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6

7
8 GOVERNMENT TORT CLAIM, CITY OF LOS ANGELES/LAFD
9

10 ROBERT J. KILPATRICK, JR. an
individual,
11 Plaintiff,
12
13 v.
14
15 CITY OF LOS ANGELES, a public
entity, ERIC GARCETTI, an individual,
16 RALPH M. TERRAZAS, an individual
and each of individuals listed herein-
below and DOES 1 through 50, inclusive,
17
18 Defendants.

GOVERNMENT TORT CLAIM

19
20 CLAIMANT "CHIEF" ROBERT J. KILPATRICK, JR. ["Chief
21 KILPATRICK/Claimant"] HEREBY MAKES INDIVIDUAL CLAIMS FOR TORTIOUS
22 WRONGFUL TERMINATION IN VIOLATION OF FUNDAMENTAL PUBLIC
23 POLICIES (RETALIATION); VIOLATION OF *CAL. GOVT. CODE* §12940 (RELIGIOUS
24 DISCRIMINATION/RETALIATION); VIOLATION OF *CAL. GOVT. CODE* §12940
25 (MEDICAL CONDITION DISCRIMINATION/RETALIATION COVID-19
26 UNVACCINATED); VIOLATION OF *CAL. GOVT. CODE* §12940 (FAILURE TO
27 PREVENT DISCRIMINATION/RETALIATION IN THE WORKPLACE); VIOLATION
28 OF *CAL. LABOR CODE* §1102.5 (RETALIATION); VIOLATION OF *CAL. GOVT.*
CODES §11135 DISCRIMINATION IN PUBLIC FUNDED PROGRAMS; VIOLATION

1 OF DUE PROCESS RIGHTS (CA SKELLY CASE), BREACH OF
2 WRITTEN/ORAL/IMPLIED IN FACT CONTRACT FOR CONTINUED PUBLIC
3 EMPLOYMENT, BREACH OF IMPLIED COVENANT OF GOOD FAITH AND FAIR
4 DEALING, INTENTIONAL/NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS,
5 AND SEEKS PRESENT AND FUTURE SPECIAL COMPENSATORY/GENERAL
6 DAMAGES AGAINST DEFENDANT CITY OF LOS ANGELES (CITY OF LA/LAFD),
7 AND CITY OF LA MAYOR ERIC GARCETTI, CITY OF LA COUNCIL MEMBERS;
8 COUNCIL MEMBER DISTRICT 1 - GIL CEDILLO, COUNCIL MEMBER DISTRICT 2
9 - PAUL KREKORIAN, COUNCIL MEMBER DISTRICT 3 - BOB BLUMENFIELD,
10 COUNCIL MEMBER DISTRICT 4 - NITHYA RAMAN COUNCIL MEMBER DISTRICT
11 5 - PAUL KORETZ, COUNCIL MEMBER DISTRICT 6 - NURY MARTINEZ, COUNCIL
12 MEMBER DISTRICT 7 - MONICA RODRIGUEZ, COUNCIL MEMBER DISTRICT 8 -
13 MARQUEECE HARRIS-DAWSON, COUNCIL MEMBER DISTRICT 9 - CURREN D.
14 PRICE, JR., COUNCIL MEMBER DISTRICT 10 - HERB WESSON, COUNCIL
15 MEMBER DISTRICT 11 - MIKE BONIN, COUNCIL MEMBER DISTRICT 12 - JOHN
16 LEE COUNCIL MEMBER DISTRICT 13 - MITCH O'FARRELL, COUNCIL MEMBER
17 DISTRICT 15 - JOE BUSCAINO, FIRE CHIEFS; RALPH M. TERRAZAS, KRISTIN
18 CROWLEY AND LINDA CESSOR, LAFD CHIEF OFFICERS; GRAHAM EVERETT,
19 TREVOR RICHMAN, JUSTIN MOORE, AMIR CASPAIN; STEPHEN GUTIERREZ,
20 SERGEY TOMLINSON, COREY ROSE, KAREN RICHTER, KENNETH MILLER,
21 ALBERTO VALLE, CAPTAINS MARTIN MULLEN, DAMON LEACH, GLENN
22 BAHAM, NANDE KALENGA, CESSO SECCI AND INVESTIGATOR VALERIE ROSS
23 IN AN AMOUNT YET TO BE ASCERTAINED, BUT NOT LESS THAN \$6,000,000.00
24 AND IN SUPPORT OF SAID CLAIMS REPRESENTS AS FOLLOWS:

25 **1. WHEN DID THE INJURIES OCCUR:**

26 Chief KILPATRICK was placed on unpaid leave from his work place with the LAFD
27 and sent home without pay on November 12, 2021, the violations described hereinbelow
28 were continuing/ongoing until he was discriminatorily/retaliatorily "removed" (terminated)

1 from his employment with LAFD by then Fire Chief Ralph M. Terrazas, on March 3, 2022.

2 **2. WHERE DID THE INJURIES OCCUR:**

3 The incident(s) occurred in and around the LAFD Headquarters and properties.

4 **3. HOW DID THE DAMAGE/INJURIES OCCUR AND WHAT PARTICULAR**
5 **ACT OR OMISSION ON THE PART OF THE FEDERAL/STATE OFFICER,**
6 **SERVANTS OR EMPLOYEES CAUSED THE INJURIES OR DAMAGE:**

7 The below described acts were acknowledged and ratified by LAFD
8 authorities/administrators who allowed the discriminatory/retaliatory misconduct and both
9 participated in and failed to take all reasonable steps necessary to prevent acts from
10 occurring. The following acts/incidences are alleged based upon the Claimant's knowledge,
11 information and belief. Such claims are representative, listed in summary fashion and are
12 not intended to be exhaustive.

13 1. Claimant Chief KILPATRICK was employed by LAFD for approximately
14 thirty four (34) years. At the time of his mistreatment and wrongful termination he was
15 employed as a LAFD Battalion Chief earning approximately \$400,000/year in hourly and OT
16 pay as a non-exempt employee, plus benefits according to proof at trial.

17 2. On 8/18/2021, the CITY OF LA passed Ordinance 187134: COVID vaccine
18 requirement/mandate as a amendment to City OF LA Administrative Code. On 8/20/2021
19 CITY OF LA Approved Ordinance 187134 COVID vaccine requirement/mandate to
20 Administrative Code.

21 3. On 9/16/21 Chief KILPATRICK was informed by a trusted friend that the
22 friends father, also a Fire Chief, attended the Southern California Fire Chief's Association
23 conference and also in attendance was former LAFD Chief Ralph Terrazas. When that Fire
24 Chief questioned Chief Terrazas about attending the conference when the LAFD was dealing
25 with mandates and staffing issues, Chief TERRAZAS told him to the effect that "he wasn't
26 worried about COVID Mandates, because all he had to do was terminate a few Chiefs and
27 Rookies who refused to comply and everyone else will fall in-line."

28 4. On 9/17/21 a group called "Firefighters4 Freedom" of which Chief
KILPATRICK is a member, filed a lawsuit against CITY OF LA alleging violations of

1 various constitutional freedoms and liberties in imposing vaccine requirements. Also on
2 9/17/21, Mr. KILPATRICK paid \$299 to PCR test after experiencing/discovering high fever,
3 following headache, he tested positive for COVID. On 9/18/21-10/6/21, Chief
4 KILPATRICK was placed Off Duty first five shifts QL, then two shifts of QZ. During this
5 time he spoke with MLU who established a Work Comp doctor via phone to review status.

6 5. On 9/27/21, 1150 hours Chief KILPATRICK received Email from Chief
7 Richmond titled "Monday Meeting Notes." First item from Fire Chief (FC) noted that they
8 presently have 450 applications for exemption in LAFD. The FC and City Attorney wanted
9 to "remind you that if an exemption from vaccination is approved – this does not mean that
10 you remain in your assignment...you will most likely enter the interactive dialogue with the
11 Personnel Department for Reasonable Accommodation (RA). If you can be reasonably
12 accommodated to another position, you would assume that new position somewhere else in
13 the City. This could mean that you could end up working as a clerk typist or another position
14 that does not require the vaccine. This may not even be available to you considering that
15 nearly every City worker is required to be vaccinated. It is important to also note that you
16 would also get the salary of the new position and not retain your department salary and you
17 may also be required to switch pensions. If the RA proves to be a burden the City (meaning
18 that there are too many people and not enough positions)...the law allows for detail to home
19 with no pay or termination. It is important that our people understand that an approved
20 exemption does not mean that they get to stay at their fire station."

21 6. On 10/7/21, Chief KILPATRICK was part of group of LAFD firefighters
22 "Firefighters4Freedom" who filed a tort claim with the CITY OF LA alleging the COVID
23 vaccine order was wrongful misconduct and interfered with CITY OF LA employee rights
24 in violation of *Cal. Govt. Code*, Due Process Rights pursuant to the Skelly case, and the
25 MOU between the firefighters and their union United Firefighters of Los Angeles
26 ("UFLAC"), inter alia. **A True and Correct Copy of their initial Tort Claim is Attached**
27 **as Ex. 1**

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1 7. On 10/7/21, Chief KILPATRICK was Returned To Duty (RTD) by his Work
2 Comp doctor via phone call. On 10/11/21, his first day back at work after recovering from
3 COVID, he found copy of the Government Tort Claim entitled “Notice of Claim and Intent
4 to sue for money Damages” on his desk with slip of paper indicating the page where he was
5 named on the list as a Claimant. He suspects the document was placed on his desk by one
6 of the other Chiefs to retaliate/intimidate, or harass him.

7 8. On 10/12/21, Chief KILPATRICK received an email entitled *2nd Direct Order*
8 *to Provide COVID-19 Vaccination Status*. Between the time frame of On 10/13/21-10/22/21
9 Chief KILPATRICK reviewed current LAFD materials, included LAFD Departmental
10 Intranet materials, notes from FC’s Monday meetings with Bureau Commanders (Richmond
11 and Fligiel’s weekly emails) along with his Informational Material documents with anyone
12 who wished to discuss the vaccination requirement/status topics. Chief KILPATRICK also
13 met with LAFD Valley Bureau Commander Chief Trevor Richmond on multiple occasions
14 complaining the vaccine mandates were unconstitutional and discriminatory. Chief
15 Richmond expressed that the mandates are outside his realm and he was “awaiting direction
16 and guidance.”

17 9. During the October 2021 time frame, the vaccine requirement and vaccine
18 status and complaints regarding the same became a consistent topic in which Chief
19 KILPATRICK expressed displeasure/complained to/with other LAFD Chiefs. Specifically
20 to Chief Richmond, Chief KILPATRICK discussed/complained how he is a “Leader” who
21 is an instructor for the LAFD Leadership at California Lutheran University, Thousand Oaks,
22 that both of us continued and obtained Master’s degrees in Leadership and at no time in any
23 of the courses did Chief KILPATRICK find a leader described as an individual who awaits
24 “guidance and direction” on the vaccine mandates.

25 10. On 10/19/21, Chief KILPATRICK emailed titled his Vaccination Status to
26 LAFD Personnel Services Section. On that same date after receiving contact from FF Jacob
27 Gonzales, Chief KILPATRICK filed a CTS complaint on his own behalf against Chief
28 Justine Moore who had stopped at FS65 and was telling the FF members, they “all had to get

1 the shot or they would be terminated... two doors to choose from, get along with the shot
2 program or leave the Department...” Essentially, Chief Moore made clear they had to get the
3 jab, or lose their job/career.

