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6 Jeffrey W. Magram (Ret.)  
7

8 SUPERIOR COURT FOR THE STATE OF CALIFORNIA  
9 COUNTY OF SACRAMENTO - UNLIMITED  
10

11  
12 BRIGADIER GENERAL JEFFREY W.)  
MAGRAM (RET.), an individual, )

13 )  
14 Plaintiff, )

15 vs. )

16 )  
17 MAJOR GENERAL MATTHEW P.)  
BEEVERS; STATE OF CALIFORNIA;) )  
18 CALIFORNIA MILITARY DEPARTMENT;) )  
GAVIN NEWSOM; AND DOES 1-20, )

19 )  
20 Defendants. )  
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Case No.24CV009096

**FIRST AMENDED COMPLAINT**

- 1) Discrimination on the Basis of Religion - FEHA - Government Code Section 12940;
- 2) Harassment on the Basis of Religion - FEHA - Government Code Section 12940;
- 3) Retaliation for Complaining of Religious Discrimination and/or Harassment - FEHA - Government Code Section 12940;
- 4) Failure to Prevent Discrimination, Harassment, and Retaliation - FEHA Gov. Code Section 12940;
- 5) Whistleblower Retaliation - FEHA - Gov. Code Section 12940;
- 6) Discrimination on the Basis of Physical Disability/Medical Condition - FEHA - Government Code Section 12940;
- 7) Wrongful Termination of Employment in Violation of Public Policy - FEHA - Gov. Code Section 12940;
- 8) Violation of Equal Protection Under Article I, Section 7 of the California Constitution.

**DEMAND FOR JURY TRIAL**

1 Plaintiff, Brigadier General Jeffrey W. Magram (Ret.) (“Magram”), hereby alleges  
2 against defendants, Major General Matthew P. Beevers (“Beevers”); State of California;  
3 California Military Department (“CMD”); Governor Gavin Newsom (“Governor Newsom”); and  
4 DOES 1-20, Defendants (collectively referred to herein as “Defendants”), as follows:

5 **NATURE OF THE ACTION**

6 1. This case is an action for Religious Discrimination, Harassment, and Wrongful  
7 Termination in violation of California Government Code § 12940, and the California Fair  
8 Employment and Housing Act (“FEHA”) arising out of Magram’s 37-plus years of employment  
9 with the California Air Guard and United States Air Force, which includes 14-plus years as a  
10 full time officer on State Active Duty with the CMD. Beevers discriminated against Magram by  
11 harassing and wrongfully terminating Magram because of Magram’s Jewish faith, Jewish  
12 heritage, and Magram’s complaints about Beevers’ anti-Semitic discrimination and harassment.  
13 Beevers’ discrimination against Magram violated FEHA, California public policy and Article I,  
14 Section 7 of the California Constitution. The State of California, CMD, and Governor Newsom  
15 were aware of Beevers’ anti-Semitism, Beevers’ anti-Semitic campaign, and Beevers’  
16 retaliation against Magram. The State California, CMD and Governor Newsom facilitated and  
17 ratified Beevers’ anti-Semitism and Beevers’ anti-Semitic campaign against Magram.

18 **PARTIES**

19 2. Plaintiff, Magram, resides in the City of Lincoln, California, is of the Jewish faith, and  
20 until January 8, 2023, was a Brigadier General with the CMD, on full time State Active Duty  
21 and was also assigned as part of the California Air National Guard in Sacramento California. In  
22 this position, Magram was the most senior full-time general in the California Air National Guard  
23 and was responsible for the administration and support of more than 4,900 California air service  
24 members. At all times relevant hereto, Magram was an employee of Defendant CMD within the  
25 meaning of the FEHA (Cal. Gov. Code §12900 et seq.)

26 3. Defendant, State of California, is now, and at all times mentioned in this complaint was, a  
27 sovereign state of the United States and is subject to suit under the provisions of FEHA.

28 4. Defendant, CMD, is a political subdivision of the State of California, and is subject to

1 suit under the provisions of FEHA. CMD employs civilians, soldiers and airmen in four  
2 employment categories: Active Guard and Reserve, Federal Technicians, State of California  
3 Civil Service, and State Active Duty. State Active Duty service is governed by provisions of  
4 state law and military regulations. To be appointed to a State Active Duty position within  
5 defendant CMD, a person must be a member of the active militia of California. The active  
6 militia is defined as the California Army and Air National Guard, State Guard, and Naval  
7 Militia.

8 5. Defendant Beevers was, at all relevant times alleged herein, a supervisory employee of  
9 defendant CMD and California, and is subject to suit under the provisions of FEHA,  
10 Government Code Section 12940 (I).

11 6. Governor Newsom is the chief executive officer of the State of California. Governor  
12 Newsom is responsible for overseeing the operations of the State and ensuring that its laws are  
13 faithfully executed. As the leader of the executive branch, Governor Newsom is the chief of  
14 California's executive branch agencies, including the CMD. (Cal. Const., art. V, § 1.) Governor  
15 Newsom is the Commander-in-Chief of the California National Guard. (Cal. Const., art. V, § 7;  
16 Cal. Mil. & Vet. Code §140.)

17 7. Magram is informed and believes, and thereon alleges, that there exists, and at all times  
18 herein mentioned there has existed, a unity of interest and ownership between Defendants, such  
19 that any individuality and separateness between Defendants does not exist and each Defendant is  
20 the alter ego of one another.

21 8. The true names, identities, or capacities whether individual, corporate, associate, or  
22 otherwise of Does 1 - 20 inclusive are unknown to Magram, who therefore sues said Defendants  
23 by such fictitiously named Defendants as they are in some way responsible for the acts and  
24 wrongs alleged herein. When the true names, identities, or capacities of such fictitiously  
25 designated Defendants are ascertained, Magram will ask leave of this Court to amend this  
26 Complaint and insert said true names, identities, and capacities, together with detailed charging  
27 allegations.

