediation Pilot Program. Under this program, established under Government Code section 12945.21, a small employer with 5 -19 employees, charged with violation of the California Family Rights Act, Government Code section 12945.2, has the right to participate in CRD's free mediation program. Under this program both the employee requesting an immediate right to sue and the employer charged with the violation may request that all parties participate in CRD's free mediation program. The employee is required to contact the Department's Dispute Resolution Division prior to filing a civil action and must also indicate whether they are requesting mediation. The employee is prohibited from filing a civil action unless the Department does not initiate mediation within the time period specified in section 12945.21, subdivision (b) (4), or until the mediation is complete or is unsuccessful. The employee's statute of limitations to file a civil action, including for all related claims not arising under section 12945.2, is tolled from the date the employee contacts the Department regarding the intent to pursue legal action until the mediation is complete or is unsuccessful. You may contact CRD's Small Employer Family Leave Mediation Pilot Program by emailing [DRDOnlineRequests@dfeh.ca.gov](mailto:DRDOnlineRequests@dfeh.ca.gov) and include the CRD matter number indicated on the Right to Sue notice.

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

No response to CRD is requested or required.

Sincerely,



## Civil Rights Department

KEVIN KISH, DIRECTOR

2218 Kausen Drive, Suite 100 | Elk Grove | CA | 95758  
800-884-1684 (voice) | 800-700-2320 (TTY) | California's Relay Service at 711  
[calcivilrights.ca.gov](http://calcivilrights.ca.gov) | [contact.center@dfeh.ca.gov](mailto:contact.center@dfeh.ca.gov)

Civil Rights Department



## Civil Rights Department

2218 Kausen Drive, Suite 100 | Elk Grove | CA | 95758  
800-884-1684 (voice) | 800-700-2320 (TTY) | California's Relay Service at 711  
calcivilrights.ca.gov | contact.center@dfeh.ca.gov

December 14, 2022

Tabatha Gaines  
3555 Fifth Avenue, Suite 200  
San Diego, 92103

**RE: Notice of Case Closure and Right to Sue**  
CRD Matter Number: 202212-19141814  
Right to Sue: Gaines / San Diego Workforce Partnership et al.

Dear Tabatha Gaines:

This letter informs you that the above-referenced complaint filed with the Civil Rights Department (CRD) has been closed effective December 14, 2022 because an immediate Right to Sue notice was requested.

This letter is also your Right to Sue notice. According to Government Code section 12965, subdivision (b), a civil action may be brought under the provisions of the Fair Employment and Housing Act against the person, employer, labor organization or employment agency named in the above-referenced complaint. The civil action must be filed within one year from the date of this letter.

This matter may qualify for CRD's Small Employer Family Leave Mediation Pilot Program. Under this program, established under Government Code section 12945.21, a small employer with 5 -19 employees, charged with violation of the California Family Rights Act, Government Code section 12945.2, has the right to participate in CRD's free mediation program. Under this program both the employee requesting an immediate right to sue and the employer charged with the violation may request that all parties participate in CRD's free mediation program. The employee is required to contact the Department's Dispute Resolution Division prior to filing a civil action and must also indicate whether they are requesting mediation. The employee is prohibited from filing a civil action unless the Department does not initiate mediation within the time period specified in section 12945.21, subdivision (b) (4), or until the mediation is complete or is unsuccessful. The employee's statute of limitations to file a civil action, including for all related claims not arising under section 12945.2, is tolled from the date the employee contacts the Department regarding the intent to pursue legal action until the mediation is complete or is unsuccessful. Contact CRD's Small Employer Family Leave Mediation Pilot Program by emailing



## Civil Rights Department

KEVIN KISH, DIRECTOR

2218 Kausen Drive, Suite 100 | Elk Grove | CA | 95758  
800-884-1684 (voice) | 800-700-2320 (TTY) | California's Relay Service at 711  
calcivilrights.ca.gov | contact.center@dfeh.ca.gov

DRDOnlineRequests@dfeh.ca.gov and include the CRD matter number indicated on the Right to Sue notice.

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

Sincerely,

Civil Rights Department



1 **Additional Complaint Details:** Claimant Tabatha Gaines (“Claimant”), an African American  
2 woman, is a hardworking and dedicated employee with a proven track record of success.

3 Claimant has been a Human Resources (“HR”) Professional for almost 20 years and has  
4 received and maintains active HR certifications (PHR and SHRM-CP) for the past 12 years.  
5 In addition, Claimant has a certificate in Diversity, Equity & Inclusion in the Workplace and  
6 an HR Management Certificate. As such, Claimant is skilled in workplace management and  
7 issues of diversity, equity, and inclusion.

8 Per the Respondent San Diego Workforce Partnership (“SDWP”) Diversity Equity &  
9 Inclusion Statement, “The Workforce Partnership’s approach to all diversity, equity and  
10 inclusion efforts is to listen, learn and then act.” SDWP’s website goes on to state,  
11 “Diversity, equity and inclusion can only be truly achieved if it includes our internal practices  
12 as well. It begins with centering our hiring processes and continues by influencing our day-  
13 to-day practices.”