4 11. On 10/28/21 Chief KILPATRICK was sent via email a “Memorandum from
5 Mayor Eric Garcetti...To all City Department Heads.” “Subject: *CITY OF LA Response to the*
6 *COVID-19 Pandemic: Re: Mandatory Implementation of Non-Compliance with Ordinance*
7 *No. 187134.*”;

8 “Exhibit B, Consequences Presented October 14, 2021. Non-Compliance with the
9 Vaccination Mandate: Employee shall be deemed non-compliant with the vaccination
10 mandate if they have failed to become fully vaccinated and have not filed an intent to
11 seek medical or religious exemption by October 20, 2021.”

12 12. On 10/29/21 Chief KILPATRICK received an mail from LAFD Personnel
13 Department indicating - “*DUE MONDAY, NOV 1ST: Notice of Mandatory COVID-19*
14 *Vaccination Policy Requirements...*”

15 13. On 11/9/2021, Assistant Chief Surgey (Guy) Tomlinson served a 48 hour
16 Order to comply with CITY OF LA COVID requirement/mandate for Employees. This
17 occurred in the Battalion 10 office within Fire Station 39 in Van Nuys.

18 14. On 11/10/21, Chief KILPATRICK received an email from Chief Trevor
19 Richmond entitled “*Serving of 48 hour notices...*” instructing him to serve 48 hour notices
20 of potential relief of duty if not vaccinated. Also on 11/11/21, Chief KILPATRICK’s
21 attorney John Howard sent a warning letter referenced “Violation of Employee Rights” to
22 Chief Ralph Terrazas which advised and warned against violating Constitutional law,
23 Government Code and procedural rights under the “Skelly” decision as an “unadvisable and
24 poor strategy for seeking compliance with the City’s vaccination policy.” **See Attorney**
25 **Howard letter of 11/11/21 attached Ex. 1**

26 15. On 11/12/21, Assistant Chief Corey Rose served Chief KILPATRICK with a
27 notice of “Relieved of Duty.” This occurred while working overtime (SOD) at Battalion 14,
28 within Fire Station 60 in North Hollywood.

1 16. On 11/30/21 – 1046 hours, Chief KILPATRICK received an email entitled
2 *Investigation Notification per CTS 2021000613* the notification that essentially he was under
3 investigation by the CITY of LA/LAFD Professional Services Division (PSD) and
4 referenced Complaint Tracking System (CTS) number 20210006134.

5 17. On 12/15/21 – 1540 hours Chief KILPATRICK was served a so called
6 “SKELLY PACKET.” PSD Captain’s Mullen and Leach showed up at his home indicating
7 they had papers for him to sign. Chief KILPATRICK explained that he had legal counsel and
8 everything must go through his counsel, John Howard, Esq. Captains Mullen and Leach left
9 leaving two packages of documents on his porch. The envelopes included two folders, one
10 labeled “Member” the other “Representative.” Both contained the same documents.

11 *“F225 Subject: *Proposed Board of Rights* signed by Deputy Chief Stephen Gutierrez,
12 Acting Commander PSD. Google Meet on December 21, 2021 at 1130 hours.

13 *List of Attachments -21-0613-01*

14 **Dated 12/14/21 – Subject: Proposed Board of Rights Hearing* signed by Battalion
15 Chief Linda Cessor.

16 **Dated 12/13/21 – Subject IA Complaint, CTS No. 2021000613* signed by Fire Special
17 Investigator Michael Henderson and coauthored by Captain Martin Mullen.”

18 *On 12/17/21 – 0800 hours Chief KILPATRICK received email from Deputy Chief
19 Phillip Fligiell titled “2022 LAFD FIMT Roster” notifying Chief KILPATRICK that he was
20 removed Field Incident Management Team (FIMT), as of Jan. 4, 2022. Thus resulting in a
21 reduction of Pay.

22 18. On 12/21/21 - 1130 hours, less than six days after the service of notice of the
23 hearing hours the so called Board of Rights/Skelly “HEARING” was convened on a Google
24 virtual meeting/hearing” those online included; Chief KILPATRICK, Attorney John Howard,
25 Esq. and a stenographer hired by Mr. Howard. For the LAFD was Battalion Chief Amir
26 Caspian, Deputy Chief Kristin Crowley. After Chief KILPATRICK indicated to Chief
27 Caspian that Mr. Howard would be representing him during this hearing, Mr. Howard
28 requested a continuance of the hearing as he was just retained a few days prior. He advised

1 he was entitled pursuant to the CA Supreme Court “Skelly” case additional time conduct
2 investigations and discovery into the complaint prior to the actual Skelly hearing. Chief
3 Caspian asked Chief Crowley for a ruling for the request...Chief Crowley then improperly
4 and in violation of law/precedence denied the request. It is noted that neither LAFD Chiefs
5 are lawyers/have any legal training. Mr. Howard then properly stated “they would not
6 participate in an a procedurally improper/illegal meeting... we would be exiting the meeting,”
7 and they both properly exited the improper meeting/hearing.

8 19. On 1/06/2022, a process server arrived at the residence of Chief KILPATRICK
9 and again served papers, which included copies of Charges and Board of Rights signed by
10 Deputy Chief Graham Everett and Fire Chief Ralph Terrazas.

11 20. On 1/21/2022, CDC Director Rochelle Walensky publicly acknowledged in a
12 CNN interview that the COVID-19 vaccine is not effective at preventing transmission of the
13 COVID -19 virus. In a segment on CNN with Wolf Blitzer, Walensky said that “while the
14 vaccines are doing very well to protect against serious illness and death, what they cannot do
15 anymore is stop transmission.” The admission by the CDC is particularly notable, as it was
16 the first time CDC has acknowledged that the vaccines are not capable of stopping the spread
17 of the virus. Dr. Walensky said “...what they can’t do anymore is prevent transmission. So
18 if you’re going home to somebody who has not been vaccinated, somebody who can’t get
19 vaccinated... I would suggest you wear a mask in a public indoor setting...”

20 21. The Factual/Scientific/Legal import of this admission by CDC is that there
21 was/is no longer a public health/safety upon which government/politicians were relying on
22 to impose vaccine requirements/mandates across the country in government service. As a
23 matter of fact/science/law, if the current vaccine formulations do not prevent
24 infection/transmission of the current COVID-19 variants, but only allegedly lessen severity
25 of symptoms there is no longer a “public” health/safety issue, there is a private health and
26 safety issue and by virtual of the US and CA Constitutions citizens have medicl freedom of
27 choice. To require vaccination without a public health/safety basis is unconstitutional and
28 unwarranted, discriminating in employment against those individuals who choose no to get

1 vaccinated based on Constitutional privacy rights religious conviction or medical disability.
2 Pursuant to the protections of the Fair Employment and Housing Act, Cal Govt. Code §12940
3 employers, in particularly government employers cannot discriminate in employment on the
4 basis of a particular medical condition (vaccination status)/religion.

5 22. On 2/08/22 – 1100, On that same date there was a meeting within PSD offices
6 with purpose to select the three Board of Rights members. In attendance were Chief
7 KILPATRICK and Attorney John Howard, for the LAFD were Battalion Chief Kairi Brown,
8 Captains Glenn Baham, Nande Kalenga, Damon Leach, Cecco Secci, and Investigator
9 Valerie Ross. As the selection of BOR members is beginning, Attorney Howard is
10 aggressively physically threatened by Captain Glenn Baham and condoned by Chief Kairi
11 Brown by not addressing. Chief KILPATRICK is forced to intervene to defuse Baham from
12 further actions. Chief KILPATRICK Emailed Graham Everett with a formal complaint letter
13 on 2/17/22.

14 23. On 2/10/22 – 1325 hours, Captains Martin Mullen and Damon Leach showed
15 up at Chief KILPATRICK's home indicating they again had papers for him to sign, he again
16 explained that he has legal counsel and everything must go through him, Attorney John
17 Howard.

18 24. On 2/17/22 – 1300 Hours a process server again arrived at Chief
19 KILPATRICK's home and served him with "NOTIFICATION OF BOR DATE AND
20 TIME" WHICH INCLUDED:

- 21 * Notification of Temporary Relief from Duty – dated February 9, 2022
- 22 Relieved from duty effective 1200 hours on February 8, 2022.
- 23 * Certification of Service indicating on February 14, 2022 at 10:10 hours; forwarding
- 24 by registered mail to my home and Howard's Office by Damon Leach.
- 25 * Notification for Board of Rights Hearing – dated February 9, 2022
- 26 * List three Chief officers for Board of Rights to be held on February 17, 2022 at
- 27 0900 hours at LAFD Headquarters Room 1820, signed by Fire Chief Ralph Terrazas.
- 28 * Certification of Service indicating on February 14, 2022 at 10:10 hours; forwarding
- by registered mail to my home and Howard's Office by Damon Leach.
- * Complaint Against Member – January 5, 2022; In that on October 20, 2021, you
- failed to meet a condition of employment as set forth in CITY OF LA Ordinance
- 187134 (effective August 25, 2021). Signed by Graham Everett.
- * Copy of Section 1060. Article X, Charter of the CITY OF LA

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1 25. On 2/17/22 – 1305 hours, Chief KILPATRICK retrieved letter from USPS
2 Postal employee with same documents as delivered by processor. On 2/19/22, for the third
3 time, Chief KILPATRICK retrieved certified letter from Northridge Post Office, which
4 included same documents as received from processor on February 17, 2022 at 1300 hours.
5 “NOTIFICATION OF BOR DATE OF MARCH 2, 2022 AT 0800 HOURS” Arrived via
6 USPS a certified letter, Notification of Board of Rights Hearing dated February 18, 2022
7 signed by Chief Ralph Terrazas. The Certification of Service area is blank. 2/17/22 - 1510
8 hours Chief KILPATRICK email was sent to and acknowledged by Graham Everett with a
9 LAFD Complaint Record Form (CTS) against Captain Glenn Baham and Chief Kairi Brown
10 and other members of Professional Standard Division.

11 26. On 2/28/22 – 0945 hours and feeling he had no choice in trying to save his job,
12 but to disclose what he reasonably and in good faith believed to be Constitutionally protected
13 private religious information, Chief KILPATRICK emailed LAFD Personnel Services
14 Section (PSS), entitled *Declaration of Religious Exemption for Robert L. Kilpatrick Jr.*. **A**
15 **true and correct each copy is attached as Exs. 3, 4.**

16 27. On 3/1/22 – 1259 hours, PSS responded with two CITY OF LA forms to complete
17 for the religious exemption. On 3/1/21 - 2032 hours, Chief KILPATRICK emailed PSS
18 completed forms including a note from his Pastor. **See completed CITY OF LA Religious**
19 **Exemption Request Form, Ex. 4**

20 28. On 3/9/22 – 0832 hours, PSS acknowledge receipt of completed forms. On
21 2/28/22 Chief KILPATRICK received via USPS a regular letter contained the same
22 document as received on 2/26/22, a certified letter.

23 29. In the midst of Chief KILPATRICK applying for a Religious Exemption, and
24 being served and reserved with various hearing documents by LAFD, in late February and
25 early March 2022, Chief KILPATRICK’s other law firm Curran & Curran Law were
26 advising/warning Chief Terrazas of LAFD, Captain Mullen of LAFD PSD, Jorge Otano, LA
27 Assist. City Attorney that CITY of LA was wrongfully violating Chief KILPATRICKS legal
28 rights and protections including but not limited to the protection of the US/California

1 Constitutions, FEHA; *Cal. Govt. Code* §12940, *Cal. Lab. Code* §1102.5, the CA Supreme
2 Court decision in the Skelly case, all in violation of their Constitutional oaths. Chief
3 KILPATRICK's demands for discovery pursuant to the Skelly case were ignored. **See email**
4 **string; Attorney Curran to LAFD Chiefs, Ex. 5**

5 30. On 3/1/22, and despite Chief KILPATRICK's pending application for exemption
6 which should mooted the Board of Rights/Skelly Hearings process. Chief KILPATRICK
7 received an email entitled *Kilpatrick board of Rights parking* from Captain Mullen.

