

1 3. That his race would be an albatross around his neck is a deliberate outgrowth of the City's
2 Race and Social Justice Initiative (RSJI). The RSJI is a city-wide program that requires race-based
3 thinking and decision-making in an effort to end "structural racism." Paramount within the RSJI
4 are the tenets that white male individuals like Mr. Diemert "are bolstered by racism," that they
5 "internalize it," and that "individuals, institutions, and communities are often unconsciously and
6 habitually rewarded for supporting white privilege and power."

7 4. As his career developed, the discrimination at HSD became increasingly pervasive and
8 hostile. The City routinely urged Mr. Diemert to join race-based affinity groups and required him
9 to participate in training sessions that demeaned and degraded him based on his racial and ethnic
10 identity. He was chastised and punished for combatting racially discriminatory hiring practices by
11 HSD colleagues. And he was denied opportunities for advancement by the City based on his racial
12 and ethnic identity. His supervisors and other colleagues continually dismissed his concerns over
13 a period of years and claimed he could not be a victim of racism and discrimination because he
14 possessed "white privilege."

15 5. This discrimination had a significantly negative impact on Mr. Diemert's mental and
16 physical health.

17 6. Accordingly, Mr. Diemert brings this action under the Equal Protection Clause of the
18 Fourteenth Amendment and Title VII of the Civil Rights Act of 1964, *as amended*, 42 U.S.C.
19 § 2000e, *et seq.*, to vindicate his rights, seek compensation for his injuries, and to prevent the City
20 of Seattle from treating individuals differently because of their race.

21 **JURISDICTION AND VENUE**

22 7. This case arises directly under the Equal Protection Clause of the Fourteenth Amendment,
23 42 U.S.C. § 1983, and Title VII of the Civil Rights Act of 1964, *as amended*, 42 U.S.C. § 2000e,
24 *et seq.*

25 8. The Court has jurisdiction over the complaint under 28 U.S.C. §§ 1331 and 1343.

26 9. This Court has authority to issue a declaratory judgment, attorneys' fees, and other
27 necessary and proper relief under 28 U.S.C. §§ 2201 and 2202.

10. Venue is proper in this Court under 28 U.S.C. § 1391 as the acts or omissions giving rise to the claims of this suit occurred in the City of Seattle.

PARTIES

11. Plaintiff Joshua A. Diemert is a former City of Seattle employee who worked as a program intake representative in the City of Seattle's Department of Human Services from January 2013 to September 2021.

12. Defendant City of Seattle is a municipality created under the laws of the State of Washington. The Seattle City Council is its governing body. The City of Seattle is an employer within the meaning of 42 U.S.C. § 2000e(b).

13. Defendant Bruce Harrell is the Mayor of Seattle. As Mayor, he collaborates with the City Council, City Departments, Race and Social Justice Initiative Coordinating Team, and the Race and Social Justice Initiative Sub-Cabinet to implement and enforce the Race and Social Justice Initiative across all City functions.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

14. On December 23, 2020, Mr. Diemert filed a charge of retaliation and discrimination on the basis of race, color, sex, and national origin with the U.S. Equal Employment Opportunity Commission (EEOC) (No. 551-2020-04009). *See* **Exh. 1**.

15. On January 16, 2021, Mr. Diemert also filed an amended charge of retaliation and discrimination on the basis of race, color, sex, and national origin with the EEOC. *See* **Exh. 2**.

16. On June 30, 2022, Mr. Diemert filed an additional charge with the EEOC (No. 551-2022-05568), detailing additional, continuing acts of discrimination he experienced between December 23, 2020, and September 7, 2021. *See* **Exh. 3**.

17. Mr. Diemert received the Notice of Right to Sue for charge 551-2020-04009 (Notice 04009) on August 19, 2022. The EEOC issued a corrected Notice of Right to Sue on August 22, 2022. *See* **Exh. 4**.

18. Mr. Diemert received the Notice of Right to Sue for charge 551-2022-05568 on November 15, 2022. *See* **Exh. 5**.

19. Therefore, this suit is timely filed within the 90 days allowed from the receipt of both Right to Sue letters.

20. The racially hostile work environment persisted both before and after filing the initial EEOC Charge (No. 551-2020-04009).

21. All required conditions precedent under Title VII (42 U.S.C. § 2000e, *et seq.*) have been exhausted and/or performed by Mr. Diemert before filing this complaint.

FACTUAL BACKGROUND

A. Mr. Diemert's Employment with the City of Seattle

22. Plaintiff Joshua Diemert is a former City of Seattle employee. Seattle classifies Mr. Diemert as a white male.

23. Mr. Diemert was hired in January 2013 as a full-time program intake representative in the Human Services Department. He remained in this position from January 2013 until September 2021; the only exception being from 2016 to March 2017, when Mr. Diemert served in a "lead" role in the HSD.

24. Mr. Diemert had been working as a "lead" in HSD since 2014, but he only received a slight pay increase and title change from 2016 until he was forced to resign from the role in March 2017.

25. As he began working, Mr. Diemert was in high demand across several City departments. In 2014, he obtained a "maximum achievement" award. This is awarded to HSD employees whose "performance and efforts have made a noticeable difference to their colleagues, the Department and/or the clients and communities" served.

26. Mr. Diemert was instrumental in creating and developing an electronic database for the City. He also helped launch the Vehicle License Fee Rebate Program and assisted with the creation of an internal rules and policies handbook for the Utility Discount Program. Both projects were done in addition to Mr. Diemert's regular job duties and responsibilities.

27. When Mr. Diemert was serving in a "lead" position in HSD in 2016, he repeatedly informed his supervisors that the role of the position had changed and that the amount of work had drastically increased. It was also around this time that Mr. Diemert was managing a chronic medical issue and taking FMLA leave.

1 28. In or around April of 2017, Mr. Diemert’s supervisor Tina Inay (Supervisor Inay) refused
2 to give him any assistance, telling him that he should step down because his FMLA needs
3 conflicted with “business needs.” Moreover, she berated Mr. Diemert for using his “white
4 privilege” to keep the position and told him he was responsible for denying a “person of color” an
5 opportunity for promotion.

6 29. At first, Mr. Diemert did not step down from his “lead” position, and met with Brian
7 Sharkey, the Deputy Director of Human Resources, Finance and Administrative Services, to
8 discuss Ms. Inay’s verbal abuse. However, Mr. Diemert did not receive any support as Mr. Sharkey
9 supported Supervisor Inay’s racial views.

