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Attorneys for Plaintiffs

13 UNITED STATES DISTRICT COURT
14 CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION
15

16 FRANK V. LÍMA,
17 INTERNATIONAL ASSOCIATION OF
FIREFIGHTERS, and
18 UNITED FIREFIGHTERS OF LOS
ANGELES CITY, IAFF LOCAL 112,
19

Plaintiffs,

20 vs.
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22 THE CITY OF LOS ANGELES;
THE LOS ANGELES FIRE
DEPARTMENT;
23 KRISTINA KEPNER, in her official
capacity as Assistant Fire Chief; and
24 ROY A. PAIGE, in his official capacity as
Battalion Chief,
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Defendants.
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Case No. 2:24-CV-06363

COMPLAINT

Complaint Filed: July 29, 2024

Jury Trial Demand

**COMPLAINT FOR VIOLATION OF RIGHTS PROTECTED BY
FEDERAL AND STATE LAW**

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4 Plaintiffs International Association of Fire Fighters General Secretary-Treasurer
5 Frank V. Lima, the International Association of Fire Fighters, and the United Firefighters of
6 Los Angeles City, IAFF Local 112 file this Complaint against Defendants City of Los
7 Angeles; the Los Angeles Fire Department; Assistant Fire Chief Kristina Kepner,
8 individually and in her capacity as an Assistant Fire Chief; and Roy A. Paige, individually
9 and in his capacity as a Battalion Chief, seeking relief for the deprivation of their rights under
10 the United States Constitution, the California Constitution, and the California Labor Code.

11
12 **PRELIMINARY STATEMENT**

13 1. Captain Frank Lima is an active fire fighter with the Los Angeles Fire
14 Department (“LAFD”). He is also the General Secretary-Treasurer (“GST”) of the
15 International Association of Fire Fighters (“IAFF”), which represents approximately
16 350,000 fire fighters and emergency medical and rescue service workers in North America,
17 including approximately 3,600 fire fighters who protect and serve the citizens of the City of
18 Los Angeles (“City”) and are employed by the City. GST Lima is also a long-standing
19 member and former President of the United Firefighters of Los Angeles, IAFF Local 112
20 (“UFLAC”), where he has served in a variety of positions including Lead Contract
21 Negotiator, Executive Vice President and, for four years, President. In addition, GST Lima
22 also formerly served as a District Vice-President of IAFF, an elected position on IAFF’s
23 International Executive Board.

24 2. Throughout the over 30 years of his service with the LAFD and as an official
25 and President of UFLAC and an IAFF officer, GST Lima zealously advocated for fire
26 fighters in the City and around the nation on a variety of matters of public concern. GST
27 Lima is also an outspoken advocate for the rights of all workers and has openly supported
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1 the efforts of workers across the nation and, in particular, the City of Los Angeles to achieve
2 better terms and conditions of employment through collective bargaining.

3 3. On June 22, 2023, GST LÍma participated in a peaceful, permitted rally near
4 the Los Angeles International Airport in support of hotel workers engaged in a labor dispute
5 with their employers. Numerous religious leaders, community leaders, labor leaders, and
6 political leaders from the Los Angeles area also participated in the rally. GST LÍma, who
7 was at all material times off-duty from the LAFD, attended the rally as a private citizen and
8 as a union and community leader. He was among hundreds of people arrested at the rally,
9 including legislators, labor leaders, and clergy. At no time has GST LÍma been charged with
10 a crime, indicted for an alleged crime, or convicted of a crime.

11 4. Almost one year later, on June 3, 2024, GST LÍma received a written
12 reprimand from Defendant City of Los Angeles (**Exhibit A**) for his off-duty activities at the
13 peaceful protest, signed by Defendant LAFD Battalion Chief Roy A. Paige, relying
14 exclusively on his off-duty arrest for the imposition of discipline. The discipline was issued
15 by Defendant Battalion Chief Paige from the Defendant LAFD’s Professional Standards
16 Division. Upon information and belief, Defendant LAFD’s Professional Standards Division
17 is under the supervision and direction of Assistant Fire Chief Kristina Kepner.