8 31. On 3/3/22 – 1432 hours, Attorney Curran again emailed Chief Ralph Terrazas
9 and others entitled, "Battalion Chief Robert Kilpatrick; Illegal Removal, Urgent Attention
10 Required." The email again advised LAFD was wrongfully violating Chief KILPATRICKS
11 legal rights and protections including but not limited to the protection of the US/California
12 Constitutions, FEHA; *Cal. Govt. Code* §12940, *Cal. Lab. Code* §1102.5, the CA Supreme
13 Court decision in the Skelly case, all in violation of their Constitutional oaths. **See email**
14 **string; Attorney Curran to LAFD Chiefs, Ex. 5**

15 32. On 3/9/22 – 1330 hours USPS delivered via certified mail to Chief
16 KILPATRICKS's residence "DOCUMENTS INDICATING TERMINATION, effective
17 2/8/22 at 1200 hours" Containing:

18 * Fire Chief's Notice of Removal (Termination), which indicated BOR convened on
19 2/17/22 and reconvened on 3/2/22 and said board, was dissolved and Terrazas removed Chief
20 KILPATRICK from his position/employment as Battalion Chief effective 2/8/22 at 1200
21 hours.

- 22 * Notice of Discharge, Suspension, or Probationary Termination – Type of Action,
23 Discharge, Effective 2/8/22 @ 1200 hours.
24 * Authorization for Delivery of Unpaid Salary Checks
25 * Equipment Check Off Sheet for Retired or Separated Member
26 * PROOF OF SERVICE, from Team Legal, Inc. also Attorney Howard and Attorney
27 Curran's offices. **See Notice of Removal attached, Ex. 6**

28 33. Defendant CITY OF LA/LAFD's wrongful/illegal misconduct has caused, and
undoubtedly will continue to cause, severe personal injuries, economic and emotional
damages to Claimant Chief KILPATRICK. Defendant's misconduct has also resulted in loss

1 of sleep, stress and anxiety, causing Chief KILPATRICK further emotional distress and
2 discomfort.

3 34. At all times relevant herein, Claimant conducted himself in accordance with all
4 of the policies and procedures of Defendant CITY OF LA/LAFD and performed his
5 employment duties in a proper fashion. At all times relevant herein, Defendant CITY OF
6 LA/LAFD was an employer within the definition of *Government Code* §12926(c). In
7 addition, Defendant CITY OF LA/LAFD had an affirmative duty to investigate and take all
8 reasonable steps to prevent discriminatory harassment from occurring in the workplace
9 *Government Code* §12940 et seq.

10 35. Claimant has exhausted his administrative remedies both by filing this
11 Government Tort claim and will wait the statutory time period under *Government Code*
12 §12960, et seq., and has filed his claim with the Equal Employment Opportunity Commission
13 [EEOC]/Department of Fair Employment and Housing [DFEH] has issued to Claimant Right
14 to Sue Letter/Notices of Case Closure as to the discriminatory/retaliatory practices and events
15 alleged herein as to Defendant CITY OF LA/LAFD.

16 36. As a direct and proximate result of the misconduct alleged above, Claimant
17 has/will suffer lost income and benefits in an amount not less than \$6,000,000, all in an
18 amount to be shown according to proof. Claimant claims such amount as damages together
19 with prejudgment interest pursuant to *Civil Code* §3287 and/or any other provision of law
20 providing for prejudgment interest. As a direct and proximate cause of the wrongful
21 activities alleged above, Claimant has suffered emotional distress directly associated with
22 having to endure retaliation and unfairness directed towards Claimant; and/or unjust
23 termination as a result of the same by Defendant CITY OF LA/LAFDD. By this complaint,
24 Claimant does not waive any privacy rights he may have under *Cal. Const.*, Art. I, § 1; *Evid.*
25 *Code* §994; *Evid. Code* §1014.

26 **4. WHAT ARE THE NAMES OF THE STATE OFFICERS, SERVANTS OR**
27 **EMPLOYEES CAUSING THE DAMAGE OR INJURY:**
28 CITY OF LA MAYOR ERIC GARCETTI, CITY OF LA COUNCIL MEMBERS;
COUNCIL MEMBER DISTRICT 1 - GIL CEDILLO, COUNCIL MEMBER DISTRICT 2

1 - PAUL KREKORIAN, COUNCIL MEMBER DISTRICT 3 - BOB BLUMENFIELD,
2 COUNCIL MEMBER DISTRICT 4 - NITHYA RAMAN COUNCIL MEMBER DISTRICT
3 5 - PAUL KORETZ, COUNCIL MEMBER DISTRICT 6 - NURY MARTINEZ, COUNCIL
4 MEMBER DISTRICT 7 - MONICA RODRIGUEZ, COUNCIL MEMBER DISTRICT 8 -
5 MARQUEECE HARRIS-DAWSON, COUNCIL MEMBER DISTRICT 9 - CURREN D.
6 PRICE, JR., COUNCIL MEMBER DISTRICT 10 - HERB WESSON, COUNCIL
7 MEMBER DISTRICT 11 - MIKE BONIN, COUNCIL MEMBER DISTRICT 12 - JOHN
8 LEE COUNCIL MEMBER DISTRICT 13 - MITCH O'FARRELL, COUNCIL MEMBER
9 DISTRICT 15 - JOE BUSCAINO, FIRE CHIEFS; RALPH M. TERRAZAS, KRISTIN
10 CROWLEY AND LINDA CESSOR, LAFD CHIEF OFFICERS; GRAHAM EVERETT,
11 TREVOR RICHMAN, JUSTIN MOORE, AMIR CASPAIN; STEPHEN GUTIERREZ,
12 SERGEY TOMLINSON, COREY ROSE, KAREN RICHTER, KENNETH MILLER,
13 ALBERTO VALLE, CAPTAINS; MARTIN MULLEN, DAMON LEACH, GLENN
14 BAHAM, NANDE KALENGA, CESSO SECCI AND INVESTIGATOR VALERIE ROSS.
15 Discovery is continuing.

16 **5. WHAT DAMAGE OR INJURIES DO YOU CLAIM RESULTED:**

17 Claimant has sustained personal injuries including, but not limited to physical injury
18 pain and suffering, including but not limited to severe emotional distress, evidenced by
19 depression, anger, fear, sleeplessness and severe headaches. Claimant has also suffered
20 present and future lost income and other economic losses according to proof. Claimant has
21 suffered loss of retirement benefits and attorney fees and costs.

22 **6. AMOUNT CLAIMED:**

23 The value of this claim at this date is an amount that would place the claim within the
24 jurisdiction of the Superior Court. Claimant is continuing to treat, attempting to mitigate his
25 damages, evaluation of his total damage and is uncertain at this time of the total amount of
26 all past, present and future damages but is informed and believes the value of his claim to be
27 approximately \$6,000,000.00. Discovery is continuing.

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1 **7. HOW WAS THE AMOUNT CLAIMED ABOVE COMPUTED:**

2 Based on the value of personal injuries and emotional distress. Based on the value of
3 present and future lost income and other economic losses according to proof. Based on the
4 value of lost of retirement benefits and attorney fees and costs. Discovery is continuing.

5 **8. NAMES AND ADDRESS OF WITNESS, DOCTORS AND HOSPITALS:**

6 Plaintiff and All named Defendants. Addresses equally available. Further Witnesses
7 To be provided when ascertained. Discovery is continuing.

8 **9. CLAIMANT'S NAME, ADDRESS AND TELEPHONE NUMBER:**


9 ROBERT J. KILPATRICK, JR. by and through his attorneys
10 CURRAN & CURRAN LAW
11 Michael D. Curran, Esq./ATP
12 State Bar Association No. 148006
13 Palomar Heights Corporate Center
14 5857 Owens Ave., Ste. 300
15 Carlsbad, CA 92008
16 Telephone: (760) 634.1229
17 Email: mdc@curranlawoffices.com

14 **10. CLAIMANT/ATTORNEY CAN BE CONTACTED AND SEND NOTICES TO:**

15 Michael D. Curran, Esq./ATP
16 State Bar Association No. 148006
17 Palomar Heights Corporate Center
18 5857 Owens Ave., Ste. 300
19 Carlsbad, CA 92008
20 Telephone: (760) 634.1229
21 Email: mdc@curranlawoffices.com

CURRAN & CURRAN LAW

20 Dated: 4/12/22

20 By: 
21 Michael D. Curran, Esq./ATP
22 Attorney for Claimant

28

Exhibit 1



October 7, 2021

Los Angeles City Clerk
200 North Spring Street, Room 395, City Hall
Los Angeles, California 90012

VIA FEDERAL EXPRESS

NOTICE OF CLAIM AND INTENT TO SUE FOR MONEY DAMAGES

Pursuant to Govt. Code §910 *etc.*, please take notice of the following claim presented on behalf of each of the 871 Los Angeles City employees listed in Appendix A (“Firefighters”). The claim of each Claimant arises out of a common set of facts, widely known within Los Angeles Fire Department (“LAFD”), regarding LAFD’s direct order that Firefighters take a Covid vaccination—or lose their jobs, without the benefit of *Skelly* due process rights.

(a) **Name and Address of Claimant:** each Claimant is listed individually on Appendix A. Each Claimant’s address is known to Los Angeles City (“City”) since each Claimant is currently employed by the City.

All communication to each Claimant should be directed to Claimants’ attorney, identified below. Claimants’ attorney will respond to all investigative inquiries on behalf of each Claimant.

The appendix lists each person by name and provides space for the City to add a claim number next to each name. While claims would ordinarily be presented individually, we suggest that this consolidated claim is the most convenient method for investigation and review, and therefore constitutes substantial compliance. If you disagree, please contact the undersigned as soon as possible and we will submit each claim separately.

(b) **Address of Claimant’s Representative:** Each claimant is represented by Kevin McBride and McBride Law PC, whose address is 700 S. Flower Street, Suite 1000, Los Angeles, CA 90017. All notices to each claimant should be sent to Kevin McBride at this address.

(c) Names Of The Public Employees and Entity Causing the Injury, Damage, or Loss, to the Extent Known:

- Los Angeles Fire Department ("LAFD")
- Fire Chief Ralph Terrazas
- Battalion Chief Jamie Lesinski
- Battalion Chief Nick Ferrari
- Battalion Chief Vince Alvarado

Collectively, the LAFD chiefs listed above are sometimes referred to herein as "Chiefs."

(d) General Description of Wrongful Conduct, together with Injury, Damage and Loss:

At multiple times and places, in writing and through in-person communication to Claimants from Sept. 23, 2021 to the present, LAFD and one or more of the Chiefs imparted a direct order to Claimants, in sum and substance that:

*October 20, 2021 is a hard deadline for Claimants to receive a Covid vaccine; and that anyone who is not fully vaccinated by October 20 will be sent home for 5 days, **without pay**; that Claimants will then have a reconsideration period, **without pay** to get vaccinated; and that if a Claimant is still not vaccinated after another 5 days, Claimants' employment will be terminated. (hereafter, the "Chiefs' Covid Vaccination Order").*

The Chiefs' Covid Vaccination Order is blatantly wrongful conduct, for at least the following reasons:

→ **Interference with Employment Rights**

Summary

For the reasons explained hereafter¹, no disciplinary action may be taken against any Claimant with respect to Covid vaccination status unless and until the following steps are completed: first, an impasse is declared in collective bargaining between the City and UFLAC concerning Covid vaccination status as a condition of employment; second, arbitration is concluded between UFLAC and the City as a result of impasse; and third, each Claimant has been afforded *Skelly* due process rights.