10 30. As a result of Supervisor Inay’s unrelenting coercion and racial harassment, Mr. Sharkey’s
11 lack of support, and with Mr. Diemert’s own health in the balance, Mr. Diemert stepped down
12 from the “lead” position he valued despite faithfully fulfilling his job duties. Based on the explicit
13 discussions of his race by management, Mr. Diemert was punished for taking FMLA leave because
14 of his race and the City coerced him to resign from his supervisory role in order to fill the “lead”
15 position according to the racially discriminatory objectives of the City’s Race and Social Justice
16 Initiative.

17 31. Moreover, City documents reveal that Mr. Diemert’s position was not renewed, and it was
18 terminated before the full expiration of the position. Instead, the City waited until Mr. Diemert had
19 stepped down to follow his recommendation to divide the work of the lead position among two
20 people. Not only did the Department promote two people of color with no supervisory experience,
21 Shamsu Said (Mr. Said) and Trinh Nguyen (Ms. Nguyen) but the Department required Mr. Diemert
22 assist both leads for over a year since neither knew the program rules or how to perform the
23 functions of their new jobs.

24 32. Mr. Said and Ms. Nguyen were selected over Mr. Diemert because of their race.

25 **B. Seattle’s Race and Social Justice Initiative**

26 33. The Race and Social Justice Initiative is a citywide effort that purports to end institutional
27 racism in City government, and to achieve racial equity.

1 34. The Race and Social Justice Initiative is based on the foundational premise that American
2 society has “internalized and normalized” culture and practices that are “rooted in white
3 supremacy, colonialism, classism, Christian hegemony, sexism, heterosexism, physical ableism,
4 mental health oppression, all of the above or other systems of oppression.” See Exh. 6.

5 35. The RSJI aims to end American culture because it was created by “white, wealthy,
6 Christian, cis-gender, straight, non-disabled men coming from Europe who wanted to protect their
7 place within hierarchy and empire.” In its place, it seeks to create a “relational culture” that
8 “interrupt[s] the many overlapping aspects of white supremacy culture.” Id.

9 36. Traits such as “individualism,” “perfectionism,” a “sense of urgency,” and “objectivity”
10 are based in “white supremacy culture” and need to be rooted out. See Id.

11 37. Since 2005, all City departments have developed and implemented annual RSJI work plans
12 and City employees are encouraged to attend training to look at “program and budget change
13 decisions from a race and social equity perspective.” To accomplish this, employees are asked to
14 use a Racial Equity Toolkit.

15 38. The City’s Office for Civil Rights believes that institutionalizing the Racial Equity Toolkit
16 is its “most pressing priority” because it “know[s] that the impacts of racial iniquities cannot be
17 assessed or addressed *without interrupting the color blind ways* departments make decisions.” See
18 Exh. 7 (emphasis added). The HSD has been at the forefront of implementing these policies.

19 39. Mr. Diemert experienced severe discrimination and harassment because of the City and
20 HSD’s pervasive focus on race and supposed “white supremacy.”

21 **C. Mr. Diemert Reported Incidents of Discrimination Prior to Filing His EEOC**
22 **Charge in 2020**

23 40. Mr. Diemert repeatedly reported incidents of discrimination and objected to discriminatory
24 conduct throughout the entirety of his employment with the City.

25 41. Mr. Diemert reported discrimination he had experienced from Supervisor Inay and others
26 to Mr. Sharkey, which were not redressed.

27 42. For example, in 2016, Director Gloria Hatcher-Mays (Director Hatcher-Mays) called Mr.
28 Diemert to her office and berated him for attempting to correct co-worker Sabrina Budner’s

1 discriminatory behavior towards a white applicant. Director Hatcher-Mays stated that it was
2 impossible to be racist toward “white people.” She did not initiate any employment actions against
3 Ms. Budner. Mr. Diemert reported this incident to multiple managers and directors, including his
4 HR representative, but the City took no action. Mr. Diemert also reported this issue in a June 21,
5 2021, email to Senior Officer Ryan Groce (Senior Officer Groce), Supervisor Chaney Kilpatrick-
6 Goodwill (Supervisor Kilpatrick-Goodwill), and Ron Mirabueno.

7 43. On July 13, 2017, Mr. Diemert informed Supervisor Inay of the “divisive and
8 discriminatory” comments he received from a fellow coworker, Fabiola Arvizu. Mr. Diemert also
9 noted “this is not the first time I have dealt with the increased discrimination in the City,” and
10 explained that “the lack of concern for this blatant discrimination from past management and a
11 valid fear of retribution” had led him to believe it is better for him to be silent than to disrupt the
12 “city of Seattle status quo.”

13 44. On November 14, 2018, Mr. Diemert contacted his union representative, Shaun van Eyk
14 (Mr. van Eyk), about the racially hostile work environment he was experiencing and the toll it was
15 taking on his health.

16 45. Mr. Diemert met with Mr. van Eyk for two hours on November 27, 2018, and discussed
17 many of his concerns in detail. Mr. van Eyk told Mr. Diemert that he would meet with Felicia
18 Caldwell from the Seattle Department of Human Resources about racially segregated trainings,
19 but Mr. Diemert never received a clear answer to his concerns, which Mr. van Eyk ultimately
20 ignored.

21 46. On December 4, 2018, Mr. Diemert received an email from Leslea Bowling, a Planning
22 and Development Specialist from the Human Services Department, inviting him to review a
23 meeting agenda for the white caucus, one of the City’s racially segregated groups designed for
24 staff members the City classified as “white.” Mr. Diemert responded by telling her to remove him
25 from the email list and noted that he found Ms. Bowling’s actions to be racially offensive and that
26 he would file harassment charges with the EEOC if she continued.

27 47. In October 2019, Mr. Diemert believed that his team lead, Mr. Said, a City employee, had
28 been misusing the HSD system for personal gain. Mr. Diemert reported the incident to the Mayor’s

1 Office Operations Manager, Rodrigo Sanchez (Mr. Sanchez), who then informed Supervisor
2 Kilpatrick-Goodwill about the incident. Mr. Diemert provided them with evidence, but nothing
3 was done to address Mr. Said's actions. Instead, Mr. Sanchez and Supervisor Kilpatrick-Goodwill
4 told Mr. Diemert to keep quiet and to be silent.