18 5. By imposing discipline on GST LÍma pursuant to their policies and
19 procedures, Defendants violated his rights under federal and state law, including his First
20 Amendment rights. The Supreme Court has held that the First Amendment protects the
21 speech of public employees if they speak as citizens on a matter of public concern. The
22 California Constitution offers similar protections. Meanwhile, California labor law prevents
23 an arrest without a conviction from being considered for disciplinary purposes and protects
24 fire fighters’ right to engage in political activity.

25 6. By imposing discipline on GST LÍma pursuant to their policies and
26 procedures, Defendants also violated the rights of IAFF members in the United States and
27 UFLAC members in Los Angeles under the First Amendment of the United States
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1 Constitution and the California Constitution as it chills their interest in participating in
2 protected speech and associational conduct.

3 7. Plaintiffs seek injunctive relief and a declaratory judgment pursuant to 28
4 U.S.C. §§ 2201 and 2022, 42 U.S.C. §§ 1983 and 1988, and California law. Plaintiffs are
5 pursuing compensatory damages, attorneys’ fees and costs, and all other relief available
6 under 42 U.S.C. §§ 1983 and 1988.

7
8 **THE PARTIES**

9 8. Plaintiff GST Lima is an adult individual who resides in Ventura County,
10 California. GST Lima is a “citizen of the United States” as defined by 42 U.S.C. § 1983.
11 GST Lima is a fire fighter employed by Defendant LAFD, a public fire department. He has
12 served and protected the citizens of the City of Los Angeles throughout his employment with
13 the LAFD for approximately thirty-two years, including around twenty-three years as a
14 Captain. Now a Captain II, he is the LAFD’s most senior Captain and one of the most senior
15 members of the bargaining unit represented by UFLAC. GST Lima is also a member of
16 IAFF and the duly elected IAFF General Secretary-Treasurer, having been elected to that
17 position by the international delegates to the IAFF International Convention in 2021. GST
18 Lima is a member of UFLAC and served in various official positions at UFLAC for twelve
19 years including his service as the duly elected President of UFLAC for the four years prior
20 to his service to the International Union. As a union officer and member of UFLAC, GST
21 Lima has been outspoken about issues affecting his fellow fire fighters and union members
22 in the City of Los Angeles as well as across the United States and Canada. He has served for
23 more than twelve years as an elected Executive Board vice president of the Los Angeles
24 County Federation of Labor, AFL-CIO, one of the largest and most diverse county labor
25 councils in America representing over 800,000 workers. GST Lima continues to be active
26 on the California State Board of Fire Services, a Board that he was appointed to by both
27 Governor Brown and Governor Newsom.

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1 9. Plaintiff IAFF is a labor organization headquartered at 1750 New York
2 Avenue NW, Washington, DC, and a “citizen of the United States” as defined by 42 U.S.C.
3 § 1983. IAFF represents approximately 350,000 professional fire fighters, paramedics, and
4 other emergency responders in the United States and Canada. IAFF has members in more
5 than 3,500 IAFF local affiliates that protect citizens’ lives and property in nearly 6,000
6 communities in every state in the United States and province in Canada.

7 10. Plaintiff UFLAC is a labor organization headquartered at 1571 Beverly
8 Boulevard, Los Angeles, California, and a “citizen of the United States” as defined by 42
9 U.S.C. § 1983. UFLAC represents approximately 3,600 fire fighters and emergency medical
10 personnel protecting the citizens and residents of the City of Los Angeles.

11 11. Defendant City of Los Angeles is a “person” within the meaning of 42 U.S.C.
12 § 1983. Defendant City employs GST Lima and around 3,600 UFLAC members.

13 12. Defendant Los Angeles Fire Department is a “person” within the meaning of
14 42 U.S.C. § 1983. It provides fire fighting services as well as technical rescue services,
15 hazardous materials services and emergency medical services to the citizens of the City of
16 Los Angeles. Defendant LAFD employs GST Lima and around 3,600 UFLAC members.