Further, insofar as each individual Claimant is concerned, no Claimant can be sent home without pay unless and until *Skelly* rights are fully and finally adjudicated for that Claimant.

¹ See, Discussion of Employment Rights Under Govt Code §3503 and §3504 at p. 3, *infra*

On information and belief, LAFD and the Chiefs all know this process and the legal requirements of *Skelly*. Nevertheless, they intentionally or negligently ignore Claimants rights under collective bargaining and under *Skelly*, with the goal to intimidate, frighten, coerce and force Claimants into taking a Covid vaccine before the Oct 20 date, even though *Oct 20, 2021 is not, and cannot be, a meaningful date of enforcement because of the collective bargaining process and Skelly hearing process*—and the Chiefs know this.

On information and belief, pending discovery, the Chiefs' conduct, and that of LAFD, can only have been intended to intimidate, frighten, coerce and force Claimants to receive a Covid shot before Oct 20.

In addition, on information and belief, LAFD and Chief Terrazas have engaged in an active media campaign to slander non-vaccinated Firefighters, including Claimants, to the citizens of Los Angeles, based on Claimants' Covid vaccination status. This media campaign by LAFD has increased the stress level of Claimants to an unimaginable and intolerable degree.

This wrongful conduct of the Chiefs and LAFD violates Claimants' rights set forth hereafter.

Discussion of Employment Rights Under Govt Code §3502 and §3503

Claimants are members of United Firefighters of Los Angeles ("UFLAC") and are entitled to all employment protections of the Memorandum of Understanding ("MOU") that exists between the City and UFLAC covering the period July 1, 2019 to June 30, 2022.

Claimants are individual beneficiaries of the MOU and have the right to expect City to collectively bargain in good faith with UFLAC on the Covid vaccine mandate issue. And while UFLAC is the recognized bargaining agent, Claimants nevertheless also have the right to appear in their own behalf in employment relations with the City pursuant to Govt. Code §3502.

The Covid vaccination mandate asserted by the City is a new *proposed* condition of employment that is beyond the scope of the existing MOU. The City is therefore required to collectively bargain with UFLAC under Govt. Code §3504 with respect to this proposed condition of employment—the City cannot unilaterally impose this condition. Indeed, on information and belief, such collective bargaining is ongoing. The collective bargaining process requires multiple steps before disciplinary action may be taken. Bargaining must continue in good faith until an impasse is declared, after which the matter is referred to arbitration. Until this process is concluded, Claimants have the protection of the existing MOU, which does not require a Covid vaccine as a condition of employment. LAFD cannot run roughshod over these protections; though that is exactly what it is doing.

If disciplinary steps are taken against individual Claimants with respect to a condition of employment that doesn't exist in the current MOU, each Claimant is then entitled to due process and a hearing, pursuant to *Skelly v. State Personnel Bd.*, 15 Cal.3d 194, 124 Cal.Rptr. 14, 539 P.2d 774 (Cal. 1975) ("when a person has a legally enforceable right to receive a government benefit provided certain facts exist, this right constitutes a property interest protected by due process.")

No termination process may be initiated against Claimants to interfere with each Claimant's property rights in government benefits unless and until *Skelly* rights are concluded. Quite obviously, the bargaining process and arbitration and *Skelly* hearings cannot be concluded for any Claimant until long after October 20, 2021. Therefore, the asserted October 20 deadline for Claimants to get vaccinated is false and unenforceable. Most egregiously, the threat that Claimants will be sent home *without pay*, is in complete disregard of the rule of *Skelly*, handed down by the California Supreme Court.

→ **Infliction of Emotional Distress**

On information and belief, The Chiefs' Covid Vaccine Order was intentionally or negligently designed and intended to cause severe emotional distress to Claimants by threatening Claimants with an artificial and unenforceable deadline to frighten Claimants into taking an unwanted Covid vaccine.

This conduct by the Chiefs and LAFD was extreme and outrageous and in reckless disregard of the probability of causing emotional distress to Claimants—which has, in fact occurred.

Claimants and each of them have suffered severe and extreme emotional distress as a result of the wrongful Chiefs' Covid Vaccine Order, to the point that many Claimants are on the verge of going "off stress," pursuant to Department policies.

To make matters worse, if that were even possible, the Department is now setting citizens of the City of Los Angeles against Claimants and other unvaccinated firefighters through media and public relations campaigns, creating fear and confusion in the general public. Consequently, Claimants now suffer indignities and viperous comments when responding to emergency calls, which compounds and increases the stress suffered by Claimants.

This wrongful conduct of the Chiefs and LAFD addressed in this Notice is the actual and proximate causation of Claimants' emotional distress; further this wrongful conduct is so extreme that it exceeds all bounds of behavior by a fire department and fire chiefs customarily tolerated in a public employment setting governed by a collective bargaining agreement.

Claimants are therefore entitled to an award of damages against LAFD and the Chiefs, jointly, at common law.

→ **Violation of Constitutional Privacy Rights**

The California Constitution, section I, article 1, provides that “[a]ll people are by nature free and independent and have inalienable rights. Among these are enjoying and defending life and liberty, acquiring, possessing, and protecting property, and pursuing and obtaining safety, happiness, and privacy.”

The fundamental right to pursue and obtain safety, happiness, and privacy, as expressed through public policies of this State, is protected against all state action.

The right of individuals to determine what is done to their own bodies is one such expressed public policy of this State; and is an inalienable autonomy privacy right protected under the California Constitution and at common law.

In addition, the right to exercise informed consent to accept, or not accept, novel and unproven medical treatments without force, fraud, deceit, duress, coercion, or undue influence is another expressed public policy of this State; and is an inalienable autonomy privacy right protected under the California Constitution, section I, article 1; and at common law.

LAFD and the Chiefs are engaging in conduct designed to subvert Claimants’ constitution rights to decide what experimental medicine goes into their own bodies, and to accept, or not accept, novel and unproven medical treatments without force, fraud, deceit, duress, coercion, or undue influence. Such conduct is wrongful and entitles Claimants to an award of damages under Constitution section I, article 1 and at common law.

→ **Violation of Protection of Human Subjects in Medical Experimentation Act**

H&S Code §24172 provides an “experimental subject’s bill of rights,” which is a list of the rights of a subject in a medical experiment. The Covid vaccines being forced on Claimants by LAFD and the Chiefs are without question experimental medicine, unproven and not approved by any authoritative agency. Further, H&S Code 24175 provides the requirement for informed consent before any person receives experimental medicine.

By imposing the Chiefs’ Covid Vaccination Order against Claimants, LAFD and the Chiefs blatantly ignore Claimants’ rights under H&S Code §24172 and §24175.

Claimants are therefore entitled to an award of damages against LAFD and the Chiefs, jointly, under H&S Code §24176.

(e) *Date, Place and Other Circumstances of the Occurrences Which Gave Rise to the Claims:*

The Chiefs' Covid Vaccination Order, described above, has been circulated by LAFD and the Chiefs through all battalions and stations since at least September 23, 2021. This violation of rights has been so ubiquitous that City investigators can confirm Claimants' assertions by simply interviewing Chief Terrazas, Chief Lesinski, Chief Alvarado and Chief Ferrari. If specific instances of conduct are required following the City's interviews with the above persons, Claimants will provide such information.

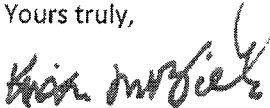
(f) *Amount of Each Claim:*

The amount of each claim against LAFD, Chief Terrazas, Chief Lesinski, Chief Ferrari and Chief Alvarado, jointly, is \$2,500,000 per Claimant.² The claims will be filed in Superior Court as an unlimited civil case pursuant to California Code of Civil Procedure.

(g) *Notice of Pending Litigation:*

Please also take notice that an action for declaratory and injunctive by these Claimants against the City is currently pending in Los Angeles Superior Court, Central Division, Case No. 21 STCV34490, Dept. 19, Honorable Stephanie Bowick presiding. Claimants intend to amend this action to include the damages claimed in this Notice of Claims and Intent to Sue.

Yours truly,



KEVIN McBRIDE

Attorney for 871 Claimants Listed on Appendix A

² NOTE: the amount of each claim *is* included here, notwithstanding Govt. Code §910, because the Los Angeles City online claim intake form specifically instructs to include the actual dollar amount of a claim.

Exhibit 2



JOHN W. HOWARD
MICHELLE D. VOLK
ANDREW G. NAGURNEY
ALYSSA P. MALCHIODI

KRISTIN J. WRIGHT
Chief Operating Officer

November 11, 2021

701 B STREET, SUITE 1725
SAN DIEGO, CALIFORNIA 92101

TEL (619) 234-2842
FAX (619) 234-1716
johnh@jwhowardattorneys.com

FREDERIC L. GORDON
Of Counsel

Mr. Ralph M. Terrazas
Fire Chief
City of Los Angeles
City Hall East 1800
200 North Main Street
Los Angeles, California 90012

RE: **Violation of Employees' Rights**

Dear Chief Terrazas:

Our office is in receipt of copies of written threats of termination you have issued to various employees of the Los Angeles City Fire Department. We also understand that you have directed that certain of your employees, including battalion chiefs, be relieved of their duties and of your threat to suspend firefighters without pay. Your threat to place firefighters on "unpaid interim suspension" violates their constitutionally protected due process rights as guaranteed by the Supreme Court of California and statutory law. It is also in violation of the Firefighters Bill of Rights, a statutorily established set of rights set forth in Government Code §3250, et seq. Please be advised that if you in fact follow through with your ill-advised tactic to willfully violate your firefighters' constitutional rights as a means of extorting their compliance with the City's vaccination policy, you will be sued for money damages in your individual capacity.

While it goes without saying that the City of Los Angeles lacks authority to overrule California Supreme Court precedent announced in *Skelly v. State Personnel Bd.* (1975) 15 Cal.3d 194, your reading of, and purported reliance on, some notion that the governor's announced "State of Emergency" relieves you of such obligations is severely misplaced. You may want to read the *Skelly* opinion or consult with legal counsel who actually understands it. If you do so, you will discover that the opinion – which has been repeatedly reaffirmed in a mound of subsequent cases – is not conditional and does not contain an "emergency" exception.

For your ease of reference, the Firefighters Procedural Bill of Rights Act is found at Gov't Code § 3250, et seq. It prohibits you from taking the punitive action you have threatened before a final, binding adjudication, including exhaustion of any appeal.

Under *Skelly* and the cited Government Code sections you are compelled to do the following:

1. Provide notice of any purported violation.
2. Provide notice of any and all rules purportedly violated, by citation.

Ex 2

Mr. Ralph M. Terrazas
November 11, 2021
Page 2

3. Provide the statutory authority under which the rules have been adopted.
4. Set forth all facts giving rise to the accusation.
5. Provide notice of the firefighter's right to due process. This includes the right to legal counsel; the right to gather evidence – including depositions of relevant witnesses which would, of course, include yourself – and that means for every single employee who is subject to this procedure – the right to see and review all documents relevant to the accusation or which might lead to relevant materials (including texts and private notes and correspondence of the Mayor and all councilmembers), and a right to a contested hearing before a neutral hearing officer.