5 48. Shortly after Mr. Diemert reported Mr. Said in November 2019, Mr. Said verbally accosted
6 Mr. Diemert, claiming that he was complicit in the sins of slavery, parroting language promoted
7 in the City's RSJI program. Subsequently, Mr. Said would publicly accost Mr. Diemert in the
8 office.

9 49. On February 19, 2020, Mr. Said chest bumped Mr. Diemert, got in his face, told him that
10 he had "white privilege," and suggested that Mr. Diemert had racist motives for reporting him. Mr.
11 Said also asserted that Mr. Diemert and his race were to blame for the atrocities in the world, like
12 slavery, segregation, and wealth disparities, and implied that Mr. Said was not responsible for his
13 actions because the "racist" system drove him to commit fraud. Mr. Diemert immediately reported
14 the altercation to the Ethics Department, but the City took no action against Mr. Said.

15 50. In February 2020, Mr. Diemert met with Director Tanya Kim, where he discussed the
16 unethical and illegal behavior he witnessed during his time at HSD, as well as the City's failure to
17 address incidents when he reported them.

18 51. Mr. Diemert reported incidents of discrimination and harassment on several occasions to
19 supervisors, coworkers, and other City employees prior to filing his EEOC charges. The City knew
20 Mr. Diemert was experiencing a racially hostile work environment and did not make any serious
21 effort to redress it.

22 52. During employee orientations, the City explains that there are "mandatory reporters,"
23 which it defines as "a person or entity that is obligated to immediately report or investigate claims
24 of harassment, discrimination, retaliation, or misconduct." See **Exh. 8**. "Management
25 Representatives," including supervisors, managers, leads, crew chiefs, and directors are all
26 identified as "mandatory reporters." *Id.* Mr. Diemert alerted supervisors, managers, leads,
27 directors, and fellow coworkers to the discrimination and racial harassment he was experiencing.

1 Moreover, Mr. Diemert continued reporting the discrimination and harassment he experienced
2 after he filed his EEOC charges.

3 **D. Mandatory RSJI Training Created a Racially Hostile Work Environment**

4 53. The Department requires that all employees participate in Race and Social Justice Initiative
5 training that aggressively promotes the concept of “white privilege” and the collective guilt that
6 white employees like Mr. Diemert purportedly bear for societal inequality. *See Exhs. 9 and 10.*

7 54. As a member of the Department, Mr. Diemert’s annual reviews included his supervisor’s
8 assessments of whether Mr. Diemert completed RSJI activities or events.

9 55. As part of his Race and Social Justice Initiative training in 2019, Mr. Diemert attended a
10 two-day “Undoing Institutional Racism” (UIR) workshop. This was hosted by El Centro De La
11 Raza and taught by the People’s Institute for Survival and Beyond.

12 56. The UIR workshop is rooted in critical race theory, and the facilitators at the event stated
13 that “white people are like the devil,” that “racism is in white people’s DNA,” and that “white
14 people are cannibals.”

15 57. When Mr. Diemert objected, the facilitators used their platform to belittle and attack Mr.
16 Diemert. Other coworkers that were present continued the mockery in the workplace and made
17 Mr. Diemert the office pariah. Mr. Diemert’s coworkers called him a “white supremacist.”

18 58. Mr. Diemert’s supervisor, Supervisor Kilpatrick-Goodwill, told him during one of their
19 meetings in 2020 that coworkers were still talking about his comments from the UIR workshop.
20 Coworkers treated Mr. Diemert differently and would call him “racist” and “hateful.”

21 59. Mr. Diemert’s colleagues used their work emails to berate and entertain violence against
22 him, referring to him as “some asshole,” the “reincarnation of the people that shot native
23 Americans from trains, rounded up jews for the camps, hunted down gypsies in Europe and
24 runaway slaves in America,” noting that it was not worth addressing his concerns because he would
25 “just come back with more stupidity,” and that someone should “get a guy to swing by when Josh
26 is in the restroom and beat him bloody.”

27 60. Nor was Mr. Diemert able to avoid discriminatory messaging and harassment once his
28 training requirements were completed. Every meeting, activity, and City summit incorporated

1 RSJI training. The diffuse nature of the Race and Social Justice Initiative further ensured that Mr.
2 Diemert had no opportunity for a reprieve from racial harassment.

3 61. In addition to the formal training, the City pressured Mr. Diemert into participating in team-
4 specific RSJI training, unit RSJI-created training, department RSJI-created training, City-wide
5 RSJI-created training, and external RSJI-created training.

6 62. For Mr. Diemert to receive HSD's "fully performing" rating and to meet expectations, he
7 was required to participate in all assigned RSJI activities. These would include the additional
8 training added to summits, retreats, unit meetings, or other meetings. To receive a rating of
9 "exceeding expectations," Mr. Diemert was required to embrace RSJI principles and encourage
10 others to participate in trainings.

11 63. One example of these additional trainings was the February 28, 2020, "Theory of Change"
12 workshop he attended, where he was required to evaluate his Department according to the
13 standards described in a document entitled "Characteristics of White Supremacy Culture." *See*
14 **Exh. 11 and 12.**

15 64. The City also strongly encouraged Mr. Diemert to participate in race-based affinity groups,
16 caucuses, and employee resource groups at the unit and department levels despite his repeated
17 objections to the exercises and materials.

18 65. For example, Mr. Diemert was invited to attend a discussion on "white racial literacy,"
19 which was "open to all people who identify as white in HSD." On another occasion, he received
20 an invitation from Owen Kajfasz, a senior data analyst with the City, to a "White Caucus" meeting,
21 which asked attendees to read an article entitled, "White People Are Cowards."

22 66. The City's Office for Civil Rights promotes segregated training for City employees. In
23 June 2020, the Office of Civil Rights emailed Mr. Diemert stating that it was hosting a training on
24 "Internalized Racial Superiority," and that this was "specifically targeted for White employees."
25 The training focused on examining white employees' "complicity in the system of white
26 supremacy," and how white employees "internalize and reinforce" racism. *See* **Exh. 13.** The goal
27 of the training was to turn these employees into white "accomplices" who would interrupt the
28 "whiteness" that they saw in their colleagues.

1 67. Employees who attempted to attend a training that was not designated for their race would
2 be harassed or reprimanded for their decision.

