

JACK DURAN, SBN 221704
DURAN LAW OFFICE
4010 Foothills Blvd., S-103, N.98
Roseville, CA 95747
Telephone: (916) 779-3316
Facsimile: (916) 520-3526
duranlaw@yahoo.com

Attorney for Plaintiffs:
Rick Frey, Cyndee Kiddo
David Lent and Mary Daniel

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA
FRESNO DIVISION

**RICK FREY, CYNDEE KIDDO, DAVID
LENT AND MARY DANIEL**

Plaintiffs,

v.

**UNITED STATES DEPARTMENT OF
HEALTH AND HUMAN SERVICES
ACTING AS THE INDIAN HEALTH
SERVICE, AND DOES 1-50,**

Defendants

Case No.

**COMPLAINT FOR EMPLOYMENT
DISCRIMINATION AND RELATED
PENDENT STATE CAUSES OF
ACTION**

1. Federal Age Employment
Discrimination [29 U.S.C. §§ 621 to 634
(ADEA)]
2. Federal Race Employment
Discrimination [42 U.S.C. §§ 1981,
2000e *et seq.*]
3. Federal Retaliation Employment
Discrimination (Retaliation) [42 U.S.C.
§§ 1981, 2000e *et seq.*]
4. Hostile Work Environment
5. Intentional Infliction of Emotional
Distress
6. Negligent Infliction of Emotional
Distress.

DEMAND FOR JURY TRIAL

PLAINTIFFS RICK FREY, CYNDEE KIDDO, RICHARD LENT and MARY DANIEL (hereinafter “Plaintiffs”) alleges as follows:

NATURE OF THE COMPLAINT

Plaintiffs bring this civil action against the United States Department of Health and Human Services acting as the Indian Health Service (hereinafter “HHS” or “IHS”) and Does 1-50 (collectively referred to as "Defendants") to obtain an appropriate remedy for Defendant’s unlawful termination of plaintiffs based on their non-Indian/white race, age discrimination, retaliation and intentional and negligent infliction of emotional distress as related to their employment and termination and constructive termination from their employment with Toiyabe Indian Health Project (hereinafter “Toiyabe”), funded by the United States Department of Health and Human Services via the Indian Health Service.

JURISDICTION AND VENUE

1. This Court has jurisdiction pursuant to 28 U.S.C. §1331 in that the action arises under the Constitution, laws and regulations of the United States.

2. This Court also has jurisdiction pursuant to the Age Discrimination in Employment Act of 1967, as codified, 29 U.S.C. §§621 to 634.

3. The Court has further jurisdiction over the pendant state law claims pursuant to 28 U.S.C. §1367 because these claims are so related to the federal claims that they are part of the same case or controversy under Article III of the United States Constitution.

4. Venue is proper in the Eastern District of California (Fresno Division) pursuant to 28 U.S.C. §1391, subdivision (b)(2), because a substantial portion of the acts or omissions giving rise to Plaintiffs’ claims arose within the Eastern District of California, Fresno Division.

PARTIES

5. Plaintiff Rick Frey is a citizen of California and resides in Inyo County. Plaintiff Frey was formerly employed by Toiyabe Indian Health Project, a tribally owned and operated health consortium located in Bishop, California, Inyo County. Toiyabe is funded by the United States Department of Health and Human Services, via the Indian Health Service. Toiyabe is located in Bishop, Inyo County, California. Plaintiff Frey is over forty years old and non-Indian/white.

6. Plaintiff Cyndee Kiddo is a citizen of California and resides in Inyo County. Plaintiff Kiddo was formerly employed by Toiyabe Indian Health Project, a tribally owned and operated health consortium located in Bishop, California, Inyo County. Toiyabe is funded by the United States Department of Health and Human Services, via the Indian Health Service. Toiyabe is located in Bishop, Inyo County, California. Plaintiff Kiddo is over forty years old and non-Indian/white.

7. Plaintiff David Lent is a citizen of California and resides in Inyo County. Plaintiff Lent was formerly employed by Toiyabe Indian Health Project, a tribally owned and operated health consortium located in Bishop, California, Inyo County. Toiyabe is funded by the United States Department of Health and Human Services, via the Indian Health Service. Toiyabe is located in Bishop, Inyo County, California. Plaintiff Lent is over 40 years old and non-Indian/white.