What is most important about this, of course, is that you are prohibited from taking any adverse employment action – including failure to pay wages or salaries – unless and until the entire *Skelly* process has been concluded. Violation of this will result in awards of back pay, penalties and an award of attorney's fees to the employee.

You are a fire chief, so I guess I should not expect that you would know that the United States Constitution, the Constitution of the State of California and Supreme Court decisions, like that in *Skelly*, overrule any contrary provision of a city charter, ordinance or rule. The city charter, ordinances, orders and rules of Los Angeles mean nothing when they conflict with the superior authority of the Constitutions of the United States and California. So, even if you were correct in your idea that city policy, ordinance or order give you the power to do what you have undertaken to do, which you are not, the Constitutions and *Skelly* make any such contrary local law or ordinance void to the extent they are in conflict.

Skelly provides a Fifth Amendment property right in your firefighters' employment and your attempt to violate it is unconstitutional.

Violation of law is an unadvisable and poor strategy for seeking compliance with the City's vaccination policy. Please know that if you in fact follow through with your threats to do so, you will be held to account for your knowing and intentional torts and deprivation of constitutional rights.

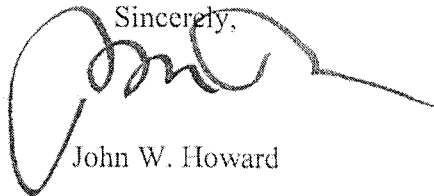
I also enclose herewith a copy of a letter personally delivered to Mayor Garcetti from my colleague, Scott Street, setting forth further guidance on this issue.

Frankly, in the conduct of my four-decade practice of law, I have seen some low tactics, but this plumbs depths even I have not seen before and we will take action if you attempt to carry out your threats.

Mr. Ralph M. Terrazas
November 11, 2021
Page 3

Please be guided accordingly.

Sincerely,

A handwritten signature in black ink, appearing to read "John W. Howard", written over the word "Sincerely,". The signature is stylized and cursive.

John W. Howard

JWH/agn

Exhibit 3

[Print](#) | [Close Window](#)

Subject: Declaration of religious exemption for Robert L. Kilpatrick Jr.
From: RJ Kilpatrick <RJ.kilpatrick@lacity.org>
Date: Mon, Feb 28, 2022 9:45 am
To: lafd personnel <lafdpersonnel@lacity.org>, Norma Gutierrez <norma.gutierrez@lacity.org>, Irma Romanelli <irma.romanelli@lacity.org>, Graham Everett <graham.everett@lacity.org>
Cc: mdc@curranlawoffices.com, johnh@jwhowardattorneys.com
Attach: A RJ's Signature.PNG
Religious Exemption Letter_ Kilpatrick.pdf

I, Robert L. Kilpatrick Jr. have sincere and truly held religious belief/conviction that prevents me from getting the COVID-19 vaccine. Therefore, I so declare a religious exemption from the City of Los Angeles Ordinance 187134, COVID VACCINATION REQUIREMENT FOR ALL CURRENT AND FUTURE CITY EMPLOYEES, which was added to the Los Angeles Administrative Code as Article 12 within Chapter 7 of Division 4; with the ordinance being approved by Assistant City Attorney Vivienne Swanigan acting for City Attorney Michael N. Feuer, the City Clerk Holly L. Wolcott and mayor Eric Garcetti, which became effective on 08-25-2021. Attached is a declaration from my Church's representative asserting my religious faith.

I await your response as to my duty status.

Respectfully,



Robert L. Kilpatrick Jr.
EID - 51188

Attached:



RJ Kilpatrick, Battalion Chief
Los Angeles City Fire Department
Battalion 10 C Platoon
14616 Oxnard Street
Van Nuys, CA 91411
Office: (818) 756-8610
Cellular: (818) 312-0859

Email: RJ.Kilpatrick@lacity.org

"The greatest leader is not necessarily the one who does the greatest things. He is the one that gets the people to do the greatest things." –Ronald Reagan

***CONFIDENTIALITY NOTICE: ***

This communication (including any attachments): constitutes an electronic communication within the meaning of the Electronic Communications Privacy Act, 18 U.S.C. 2510 and only is intended to be disclosed, reviewed and used by the intended recipient(s); may contain information that is privileged, confidential and/or proprietary; and may be exempt from disclosure under applicable laws. Receipt or use of this communication by anyone other than the intended recipient, or the employee or agent responsible for delivering this communication to an intended recipient, you are hereby notified that your use, review, dissemination, distribution and/or copying of this communication is prohibited and may subject you to criminal and/or civil penalties. Consequently, if you have received or reviewed this communication in error, please notify the sender immediately by telephone (818) 312-0859 and return e-mail, delete the communication from your entire system and destroy any paper copies which may have been created. *Thank you*.



Exhibit 4

CITY OF LOS ANGELES

EMPLOYEE REQUEST FOR REASONABLE ACCOMMODATION
RELIGIOUS EXEMPTION REQUEST FORM
(COVID-19 Vaccination Requirement Exemption)

EMPLOYEE NAME Robert L. Kilpatrick Jr.	EMPLOYEE ID 51188
JOB TITLE Fire Battalion Chief	LOCATION Battalion 10
DEPARTMENT FIRE	SUPERVISOR Trevor Richmond
PHONE NUMBER (818)312-0859	EMAIL rj.kilpatrick@lacity.org

By submitting this form, I acknowledge I am requesting an exemption to the City of Los Angeles COVID-19 Vaccination Requirement for All Current and Future City Employees as a religious accommodation based on my sincerely held religious belief, practice, or observance.¹

To be eligible for this exemption, complete and submit both this form and a completed Religious Accommodation Certification Form.

The granting of an exemption request will be based on the entirety of the application and not based on any single piece of information provided.

TO BE COMPLETED BY EMPLOYEE REQUESTING EXEMPTION

1. Do you regard yourself as having a sincerely held religious belief, practice or observance that you believe should exempt you from the City's COVID-19 Vaccination Requirement?

Yes *RM*
 No

¹ Decisions on Religious Exemption Requests will be decided on a case by case basis. Religious beliefs do not have to be theistic, but can be non-theistic, strongly held moral or ethical beliefs. However, mere personal preferences -- beliefs based on social, political or economic philosophies, or veganism, for example -- are not considered religious beliefs. Employees who hold a sincerely held religious belief will be engaged in an interactive process and accommodated, absent an undue hardship to the City.

Ex. 4

EMPLOYEE NAME Robert L. Kilpatrick Jr.	EMPLOYEE ID 51188
---	----------------------

PAGE 2 OF 5

2. If your answer to Question 1 is "Yes," please identify/explain the nature of your sincerely held religious belief, practice, or observance that is the basis for your request for an exemption as a religious accommodation **and** how long you have held or maintained the referenced religious belief, practice or observance.

RLL I have been advised my religious exemption is self-certifying and must be granted by law. If it is not that would constitute religious discrimination which is prohibited by law. See FEHA Cal. Govt. Code §12940. With respect to asking about any particular religion, this information is Constitutionally protected and private. See California Constitution Article 1, section 1. In addition, the Supreme Court, in an unbroken line of very clear cases, has held that entitlement to deferment, or exemption on the basis of conscience need not be supported by a particular religion or, for that matter, even a belief in a deity. The Supreme Court has written:

"To be sure we have ruled that 'the 'truth' of a belief is not open to question'; rather, the question is whether the objector's beliefs are 'truly held.' United States v. Seeger, 380 U.S., at 185, 85 S.Ct., at 863. See also United States v. Ballard, 322 U.S. 78, 64 S.Ct. 882, 88 L.Ed. 1148 (1944).

Neither government, nor private entities are permitted to look behind a person's expressed sincerely held, religious/moral convictions to explore the truth of those convictions, or question the individual's spiritual sensibilities.

3. If your answer to Question 1 is "Yes," please briefly explain how your sincerely held religious belief, practice, or observance **conflicts** with the City of Los Angeles's COVID-19 vaccination requirement.

RLL I have been advised my religious exemption is self-certifying and must be granted by law. If it is not that would constitute religious discrimination which is prohibited by law. See FEHA Cal. Govt. Code §12940. With respect to asking about any particular religion, this information is Constitutionally protected and private. See California Constitution Article 1, section 1. In addition, the Supreme Court, in an unbroken line of very clear cases, has held that entitlement to deferment, or exemption on the basis of conscience need not be supported by a particular religion or, for that matter, even a belief in a deity. The Supreme Court has written:

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Neither government, nor private entities are permitted to look behind a person's expressed sincerely held, religious/moral convictions to explore the truth of those convictions, or question the individual's spiritual sensibilities.

4. If your answer to Question 1 is "Yes," please briefly explain how your sincerely held religious belief, practice, or observance that conflicts with the City of Los Angeles's COVID-19 vaccination requirement also governs or impacts other aspects of your life.

RLL I have been advised my religious exemption is self-certifying and must be granted by law. If it is not that would constitute religious discrimination which is prohibited by law. See FEHA Cal. Govt. Code §12940. With respect to asking about any particular religion, this information is Constitutionally protected and private. See California Constitution Article 1, section 1. In addition, the Supreme Court, in an unbroken line of very clear cases, has held that entitlement to deferment, or exemption on the basis of conscience need not be supported by a particular religion or, for that matter, even a belief in a deity. The Supreme Court has written:

"To be sure we have ruled that 'the 'truth' of a belief is not open to question'; rather, the question is whether the objector's beliefs are 'truly held.' United States v. Seeger, 380 U.S., at 185, 85 S.Ct., at 863. See also United States v. Ballard, 322 U.S. 78, 64 S.Ct. 882, 88 L.Ed. 1148 (1944).

Neither government, nor private entities are permitted to look behind a person's expressed sincerely held, religious/moral convictions to explore the truth of those convictions, or question the individual's spiritual sensibilities.

EMPLOYEE NAME Robert L. Kilpatrick Jr.	EMPLOYEE ID 51188
---	----------------------

PAGE 3 OF 5

5. Have you previously received a vaccination of any kind after the age of 18 (e.g. vaccination(s) for Influenza (the "flu"), Hepatitis A, Hepatitis B, Tetanus, Measles, Chicken Pox, Polio, Yellow Fever, Human Papillomavirus (HPV), Tuberculosis, Shingles, Typhoid, etc.)?

- Yes
 No

I HAVE BEEN ADVISED THIS QUESTION VIOLATES MY RIGHT TO MEDICAL PRIVACY, SEE CALIFORNIA CONSTITUTION ARTICLE 1, SECTION 1. *RKJ*

6. Provide below or attach any additional information supporting your religious accommodation request, including, but not limited to:

Articles from religious scholars that describe the nature of the religious belief(s), practice(s), or observance(s); Excerpts from religious or sacred texts explaining the religious belief(s), practice(s), or observance(s); or Written materials that describe the religious belief(s), practice(s), or observance(s) that prohibit vaccination.