28 9. Magram is informed and believes, and on that basis alleges, that each Defendant sued

1 under such fictitious names is in some manner responsible for the wrongs and damages as  
2 alleged below; and in so acting, each was functioning as the agent, servant, partner, alter ego,  
3 supervisor and/or employee of the other Defendants. In committing the actions mentioned  
4 below, each Defendant was acting within the course and scope of her or his authority as such  
5 agent, servant, partner, supervisor and/or employee, with the permission and consent of the other  
6 Defendants.

### 7 **FACTS AND ALLEGATIONS**

8 10. During the course of Magram's interactions with Beevers over the past few years, Beevers  
9 has displayed a pattern of antisemitism and bigotry that created a hostile and toxic work  
10 environment. Over the course of time while Magram was under Beevers' command, Beevers  
11 made multiple bigoted and disparaging statements to Magram and to other officers about Jewish  
12 military personnel. When Beevers learned a Jewish Lieutenant Colonel in the California State  
13 Guard negotiated a military discount on a car he said, "How Jewish can you get" and said he  
14 was giving "you guys (referring to Jews) a bad name." Beevers described the California State  
15 Guard Leadership as run by a bunch of "Kike" lawyers, which he stated in the presence of  
16 another senior leader in the CMD.

17 11. On or about August 8, 2022, Magram emailed a letter to the California Inspector  
18 General's Office and to the Governor, Gavin Newsom's, office alleging abuse of authority, toxic  
19 work environment and discriminatory language by Beevers. Contemporaneously, Magram  
20 emailed Beevers with notice of this complaint to the Inspector General.

21 12. On August 10, 2022, Magram was brought before a Disciplinary Action Board ("DAB").  
22 The complainant and instigator of the DAB was Beevers. The DAB failed to follow due process  
23 and the rules of evidence and was improperly constituted, thereby violating State active duty  
24 procedures iAW CMDR 600-1 ch 9, requiring cause to that are fundamental and a key part of  
25 Magram's employment agreement with the State of California. Magram is informed and believes,  
26 and thereon alleges, that Beevers interfered with the DAB complaint because of Magram's  
27 Jewish heritage and in retaliation for Magram's complaints.

28 13. Magram alleges on information and belief that, on August 9, 2022, the day before the

1 hearing, one of Magram's potential witnesses at the DAB was told by Beevers that the  
2 Department needed to get rid of Magram and warned the witness to be careful about who he  
3 supported on this issue. This conduct was a clear violation of protocol, constituted witness  
4 intimidation, and further demonstrated Beevers' hostility and religious and retaliatory animus  
5 toward Magram. This witness, along with other witnesses, thereafter, declined to testify on his  
6 behalf. Magram alleges on information and belief that Beevers contacted the DAB members  
7 themselves, either directly or through third parties, to make sure that Magram's dismissal was  
8 preordained. The DAB is a fundamental part of the contract for "permanent status" CMD  
9 personnel, as Magram cannot be dismissed without a proper hearing. Instead, the DAB was not  
10 conducted fairly or with due process, in violation of regulations and CMD's legal obligations to  
11 Magram.

12 14. A key witness against Magram, used and referenced by Beevers, had been counseled by  
13 Magram (when Magram was the Vice Commander of the 129th Rescue Wing) for making anti-  
14 Semitic statements (among them was a statement that he "was sweating like a Hebrew slave"),  
15 while on official travel. Beevers relied heavily on a decade old, inaccurate and stale story that  
16 Magram directed a subordinate to take his mother to Whole Foods in 2013. Magram had part of  
17 his lung removed, was recuperating at home and under the care of his 78 year old mother who  
18 was visiting from out of town. A couple of weeks into Magram's recovery, a group of Airmen  
19 from his wing requested to come over and check on Magram and offer any assistance, a standard  
20 practice for the organization. During this visit, one of the visiting leaders offered to take  
21 Magram's mother to Whole Foods, after his mother mentioned she liked to shop there because of  
22 their Kosher Food selection, but the drive to the store was too complicated. Magram did not  
23 direct any of the airman to do anything. However, despite the incident being far outside Air Force  
24 Instruction 90-301 standard timelines and being questionable, Beevers used the story as a center  
25 point for his termination of Magram Magram's state employment. Magram alleges on information  
26 and belief that Beevers' actions were fueled by his anti-Semitic animus and was part of Beevers'  
27 deliberate campaign to discredit Magram and unfairly push him out of the Department.

28 15. In April 2021, Magram was given a letter by the Department stating he was supposedly

1 suspended "for cause" by the Department, yet he was simply reassigned to the main front office,  
2 was at work every day, and assigned to work under the then Adjutant General and Beevers. Even  
3 after requesting the "cause" from Beevers many times, no cause was ever provided to Magram to  
4 provide detail and context to the letter. Instead of Magram's personnel status being kept  
5 confidential as it should have been, Beevers announced to the California Air National Guard and  
6 is believed to have leaked confidential personnel information to the LA Times that Magram was  
7 suspended. The Department later rescinded the "for cause" from this suspension, but the damage  
8 from the Beevers' public releases was already done. Magram is informed and believes, and  
9 thereon alleges, that Beevers published this false and defamatory information for the purpose of  
10 harming Magram's employment and prospects for future employment because of Magram's  
11 Jewish heritage.

12 16. On June 16, 2022, Beevers wrongfully barred Magram from working inside the CMD  
13 headquarters building even though Magram was not under investigation and no complaints had  
14 been made against Magram. Beevers effectively suspended Magram without cause or due  
15 process. This action was prejudicial to the DAB. Magram is informed, believes, and thereon  
16 alleges that Beevers' barring of Magram from working inside the headquarters building was  
17 motivated by Beevers' anti-Semitic animus.

18 17. On September 1, 2022, Magram filed a follow up complaint with Governor Newsom's  
19 staff regarding Beevers' conduct and on October 17, 2022, submitted a whistleblower complaint  
20 to Headquarters, Department of the Army, and the Inspector General's Office. Based upon  
21 information and belief, Beevers was informed of these complaints and retaliated by attempting to  
22 initiate unwarranted investigations of Magram about line of duty injuries/disability claims with  
23 the Air National Guard.