8. Plaintiff Mary Daniel is a citizen of California and resides in Inyo County. Plaintiff Daniel was formerly employed by Toiyabe Indian Health Project, a tribally owned and operated health consortium located in Bishop, California, Inyo County. Toiyabe is funded by the United States Department of Health and Human Services, via the Indian Health Service. Toiyabe is located in Bishop, Inyo County, California. Plaintiff Daniel is over 40 years old and non-Indian/white.

1 9. Defendant United States Department of Health and Human Services is a branch
2 of the United States government. HHS provides funding to Indian Health Service (IHS), a
3 subsidiary or subordinate department within HHS, that provides grant funding to United States'
4 federally recognized Indian Tribes that are qualified to receive federal funding and services.
5 HHS, through HIS, contracts with Toiyabe to provide health services to Toiyabe consortium
6 members, many of whom are tribal members of the consortium Indian tribes located within the
7 Owens Valley, Inyo County, California, and the general public who qualify for federal health
8 care services.
9

10 10. DOES 1-50 are currently unidentified but are alleged to be acting at the direction
11 or on behalf of defendant HHS in their official and individual capacities. If and when said
12 identities of the DOES are known, Plaintiffs shall amend their complaint to properly include
13 these individuals as defendants.

14 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

15 11. Plaintiffs have exhausted their administrative remedies under the United States,
16 Federal Tort Claims Act. Their claims were rejected by HHS on or about February 1, 2018.
17 Plaintiffs' Equal Employment Opportunity Commission ("EEOC") "Right to Sue" letters were
18 issued by the EEOC on April 18, 2018 (Kiddo and Frey) and April 25, 2018 (Daniel and Lent).

19 **INTRODUCTION**

20 *Health and Human Services and Indian Health Service*

21
22 12. The United States Health and Human Services Department (hereinafter "HHS")
23 is a division of the United States government created to "enhance and protect the well-being of
24 all Americans." HHS funds and provides various programs related to the provision of health
25 services to qualified recipients.
26

27 //

1 13. One such program funded by HHS is the Indian Health Service (“IHS”). IHS is
2 responsible for providing federal health services to American Indians and Alaska Natives who
3 are approved to receive federal funds. These funds come in the form of grants provided directly
4 to Indian tribes, who operate their own health care clinic for tribal members and non-members
5 who qualify for federal health services or to a consortium of tribes who operate a clinic on
6 behalf of their members.
7

8
9 ***Toiyabe Indian Health Project***

10 14. Toiyabe Indian Health Project, Inc., (formerly Tri County Indian Health project),
11 (hereinafter “Toiyabe”), headquartered in Bishop, Inyo County, California, is a federally funded
12 tribal health consortium comprised of nine (9) federally recognized Indian tribes (Big Pine
13 Paiute Tribe of the Owens Valley, Bishop Paiute Tribe, Bridgeport Indian Tribe, Fort
14 Independence Indian Tribe, Lone Pine Paiute Shoshone, Benton Paiute Tribe (Utu Utu Gwaitu
15 Paiute) and the Timbisha Shoshone Tribe). It is not an Indian Tribe.
16

17 15. Toiyabe operates pursuant to its bylaws which set forth the mission, powers and
18 authority of the Toiyabe Board of Directors. All of the Toiyabe directors are non-white Indians.
19 None of the directors has degrees beyond a high school diploma. None of the directors has
20 experience in the area of health care or clinic management.
21

22 16. HHS through IHS, contracts with Toiyabe for health services for Toiyabe
23 consortium tribe members, non-consortium tribe-members who are of Indian descent and
24 eligible for federal benefits, and non-Indians eligible for federal services. This employment
25 termination case concerns the applicability of non-Indians eligible for federal services in Inyo
26 County. Toiyabe receives more than \$8 million annually from HHS through IHS in support of
27

1 various Toiyabe health programs.

2 17. Toiyabe operates out of several locations to serve its consortium tribes, non-
3 Tribal Indians, and non-Indians. These locations are: Bishop, Lone Pine and Coleville,
4 California. Toiyabe headquarters are in Bishop, California, in a new \$14 million building
5 funded by a United States Department of Agriculture funded loan.
6

7 ***Plaintiffs' Administration of Toiyabe***
8

9 18. Plaintiffs Lent, Frey, Daniels and Kiddo are all former members of the Toiyabe
10 Administrative Management Team. At the time of their termination, Plaintiffs comprised of
11 80% of the Toiyabe administration. Plaintiffs are all non-Indian/white and are not Toiyabe
12 consortium tribal members.
13