HOLY BIBLE

RKJ

EMPLOYEE NAME Robert L. Kilpatrick Jr.	EMPLOYEE ID 51188
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PAGE 4 OF 5

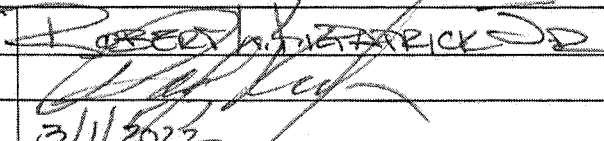
EMPLOYEE ACKNOWLEDGEMENT:

*I understand that the City may contact the individual I have assigned to complete my **Religious Accommodation Certification Form** to verify authenticity of the document or to obtain clarification.*

*While my request is pending, I understand that I must comply with the City of Los Angeles's **Workplace Safety Standards** and all other City safety policies and practices (e.g., face coverings, regular asymptomatic testing) for unvaccinated or not fully vaccinated individuals as a condition of my employment. The City's required safety practices may include more stringent requirements than those established by the Centers for Disease Control (CDC) and Los Angeles County Department of Public Health. I also understand that I must comply with any additional safety practices applicable to my circumstances or position.*

If my request is granted, I understand I will be required to comply with departmental and City safety protocols for unvaccinated employees as a condition of my employment.

I verify the truth and accuracy of the statements and acknowledgements made in this request form. I also understand that the knowing submission of false or misleading information violates City policy for which I may be subject to discipline (See City of Los Angeles Personnel Policies Section 33.2).

Employee Printed Name	ROBERT L. KILPATRICK JR
Employee Signature	
Date	3/11/2022

EMPLOYEE NAME Robert L. Kilpatrick Jr.	EMPLOYEE ID 51188
---	----------------------

PAGE 5 OF 5

DATES TO BE COMPLETED BY MANAGEMENT

Sent to Employee	
Completed Form Due	
Completed Request Form Submitted by Employee	

Submitted to Review Unit	
Submitted By	
Determination Submitted by Review Unit to Department	

TO BE COMPLETED BY COVID-19 EXEMPTION/DEFERMENT REVIEW UNIT

Assigned Reviewer(s): _____

Determination:

- Exemption Approved
- Exemption Denied
- More information needed:
 - Additional Documentation
 - Follow up with Certifying Individual (Form D)
 - Other: _____

CITY OF LOS ANGELES
RELIGIOUS ACCOMMODATION CERTIFICATION FORM
For Exemption from COVID-19 Vaccination Requirement

CERTIFICATION REQUESTED FOR:

Employee Name Robert L. Kilpatrick Jr.	Employee ID 51188
Job Title Fire Battalion Chief	Department FIRE

NOTIFICATION TO THE CERTIFYING RELIGIOUS OFFICIAL

The City of Los Angeles requires its employees be vaccinated against COVID-19 infection as a condition of employment. The City may grant exemptions to this requirement based on the following:

- a) Employees with sincerely held religious **beliefs** that prevent them from receiving a COVID-19 vaccine; or
- b) Employees with sincerely held religious **practices** that prevent them from receiving a COVID-19 vaccine; or
- c) Employees with sincerely held religious **observances** that prevent them from receiving a COVID-19 vaccine

The individual named above is a member of your religious organization or religious belief system, and/or seeks a religious accommodation exempting them from the City of Los Angeles's employee Covid-19 Vaccination Requirement for one or more of the above reasons.

INSTRUCTIONS TO THE CERTIFYING RELIGIOUS OFFICIAL

The individual named above has identified you as an individual with knowledge of the religious belief(s), practice(s), or observance(s) that precludes the individual from receiving a COVID-19 vaccination as required under the City's Policies.

Please complete this form based upon your own personal knowledge and a sincere belief(s) about the individual requesting the COVID-19 vaccine religious exemption.

The granting of an exemption request will be based on the entirety of the application and not based on any single piece of information provided.

RELIGIOUS OFFICIAL STATEMENT
For Exemption to the COVID-19 Vaccination Requirement

TO BE COMPLETED BY RELIGIOUS OFFICIAL

1. I am a (please check all appropriate boxes):

- Religious Leader
- Religious Scholar
- Person Knowledgeable Regarding the Requesting Individual's Religious Beliefs, Practice or Observances

If you checked any of the above boxes, please explain the basis of your assertion(s):



See Attached letter from GODSPEAK CALVARY CHAPEL's Pastor Rick Brown

2. The above-named employee/individual adheres to the following religion or belief system (include the name or description of the religion or belief system):

3. I have personal knowledge of the above-named employee's adherence to this belief system:

- YES
- NO

If YES, please explain how you have personal knowledge of the employee's adherence to the belief system.

4. Does the religion or belief system identified in response to Question 2 (above) require adherents to abstain from the COVID-19 vaccination because the vaccination conflicts with the tenets, practices and observations of a church, religious denomination, religious organization and/or the individual/employee's sincerely held religious belief system?

YES

NO

If YES, in the space below or in an attached document, please cite the specific tenet, practice or observation that conflicts with the COVID-19 vaccination requirement, and/or explain how the tenet, practice, or observation is followed and applies to the individual requesting this certification.

I declare under penalty of perjury that that my statement above and/or attached is true and correct.

Signature

Date

Print Name

Title

Contact Phone

Contact Email

Address of Place of Worship (if applicable)



Godspeak Calvary Chapel
320 Via Las Brisas,
Thousand Oaks, CA 91320

To Whom It May Concern:

Based on my knowledge of your employee, who is a member of my congregation, this individual has a theological basis for his/her holistic application of the scripture. There is profound scriptural relevance to communicate that his/her body is a temple of the Holy Spirit and as such caring for that temple holds many strict limitations. As a temple for which the Holy Spirit resides, my congregant has spent a lifetime protecting all aspects of health and faith. It becomes a matter of not just observation of the law but complete adherence to his faith in its entirety.

To ensure that this letter is not mass distributed to those looking to obtain a religious exemption letter, my church has kept a detailed log of the families that have attended our fellowship. For verification purposes, please call the church front desk with your employee's first and last name and we will verify that he/she is a congregant.

Regards,

A handwritten signature in black ink that reads 'Rick Brown'.

Pastor Rick Brown
Senior Pastor

320 Via Las Brisas, Newbury Park, CA 91320
(805) 375-2593 | (805) 375-2179 fax
www.godspeak.com

Exhibit 5

[Print](#) | [Close Window](#)

Subject: [FWD: Re: Battalion Chief Robert Kilpatrick; Illegal Removal, URGENT ATTENTION REQUIRED]

From: mdc@curranlawoffices.com

Date: Thu, Mar 03, 2022 2:32 pm

To: "ralph.terrazas@lacity.org" <ralph.terrazas@lacity.org>

Cc: "John Howard" <johnh@jhowardattorneys.com>, "Dayna@jhowardattorneys.com" <Dayna@jhowardattorneys.com>, "RJ Kilpatrick" <rj.kilpatrick@lacity.org>

Dear Chief Terrazas,

This firm along the John Howard firm is counsel to Battalion Chief Kilpatrick and have been representing him in his Constitutionally protected peaceful protest and request for Religious exemption to the City of LA vaccine requirements. We have just been provided with a "Notice of Removal" document signed by you that falsely accuses Chief Kilpatrick of not showing up for his Board of Rights/Skully hearing, which this firm made clear was not going to happen until the City of LA followed clear law.

We are going to assume you were not provided our earlier emails, or you would not have signed the document or made the false representations contained therein. As you can see in the email string below, not only had we properly objected to the ram rod scheduling of Board of Rights/Skelly hearing on sound, established legal grounds, but Captain Kilpatrick has also applied for a Religious exemption, a right confirmed by the US Supreme Court in *United States v. Seeger and United States v. Ballard*.

As we advised Capt. Mullen, Capt. Kilpatrick's religious exemption that must be granted, obviates any necessity for Board of Rights hearing in this matter related to the vaccine requirement. Thus, the scheduled Board of Rights process/hearing which was fraught with numerous procedural/substantive errors, likely because the process has never been used to enforce a vaccine requirement, as opposed to actual law, we advised was off calendar as moot, we will not participate until LA City complied with the prerequisites of the Skully case. However, when Capt. Kilpatrick submitted a Religious Exemption that should have obviated the Board of Rights hearing on the vaccine requirement. Thus your act of removing him from his employment is illegal, discriminatory and retaliatory, a blatant violation of California's Fair Employment and Housing Act. See Cal. Govt. Code 12940.

You are again advised it is illegal to retaliate against an employee for the exercise of constitutionally protected rights and liberties. You are also again advised it is illegal to retaliate against an employee by taking any punitive action against them during the pendency of a lawsuit, DFEH investigation, or thereafter, for asserting their legal rights, or complaining about what they reasonably and, in good faith, believe to be violations of Constitutional freedom, religious/medical discrimination and violations of law. See FEHA Cal. Govt. Code §12940. Cal. Labor Code §1102.5.

We strongly suggest you review this email and the earlier strings we engages in with Capt. Mullen and LA City Counsel. We are certain you did not mean to violate clear, black letter law and your oath as a firefighter, to protect and defend the US and CA Constitutions and serve and protect the citizens of LA, including Capt. Kilpatrick.

If you do not promptly reverse your action the City of LA will be served a Government Tort Claim and if not resolved in the tort claim process a Superior Court lawsuit.

We urge you to review these matters with the City Attorney and govern yourself accordingly.

Please Advise.

Michael D. Curran, Esq./ATP

CURRAN & CURRAN LAW

Palomar Heights Corporate Center

5857 Owens Ave., Suite 300

Carlsbad, CA 92008

760-634-1229 off. phone

760-840-7424 cell

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----- Original Message -----

Subject: Re: Battalion Chief Robert Kilpatrick's Board of Rights; Off
Calendar as MOOT

From: <mdc@curranlawoffices.com>

Date: Fri, February 25, 2022 4:15 pm

To: "Martin Mullen" <martin.mullen@lacity.org>, "Jorge Otano"
<jorge.otano@lacity.org>

Cc: "John Howard" <johnh@jwhowardattorneys.com>,
"Dayna@jwhowardattorneys.com" <Dayna@jwhowardattorneys.com>, "RJ
Kilpatrick" <rj.kilpatrick@lacity.org>

Capt. Mullen,

Perhaps you did not receive or have not had the opportunity to read my email from Wednesday February 23, 2022, so I will repeat it for your convenience hereinbelow. Initially, I will respond to your email of today's date on behalf of Chief Kilpatrick who is jointly represented by this firm and Mr. Howard's firm.

First, responding to your email today, please be advised that Captain Kilpatrick is in the process of submitting a religious exemption from the vaccine requirement along with a substantive letter from his Church/Pastor. You can expect his exemption request early next week. He will not be using the LAFD form as it violates actual law, see below. His religious exemption is self-certifying and must be granted by law. With respect to asking about any particular religion, this information is Constitutionally protected and private. See California Constitution Article 1, section 1. In addition, the Supreme Court, in an unbroken line of very clear cases, has held that entitlement to deferment, or exemption on the basis of conscience need not be supported by a particular religion or, for that matter, even a belief in a deity. The Supreme Court has written:

"To be sure we have ruled...that 'the 'truth' of a belief is not open to question'; rather, the question is whether the objector's beliefs are 'truly held.' *United States v. Seeger*, 380 U.S.,

at 185, 85 S.Ct., at 863. See also *United States v. Ballard*, 322 U.S. 78, 64 S.Ct. 882, 88 L.Ed. 1148 (1944).

Neither government, nor private entities are permitted to look behind a person's expressed sincerely held, religious/moral convictions to explore the truth of those convictions, or question the individual's spiritual sensibilities.

In addition, Chief Kilpatrick's second basis for requesting exemption from the vaccine requirement actually applies to every single American citizen, which is the freedoms and liberties guaranteed us all by the United States and California Constitutions and the right to choose what goes into his body. In fact, our United States Congress has exempted themselves on this very basis from any vaccine mandate. If they can, then by example, every US citizen has that same Constitutionally protected right.