24 18. Plaintiff is informed and believes, and thereon alleges, that Newsom and members of his  
25 immediate staff had been made aware of Beevers' antisemitic attitude not only by Plaintiff  
26 himself, but by other senior officers of the CMD, yet chose to ignore this information and  
27 directly ratify the antisemitic acts of Beevers. Plaintiff is further informed and believes that  
28 Newsom and his staff knew well that the internal Inspector General (IG) investigation of the

1 allegations made by others against Beevers for antisemitism had been conducted by a subordinate  
2 officer to Beevers in direct violation of policy, and that such investigation did not find that  
3 Beevers had not made such antisemitic remarks, but rather that the remarks could not be  
4 substantiated; notwithstanding that competent and direct testimony taken by the IG contradicted  
5 such a result.

6 19. In or around September, 2022, after Magram's complaints to Governor Newsom's office,  
7 Beevers tried to sabotage Magram's line of duty medical approvals from the Air Guard that were  
8 needed in support of his disability retirement by attempting to instigate an investigation into  
9 Magram's disability claims. Magram is informed and believes, and thereon alleges, that Beevers  
10 was aware that Magram's disability claims would trigger medical orders that might interfere with  
11 Beevers' campaign to railroad Magram out of the California Air National Guard. Ultimately,  
12 Beevers failed to discredit Magram's disability claims.

13 20. After his failed attempt to medically discredit Magram's disability claims, Beevers further  
14 retaliated against Magram on November 10, 2022, by bringing a California Military and Veterans  
15 Code Article 239 action ("Article 239 Action") against Magram, thereby wrongfully removing  
16 Magram from his affiliation with the California Air National Guard, effective on January 9, 2023.  
17 At the time Beevers initiated this Article 239 action, Magram was on a medical hold (Air Force  
18 Code 37 status) and in the middle of his ongoing disability evaluation process. Magram is  
19 informed and believes, and thereon alleges, that Beevers used this Article 239 action to have  
20 Magram's military medical treatment orders, pay, and further medical care cut short in order to  
21 cause Magram to be arbitrarily separated from the California Air National Guard on January 9,  
22 2023. Between October and December of 2022, counsel for Magram, on his behalf, sent four (4)  
23 letters to Governor Newsom's office detailing issues with the DAB and Beevers' behavior,  
24 including Beevers' anti-Semitic statements and his interference with his disability retirement.

25 21. Initiation of an Article 239 action is almost never used in California and is not appropriate  
26 when a service member is in the middle of an ongoing disability evaluation process. Magram is  
27 informed and believes, and thereon alleges, that the Article 239 action was done as an act of  
28 reprisal and retaliation as a result of Magram complaining about anti-Semitism and other issues to

1 the Inspector General and Governor Newsom's office about Beevers.

2 22. The DAB approved Magram's dismissal, and Governor Newsom's office, despite being  
3 informed of Beevers' discriminatory animus, authorized Magram's termination from his State  
4 Active-Duty position at the CMD on November 9, 2022, with an actual final separation date of  
5 January 8, 2023. Yet, there was no new or even recent negative or adverse information about  
6 Magram that could have compelled or warranted Beevers to initiate the 239 action other than to  
7 retaliate for Magram's complaints, Jewish heritage, and disability evaluation status. Based on  
8 information and belief, the 239 action was motivated by Beevers' anti-Semitic animus and in  
9 retaliation for Magram's complaints about Beevers' religious animus.

10 23. Continuing with his retaliatory behavior, Magram is informed and believes, and thereon  
11 alleges, that in early January 2023, Beevers released Magram's private personnel information to  
12 the press in violation of California's Constitutional Right to Privacy and the civil service  
13 procedures in place for disciplinary conduct. The press articles contained information that was  
14 not public nor available to the public regarding the allegations made against Magram and his  
15 resulting termination, including, but not limited to, that Magram, in conjunction with the CMD  
16 termination action, was being fired from the Federal Air National Guard, which was patently  
17 false, as the DAB proceeding against Magram was solely related to his CMD position. No  
18 adverse discharge separation action was ever initiated or contemplated with respect to Magram's  
19 federal position in the Air National Guard and Magram was honorably discharged from the Air  
20 National Guard and the Air Force.

21 24. On January 8, 2023, when Magram was still assigned as part of the California Air  
22 National Guard, Beevers wrongfully, and with no legitimate basis, barred Magram from entering  
23 the CMD Headquarters building, and the next day, barred him from entering the 129 Rescue  
24 Wing at Moffett Air National Guard base. Magram was not allowed to collect his own belongings  
25 from his office and had to turn in his computer equipment in a parking lot. These acts were not  
26 justifiable by any regulation and prevented Magram from out-processing normally from the Air  
27 National Guard after 37 years of service. It was a further attempt by Beevers to publicly  
28 humiliate Magram.

1 25. As a direct result of this restriction by Beevers, information regarding Magram was  
2 entered into the Defense Biometric Identification System ("DBIDS"), that notifies every military  
3 installation of entry restrictions. This information on Magram's restriction was allowed to remain  
4 in the system until June 13th, 2023, for more than five (5) months, and caused Magram to be  
5 wrongfully barred from entering a local Air Force base. Restricting base access to Magram and  
6 initiating this chain of events was a targeted abuse of authority and retaliation by Beevers.  
7 Magram never did anything during his thirty-seven and a half years (37.5) of service that  
8 warranted such action. There was no legitimate reason to restrict access other than Beevers' anti-  
9 Semitic animus and retaliation against Magram for complaining about Beevers' anti-Semitism  
10 and his behavior that caused a delay in his appointment. Restricting base access to Magram and  
11 causing the DBIDS entry without a valid reason violated Magram's rights to due process and his  
12 rights as a service member and veteran. Such action was done by Beevers purely to embarrass  
13 and retaliate against Magram.