3 68. In 2018, Mr. Diemert asked to sign up for a training reserved only for people of color. Mr.
4 Diemert's union representative, Mr. van Eyk, became very agitated and told Mr. Diemert that he
5 should not sign up. Mr. Diemert later discovered emails that suggested that Mr. van Eyk was not
6 interested in genuinely advocating for Mr. Diemert's concerns.

7 69. The City's use of race and social justice training came under scrutiny in 2020. On August
8 26, 2020, the United States Department of Justice sent a letter to Seattle's City Attorney regarding
9 public reports that the City had conducted "training sessions for its white employees and
10 employees of color in June 2020," potentially in violation of Title VII of the Civil Rights Act.
11 While DOJ did not reach any conclusions in the letter about whether a violation had occurred, it
12 requested additional information from the City.¹

13 **E. Harassment and Coercion to Participate in Race-Based Affinity Groups**

14 70. In addition to pressuring employees to attend race-based training, the City of Seattle and
15 HSD created and promoted race-specific "affinity groups" or "caucuses." As one City training
16 material notes, "caucuses are times when people of color and white people within an organization
17 meet separately in order to do our different work."

18 71. These groups are focused on "forwarding the City of Seattle's Race and Social Justice
19 Initiative's efforts to eliminate racial disparities and achieve racial equity in Seattle."

20 72. The City expected white employees to join the white affinity group and pressured them to
21 accept that white employees and individuals of European origin are all inherently racist, privileged,
22 powerful, and consciously or unconsciously to blame for systemic racism in the workplace and
23 society due to their "white privilege."

24 73. White caucus groups are expressly "accountable" to the "change team" and to the "Latinx,
25 African Descent, and Asian and Pacific Islander (API) Caucuses."

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27
28 ¹ [https://www.documentcloud.org/documents/7203169-Seattle-Notice-Ltr-8-26-20-via-
Email.html](https://www.documentcloud.org/documents/7203169-Seattle-Notice-Ltr-8-26-20-via-Email.html)

1 74. In these caucuses Mr. Diemert was encouraged to “work through guilt” that he should bear
2 due to his race.

3 75. Mr. Diemert consistently opposed invitations to join the City of Seattle’s “white caucus.”
4 Despite expressing his discomfort and communicating how these types of communications and
5 programs were taking a toll on his health, and that he did not want to receive further
6 communications from the City’s white caucus, he continued to receive communications from the
7 group.

8 76. City staff never encouraged or told Mr. Diemert that he was allowed to attend any other
9 affinity groups other than the “white caucus,” and based on how coworkers were treated if they
10 attempted to attend training for the wrong “race,” Mr. Diemert knew that any attempt to attend
11 other affinity groups would result in a reprimand or further harassment.

12 77. On June 21, 2021, Mr. Diemert sent Senior Officer Groce an email where he explained that
13 he felt that “all of the Race & Social Justice training (RSJ), including the affinity caucuses, are
14 blatantly racist, stereotype people based on superficial characteristics and apply negative attributes
15 to entire groups of people based off the color of their skin.” Mr. Diemert expressed his concern
16 about “constantly being bombarded with racially denigrating material on the City of Seattle
17 intranet, splash pages, incoming emails and in material dispersed around the workplace” so that
18 he was not allowed to “just do the work” he was hired to do. In 2021, Mr. Diemert proposed the
19 creation of a non-race-based affinity group that opposes stereotypes. He was told by Senior Officer
20 Groce that he was not authorized to begin work on it and that it would need to support the City’s
21 commitment to workforce equity based on the principles of the City’s RSJI.

22 78. In a subsequent email, the HR Director described how Mr. Diemert “requested to start an
23 affinity group that opposes Change Team Values,” and that he was told that he “wasn’t authorized
24 to move forward based on City business needs.” Mr. Diemert also learned that rather than
25 addressing his criticisms of RSJI, Senior Officer Groce apologized to his immediate supervisors
26 for “the potentially harmful things” Mr. Diemert had stated in the email and forwarded his email
27 to Nikki Dias (Ms. Dias), a union representative and political organizer, who suggested that Mr.
28 Diemert was taking “a position that could result in insubordination.”

F. Mr. Diemert Experienced Severe and Recurring Stereotyping and Harassment Based on His Race

79. City-approved workshops and affinity groups not only promulgated racist RSJI ideology, but employees in director and supervisory roles over Mr. Diemert also frequently reiterated these same principles. For example, in a 2016 unit meeting, Jason Johnson (Mr. Johnson), former division director, told staff that “all white people” have “white privilege” and are “racist.” He also noted that it was impossible for black people to be racist, and that white people can never experience racism.

80. On another occasion in 2020, Supervisor Kilpatrick-Goodwill, Mr. Diemert’s supervisor and supervisor of HSD’s utility-assistance programs, told Mr. Diemert that it is impossible for one to be racist towards “white people,” that all “white people” are racist, and that “black people” cannot be racist, thereby echoing the same racially hostile messaging disseminated in RSJI training and related workshops.

81. Throughout the entirety of his employment, Mr. Diemert also attended meetings where supervisors forced their employees to identify their race and to stand and affirm where they ranked themselves on a defined “continuum of racism.” He felt pressured into conforming to some of these exercises for fear of retaliation and hostility from his supervisors and coworkers.

82. The City also disseminated and encouraged racist messaging in emails, lunchroom conversations, meetings, and training. City meetings and summits often started with a proclamation that the land upon which they all stood was stolen by “white people,” who are blamed for legacies of genocide, enslavement, exploitation, displacement, and all other forms of structural violence.

83. These attitudes are also present when City employees interact with one another in training and other work contexts. It was commonplace for Mr. Diemert to hear statements like: “HSD is still a white institution,” and that “white people” have to give up “power, priorities, and privilege.”

84. Mr. Diemert experienced numerous severe and pervasive incidents of harassment that altered the conditions of his employment and created an abusive working environment.

1 85. In 2017, for example, Mr. Diemert’s co-worker, Consuelo Crow (Ms. Crow), began a
2 discussion in the lunchroom in which she stated that “white people” are to be blamed for “all
3 atrocities” and that the United States was built upon a system of “white supremacy.” She told Mr.
4 Diemert that he was “privileged” and labeled him a “racist” because he favored capitalism. Ms.
5 Crow also said that his words were “violence” and that he was invading her “safe space.”