You are again advised it is illegal to retaliate against an employee for the exercise of constitutionally protected rights and liberties. You are also again advised it is illegal to retaliate against an employee by taking any punitive action against them during the pendency of a lawsuit, DFEH investigation, or thereafter, for asserting their legal rights, or complaining about what they reasonably and, in good faith, believe to be violations of Constitutional freedom, religious/medical discrimination and violations of law. See FEHA Cal. Govt. Code §12940. Cal. Labor Code §1102.5.

Captain Kilpatrick's religious exemption, that must be granted, obviates any necessity for Board of Rights hearing in this matter related to the vaccine requirement. Thus, the currently scheduled Board of Rights process/hearing which was fraught with numerous procedural/substantive errors, likely because the process has never been used to enforce a vaccine requirement, as opposed to actual law, is off calendar as moot, we will not participate. This is fortunate for the LAFD and the involved Battalion Captains, as the Board of Rights process was undeniably tainted and retaliatory to begin with primarily as Chief Kilpatrick is the named Plaintiff in a case currently filed in Los Angeles Superior Court regarding unconstitutionality of vaccine requirements. The process also involved complaints of a failure to follow LAFD Board of Rights procedures and other misconduct including a physical attack/intimidation on Chief Kilpatrick's attorney Mr. Howard. Clearly, this has become a very personal/political issue at the LAFD.

As part of his accommodation based on his religious exemption, which is also required by law, Captain Kilpatrick is willing if necessary to reasonably mask, distance, or test to insure public safety, but by law, will not be discriminated against on the basis of his religious and Constitutionally protected beliefs, freedoms and liberties.

You are also advised that factually/scientifically we have now been advised by Rachel Walensky, MD the Director of the United States Centers for Disease Control ("CDC") that the current vaccine formulations do not actually immunize against the current virus variants like Omicron, Flurona and even Delta. We are now being advised that even though individuals have been vaccinated and boosted, they can still contract and spread the virus. Thus the "protection" allegedly afforded by the current vaccines, do not concern public safety and the risk of infection. Rather, the vaccines have allegedly been reduced to a matter of the degree/seriousness of one's symptoms, which makes receiving a vaccine an issue of personal choice/risk, not public safety/risk. Personal medical choices are Constitutionally protected.

Most recently, it has been widely reported that the Queen of England, even though she is triple vaccinated and boosted and perhaps one of the most protected persons in the world, recently tested positive for the virus, although her symptoms were mild. So the "science"

supporting vaccine mandates is controversial and debatable at best, with experts advocating on both sides.

Captain Kilpatrick and I firmly believe that constitutionally, religiously and medically, every citizen has the freedom of choice.

Secondly a repeat of Wednesday's email;

Dear Captain Mullen, Mr. Otano and all involved LAFD personnel.

This firm is and will be representing a growing number of LAFD firefighters who are currently being advised that they are obliged to attend hastily scheduled "Skelly" hearings. This email shall apply to all currently scheduled Skelly hearings. This email will be sent this week in each of those cases, that we are currently representing the involved firefighters.

Our clients, initially, were under the impression these were Board of Rights meetings, or mere pre-Skelly hearings. Now, becoming aware these are apparently the actual Skelly hearings, be advised the LAFD is attempting to schedule and ram-rod through the hearings and the LAFD is not following required procedural protocols as set forth in the established and precedent setting "Skelly" California Supreme Court case.

In *Skelly v. State Personnel Board* (1975) 15 Cal.3d 194, the California Supreme Court ruled that as a part of due process, public employees are entitled to certain procedural safeguards before discipline is imposed against them. These include the following:

- (1) notice of the disciplinary action proposed to be taken;
- (2) a statement of the reasons therefor;
- (3) a copy of the charges and materials upon which the action is based; and
- (4) the right to respond, either orally or in writing, to the authority initially imposing the discipline.

In addition, we are entitled to conduct discovery in order to prepare for the hearing. In each case, we will be requesting all documents/evidence, including but not limited to, the following issues:

1. LAFD failed to use progressive discipline by threatening to terminate LAFD from his/her position without any prior discipline and based only on a so-called public safety government mandate, not any violation of actual law rules policies or procedures.
2. LAFD failed to establish how LAFD employees' constitutionally protected peaceful protest actions, or religious/medical exemptions caused harm to the public.
3. LAFD failed to establish that there was a likelihood that this LAFD employee's alleged harm would continue to occur if they did not terminate them.
4. The investigation conducted by the LAFD was not conducted in good faith and the conclusions it reached were not based on the actual evidence uncovered.
5. LAFD has refused to provide the LAFD/his/her legal counsel with an complete unredacted version of the investigation report, which severely hampered him/her ability to effectively defend against the accusations made against him/her.

6. LAFD has failed to provide facts, evidence, or science that current vaccination formulation from Pfizer, Moderna, or J&J effectively immunize against current variants, or prevent the spread of the virus to other employees. Thus, there is not a public safety concern; there is a private safety concern.

We would strongly suggest you get the counsel of the LA City Counsel, Mr. Otano, before taking further action on these Skelly hearings.

Mr. Otano, we expect you to follow your Constitutional oath and the well established due process requirements of a Skelly hearing, in each and every case now pending. You are also placed on notice, if you continue to think there is a potential public safety issue being caused by unvaccinated firefighters/sheriffs, that public safety issue will pale in comparison to the actual public safety issue that will exist if the city of LA terminates hundreds of these first responders. Crime rates will continue to escalate and fires will burn out of control.

Our clients and others will not be participating in unlawful "Skelly" hearings without following law/due process safeguards.

Please advise.

Michael D. Curran, Esq./ATP
CURRAN & CURRAN LAW
Palomar Heights Corporate Center
5857 Owens Ave., Ste. 300
Carlsbad, CA 92008
760-634-1229 off. phone
760-840-7424 cell

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On Feb 25, 2022, at 1:44 PM, Martin Mullen <martin.mullen@lacity.org> wrote:

Mr. Curran and Mr. Howard,

On February 17th, 2022, during the opening day of Chief Kilpatrick's Board of Rights, the Honorable Board requested any motions, stipulations, and witness lists be submitted to the Sergeant at Arms by 5:00pm on February 24th, 2022 (as explained in my previous email below). It is now the afternoon of February 25th, and I have yet to receive any of these documents from your office(s).

Respectfully,

Martin Mullen, Captain II
Los Angeles Fire Department
Professional Standards Division

Office: (213) 202-3190
Cell Phone: (310) 990-8558

On Thu, Feb 17, 2022 at 1:28 PM Martin Mullen <martin.mullen@lacity.org> wrote:
All parties be advised, the Board of Rights hearing convened today on Thursday, February 17, 2022, at 09:00 AM. The hearing took place in the Fire Commision Room, 1820 City Hall East, 200 North Main Street, Los Angeles, CA 90012.

This matter has been continued by the Board to Wednesday, March 2, 2022, 08:00 AM, in the Fire Commision Room, 1820 City Hall East, 200 North Main Street, Los Angeles, CA 90012.

The Honorable Board has requested that all parties submit, through the Sergeant at Arms, any motions, stipulations, and witness lists by close of business day (5:00 PM), Thursday, February 24, 2022.

Any further questions or requests, please forward them to me, Captain II Martin Mullen (Sergeant at Arms).

--

Martin Mullen, Captain II
Los Angeles Fire Department
Professional Standards Division
Office: (213) 202-3190
Cell Phone: (310) 990-8558

--

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Exhibit 6

DEPARTMENT OF FIRE
CITY OF LOS ANGELES

FIRE CHIEF'S NOTICE OF REMOVAL

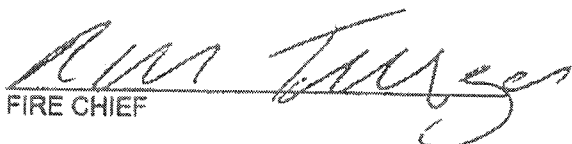
DATE March 3, 2022		
NAME Robert L. Kilpatrick	RANK Battalion Chief	EMPLOYEE NO. EID 51188 SSN 6026
ASSIGNMENT Operations Valley Bureau, C Platoon		

Pursuant to City Charter Section 1060(h), I am imposing the penalty of removal from employment with the Los Angeles City Fire Department. The Board of Rights convened on February 17, 2022 and reconvened on March 2, 2022, which you failed to appear at either scheduled hearing.

Said Board of Rights has been dissolved and, I hereby declare you to be:

REMOVED from your position as BATTALION CHIEF

effective at 1200 hours on the 8th day of February, which was the date and time you were first relieved from duty for the purpose of this hearing.


FIRE CHIEF

CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT at _____ on the _____ day of _____, 2022, I served a copy of the above order upon the person to whom it is directed

- By handling it to him in person
- By forwarding it by registered mail to his last known address at

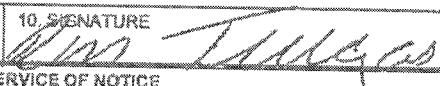
.....
because he can not be found.

.....
Member of Los Angeles City Fire Department

Ex. 6

CITY OF LOS ANGELES
NOTICE OF DISCHARGE, SUSPENSION, OR PROBATIONARY TERMINATION

21-0613-01

1. EMPLOYEE NAME LAST: Kilpatrick FIRST: Robert MIDDLE: L.			2. EMPLOYEE NUMBER 51188 SSN 6026	
3. DEPARTMENT, BUREAU, OFFICE, OR MAJOR DIVISION Fire/Sworn			4. CLASS TITLE AND CODE Battalion Chief (2152-0)	
5. RESIDENCE ADDRESS 8642 Balcom Avenue - Northridge, CA 91325				
6. TYPE OF ACTION (CHECK APPROPRIATE BOX)				
A. Probationary Termination. Effective _____ THERE IS NO APPEAL FROM THIS ACTION. However, you may request restoration of your name to the eligible list as described in item 18c below.		C. Suspension (disciplinary - more than 5 working days). From _____ to _____ inclusive YOU MAY APPEAL THIS ACTION in accordance with the procedure outlined in 18b below.		
B. Suspension - lack of work or lack of funds. EFFECTIVE _____ THERE IS NO APPEAL FROM THIS ACTION. If you have completed probation, your name will be placed on a reserve list for preferential retire. If you did not complete probation, your name will be placed on the eligible register until the list expires. If the list has expired at the time of layoff, it will be necessary to retake the examination.		D. Suspension (disciplinary - 5 working days or less). From _____ to _____ inclusive THERE IS NO APPEAL FROM THIS ACTION UNLESS this suspension combined with other suspensions you have received within the preceding 12 months totals more than five (5) working days in which case the appeal procedure outlined in 18b below is available to you.		
		<input checked="" type="checkbox"/> E. Discharge. EFFECTIVE <u>February 8, 2022 @ 1200 hours</u> YOU MAY APPEAL THIS ACTION in accordance with the procedure outlined in 18b below.		
7. Action pending before the Workers' Compensation Appeals Board? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> UNKNOWN				
8. Cause of action (continue on reverse side if required): For failure to meet a condition of employment as set forth in City of Los Angeles Ordinance 187134 (effective August 25, 2021), by failing to comply with the City's COVID-19 Vaccination Requirement, set forth in the Ordinance and codified as Section 4.701(a) and (b) of the Los Angeles Administrative Code				
9. TYPED NAME AND TITLE OF APPOINTING AUTHORITY RALPH M. TERRAZAS, Fire Chief		10. SIGNATURE 		11. DATE 2/8/22
12. SERVICE OF NOTICE				
INSTRUCTIONS: A copy of this notice must be served upon every person who is suspended, discharged, or terminated on probation. In accordance with Charter Section 101B, service of notice may be made by handing a copy to the person or by sending a copy by certified mail to the person's last known residence if, after due diligence, the person cannot be found. The completed original of this notice must be filed immediately with the Board of Civil Service Commissioners. If this notice is not served personally, indicate on Page 2 what efforts were made to find the employee.				
13. I hereby certify that a copy of this notice was served on the subject employee on _____ DATE _____ TIME _____ at _____ <input type="checkbox"/> AM <input type="checkbox"/> PM				
14. <input type="checkbox"/> Served Personally <input type="checkbox"/> Certified Mail		15. EMPLOYEE'S LAST KNOWN RESIDENCE		
16. PRINTED NAME OF PERSON WHO SERVED NOTICE		17. SIGNATURE OF PERSON WHO SERVED NOTICE		
18. UNEMPLOYMENT INSURANCE/APPEAL/RESTORATION PROCEDURE				
a. UNEMPLOYMENT INSURANCE ELIGIBILITY. See reverse for statement regarding your right to apply for unemployment insurance benefits.				
b. DISCHARGE FOLLOWING PROBATION OR DISCIPLINARY SUSPENSION. YOUR SIGNED WRITTEN APPEAL MUST BE FILED WITH THE CITY OF LOS ANGELES CIVIL SERVICE COMMISSION, ROOM 360, 700 EAST TEMPLE STREET, LOS ANGELES, WITHIN FIVE (5) CALENDAR DAYS, INCLUDING SATURDAY, SUNDAY, AND HOLIDAYS, AFTER THIS NOTICE WAS SERVED ON YOU. (Section 1016 of the Los Angeles City Charter, governing discharges and disciplinary suspensions, is reprinted on the reverse side.)				
c. RESTORATION TO ELIGIBLE LIST FOLLOWING PROBATIONARY TERMINATION. Your signed written request must be filed with the Personnel Department within five (5) calendar days, including Saturday, Sunday, and holidays after receiving this notice. Restoration can be made only if your eligible register is still active. If the list has expired, it will be necessary to retake the examination.				