14 a. David Lent, 71, was formerly the Toiyabe Chief Executive Officer. Mr.
15 Lent has worked for Toiyabe in various positions, most recently as CEO, for 18 years. At his
16 termination in September 2017, Mr. Lent's salary was \$170,000 plus benefits. Mr. Lent was
17 replaced by a female interim CEO of Native American descent who is unqualified and much
18 younger.
19

20 b. Rick Frey, 69, was formerly the Toiyabe Chief Operations Officer
21 (COO). Mr. Frey also worked for Toiyabe for 18 years. At termination in September 2017, Mr.
22 Lent's salary was \$140,000 plus benefits. Toiyabe replaced Mr. Frey with an unqualified white
23 male, aged 28. The replacement worked for approximately two months before leaving
24 employment allegedly due to a lack of administrative ability. Frey's current successor is Indian
25 and unqualified to be a health consortium COO.
26

27 //

1 c. Mary Daniel, 59, was formerly the Toiyabe Chief Financial Officer and
2 had been employed with Toiyabe for two plus years. At termination in September 2017, Ms.
3 Daniel's salary was \$103,232.08, plus benefits. Toiyabe replaced Daniels with a person of
4 Indian descent.
5

6 d. Cyndee Kiddo, 46, was formerly the Toiyabe Human Resources Manager
7 and had been employed with Toiyabe a little over a year. At termination, Ms. Kiddo's salary
8 was \$77,667, plus benefits. Toiyabe replaced Ms. Kiddo with her chief racial antagonist,
9 Geraldine Weaver ("Weaver"), an unqualified female of Indian descent.
10

11 *Toiyabe's Pervasive Anti-White Animus*
12

13 19. Plaintiffs Kiddo and Daniel allege that since their hiring, they experienced a
14 subtle racial animus against them due to their being white that increased over time. Plaintiff
15 Kiddo endured numerous encounters with Weaver, a subordinate Toiyabe employee, and
16 consortium tribal member, who routinely made negative comments about the "white"
17 administrators (Lent, Frey, Daniel and Kiddo) and that they "had to go." Weaver is alleged to
18 have misrepresented a salary survey Kiddo had prepared stating to multiple Toiyabe employees
19 and consortium Board members, including Bishop Paiute Council member and boyfriend, Bill
20 Vega, that the salary survey was "to benefit Caucasians to the detriment of the Natives."
21

22 20. Weaver is alleged to have also reported Kiddo to the Tribal Employment Rights
23 Office because she believed Kiddo was "not hiring enough Native Americans in her position as
24 Human Resources Director."
25

26 //

21. David Lent heard the following statements of a discriminatory nature directly from Toiyabe board members in June and July 2017:

- i. “THIP (Toiyabe) is providing too many health services to White people and not enough Indians. There are too many white people working at Toiyabe making decisions that include raises in pay, favoritism, promotion and better job duties, which are in favor of other white staff members, while excluding Indian workers.”
- ii. “Rick Frey is exercising nepotism by using his influence to get family members hired by Toiyabe. He is also favoring his white staff members by providing them with raises in pay and job promotions.”

The Anonymous Letter to the Toiyabe Board

22. In June 2017, someone sent an anonymous letter to the Toiyabe Board of Directors. The letter was sent with no return contact information or acknowledgement of authorship, which violated the Toiyabe Board communications protocols for any information to be addressed or acted upon by the Toiyabe Board. Despite the letter and its contents being a clear violation of board protocol, the Board accepted the letter and used it in disciplinary procedures against Plaintiffs Frey, Weaver and Kiddo that resulted in their placement on administrative leave on July 14, 2017.

23. The contents of the anonymous letter contained the following statements:

- i. “Rick’s (Frey) only cultural sensitivity for Indian people concerns how much money he can get. I have heard that he wants to open a private health clinic serving dialysis patients to non-Indians. What about Indian dialysis patients? Who pays for the non-Indian services at Toiyabe, are we giving them free services, where Indians have to qualify?

1 ii. “The receptionist that was advertised as Part-time is now 32 hours, when did that
2 happen and given to a non-Indian person to boot.”