14 26. Beevers set out to ruin Magram's reputation in the CMD as well as with the Air National  
15 Guard and the United States Air Force and punish Magram for speaking out against anti-  
16 Semitism. Consistent with the treatment of Magram, on information and belief, when Beevers  
17 found out in late 2022 that a senior ranking Jewish General from the State Guard (the commander  
18 referenced in paragraph 11 herein as a "kike" lawyer) complained of Beevers antisemitic  
19 behavior, Beevers retaliated against this Jewish General by first making it widely known to other  
20 senior leaders that he wanted this Jewish general out of the department, by finding ways to negate  
21 any actions he took as a commander, by trying to turn his command against him, and by  
22 eventually even denying him the ability to testify before the State legislature, after that Jewish  
23 General received an official request to do so, out of fear of what he might say. This general  
24 shortly thereafter retired.

25 27. Beevers and the Department intentionally misled the DAB, the Governor's staff, and the  
26 general public regarding Magram. Magram has had a highly successful career with the California  
27 Air National Guard and Military Department, serving California and this country for nearly four  
28 decades. This kind of longevity of service is rarely seen, especially with the entirety of Magram's

1 service as a California Air Guardsman. Beevers and the CMD have gone to great lengths to try to  
2 rewrite Magram's service history and have taken actions that have had an adverse impact on his  
3 public reputation and future employability. As a result, Defendants' discrimination and retaliation  
4 have cost Magram his salary and forced him to take an early retirement, thereby limiting the  
5 amount of pension he can receive, as well as negatively impacting his reputation. Further,  
6 Beevers' actions have wrongfully prevented Magram's continued employment at a senior level in  
7 another California agency that would have enabled his service within the CALPERS retirement  
8 system to continue. Magram's damages are in excess of \$5,000,000.

9 28. "The conduct of Beevers as set forth in this complaint, and the injuries caused to plaintiff,  
10 can in no way be considered to arise out of Plaintiff's military service, nor did Beevers' actions in  
11 any way serve any military purpose, but rather arose out of his personal vendetta against Plaintiff  
12 for filing formal complaints about Beevers' antisemitic conduct and Beevers' religious animus  
13 towards Plaintiff and all other people of the Jewish faith. Under no circumstance can hatred of  
14 Jewish persons be considered or construed to be in the furtherance of any military purpose.

15 29. Further, California Military and Veterans Code Section 142 (b) states in pertinent part that  
16 "Service members selected for permanent positions shall be selected using a military competitive  
17 selection process. A service member ordered to state active duty in accordance with this section  
18 who remains on state active duty for six consecutive years shall be eligible for career state active  
19 duty status and may remain on state active duty until the service member reaches 60 years of age  
20 or is separated for cause."

21 30. Accordingly, not only is the Feres doctrine inapplicable to Plaintiff's claims herein as  
22 Feres does not protect actions based upon hatred of Jewish people, but Plaintiff had attained  
23 career status and could only be terminated for cause. Thus, the Feres doctrine is also inapplicable  
24 to this case as if cause is required to terminate such a career state employee, then the absolute  
25 protections of Feres fail. Plaintiff alleges that where a California Statute gives express rights and  
26 protections to employees, that a federal policy cannot abrogate the intent of the statute as it  
27 would in effect render the statute moot and useless. Plaintiff herein alleges that any cause used by  
28

1 Beevers and the CMD to terminate him was pretextual, and the antisemitic and vindictive actions  
2 of Beevers were the real reasons.

3 31. Magram was, at all times relevant herein, an employee covered by the California  
4 Government Code § 12940, et seq. Defendants were, at all times relevant herein, an employer  
5 subject to the California Government Code § 12940, et seq.

6 32. Prior to filing the instant Complaint, Magram filed a timely administrative charge with the  
7 DFEH and received a right-to-sue letter.

8 **FIRST CAUSE OF ACTION**

9 **(Violation of FEHA (Government § 12900, et seq.))**

10 **(Discrimination on the Basis of Religion--Against State of California; and California**  
11 **Military Department)**

12 33. Magram incorporates the allegations set forth in paragraphs 1 through 32 as though fully  
13 set forth herein.

14 34. Pursuant to the California Government Code, § 12940, et seq., it is an unlawful  
15 employment practice: (a) For an employer, because of the... religious creed... of any person, to...  
16 discriminate against the person in compensation or in terms, conditions, or privileges of  
17 employment.

18 35. Defendants' conduct, as alleged, violated FEHA, Government Code section 12900, et seq.,  
19 and Defendants committed unlawful employment practices, including by the following bases for  
20 liability:

21 a. Discharging, barring, refusing to transfer, retain, hire, select, and/or employ, and/or  
22 otherwise discriminating against Magram, in whole or in part on the basis of Magram's religion,  
23 in violation of Government Code section 12940(a);

24 b. Harassing Magram and/or creating a hostile work environment, in whole or in part on  
25 the basis of Magram's religion, in violation of Government Code section 12940(j);

26 c. Failing to take all reasonable steps to prevent discrimination and harassment based on  
27 religion, in violation of Government Code section 12940(k);

28 d. Retaliating against Magram for seeking to exercise rights guaranteed under FEHA

1 and/or opposing defendants' failure to provide such rights, in violation of Government Code  
2 section 12940(h).

3 36. As a proximate result of Defendants' willful, knowing, and intentional discrimination  
4 against Magram, Magram has sustained and continues to sustain substantial losses of earnings  
5 and other employment benefits.

6 37. As a proximate result of Defendants' willful, knowing, and intentional discrimination  
7 against Magram, Magram has suffered and continues to suffer humiliation, emotional distress,  
8 and physical and mental pain and anguish, all to his damage in a sum according to proof.

9 38. Magram has incurred and continues to incur legal expenses and attorneys' fees. Pursuant  
10 to Government Code section 12965(b), Magram is entitled to recover reasonable attorneys' fees  
11 and costs (including expert costs) in an amount according to proof.

12 39. Defendants' misconduct was committed intentionally, in a malicious, despicable,  
13 oppressive manner, and was committed with an improper and evil motive to injure Magram,  
14 amounting to malice and in conscious disregard of Magram's rights. Magram is thus entitled to  
15 recover punitive damages from Defendants in an amount according to proof.

16 40. Defendants engaged in, and by their refusal to comply with the law, demonstrated they  
17 will continue to engage in, the pattern or practice of unlawful employment practices prohibited  
18 by the FEHA unless they are enjoined pursuant to the police power granted by Government Code  
19 sections 12920 and 12920.5, from failing or refusing to comply with the mandates of the FEHA,  
20 Government Code section 12900 et seq.