6 86. This type of discrimination and harassment was regular and routine, often occurring several
7 times a week, and was encouraged by the RSJI framework, programming, and training.

8 87. In 2020, while Mr. Diemert was attempting to cook his food, a group of co-workers was
9 sitting at one of the few lunchroom tables, openly talking about “white privilege.” The group
10 consisted of Supervisor Kilpatrick-Goodwill, a supervisor from Seattle City Light, Monica Jones,
11 and other co-workers. Mr. Diemert joined their conversation. Members of the group told Mr.
12 Diemert that his response was invalid because he was “white” and “did not have a right to speak
13 about black oppression” and that Mr. Diemert was attempting to discredit their lived experiences
14 with his “white privilege.” They also proceeded to make general disparaging comments about
15 “white people.”

16 88. In June 2021, Race and Social Justice Lead/Chief Equity Officer Edward Odom shared an
17 article regarding Critical Race Theory (CRT) and laws attempting to ban the teaching of it, drawing
18 specific attention towards the 1921 Tulsa Race Massacre. Mr. Diemert commented on the post that
19 Mr. Odom shared. Mr. Odom responded to Mr. Diemert’s comment by saying that white people
20 like him should feel guilty for atrocities like the Tulsa Race Massacre. Mr. Odom then sent Mr.
21 Diemert an aggressive and condescending email further attacking him for his comments.

22 89. Mr. Odom shared his criticism of Mr. Diemert with many other senior staff members in
23 the IT Department and elsewhere who disparaged Mr. Diemert in both public and private.

24 90. Moreover, City documents further reveal that the City was not concerned about Mr.
25 Diemert’s well-being, but it was instead actively investigating Mr. Diemert for no apparent reason,
26 going so far as to assemble a “confidential file” on him.

27 ///

1 **G. The City’s Discriminatory Conduct Negatively Impacted Mr. Diemert’s Health**

2 91. The hostile work environment created by the City took a heavy toll on Mr. Diemert’s
3 health, to the point that his doctor noted in a December 5, 2018, letter that “a major source of stress
4 for him ... are his cultural sensitivity training classes. These events are causing significant effects
5 on him and are severely detrimental to his health. For the next few months, he needs to be excused
6 from attending these classes.” Mr. Diemert submitted medical documentation to the City to
7 demonstrate the impact his hostile work environment was having on his health, but HSD never
8 honored his doctor’s request to have him excused from RSJI-type training.

9 **H. Blatant Acts of Discrimination Against White Job Applicants and Benefit Seekers**
10 **Are Encouraged and Ignored**

11 92. Between the years of 2015 and 2017, Mr. Diemert regularly participated in interview panels
12 to screen prospective City employees. He was told by Director Hatcher-Mays that he should
13 specifically focus on hiring “black female refugees that speak Farsi.”

14 93. On multiple occasions, upper-level managers told Mr. Diemert and other Department
15 employees that when new jobs become available, particularly in senior roles, they were looking to
16 fill those positions with people of color and that white men should not apply. Acting Director of
17 HSD, Tanya Kim (Acting Director Kim), and former director Mr. Johnson would both encourage
18 City employees to push job openings toward “BIPOC” (Black, Indigenous, and People of Color)
19 communities.

20 94. Mr. Diemert also witnessed HSD’s data gathering in 2018 systematically exclude white
21 people. The Department teamed up with the University of Washington to complete a study to
22 assess racial and ethnic subgroups that were underserved. Mr. Diemert noticed that his Department
23 only wanted to break down race and ethnic subgroups for non-white groups. When he asked why
24 they were not considering doing this for white individuals as well, Department staff told him that
25 white people are “privileged” and that there was no reason to subgroup them. Mr. Diemert
26 explained that they had many clients that were extremely poor and would benefit if they were not
27 just stereotyped as white. His department told him that this was not needed because they benefitted
28 by living in a system of “white supremacy.”

1 95. In 2016, Mr. Diemert learned from his subordinates that they had been denying eligible
2 white applicants program benefits they were eligible to receive solely because of their race.

3 96. Mr. Diemert audited some of the cases and found that his co-worker, Ms. Budner, had
4 denied an eligible white applicant for an assistance program. When Mr. Diemert questioned her
5 about this, she stated that the eligible person was denied because he had “white privilege.”

6 97. Mr. Diemert told Ms. Budner that she was not permitted to process applications in a
7 discriminatory manner. The City took no action against this blatant act of discrimination.

8 98. After the start of the pandemic, and throughout 2020 and 2021, Department leadership and
9 co-workers openly discussed the need to carry out layoffs based on race during Department all-
10 staff video meetings. Mr. Diemert felt denigrated and humiliated, as he had to attend these
11 meetings and listen to Department staff and other City leaders brainstorming how they could lay
12 off white workers, and how this could be done using the Racial Equity Toolkit or the Race and
13 Social Justice Initiative. They discussed how BIPOC employees would be negatively affected
14 under a seniority system, and methods to give BIPOC more “time” so that they could effectively
15 “bump” white employees who had seniority. These types of discussions also occurred in other
16 departments.

17 **I. The City Denied Mr. Diemert Opportunities to Advance Within His Office**
18 **Because of His Race**

19 99. Mr. Johnson, the former division director for homelessness, promised Mr. Diemert that he
20 would eventually see a title change and corresponding pay upgrade, and for Mr. Diemert to not be
21 concerned about working outside of his department.

22 100. Relying on Mr. Johnson’s communication, Mr. Diemert assumed work responsibilities that
23 exceeded the scope of his job title and worked with employees across several City departments.
24 However, despite Mr. Diemert having a positive employment record, receiving an award for his
25 good work, and consistently complying with City policies and procedures, he never received a
26 permanent promotion nor a substantial pay increase during his over eight years as a City employee.

27 101. His lack of promotion was a result of his race and his willingness to question the City’s
28 Race and Social Justice Initiative.

1 102. One specific example of the City denying Mr. Diemert a promotion and recognition that
2 was due to him on account of his race pertains to his work on the “Vehicle License Fee Rebate
3 Program” that occurred sometime in 2015. Former Director Hatcher-Mays had not done the proper
4 hiring or preparation for the program launch. Mr. Diemert worked overtime to help her launch the
5 program and run it. He developed the internal policies for the program. It was supposed to have
6 been staffed with a supervisor, two line workers, an outreach coordinator, and two administrative
7 staff members. Mr. Diemert ended up doing the work for all these positions, and he worked
8 alongside other departments to make the program work.