CHARTER OF THE CITY OF LOS ANGELES

Sec. 1016. Discharge or Suspension.

- (a) **Discharge or Suspension for Cause.** Any board or officer having the power of appointment shall have the power to suspend or discharge any officer, member or employee of the office or department. No person in the classified civil service shall be discharged or suspended except for cause, which shall be stated in writing by the board or officer having the power to make such discharge or suspension.
- (b) **Statement of Cause.** The written statement of cause shall be filed with the Board of Civil Service Commissioners, with certification that a copy has been served upon the person so discharged or suspended, in accordance with Section 1018. Upon filing with the board, the discharge or suspension shall take effect.
- (c) **Application for Hearing.** Within five days of service of the written statement upon any person so discharged or suspended, the person shall file a written application with the board in order to require the board to hold a hearing to investigate the grounds for the discharge or suspension. In the event that the person does not file an application, the board may, but is not required to, within 15 days after the filing of the written statement with the board, determine to hold a hearing to investigate the grounds for the discharge or suspension.
- (d) **Reinstatement; Restoration.** If, after investigation and hearing as required by law is held, the board finds, in writing, that the grounds stated for the discharge or suspension were insufficient or were not sustained, the board shall order the person to be reinstated or restored to duty. With the consent of the appointing authority, the board may also reduce the length of the suspension, or may substitute suspension for discharge, if the board makes a written finding that such action is warranted. The order of the board with respect to the discharge or suspension shall be promptly certified to the appointing board or officer, and shall be final and conclusive.
- (e) **Compensation.** If the board orders reinstatement or restoration to duty of a person who has been discharged or suspended, the person shall be entitled to receive compensation from the City the same as if he or she had not been discharged or suspended by the appointing board or officer.
- (f) **Change of Disciplinary Review.** The Council may, by ordinance, provide for an alternative system for impartial review of employee discipline as set forth in subsections (b) through (e) of this section, provided that such a system conforms with due process standards for a fair hearing, and provided there remains a process for review of employee discipline in which costs are borne by the City.
- (g) **Finality of Order of Suspension for Lack of Funds.** The order of any appointing board or officer suspending any person because of lack of funds or lack of work in the department shall be final, and shall not be subject to review by the Board of Civil Service Commissioners.
- (h) **Applicability.** The procedure for review of discipline set forth in this section shall not apply to:
- (1) those members of the Police Department appointed under civil service rules and regulations and sworn in, as provided by law, to perform the duties of regular police officers who are subject to the provisions of Section 1070 of the Charter.
 - (2) those members of the Fire Department appointed under civil service rules and regulations to perform the duties of regular firefighters who are subject to the provisions of Section 1080 of the Charter.
 - (3) any suspension of five working days or less in any 12 month period for personal delinquency. The reasons stated in writing for any suspension shall be furnished to the suspended employee and promptly filed with the board. Any suspension which results in an employee having a total suspended time by reason of the exercise of authority under this subsection in excess of five working days in any 12 month period shall be subject to all of the provisions of this section.

(See also Charter Section 1017.)

RIGHT TO APPLY FOR UNEMPLOYMENT INSURANCE BENEFITS

Under State Law, an individual who has worked for the City MAY be eligible for unemployment insurance benefits.

If you wish to apply, do the following:

1. Go to the State of California Employment Development Department (EDD) office nearest your home.

TAKE WITH YOU TO THE EDD OFFICE:

2. Official notice of your separation from City employment (resignation, discharge or layoff statement).
3. A recent City paycheck stub.
4. This notice. **IMPORTANT.** If EDD requests a City work address, use only one of the two listed below. All employees except those from Water and Power are to use the address on the left. Department of Water and Power employees are to use the address on the right.

PERSONNEL DEPARTMENT
City of Los Angeles
Room 867, City Hall
200 N. Spring Street
Los Angeles, CA 90012

DEPARTMENT OF WATER AND POWER
P. O. Box 111
Los Angeles, CA 90051
ATTN: Personnel Office
Room 546

Failure to use the correct address may unnecessarily delay the processing of your claim.

If you apply, EDD will determine whether or not you are eligible to receive benefits. It is not necessary for you to contact any City office.

City of Los Angeles
DEPARTMENT OF FIRE
AUTHORIZATION FOR DELIVERY OF UNPAID SALARY CHECKS

Name:	Robert L. Kilpatrick, EID # 51188	Date:	March 3, 2022		
Civil Service Title:	Fire Battalion Chief (2152-0)	Company:	Operation Valley Bureau	Ptn:	C
For the following reason:	Discharge				

Please forward my unpaid checks to the following address, beginning with

My check for pay day of: _____

Street: _____

City: _____ State: _____ Zip: _____

Effective date of leaving Fire Department: February 8, 2022 @ 1200 hours

Signature: _____

EQUIPMENT CHECK OFF SHEET FOR RETIRED OR SEPERATED MEMBER

Name: Robert L. Kilpatrick

Rank: Battalion Chief

EID: 51188

DATE: 3/3/2022

EQUIPMENT	OWNERSHIP	QTY.	RETURN TO	COLLECTED	FIELD	INITIALS
BADGE(S) (HW & LW)	LAFD	1 OR 2	PERSONNEL	<input type="checkbox"/>		
BELT BUCKLE	LAFD	1	PERSONNEL	<input type="checkbox"/>		
CAP PIECE	LAFD	1	PERSONNEL	<input type="checkbox"/>		
I.D. CARD	LAFD	1	PERSONNEL	<input type="checkbox"/>		
SPECIAL I.D. CARD (LAX)	LAFD	1	PERSONNEL	<input type="checkbox"/>		
INSIGNIA (CI, CII, CO)	LAFD	1	PERSONNEL	<input type="checkbox"/>		
TIE BAR	LAFD	1	PERSONNEL	<input type="checkbox"/>		
FACE PIECE W/V.A.S.	LAFD	1	RESCUE MAINT.	<input type="checkbox"/>		
KEYS (STATION, LOCKER, VEHICLE, CHIEF, FIG, MEDCO, BARREL)	LAFD	1	LAST ASSIGN.	<input type="checkbox"/>		
RADIO	LAFD	1	LAST ASSIGN.	<input type="checkbox"/>		
LAPTOP	LAFD	1	LAST ASSIGN.	<input type="checkbox"/>		
PRINTER	LAFD	1	LAST ASSIGN.	<input type="checkbox"/>		
DEPARTMENT CELL	LAFD	1	LAST ASSIGN.	<input type="checkbox"/>		
DEPARTMENT VECHILE	LAFD	1	LAST ASSIGN.	<input type="checkbox"/>		
BRUSH GLOVES	LAFD	1	TURNOUT WORLD	<input type="checkbox"/>		
BRUSH GOGGLES	LAFD	1	TURNOUT WORLD	<input type="checkbox"/>		
BRUSH HELMET	LAFD	1	TURNOUT WORLD	<input type="checkbox"/>		
LAFD / BRUSH JACKET(S)	LAFD	1	TURNOUT WORLD	<input type="checkbox"/>		
BRUSH PANT	LAFD	1	TURNOUT WORLD	<input type="checkbox"/>		
BRUSH BOOTS	LAFD	1	TURNOUT WORLD	<input type="checkbox"/>		
BRUSH SHROUD	LAFD	1	TURNOUT WORLD	<input type="checkbox"/>		
CHANNEL LOCKS	LAFD	1	TURNOUT WORLD	<input type="checkbox"/>		
FIREFIGHTER HOOD	LAFD	2	TURNOUT WORLD	<input type="checkbox"/>		
HELMET	LAFD	1	TURNOUT WORLD	<input type="checkbox"/>		
HELMET LINER	LAFD	1	TURNOUT WORLD	<input type="checkbox"/>		
ORANGE WEBBING	LAFD	1	TURNOUT WORLD	<input type="checkbox"/>		
TURNOUT BOOTS	LAFD	1	TURNOUT WORLD	<input type="checkbox"/>		
TURNOUT COAT (w/Liner)	LAFD	1	TURNOUT WORLD	<input type="checkbox"/>		
TURNOUT PANT (w/Liner)	LAFD	1	TURNOUT WORLD	<input type="checkbox"/>		
UTILITY KNIFE	LAFD	1	TURNOUT WORLD	<input type="checkbox"/>		
WORK BOOTS	LAFD	2	TURNOUT WORLD	<input type="checkbox"/>		
SOFT CAP	LAFD	1	TURNOUT WORLD	<input type="checkbox"/>		
BELT	LAFD	1	TURNOUT WORLD	<input type="checkbox"/>		
SHIRT, WOOL, LS	LAFD	1	TURNOUT WORLD	<input type="checkbox"/>		
PANTS, WOOL, LS	LAFD	1	TURNOUT WORLD	<input type="checkbox"/>		
BRUSH PACK	LAFD	1	TURNOUT WORLD	<input type="checkbox"/>		
BODY ARMOR	LAFD	1	TURNOUT WORLD	<input type="checkbox"/>		
GTAK	LAFD	1	BIKE UNIT	<input type="checkbox"/>		
				<input type="checkbox"/>		

DO NOT FORWARD THE FACE PIECE IN TURNOUT COAT POUCH

(Print and Sign)

MEMBERS SIGNATURE _____

DATE _____

(Print and Sign)

MEMBER OF LOS ANGELES CITY FIRE DEPARTMENT _____

DATE _____