21 41. Unless Defendants are enjoined from failing or refusing to comply with the mandates of  
22 the FEHA, Magram's and other people's right to seek or hold employment free of unlawful  
23 harassment will continue to be violated.

24 42. Magram lacks any plain, speedy, adequate remedy at law to prevent such harm, injury, and  
25 loss, which will continue until this court enjoins Defendants of unlawful conduct and grants other  
26 affirmative relief as prayed for herein.

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1 **SECOND CAUSE OF ACTION**

2 **(Violation of FEHA (Government § 12900, et seq.))**

3 **(Harassment on the Basis of Religion--Against Major General Matthew P. Beevers; State of**  
4 **California; California Military Department)**

5 43. Magram incorporates the allegations set forth in paragraphs 1 through 32 as though fully  
6 set forth herein.

7 44. Under the provisions of Government Code § 12940, et seq., it is illegal for any employer  
8 or its supervisory agents in the State of California to harass any person in relation to  
9 compensation or in terms, conditions or privileges of employment on the basis of their religion.

10 45. Defendants' conduct, as alleged, violated FEHA, Government Code section 12900, et seq.,  
11 and Defendants committed unlawful employment practices, including by the following bases for  
12 liability:

13 a. Harassing Magram and/or creating a hostile work environment, in whole or in part on  
14 the basis of Magram's religion, in violation of Government Code section 12940(j);

15 b. Failing to take all reasonable steps to prevent discrimination, harassment, and retaliation  
16 based on religion, in violation of Government Code section 12940(k).

17 46. As a proximate result of Defendants' willful, knowing, and intentional harassment of  
18 Magram, Magram has sustained and continues to sustain substantial losses of earnings and other  
19 employment benefits.

20 47. As a proximate result of Defendants' willful, knowing, and intentional harassment of  
21 Magram, Magram has suffered, and continues to suffer, humiliation, emotional distress, and  
22 physical and mental pain and anguish, all to his damage in a sum according to proof.

23 48. Magram has incurred and continues to incur legal expenses and attorneys' fees. Pursuant  
24 to Government Code section 12965(b), Magram is entitled to recover reasonable attorneys' fees  
25 and costs (including expert costs) in an amount according to proof.

26 49. Defendants' misconduct was committed intentionally, in a malicious, despicable,  
27 oppressive manner, and were committed with an improper and evil motive to injure Magram,  
28 amounting to malice and in conscious disregard of Magram's rights. Magram is thus entitled to

1 recover punitive damages from Defendants in an amount according to proof.

2 50. Defendants engaged in, and by their refusal to comply with the law, demonstrated they  
3 will continue to engage in, the pattern or practice of unlawful employment practices prohibited  
4 by the FEHA unless they are enjoined pursuant to the police power granted by Government Code  
5 sections 12920 and 12920.5, from failing or refusing to comply with the mandates of the FEHA,  
6 Government Code section 12900 et seq.

7 51. Unless Defendants are enjoined from failing or refusing to comply with the mandates of  
8 the FEHA, Magram's and other people's right to seek or hold employment free of unlawful  
9 harassment will continue to be violated.

10 52. Magram lacks any plain, speedy, adequate remedy at law to prevent such harm, injury, and  
11 loss, which will continue until this court enjoins Defendants of unlawful conduct and grants other  
12 affirmative relief as prayed for herein.

13 **THIRD CAUSE OF ACTION**

14 **(Violation of FEHA (Government Code § 12900, et seq.))**

15 **(Retaliation for Complaining of Religious Discrimination and/or Harassment--Against State**  
16 **of California; and California Military Department)**

17 53. Magram incorporates the allegations set forth in paragraphs 1 through 32 as though fully  
18 set forth herein.

19 54. Under the FEHA, an employer cannot discharge, expel, or otherwise discriminate against  
20 any person because the person has opposed any practices forbidden under this part or because the  
21 person has filed a complaint, testified, or assisted in any proceeding under this part, or requested  
22 an accommodation. (Cal. Gov't Code, § 12940, subd. (h).) The FEHA also forbids employers  
23 from retaliating or otherwise discriminating against a person for requesting accommodation under  
24 this subdivision, regardless of whether the request was granted. (Gov. Code, § 12940.) This part  
25 includes pre-emptive retaliation. "Action taken against an individual in anticipation of that person  
26 engaging in protected [activity] to discrimination is no less retaliatory than action taken after the  
27 fact." (Steele v. Youthful Offender Parole Board (2008) 162 Cal.App.4th 1241, 1254.)

28 55. Magram's religion and/or other characteristics protected by FEHA, Government Code

1 section 12900, et seq., were the motivating factors in Defendants' decision to terminate Magram's  
2 employment, to not retain, hire, or otherwise employ Magram in any position, and/or to take  
3 other adverse job actions against Magram.

4 56. Defendants' conduct, as alleged, violated FEHA, Government Code section 12900, et seq.,  
5 and Defendants committed unlawful employment practices, including by the following, separate  
6 bases for liability:

7 a. Discharging, barring, refusing to transfer, retain, hire, select, and/or employ, and/or  
8 otherwise discriminating against Magram, in whole or in part on the basis of Magram's religion  
9 and/or other protected characteristics, in violation of Government Code section 12940(a);

10 b. Harassing Magram and/or creating a hostile work environment, in whole or in part on  
11 the basis of Magram's religion and/or other protected characteristics, in violation of Government  
12 Code section 12940(j);

13 c. Failing to take all reasonable steps to prevent discrimination, harassment, and retaliation  
14 based on religion, in violation of Government Code section 12940(k);

15 d. Retaliating against Magram for seeking to exercise rights guaranteed under FEHA  
16 and/or opposing Defendants' failure to provide such rights, including rights to be free of  
17 discrimination, in violation of Government Code section 12940(h).

18 57. As a proximate result of Defendants' willful, knowing, and intentional retaliation against  
19 Magram, Magram has sustained and continues to sustain substantial losses of earnings and other  
20 employment benefits.