9 103. Former Director Hatcher-Mays told the other departments that Mr. Diemert was the
10 supervisor even though he received neither the title nor the corresponding pay increase. As a result
11 of doing the work of six positions, Mr. Diemert was delayed in completing a certain task for the
12 program. This resulted in someone making a complaint to the Customer Service Bureau.

13 104. After this incident, Director Hatcher-Mays hired Iris Guzman, a person of color, as a
14 supervisor and had Mr. Diemert train her. Even after hiring Ms. Guzman, Director Hatcher-Mays
15 directed Mr. Diemert to continue running the program because Ms. Guzman had no supervising
16 experience.

17 105. Ms. Guzman was chosen over Mr. Diemert for the position because of her race.

18 106. Despite Ms. Guzman’s lack of experience and involvement in the project, she still received
19 the pay and title, even though Mr. Diemert continued to perform substantial work. As a result of
20 these conditions, Mr. Diemert eventually communicated that he would no longer do anything in
21 support of the program. Shortly after this decision, he was ordered by department director Tiffany
22 Washington to continue in the role, and he was required to work overtime.

23 **J. The Department Required Mr. Diemert to Work Under Mr. Said Despite**
24 **Mr. Diemert Reporting Mr. Said for Misconduct, and Experiencing Racial**
25 **Harassment and Discrimination from Him**

26 107. Despite Mr. Said racially harassing Mr. Diemert on several occasions, the City did not offer
27 any solution apart from suggesting Mr. Diemert move away from his preferred workstation. But
28 when Mr. Diemert complained that it would be unfair to punish him for reporting discrimination,

1 Mr. Said was ultimately moved just a few feet away from Mr. Diemert's workstation. The City's
2 investigation into Mr. Said's discriminatory behavior was inadequate and did not include any
3 interviews with any of the employees that had been witnesses.

4 108. In its report to the EEOC, the City claimed that Mr. Said was no longer Mr. Diemert's
5 supervisor and no longer worked in that office. But this was not true. Following Mr. Said's
6 harassing behavior toward Mr. Diemert, Mr. Said continued to supervise Mr. Diemert directly and
7 evaluate his work product. As a Lead Program Intake Representative (PIR), Mr. Said was in a
8 position of authority and control over Mr. Diemert. Lead PIRs review the work of non-lead PIRs
9 like Mr. Diemert regarding approval into the Utility Discount Program. Supervisor Kilpatrick-
10 Goodwill required Mr. Diemert to include Mr. Said in his emails and report his absences to Mr.
11 Said. Following Mr. Diemert's allegations, Mr. Said's role overseeing Mr. Diemert's work did not
12 change.

13 109. In April 2020, Marc Mayo, an Ethics and Whistleblower Advisor, Trainer, and Investigator
14 for the City of Seattle Ethics and Elections Commission contacted Mr. Diemert and informed him
15 of the results of the investigation. He told Mr. Diemert that the investigation had determined that
16 while line workers were not allowed to work on cases regarding family members, the rules
17 technically did not apply to those in leadership positions. Mr. Mayo claimed that Mr. Said was
18 exempt from ethical requirements regarding self-dealing because he was in a leadership role.

19 110. Department management allowed Mr. Said's hostility and discriminatory conduct towards
20 Mr. Diemert to continue. Mr. Said continued to be Mr. Diemert's lead, resulting in Mr. Diemert
21 having to report to the very individual he had turned in for misconduct.

22 111. Mr. Said was not reprimanded for physically threatening Mr. Diemert or for the racist
23 remarks he made toward Mr. Diemert.

24 112. Mr. Diemert was disturbed and distressed about the City's inaction against Mr. Said. He
25 decided to go public with his allegations against Mr. Said. On August 31, 2021, Mr. Diemert tried
26 to send an email to his colleagues at the Department, outlining Mr. Said's improprieties and
27 highlighting the City's total inaction. The email to the Department bounced because the City had
28

1 been monitoring and limiting Mr. Diemert’s email privileges in light of his complaints about RSJI.
2 He subsequently sent the email to his unit, which successfully went through.

3 113. The Ethics Department eventually found that Mr. Diemert’s allegations had merit and that
4 Mr. Said’s actions were unethical and a violation of City rules.²

5 114. An administrator in Mr. Diemert’s unit, John Fields, Jr., quit over what he saw as the City’s
6 prior sham investigation. The City then again attempted to defend and protect Mr. Said from any
7 accountability by requesting administrative dismissal of the complaint against Mr. Said from the
8 Seattle Ethics and Elections Commission because it claimed the offense was “minor.” At its April
9 6, 2022, meeting, the Commission rejected the request for administrative dismissal and
10 commissioners expressed their discomfort with the effort to dismiss a claim of self-dealing as a
11 “minor” violation.³

12 115. The City’s protection and discriminatory preference for Mr. Said traces back to its Race
13 and Social Justice Initiative.

14 **K. The City Placed a RSJI Change Team Member in Charge of the Investigation of**
15 **Mr. Diemert’s Claims of a Hostile Work Environment**

16 116. Mr. Diemert filed his first complaint with the EEOC on December 23, 2020, which was
17 amended in January 2021. The filing of that complaint triggered an internal investigation by the
18 City’s Department of Human Resources (SDHR).

19 117. The SDHR investigation did not constitute a serious effort from the City to investigate Mr.
20 Diemert’s claims. The lead investigator assigned to his case, Brandon Kuykendall (Mr.
21 Kuykendall), was an active volunteer and member of a Change Team, one of the many entities
22 specifically tasked with infusing RSJI principles into all City operations. Mr. Diemert felt that this
23 created an unavoidable conflict of interest. As Mr. Diemert explained in an email to Mr.
24 Kuykendall and the head of SDHR, “that means you have someone who is part of my complaint
25 investigating himself while simultaneously involved in the overt racism and discrimination my
26 complaint details.” But SDHR refused to appoint a different investigator.