14 In January 2021, Claimant was hired as the Director of People of Culture for SDWP,  
15 reporting to Chief Administration Officer (“CAO”) April House (Black female).

16 By July 2021, Claimant had been promoted to Senior Director and there was discussion  
17 about putting Claimant on the “Vice President track”. Claimant’s positive work contributions  
18 were highlighted in her performance review.

19 In September 2021, CAO House announced she was leaving SDWP. Before CAO House’s  
20 departure, she promoted Claimant to Senior Director and also announced to SDWP that  
21 Claimant would assume leadership of Diversity, Equity & Inclusion (“DEI”) activities internally  
22 and with the Board. Upon CAO House’s departure, Claimant began reporting directly to  
23 Callstrom.

24 Around this same time (late-August/early September 2021), Claimant began having  
25 discussions with Manager of Business Experience Angel Stancer about one of her direct  
26 reports who was a Black male employee. Claimant recommended to Stancer that this  
27 employee’s performance be effectively managed using counseling and coaching. Despite  
28 Claimant’s recommendation and experience with effective performance coaching, it became  
clear that Callstrom had already decided to terminate this Black male employee. Claimant  
explained to Callstrom that she would not advise termination of this employee given that  
there were two non-Black employees with similar performance issues who were being  
treated more favorably.

Upon information and belief, Manager Stancer reached out to Claimant for help on  
managing the employee and reported that she felt pressure to terminate the employee from  
Callstrom. Upon information and belief, Manager Stancer was also on board with Claimant’s  
recommendation to coach and manage this employee but was concerned about Callstrom’s  
perceptions of her if she didn’t terminate the employee



1 Nevertheless, Respondent/SDWP President and Chief Executive Officer Peter Callstrom  
2 continued to push for termination of this employee and began to engage in a pattern of  
3 unrealistic micromanagement even going so far as to personally start secret shopping this  
4 Black male employee. This was an unprecedented and unnecessary method of oversight  
5 and harassment. Although Callstrom said that he would leave the decision to terminate to  
6 others, it was clear that Callstrom left no choice but to terminate this employee. At one  
7 point, Callstrom commented, "We may never get an opportunity like this [to terminate him]  
8 again."

9 Callstrom insisted on managing the employee's every move and continuing to set him up for  
10 failure. Callstrom's tactics finally proved successful and in November 2021, the Black male  
11 employee was terminated.

12 Upon information and belief, this method of extreme micromanagement and harassment  
13 was a pattern and practice which Callstrom would engage in against women and employees  
14 of color. While Callstrom might either hire women and/or people of color, Callstrom would  
15 later target these employees while giving preferential treatment to white male, non-diverse  
16 employees.

17 In September 2021, Claimant shared with Callstrom the results of an Employee Opinion  
18 Survey about DEI concerns related to a program being facilitated by SDWP. Claimant  
19 explained that Black applicants were somehow being excluded from the program and being  
20 deemed ineligible for the intended services. Callstrom became agitated with Claimant and  
21 defensive claiming that Claimant was being accusatory. Claimant explained that she was  
22 just bringing attention to the potential issue so it could be addressed. However, after this  
23 conversation, Callstrom's treatment of Claimant dramatically changed.

24 On September 7, 2021, SDWP hired Brett Stapleton (mixed race male) as the Vice  
25 President of Finance. Stapleton was later promoted to be Chief Financial Officer ("CFO").

26 In October 2021, Claimant assumed leadership of the Compliance department.

27 On October 13, 2021, Claimant requested that she be moved to report directly to CFO  
28 Stapleton instead of Callstrom. But, Callstrom's targeting of Claimant worsened.

On November 30, 2021, Callstrom informed Claimant that she would no longer be the lead  
on the DEI Workforce Development Board Committee, nor would she be participating on the  
Committee until and unless he invited her in. Callstrom had never attended WDB DEI  
meetings in the past and this decision was in direct contravention of the directive from CAO  
House upon her departure and prior communications from Callstrom.

In December 2021, Callstrom removed Claimant from the Executive Team Meetings.

From thereon, Callstrom engaged in a pattern and practice of harassment and retaliation in  
the form of hyper-focused and relentless micro-management of Claimant.

1 In March 2022, Callstrom had an executive meeting questioning one of Claimant's  
2 deliverables. In the meeting, Callstrom intentionally blamed Claimant for not meeting  
3 deadlines even though he knew Claimant has submitted the deliverables for his approval.  
4 At the same time, Callstrom instructed Claimant not to communicate with the Executive  
5 Leadership Team without hearing from him first.

6 On March 21, 2022, Claimant submitted a formal complaint of discrimination, retaliation, and  
7 hostile work environment to her direct supervisor, Brett Stapleton, and Sammy Totah and  
8 Althea Salas of the SDWP Board. In the complaint, Claimant identified CEO Peter Callstrom  
9 as the harasser.