21 58. As a proximate result of Defendants' willful, knowing, and intentional retaliation against  
22 Magram, Magram has suffered and continues to suffer humiliation, emotional distress, and  
23 physical and mental pain and anguish, all to his damage in a sum according to proof.

24 59. Magram has incurred and continues to incur legal expenses and attorneys' fees. Pursuant  
25 to Government Code section 12965(b), Magram is entitled to recover reasonable attorneys' fees  
26 and costs (including expert costs) in an amount according to proof.

27 60. Defendants' misconduct was committed intentionally, in a malicious, despicable,  
28 oppressive manner, and were committed with an improper and evil motive to injure Magram,

1 amounting to malice and in conscious disregard of Magram's rights. Magram is thus entitled to  
2 recover punitive damages from Defendants in an amount according to proof.

3 61. Defendants engaged in, and by their refusal to comply with the law, demonstrated they  
4 will continue to engage in, the pattern or practice of unlawful employment practices prohibited  
5 by the FEHA unless they are enjoined pursuant to the police power granted by Government Code  
6 sections 12920 and 12920.5, from failing or refusing to comply with the mandates of the FEHA,  
7 Government Code section 12900 et seq.

8 62. Unless Defendants are enjoined from failing or refusing to comply with the mandates of  
9 the FEHA, Magram's and other people's right to seek or hold employment free of unlawful  
10 harassment will continue to be violated.

11 63. Magram lacks any plain, speedy, adequate remedy at law to prevent such harm, injury, and  
12 loss, which will continue until this court enjoins Defendants of unlawful conduct and grants other  
13 affirmative relief as prayed for herein.

#### 14 **FOURTH CAUSE OF ACTION**

#### 15 **(Violation of FEHA (Government Code § 12940(k) (Failure to Prevent Discrimination,** 16 **Harassment, and Retaliation) --Against State of California; and California Military** 17 **Department)**

18 64. Magram incorporates the allegations set forth in paragraphs 1 through 32 as though fully  
19 set forth herein.

20 65. At all times herein mentioned, FEHA, Government Code section 12940(k), was in full  
21 force and effect and was binding on Defendants. This statute states that it is an unlawful  
22 employment practice in California for an employer "to fail to take all reasonable steps necessary  
23 to prevent discrimination and harassment from occurring."

24 66. During the course of Magram's employment, Defendants failed to prevent their employees  
25 from engaging in intentional actions that resulted in Magram's being treated less favorably  
26 because of Magram's protected status (i.e., his religion and ancestry). During the course of  
27 Magram's employment, Defendants failed to prevent their employees from engaging in  
28 unjustified employment practices against employees in such protected classes. During the course

1 of Magram's employment, Defendants failed to prevent a pattern and practice by their employees  
2 of intentional discrimination and harassment on the bases of religion, ancestry and/or other  
3 protected statuses or protected activities.

4 67. Magram believes, and on that basis alleges, that his religion and/or other protected status  
5 and/or protected activity were substantial motivating factors in Defendants' employees'  
6 discrimination and retaliation against him. Further, Defendants' failure to enforce adequate and  
7 consistent anti-discrimination policies was a substantial motivating factor in causing Magram's  
8 harm. On information and belief and at all relevant times, Defendants failed to adequately train  
9 their supervisors and managers on the prevention of discrimination and harassment based on  
10 religion and failed to have an adequate management system in place to check or audit the actions  
11 of its managers for discriminatory acts and treatment of its employees. Based on Defendants'  
12 failure to take all reasonable steps necessary to prevent discrimination and harassment from  
13 occurring, Defendants violated Government Code section 12940, subdivision (k).

14 68. As a proximate result of Defendants' willful, knowing, and intentional misconduct,  
15 Magram has sustained, and continues to sustain, substantial losses of earnings and other  
16 employment benefits.

17 69. As a proximate result of Defendants' willful, knowing, and intentional misconduct,  
18 Magram has suffered and continues to suffer humiliation, emotional distress, and physical and  
19 mental pain and anguish, all to his damage in a sum according to proof.

20 70. Magram has incurred and continues to incur legal expenses and attorneys' fees. Pursuant  
21 to Government Code section 12965(b), Magram is entitled to recover reasonable attorneys' fees  
22 and costs (including expert costs) in an amount according to proof.

23 71. Defendants' misconduct was committed intentionally, in a malicious, despicable,  
24 oppressive manner, and were committed with an improper and evil motive to injure Magram,  
25 amounting to malice and in conscious disregard of Magram's rights. Magram is thus entitled to  
26 recover punitive damages from Defendants in an amount according to proof.

27 72. Defendants engaged in, and by their refusal to comply with the law, demonstrated they  
28 will continue to engage in, the pattern or practice of unlawful employment practices prohibited

1 by the FEHA unless they are enjoined pursuant to the police power granted by Government Code  
2 sections 12920 and 12920.5, from failing or refusing to comply with the mandates of the FEHA,  
3 Government Code section 12900 et seq.

4 73. Unless Defendants are enjoined from failing or refusing to comply with the mandates of  
5 the FEHA, Magram's and other people's right to seek or hold employment free of unlawful  
6 harassment will continue to be violated.

7 74. Magram lacks any plain, speedy, adequate remedy at law to prevent such harm, injury, and  
8 loss, which will continue until this court enjoins Defendants of unlawful conduct and grants other  
9 affirmative relief as prayed for herein.

10 **FIFTH CAUSE OF ACTION**

11 **(Whistleblower Retaliation (Labor Code § 1102.5; Cal. Mil. & Vet. Code § 56)--Against**  
12 **State of California; and California Military Department)**

13 75. Magram incorporates the allegations set forth in paragraphs 1 through 32 as though fully  
14 set forth herein.

15 76. At all relevant times, Labor Code § 1102.5 was in effect and was binding on Defendants.  
16 This statute prohibits Defendants from retaliating against any employee, including Magram, for  
17 complaining of activity they believe to be illegal.

18 77. At all relevant times, Cal. Mil. & Vet. Code § 56 was in effect and was binding on  
19 Defendants. This statute prohibits Defendants from retaliating against any employee, including  
20 Magram, for communicating with a the Governor or any state or federal inspector general.