3 iii. “Please take this letter serious before we lose our clinic to Non-Indians.”
4

5 ***The Weaver Insurance Issue***

6 24. In late June 2017, Plaintiff Kiddo was working on a project for a new insurance
7 company working with Toiyabe. During the course of verifying that Toiyabe employees and
8 dependents were listed correctly on the insurance policy, Kiddo discovered that Toiyabe
9 employee and consortium tribal member, Geraldine Weaver, had listed herself as being
10 “married” on the new insurance form.
11

12 25. Kiddo then cross-referenced Weaver’s new insurance form with previous
13 insurance forms and discovered that Weaver had listed her “boyfriend,” Bill Vega, as her
14 husband in order to acquire insurance for him through Toiyabe. Bill Vega was, at the time, a
15 Bishop Paiute Tribal Council member and is currently the Chairman of the Bishop Paiute Tribal
16 Council.
17

18 ***Plaintiffs Frey, Kiddo and Daniels are Placed on Administrative Leave***

19
20 26. After discovering Weaver’s improper insurance listing, Plaintiff Kiddo informed
21 Plaintiff Lent, the Toiyabe CEO about the issue, in addition to Plaintiff Frey and Plaintiff
22 Daniel, who were members of the Toiyabe Administrative Staff.
23

24 27. After reporting her findings on Weaver’s insurance scheme to Lent, Kiddo and
25 Frey, the next month was a “living hell” for Kiddo, with Weaver continuously making
26 derogatory racial remarks about whites in Toiyabe’s administration and serving non-Indians.
27

28 //

1 28. On July 14, 2017, the Toiyabe Board of Directors held their monthly business
2 meeting. During the meeting Plaintiffs Frey, Kiddo and Daniels' employment was brought up
3 by members of the Board. Witnesses allege that during the Board meeting many of the Toiyabe
4 Board members stated expressly that they wanted to "get rid of the white Toiyabe
5 Administrative employees."

6
7 29. During the meeting the Board voted, by a split vote, 7-6, to place Plaintiffs Frey,
8 Kiddo and Daniels on administrative leave. Plaintiff Lent later informed Kiddo, Daniel and
9 Frey that they were being placed on administrative leave pending an investigation by the Board.
10 The administrative leave was without pay and neither Kiddo, Frey or Daniel were informed of
11 any allegations against them, what the investigation was about or how long it would take to
12 complete the investigation.
13

14 30. Plaintiff Frey has heard that Toiyabe employees were circulating a rumor that the
15 four administrators were wrapped up in some type of "embezzlement" from Toiyabe alleged to
16 concern \$14 million dollars. This is a lie. This amount is the exact amount of the new Toiyabe
17 Headquarters building funded by a USDA loan.
18

19
20 ***Toiyabe Board's Treatment of David Lent***

21 31. On July 14, 2017, after the placement on administrative leave of Frey, Kiddo and
22 Daniels, Lent was suspended by the Board without pay and without explanation.
23

24 32. On September 8, 2017, the Toiyabe Board met with Plaintiff Lent concerning the
25 administrative leave of Plaintiffs Frey, Kiddo and Daniels. Lent addressed all the issues raised
26 by Geraldine Weaver, in her correspondence to the Board on June 21, 2017. The Board agreed
27 that Lent had addressed all allegations against Frey, Kiddo and Daniels and the Board reinstated
28

1 Lent. Further, Lent was advised that the investigation by Toiyabe cleared Frey, Daniels and
2 Kiddo and that their fate was in his hands. On September 18, 2017, Lent reinstated Frey, Kiddo
3 and Daniels to their former positions.
4

5 33. During the period of time the three (Frey, Kiddo and Daniels) were placed on
6 unpaid leave, one of the federal grants that supports Toiyabe's Coleville Clinic had a deadline
7 for grant submission that passed, meaning the clinic funding was in jeopardy. Plaintiff Daniels
8 worked diligently, for many hours, upon being reinstated to successfully request an extension to
9 the filing period with the HHS Department to reinstate the Coleville Clinic grant funding.

10 34. On September 11, 2017, Lent received correspondence from Toiyabe Board
11 Chairman, George Gholson, Chairman of the Timbisha Shoshone Tribe, a consortium member.
12 The correspondence directed Lent to "terminate Plaintiff Frey and Toiyabe employee Dr.
13 Thomas Boo, due to statements allegedly made to the media, specifically the *Inyo Register*."

14 35. Upon review of the *Inyo Register* news article, Lent determined Frey and Boo
15 had merely stated their personal opinions and were not speaking formerly on behalf of Toiyabe.
16 Lent believes that Gholson requested Frey and Boo's termination not because of the article, but
17 because they are non-Indian, the article being a pretext for their termination.