10 On March 25, 2022, Ms. Salas informed Claimant that SDWP had retained a third-party  
11 investigator, to investigate her complaint. As part of this investigation, Claimant provided  
12 the names of numerous individuals who could substantiate her allegations and who had  
13 suffered similar treatment from Callstrom. Claimant also explained to the Board and to the  
14 investigator that most, if not all, employees were fearful of speaking up because they  
15 reasonably believed they would face retaliation from Callstrom. Indirectly or directly  
16 retaliating against employees who speak up is a pattern of Callstrom.

17 Claimant also asked if Callstrom would be placed on a leave of absence while the  
18 investigation was ongoing, but this request was denied.

19 Effective May 19, 2022, CFO Stapleton left SDWP. On information and belief, CFO  
20 Stapleton was forced out of SDWP after he brought financial concerns to Callstrom's  
21 attention and insisted on relaying this information to the Board. On information and belief,  
22 as soon as CFO Stapleton relayed this information to the Board, Callstrom began retaliating  
23 against CFO Stapleton.

24 On June 16, 2022, after losing complete faith in the investigation process, seeing no  
25 movement by SDWP to address Callstrom's continued misconduct, and after considering  
26 the impact to her mental and physical health, Claimant resigned from her position as Senior  
27 Director of People and Culture and Compliance with SDWP. This decision was not an easy  
28 one for Claimant, but she felt she had no choice after the continued discrimination,  
harassment, and retaliation from Callstrom.

As a result of the discrimination, harassment, and retaliation suffered at work, Claimant  
suffered emotional distress and migraines. Claimant sought medical attention for this  
emotional distress; and sought assistance from the Employee Assistance Program at  
SDWP.

After Claimant informed SDWP of her resignation, they informed her they were going to post  
for a Vice President of People and Culture position. This position was previously mapped  
as a position for Claimant before Callstrom began to retaliate against and exclude Claimant.

On or around Claimant's last day of employment, SDWP verbally informed Claimant of the  
results of the investigation. Per the Investigator, the results showed that Callstrom engaged

1 in micro-management and he may have been upset at times, but there was no evidence that  
2 Callstrom continued to display frustrations after an event was over. The Investigator  
3 referenced an email in which Callstrom used a smiley-face emoji as an example of Callstrom  
4 not harboring resentment towards Ms. Gaines.

5 The third-party investigator also incorrectly found that the mistreatment Claimant  
6 experienced was the fault of her supervisors—not Callstrom. From Claimant’s perspective,  
7 SDWP tried to blame the conduct on CFO Stapleton even though CFO Stapleton had  
8 written Claimant a glowing review before Claimant’s departure.

9 In reality, this was a common tactic of Callstrom—to use his direct reports to implement his  
10 harassment tactics in an attempt to insulate himself from liability.

11 Thus, despite Claimant’s proven track record of being a reliable and credible employee, and  
12 despite the long list of witnesses provided by Claimant, her allegations were not taken  
13 seriously.

14 Upon information and belief, many women and people of color experienced similar targeting  
15 and harassing conduct from Callstrom; and had reported it to SDWP in the past. Callstrom  
16 would routinely, falsely accuse women and people of color of under-performance and  
17 ensure they were managed out. Each time, the employee was either offered a severance  
18 agreement with a confidentiality provision or simply terminated, whether it be directly or  
19 constructively.

20 After being managed out and accused of poor performance, these same employees,  
21 including Claimant, would go on to have thriving and successful careers away from  
22 Callstrom. Meanwhile white, non-diverse male employees would be treated to glass-  
23 elevator treatment and enjoy rapid advancement as long as they did not attempt to hold  
24 Callstrom accountable.

25 Many current and former employees were and are afraid to speak up out of fear of  
26 retaliation. Employees continually saw their colleagues make complaints about Callstrom  
27 and SDWP repeatedly failed to take any action to stop Callstrom.

28 On information and belief, as early as 2020, there was a recommendation from a third-party  
consultant that Callstrom take a sabbatical due to concerns raised by employees, but this  
recommendation was ignored.

As result of SDWP’s failure to take steps to reasonably stop the discrimination, harassment,  
and retaliation from occurring, Callstrom was enabled to create and maintain a hostile  
working environment for Claimant and other female employees and employees of color.

On November 21, 2022, SDWP’s Policy Board held a closed session meeting to discuss  
“significant exposure to litigation.”

On November 22, 2022, Callstrom was put on an unexpected leave of absence.

1 VERIFICATION

2 I, **Hali Anderson**, am the **Attorney** in the above-entitled complaint. I have read the  
3 foregoing complaint and know the contents thereof. The matters alleged are based  
4 on information and belief, which I believe to be true.

5 On December 14, 2022, I declare under penalty of perjury under the laws of the State  
6 of California that the foregoing is true and correct.

7 **San Diego, CA**

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

Date Filed: December 14, 2022

28