21 78. Magram raised complaints of activities Magram believed to be illegal while he worked for  
22 Defendants. Magram believed that it was illegal for Defendant to discriminate and harass him on  
23 the basis of his protected status.

24 79. Defendants retaliated against Magram by discriminating against him, harassing him, and  
25 taking adverse employment actions, including employment termination, against him.

26 80. Defendants' misconduct was committed intentionally, in a malicious, oppressive,  
27 fraudulent manner, entitling Magram to punitive damages against Defendant.

28 81. As a proximate result of Defendants' willful, knowing, and intentional retaliation against

1 Magram, Magram has sustained and continues to sustain substantial losses of earnings and other  
2 employment benefits.

3 82. As a proximate result of Defendants' willful, knowing, and intentional retaliation against  
4 Magram, Magram has suffered and continues to suffer humiliation, emotional distress, and  
5 physical and mental pain and anguish, all to his damage in a sum according to proof.

6 83. Magram has incurred and continues to incur legal expenses and attorneys' fees. Pursuant  
7 to Labor Code section 1102.5, Magram is entitled to recover reasonable attorneys' fees and costs  
8 in an amount according to proof.

9 84. Defendants' misconduct was committed intentionally, in a malicious, despicable,  
10 oppressive manner, and were committed with an improper and evil motive to injure Magram,  
11 amounting to malice and in conscious disregard of Magram's rights. Magram is thus entitled to  
12 recover punitive damages from Defendants in an amount according to proof.

13 **SIXTH CAUSE OF ACTION**

14 **(Violation of FEHA (Government § 12900, et seq.))**

15 **(Discrimination on the Basis of Disability/Medical Condition)--Against State of California;**  
16 **and California Military Department)**

17 85. Magram incorporates the allegations set forth in paragraphs 1 through 32 as though fully  
18 set forth herein.

19 86. Pursuant to the California Government Code, § 12940, et seq., it is an unlawful  
20 employment practice: (a) For an employer, because of the... physical disability [or] medical  
21 condition ... of any person, to... discriminate against the person in compensation or in terms,  
22 conditions, or privileges of employment.

23 87. Defendants' conduct, as alleged, violated FEHA, Government Code section 12900, et seq.,  
24 and Defendants committed unlawful employment practices, including by the following bases for  
25 liability:

26 a. Discharging, barring, refusing to transfer, retain, hire, select, and/or employ, and/or  
27 otherwise discriminating against Magram, in whole or in part on the basis of Magram's physical  
28 disability and/or medical condition, in violation of Government Code section 12940(a);

1 b. Harassing Magram and/or creating a hostile work environment, in whole or in part on  
2 the basis of Magram's physical disability and/or medical condition, in violation of Government  
3 Code section 12940(j);

4 c. Failing to take all reasonable steps to prevent discrimination and harassment based on  
5 physical disability and/or medical condition, in violation of Government Code section 12940(k);

6 d. Retaliating against Magram for seeking to exercise rights guaranteed under FEHA  
7 and/or opposing defendants' failure to provide such rights, in violation of Government Code  
8 section 12940(h).

9 88. As a proximate result of Defendants' willful, knowing, and intentional discrimination  
10 against Magram, Magram has sustained and continues to sustain substantial losses of earnings  
11 and other employment benefits.

12 89. As a proximate result of Defendants' willful, knowing, and intentional discrimination  
13 against Magram, Magram has suffered, and continues to suffer, humiliation, emotional distress,  
14 and physical and mental pain and anguish, all to his damage in a sum according to proof.

15 90. Magram has incurred and continues to incur legal expenses and attorneys' fees. Pursuant  
16 to Government Code section 12965(b), Magram is entitled to recover reasonable attorneys' fees  
17 and costs (including expert costs) in an amount according to proof.

18 91. Defendants' misconduct was committed intentionally, in a malicious, despicable,  
19 oppressive manner, and were committed with an improper and evil motive to injure Magram,  
20 amounting to malice and in conscious disregard of Magram's rights. Magram is thus entitled to  
21 recover punitive damages from Defendants in an amount according to proof.

22 92. Defendants engaged in, and by their refusal to comply with the law, demonstrated they  
23 will continue to engage in, the pattern or practice of unlawful employment practices prohibited  
24 by the FEHA unless they are enjoined pursuant to the police power granted by Government Code  
25 sections 12920 and 12920.5, from failing or refusing to comply with the mandates of the FEHA,  
26 Government Code section 12900 et seq.

27 93. Unless Defendants are enjoined from failing or refusing to comply with the mandates of  
28 the FEHA, Magram's and other people's right to seek or hold employment free of unlawful

1 harassment will continue to be violated.

2 94. Magram lacks any plain, speedy, adequate remedy at law to prevent such harm, injury, and  
3 loss, which will continue until this court enjoins Defendants of unlawful conduct and grants other  
4 affirmative relief as prayed for herein.

5 **SEVENTH CAUSE OF ACTION**

6 **(Wrongful Termination of Employment in Violation of Public Policy (Labor Code § 1102.5;**  
7 **FEHA, Government Code § 12900, et seq.)--Against State of California; and California**  
8 **Military Department)**

9 95. Magram incorporates the allegations set forth in paragraphs 1 through 32 as though fully  
10 set forth herein.

11 96. Defendants terminated Magram's employment in violation of various fundamental public  
12 policies underlying both state and federal laws. Specifically, Magram's employment was  
13 terminated in part because of his protected status (i.e., religion, ancestry, and/or good faith  
14 complaints). These actions were in violation of FEHA, the California Constitution, and California  
15 Labor Code section 1102.5.

16 97. As a proximate result of Defendants' wrongful termination of Magram's employment in  
17 violation of fundamental public policies, Magram has suffered, and continues to suffer,  
18 humiliation, emotional distress, and mental and physical pain and anguish, all to his damage in a  
19 sum according to proof.

20 98. As a result of Defendants' wrongful termination of his employment, Magram has suffered  
21 general and special damages in sums according to proof.