18 36. Later in July 2017, after confirming with Gholson that he would not terminate
19 Frey and Dr. Boo, Gholson stated to Lent directly that "his refusal could cost him his job."
20 Gholson also stated that Lent's actions in reinstating Frey, Kiddo and Daniels would also "cost
21 him his job."
22

23 37. On September 26, 2017, the Toiyabe Board held its monthly Board meeting.
24 During the meeting, Plaintiff Lent's employment was terminated after 18 years as the CEO by
25 the Board in a 7-6 vote. The meeting was originally to be public and a plethora of Toiyabe
26 employees both Indian and non-Indian were to speak on Lent's behalf. At the last minute the
27 Board informed everyone that the meeting would now be closed.

1 38. Several hours prior to the Board meeting, Toiyabe Vice Chair, George Gholson,
2 again confronted Lent and told him that in order to keep his job he would have to “terminate all
3 the non-Indian employees he had reinstated,” meaning Frey, Kiddo and Daniels. Lent informed
4 Gholson that “I could not, in good faith, terminate them.”

5 39. Immediately prior to the Board meeting, while Lent was walking into the
6 meeting room, Gholson again confronted him and stated all he had to do to keep his job was to
7 terminate Frey, Kiddo and Daniels. Lent again told Gholson, “I cannot do that.”

8 40. Thereafter, Frey, Kiddo and Daniel, believing they would be immediately
9 terminated by Toiyabe and fearing continued harassment and persecution by the Toiyabe Board,
10 submitted their letters of resignation.
11

12 **FIRST CAUSE OF ACTION**

13 **[Federal Age Discrimination]**

14 Age Discrimination in Employment (ADEA)

15 Act of 1967 as codified,

16 29 U.S.C. §§ 621 to 634.

17 **All Defendants Specific as to Plaintiffs Lent and Frey Only**

18 41. Plaintiffs hereby incorporates by reference all allegations contained in
19 Paragraphs 1-40 of this complaint.

20 42. Plaintiffs Lent (71) and Frey (69) are over the age of forty.

21 43. Plaintiffs Lent and Frey were imminently qualified for their positions as CEO
22 and COO of Toiyabe, holding their positions in excess of 18 years.

23 44. Toiyabe is a federal grant recipient of indirect (through IHS) HHS funding.

24 45. Plaintiffs Lent and Frey were terminated due to their ages without cause or
25 caused to be constructively terminated by Toiyabe, a federal grant recipient of indirect
26 (through IHS) HHS funding.

27 46. Plaintiffs Lent and Frey were replaced by persons unqualified and of a younger
28 age for the positions of CEO and COO respectively.

1 47. As a direct and proximate cause of Defendant's discrimination under the
2 ADEA, Plaintiffs have suffered damages in an amount to be determined at trial.

3 **SECOND CAUSE OF ACTION**

4 **[Discrimination Based on Race]**

5 Title VII of the Civil Rights Act of 1964

6 42 U.S.C. §§ 1981, 2000e *et seq.*

7 **All Defendants and as to All Plaintiffs**

8 48. Plaintiffs' incorporate by reference all allegations contained in Paragraphs 1-47 of
9 this Complaint as though fully set forth herein at length.

10 49. Plaintiffs have brought a claim of employment discrimination against the
11 defendant. Plaintiffs claims that their race (non-Indian/white) was either the sole reason or a
12 motivating factor for the defendant's decision to discharge, constructively or otherwise, the
13 plaintiffs.

14 50. As a direct and proximate cause of Defendant's discrimination, Plaintiffs
15 have suffered damages in an amount to be determined at trial.

16 **THIRD CAUSE OF ACTION**

17 **[Retaliation]**

18 Title VII of the Civil Rights Act of 1964,

19 42 U.S.C. 42 U.S.C. § 2000e-3(a)

20 **All Defendants and as to All Plaintiffs**

21 51 Plaintiffs incorporate by reference all allegations contained in Paragraphs 1-50 of
22 this Complaint as though fully set forth herein at length.

23 52 Plaintiffs participated in an activity protected under federal law specifically
24 under the United States Constitution. On information and belief, Plaintiff Frey's first
25 amendment rights in speaking to the press and Kiddo's rights in ensuring that United States
26 funds provided to Toiyabe are free of fraudulent insurance practices that could result in the
27 loss of federal funding (false insurance claims) is a protected activity. Plaintiffs' placement
28

1 on administrative leave for no reason was a pretext to their termination, constructive or
2 otherwise, to the true reason (being non-Indian/white).