27 ² <http://www.seattlechannel.org/ethics?videoid=x136993> at 12:55–31:15

28 ³ *Id.*

1 118. Mr. Kuykendall conducted a haphazard investigation and wrote a report that exonerated
2 the Change Team. Mr. Kuykendall wrote the first draft of his report finding no fault even before
3 he completed his investigation and without thoroughly investigating Mr. Diemert's claims. Mr.
4 Kuykendall did not interview key witnesses or take the necessary steps to engage in a thorough
5 investigation. Mr. Kuykendall approached Mr. Diemert's claims with skepticism and hostility.

6 119. On August 27, 2021, Mr. Diemert received the final report from Mr. Kuykendall. The
7 incomplete investigation and the inaccurate and one-sided nature of the report once again showed
8 Mr. Diemert that there was no chance that the Department or the City would abandon its relentless
9 RSJI push. To Defendants, Mr. Diemert was merely a member of a disfavored racial group.

10 **L. The City's Treatment of Mr. Diemert Grew Worse After He Filed His**
11 **EEOC Complaint**

12 120. Mr. Diemert was subject to increasingly adverse treatment after he submitted his EEOC
13 complaint and continued to raise his concerns about the RSJI program in the workplace.

14 121. In January 2021, Supervisor Kilpatrick-Goodwill retaliated against Mr. Diemert because
15 he had filed his EEOC charge on December 23, 2020, and because he had voiced his objections to
16 the City's RSJI on numerous occasions. In response to Mr. Diemert inquiring about why the inbox
17 for public emails was not being checked and the length of time it was taking for emailed
18 applications to be assigned to staff, Ms. Kilpatrick sent out an email asking, "how many
19 applications does Josh have sitting in the drawer ... what is the oldest date of his applications and
20 delays?" She did not question other employees about the same issue, despite other employees
21 having delayed applications.

22 122. Mr. Diemert's co-workers confirmed Supervisor Kilpatrick-Goodwill's retaliatory
23 targeting of Mr. Diemert.

24 123. Mr. Diemert normally met with Supervisor Kilpatrick-Goodwill, his direct supervisor,
25 monthly. In February or March 2020, Mr. Diemert had his usual monthly meeting with Supervisor
26 Kilpatrick-Goodwill and raised his concerns about the racialized training and RSJI material. After
27 that, their monthly meetings became increasingly infrequent. For most of 2021, nearly all of Mr.
28 Diemert's monthly meetings with Supervisor Kilpatrick-Goodwill were canceled even though his

1 other colleagues were having their regular meetings. By August 2021, he had not had a monthly
2 meeting in months and was not receiving any support for his work. For instance, when Mr. Diemert
3 suffered severe tech problems, he received no support from Supervisor Kilpatrick-Goodwill and
4 had to reach out to upper management to get that assistance. He had to spend months getting
5 approval to use the Adobe PDF software even though it was crucial for his day-to-day work.

6 124. Mr. Diemert also experienced issues with an FMLA request in 2021. In July 2021, the
7 Department of Labor found that the City violated Mr. Diemert's FMLA rights by denying him a
8 reduced work schedule and leave for biannual medical treatment. The DOL report also noted that
9 "Tina Ng-Rudell in Human Resources had caused roadblocks in the employee's ability to be
10 approved for FMLA leave" by giving Mr. Diemert incorrect instructions on how to correct the
11 medical certification submitted on May 5, 2021. The report further noted that the City "did not
12 provide an explanation for why the violations occurred."

13 125. Mr. Diemert was denied FMLA leave on account of his race and in retaliation for his
14 criticism of the RSJI initiative.

15 126. Throughout 2021, Mr. Diemert continued to tell his supervisors and others that his health
16 was suffering because of the racial harassment that he experienced.

17 127. One of the few things that helped Mr. Diemert continue to carry out his duties despite his
18 concerns was the ability to work from home following the onset of the COVID-19 pandemic. He
19 also felt that being able to work from home was a health necessity given that he was in a high-risk
20 category. But in August 2021, he was informed that due to staffing shortages, the City could no
21 longer accommodate his request to work from home. He came to understand that the decision of
22 whether he would be allowed to work from home would be made using the "equity toolkit" and
23 that "BIPOC" applicants would be given priority to telework over him based on their race. He
24 expressed his concern that "I believe it is becoming quite clear that the disregard for my high risk
25 status is solely because of the color of my skin" and that he felt "like the actions by the City of
26 Seattle are purposeful to ensure I have no other choice but be compelled to quit a job I put my
27 heart and soul into."

1 128. As a result of the racial discrimination and the hostile work environment Mr. Diemert
2 experienced, he felt compelled to resign from his position rather than continue to be subjected to
3 continued abuse. As he told Mr. Mayo just a few days before he resigned, “Ever since I reported
4 Shamsu to Ethics and filed a charge with the EEOC I have felt like I am being pressured to quit ...
5 the workplace is not conducive to my health, I feel like I am constantly ... on defense from being
6 attacked or discriminated against because the environment is toxic and hostile ...”

7 **CLAIMS FOR RELIEF**

8 **COUNT I**

9 **(Equal Protection)**

10 129. Plaintiff hereby realleges and incorporates by reference the allegations contained in
11 Paragraphs 1 through 128.

12 130. “Classifications based on race carry a danger of stigmatic harm,” and can “promote notions
13 of racial inferiority and lead to a politics of racial hostility.” *Richmond v. J.A. Croson Co.*, 488
14 U.S. 469, 493 (1989).

15 131. Public employees are entitled under the Equal Protection Clause to be “free of purposeful
16 workplace harassment on the basis of protected status.” *Rodriguez v. Maricopa Cty. Cmty. Coll.*
17 *Dist.*, 605 F.3d 703, 707 (9th Cir. 2010).

18 132. Racial classifications that are motivated by “prejudice or stereotype”—even when
19 narrowly tailored—violate the Equal Protection Clause of the Fourteenth Amendment. *Croson*,
20 488 U.S. at 493.

21 133. Defendants treated Plaintiff differently from his colleagues because of his race when they
22 intentionally segregated staff meetings by race, offered and required race-based programming,
23 promoted affinity groups, and maintained a commitment to making racial distinctions among City
24 staff.

25 134. Defendants treated Plaintiff differently on account of his race throughout the entirety of his
26 employment with the City.

27 135. Defendants’ discriminatory actions towards Plaintiff do not serve a compelling interest,
28 nor are they narrowly tailored.

1 136. Defendants' discriminatory actions violated the Equal Protection Clause of the Fourteenth
2 Amendment.