22 99. Defendants' wrongful termination of Magram's employment was committed intentionally,  
23 in a malicious, despicable, oppressive manner, and were committed with an improper and evil  
24 motive to injure Magram, amounting to malice and in conscious disregard of Magram's rights.  
25 Magram is thus entitled to recover punitive damages from Defendants in an amount according to  
26 proof.

27 100. Magram has incurred and continues to incur legal expenses and attorneys' fees. Pursuant  
28 to Code of Civil Procedure sections 1021.5 and 1032, et seq., Magram is entitled to recover

1 reasonable attorneys' fees and costs in an amount according to proof.

2 101. Defendants engaged in, and by their refusal to comply with the law, demonstrated they  
3 will continue to engage in, the pattern or practice of unlawful employment practices prohibited  
4 by the FEHA unless they are enjoined pursuant to the police power granted by Government Code  
5 sections 12920 and 12920.5, from failing or refusing to comply with the mandates of the FEHA,  
6 Government Code section 12900 et seq.

7 102. Unless Defendants are enjoined from failing or refusing to comply with the mandates of  
8 the FEHA, Magram's and other people's right to seek or hold employment free of unlawful  
9 harassment will continue to be violated.

10 103. Magram lacks any plain, speedy, adequate remedy at law to prevent such harm, injury, and  
11 loss, which will continue until this court enjoins Defendants of unlawful conduct and grants other  
12 affirmative relief as prayed for herein.

13 **EIGHTH CAUSE OF ACTION**

14 **(Violation of Equal Protection Under Article I, Section 7 of the California Constitution--**  
15 **Against State of California; and California Military Department)**

16 104. Magram incorporates the allegations set forth in paragraphs 1 through 32 as though fully  
17 set forth herein.

18 105. Article I, Section 7 of the California Constitution guarantees that individuals shall not be  
19 denied equal protection of the laws and prohibits the State from treating individuals differently on  
20 the basis of race, gender, national origin, religion and other protected characteristics without a  
21 sufficiently compelling governmental interest.

22 106. Defendants, by and through their agents and employees, intentionally discriminated  
23 against Magram on the basis of his Jewish faith, Jewish heritage, and Magram's complaints about  
24 Beevers' anti-Semitic discrimination and harassment by terminating, barring, refusing to transfer,  
25 retain, hire, select, and/or employ, and/or otherwise discriminating against Magram on the basis  
26 of Magram's Jewish faith and heritage, Harassing Magram and/or creating a hostile work  
27 environment, in whole or in part on the basis of Magram's Jewish faith and heritage, failing to  
28 take all reasonable steps to prevent discrimination and harassment on the basis of Magram's

1 Jewish faith and heritage, and retaliating against Magram for seeking to exercise rights.

2 107. Defendant's discriminatory actions were not justified by any compelling governmental  
3 interest and were arbitrary and capricious.

4 108. As a result of Defendant's unlawful discrimination, Magram has suffered and continues to  
5 suffer substantial harm, including but not limited to lost wages, lost benefits, damage to  
6 reputation, and emotional distress.

7 **PRAYER FOR RELIEF**

8 WHEREFORE, Magram prays for judgment against Defendants, and each of them, as follows:

- 9 1. Defendants to pay Magram reasonable front pay and other applicable employment benefits,  
10 according to proof at time of trial;
- 11 2. Defendants to pay Magram compensatory damages for back pay and other applicable  
12 employment benefits, in an amount no less than 5,000,000, together with interest at the legal rate;
- 13 3. Defendants to pay Magram for any out-of-pocket loss incurred as a result of Defendants'  
14 unlawful employment practices;
- 15 4. Defendants to pay Magram damages sufficient to compensate him for his emotional distress,  
16 humiliation and injury;
- 17 5. For punitive damages, the precise amount to be proven at trial;
- 18 6. For pre-judgment interest;
- 19 7. For injunctive relief as follows:
  - 20 a. Defendants immediately cease and desist from discrimination or other unlawful  
21 employment practices against Defendants' employees, consistent with the FEHA;
  - 22 b. CMD remove Magram's negative performance evaluations and any other negative  
23 record from his Official Personnel File, including, but not limited to: i) removal of the suspension  
24 action from April/July 2021 from Magram's State Active Duty and military record; ii) removal of  
25 the CMD IG Investigation substantiated in May of 2022; iii) set aside the Aug 10, 2022 DAB  
26 findings; iv) set aside the November 9, 2022 State Active Duty separation action for cause; v) set  
27 aside the Article 239 action; vi) remove any references regarding retirement or separation  
28 documentation from the CA Military Department to the National Guard Bureau, the Air National

1 Guard and the Air Force about being terminated or separated for cause from State Active Duty in  
2 the CA Military Department; and vii) provide a summary letter detailing all of the above  
3 retractions and corrections so that Magram can counter any future references or mitigate potential  
4 harm from defamatory and improperly released information from the Department;

5 c. Beevers participate in at least 8 hours of training that focuses on discrimination,  
6 harassment, and retaliation, to be completed within ninety (90) days of the effective date of the  
7 Court's order, and annually for five years thereafter;

8 d. Defendants to provide proof to the Court of Defendants' good faith compliance with  
9 their respective obligations as ordered by the Court, within one hundred (100) days of the  
10 effective date of the Court's judgment, and annually for five years thereafter as of the date of  
11 judgment;

12 8. A declaration that Defendants' discriminatory actions violated Magram's rights to equal  
13 protection under Article I, Section 7 of the California Constitution;

14 9. An order enjoining Defendants from continuing its discriminatory practices and requiring it to  
15 take appropriate measures to prevent future discrimination;

16 10. Defendants to pay Magram his costs of suit, including his reasonable attorneys' fees,  
17 pursuant to Government Code section 12965, subdivision (b);

18 11. Such other and further relief as the Court may deem just and proper.

19 ADDITIONALLY, Magram hereby demands trial of this matter by jury.

20  
21 DATED: November 27, 2024

JWS, PC

22 By:                   //Joseph Singleton//                    
23 JOSEPH W. SINGLETON  
24 Attorney for Plaintiff, Brigadier General  
25 Jeffrey W. Magram (Ret.)  
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