3 53 Plaintiff Lent's opposition to the termination of Frey, Dr. Boo, Kiddo and
4 Daniel's employment, as an unlawful employment practice, was because such termination,
5 constructive or otherwise, was based solely on their being non-Indian/white.

6 54 On information and belief, pursuant to discovery and investigation, Plaintiff
7 Daniel also engaged in federal protected activity by protesting and/or appealing her
8 anticipated wrongful termination/constructive discharge on account of her race.

9 55 Defendant then subjected the plaintiffs to adverse employment actions,
10 termination, constructive or otherwise, that that was a direct result of Plaintiffs' participation
11 in various protected activities, based on information and belief and discovery and
12 investigation.

13 56 As a direct and proximate cause of Defendant's conduct, Plaintiffs have
14 suffered damages in an amount to be determined at trial.

15
16
17 **FOURTH CAUSE OF ACTION**
18 **[Hostile and Abusive Work Environment]**
19 **Defendant as to All Plaintiffs**

20 57. Plaintiffs reallege and incorporated by reference herein the foregoing
21 paragraphs 1-56 as if set forth herein.

22 58. The Defendant's conduct as alleged above constitutes a hostile and abusive
23 working environment in violation of Title VII, VI of the United States Code and the ADEA.
24 The stated reasons for wanting to end Plaintiffs' employment were not the true reasons for
25 their desire to terminate Plaintiffs' employment, but instead were a pretext to hide the
26 Defendant's discriminatory animus based on Plaintiffs' non-Indian/white race, and/or their age,
27

1 and/or their engaging in federally protected activity, which resulted in a hostile and abusive
2 work environment that led directly to their termination and/or constructive discharge.

3
4 59. As a direct and proximate cause of Defendant's conduct, Plaintiffs have
5 suffered damages in an amount to be determined at trial.

6
7 **FIFTH CAUSE OF ACTION**
8 **[Intentional Infliction of Emotional Distress]**
9 **Defendant as to All Plaintiffs**

10 60. Plaintiffs incorporate by reference all allegations contained in Paragraphs 1-59 of
11 this Complaint as though fully set forth herein at length.

12 61. As described herein, defendant acted in an outrageous and extreme manner.

13 62. As a direct and proximate result of the Defendant's actions, described herein,
14 Plaintiffs have been humiliated, ashamed, ridiculed, scorned and emotionally distraught. They have
15 even been falsely accused of embezzlement. The conduct of Defendant demonstrated the intent to
16 cause, or disregard the risk of a substantial probability of causing, Plaintiffs' severe emotional
17 distress.

18 63. The actions of the Defendant directly and proximately caused Plaintiffs' severe
19 emotional distress.

20 64. As a result of Plaintiffs' severe emotional distress, Plaintiffs have been damaged in
21 an amount to be determined at trial.

22
23 **SIXTH CAUSE OF ACTION**
24 **[Negligent Infliction of Emotional Distress]**
25 **Defendant as to All Plaintiffs**

26 65. Plaintiffs incorporate by reference all allegations contained in Paragraphs 1-64
27 of this Complaint as though fully set forth herein at length.

66. Defendant had a duty to treat Plaintiffs fairly, to not create a hostile and abusive work environment, and not to violate their federally protected rights, including age and/or race discrimination, or retaliation for engaging in federally protected rights.

67. Defendant breached these duties by discharging or constructively Plaintiffs.

68. Defendant's breach is the proximate cause and or a substantial factor of Plaintiffs' serious emotional distress stemming from their hostile employment environment and discharge, constructive or otherwise.

69. As a result of Plaintiffs' serious emotional distress, Plaintiffs have been damaged in an amount to be determined at trial.

PRAYER FOR RELIEF

Wherefore Plaintiffs prays for judgment as follows:

- (a) For damages according to proof;
- (b) For punitive damages;
- (c) For attorney's fees (as permitted by law) incurred as a result of this action;
- (d) For costs of suit herein;
- (e) For such other relief as the Court may deem proper.

DEMAND FOR JURY TRIAL

Pursuant to Federal Rule of Civil Procedure 38(b), Plaintiffs demand a jury trial.

Dated: July 16, 2018

DURAN LAW OFFICE

By: /s/ Jack Duran

JACK DURAN

Attorneys for Plaintiffs Rick Frey, Cyndee Kiddo, David Lent and Mary Daniel