3 **COUNT II**

4 **(Hostile Work Environment - Violation of Title VII)**

5 137. Plaintiff hereby realleges and incorporates by reference the allegations contained in
6 Paragraphs 1 through 136.

7 138. Defendants have subjected Plaintiff to severe, pervasive, and objectively offensive racial
8 harassment through mandatory race-based training, segregated staff meetings, encouraging race-
9 based affinity groups, and frequent and repeated affirmations by Defendants about the City's
10 commitment to making racial distinctions among City staff through the RSJI.

11 139. The harassment Mr. Diemert experienced at the hands of the Defendants was motivated by
12 his race.

13 140. Mr. Diemert repeatedly expressed his objections not only towards RSJI training, affinity
14 groups, and other racial distinctions made by the City, but also objected to the harassment he
15 experienced from coworkers, thereby clearly communicating that the harassment was unwelcome.

16 141. The harassment deprived Mr. Diemert of access to adequate professional development,
17 altered the conditions of his employment, and had a systemic effect on the work environment
18 within the City as a whole.

19 142. During the entirety of Mr. Diemert's employment with the City, he was subjected to race-
20 based messaging and humiliation.

21 143. Mr. Diemert had no recourse for resolving the conditions of his hostile work environment.

22 144. The harassment created an objectively hostile and abusive work environment, which a
23 reasonable person would find hostile or abusive.

24 145. Mr. Diemert experienced a tremendous amount of stress over the hostile work environment
25 created by the City of Seattle, requiring him not only to take time off from work and to seek
26 counseling but ultimately forcing him to leave his employment with the City of Seattle altogether.

27 146. Mr. Diemert's career stagnation and lack of promotion because of his race and willingness
28 to object to the race and social justice initiative caused him extreme mental distress.

1 147. Defendants knew of the harassment and were deliberately indifferent to it.

2 148. The harassment that Mr. Diemert experienced was a direct and foreseeable consequence of
3 the policies and practices adopted by Defendants.

4 149. The deliberate indifference of the Defendants to the racially hostile environment violated
5 Title VII of the Civil Rights Act.

6 **COUNT IV**

7 **(Retaliation - Violation of Title VII)**

8 150. Plaintiff hereby realleges and incorporates by reference the allegations contained in
9 Paragraphs 1 through 149.

10 151. Title VII, 42 U.S.C. § 2000e-3, provides that “it shall be unlawful employment practice for
11 an employer to discriminate against any of his employees ... because he has opposed any practice
12 made an unlawful employment practice by this subchapter.”

13 152. At all relevant times hereto, Title VII, 42 U.S.C. § 2000e was in full force and effect and
14 was binding on Defendants.

15 153. Said statute required Defendants, and their employees and agents, to refrain from
16 retaliating against any employee because of their race.

17 154. Mr. Diemert engaged in protected activity when he complained about discrimination and
18 harassment based on race.

19 155. In retaliation for Mr. Diemert’s complaints, the City subjected Mr. Diemert to increased
20 hostile behavior designed to force him to quit and ultimately leading to his constructive discharge,
21 including, but not limited to, his direct supervisor canceling nearly all of his monthly meetings and
22 ceasing to support him in his work, as well as HR refusing to process Mr. Diemert’s FMLA
23 paperwork, attempting to make him do things that were beyond the scope of the law, and were
24 explicitly discriminatory towards him until he reported them to the Department of Labor. The DOL
25 subsequently charged the City with 11 violations and forced them to process his FMLA request.

26 156. Mr. Diemert had to constantly be on defense, as his work environment became increasingly
27 toxic and hostile. He was forced to continue looking at degrading and racist material disseminated
28 in the office that labeled him a white supremacist. The effect of the practices complained about in

1 Paragraphs 1 through 128 has been to deprive Mr. Diemert of equal employment opportunities and
2 otherwise adversely affected his status as an employee because of his race.

3 157. There was a causal connection between Mr. Diemert's discrimination complaints and the
4 materially adverse actions taken against him by Defendants.

5 158. The retaliation endured by Mr. Diemert would dissuade a reasonable employee from
6 making complaints of discrimination and harassment.

7 159. Defendants retaliated against Mr. Diemert for engaging in protected activity in violation of
8 Section 704(a) of Title VII, 42 U.S.C. § 2000e-3(a).

9 **COUNT IV**

10 **(Constructive Discharge)**

11 160. Plaintiff hereby realleges and incorporates by reference the allegations contained in
12 Paragraphs 1 through 159.

13 161. Mr. Diemert suffered an adverse action based upon retaliation.

14 162. After Mr. Diemert engaged in activity protected under Title VII, the Defendants' retaliatory
15 actions included, but were not limited to, a calculated pattern of harassment and intimidation, as
16 noted in Paragraphs 22 through 128.

17 163. There is a causal connection between Mr. Diemert's filing of his EEOC Complaint and all
18 subsequent adverse employment actions taken against him by the Defendants and leading to his
19 constructive discharge.

20 164. The Defendants forced Mr. Diemert to terminate his employment based upon retaliatory
21 motive, in violation of Title VII.

22 165. Defendants made Mr. Diemert's working conditions so intolerable that a reasonable person
23 in his position would feel compelled to retire. Mr. Diemert asserts this as a separate actionable
24 claim.

25 **PRAYER FOR RELIEF**

26 Wherefore, the Plaintiff prays for relief as follows:
27
28

1 1. For a declaration that the City of Seattle's acts, policies, practices, and procedures
2 complained of herein violated Plaintiff's rights as secured by the Equal Protection Clause of the
3 Fourteenth Amendment and Title VII of the Civil Rights Act;

4 2. Retain jurisdiction over this action to assure full compliance with the orders of the Court
5 and with applicable law and require Defendants to file such reports as the Court deems necessary
6 to evaluate compliance;

7 3. Enter an order for compensatory and punitive damages in the amount of \$300,000.00 for
8 the salary that Mr. Diemert was denied as a result of being discriminatorily denied promotions and
9 constructively discharged as well as for his mental pain and suffering, and for the Defendants'
10 blatant and unrepentant violations of Mr. Diemert's civil rights;

11 4. Award attorneys' fees and costs pursuant to 42 U.S.C. § 1988 and any other applicable
12 legal authority; and

13 5. For nominal damages and such other relief as the Court deems just and proper.

14 ///

1 DATED: November 16, 2022.

2 Respectfully submitted:

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