17 13. Defendant Kristina Kepner is a LAFD Assistant Fire Chief and a final
18 policymaker in charge of the LAFD Professional Standards Division, which issues
19 discipline to fire personnel in accordance with LAFD policy.

20 14. At all times relevant, Defendant Kepner acted under color of state law and is
21 a “person” within the meaning of 42 U.S.C. § 1983, subject to liability for violations of the
22 First and Fourteenth Amendments to the United States Constitution.

23 15. Defendant Roy A. Paige is a LAFD Battalion Chief serving in the Professional
24 Standards Division and authorized to impose disciplinary action against fire fighters,
25 including GST Lima.

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1 represented by UFLAC. He was selected for the LAFD's highly specialized FEMA Urban
2 Search and Rescue team, and as a member of the that team, he was deployed to dangerous
3 emergencies in Los Angeles and around the country, including Ground Zero in Manhattan
4 following the terror attacks of September 11, 2001, and New Orleans following Hurricane
5 Katrina in 2005.

6 21. Although GST Lima has been on approved leave for IAFF union service
7 since 2016, he is a current employee of the City of Los Angeles primarily assigned to the
8 Fire Chief's office and San Pedro Fire Station 112. Notwithstanding his IAFF national
9 duties, GST Lima works approximately forty-eight hours per month for the LAFD in his
10 current position as a Captain II. He also remains active in the field as a mentor to current
11 fire fighters, training new generations of fire fighters in the use of fire fighting tools and
12 equipment, providing guidance on standard operating procedures and fire ground survival
13 procedures. GST Lima is a longtime advocate for fire fighters and a frequent IAFF,
14 UFLAC and California Professional Firefighters ("CPF") media commentator. The CPF is
15 the largest statewide organization dedicated to serving the needs of California's career fire
16 fighters and the officially chartered state association for IAFF. He has commented on
17 various issues related to public safety, including fire fighter staffing, pay, overtime, health
18 care and mental health amid the burgeoning number of mass shootings and dangerous
19 wildfires. *See, e.g.,* Amanda Morris, *Understaffed And Overworked: Firefighters*
20 *Exhausted By Severe California Fires*, NPR, Nov. 25, 2018,
21 [https://www.npr.org/2018/11/25/668716885/understaffed-and-overworked-firefighters-](https://www.npr.org/2018/11/25/668716885/understaffed-and-overworked-firefighters-exhausted-by-severe-california-fires)
22 [exhausted-by-severe-california-fires](https://www.npr.org/2018/11/25/668716885/understaffed-and-overworked-firefighters-exhausted-by-severe-california-fires) (quoting GST Lima).

23 22. GST Lima's advocacy on behalf of workers often involves interacting with a
24 variety of unions in the Los Angeles area as well as unions throughout the State of California
25 and across the United States and Canada. This often involves participating in the activities
26 of the constituent organizations of the Los Angeles County Federation of Labor AFL-CIO,
27 which collectively represent over 800,000 workers. These efforts have included leading
28 marches in support of the United Teachers of Los Angeles in 2019 and the rally in support

1 of striking hotel workers in 2023. GST Líma has been publicly supportive and involved in
2 numerous labor disputes involving other labor organizations in Southern California
3 including the International Brotherhood of Teamsters, the United Food and Commercial
4 Workers, the Screen Actors Guild-American Federation of Television and Radio Artists, the
5 Writers Guild of America, International Alliance of Theatrical Stage Employees, the Bakery
6 and Confectionery Workers International Union of America, and the Los Angeles/Orange
7 County Building Trades.

8 23. On June 22, 2023, GST Líma participated in a peaceful, nonviolent permitted
9 rally near the Los Angeles International Airport in support of striking hotel workers as a
10 private citizen, a community activist, and a national and local union leader.

11 24. The rally was organized by UNITE HERE Local 11, a labor organization
12 that represents over 32,000 workers employed in hotels, restaurants, airports, sports arenas,
13 and convention centers throughout Southern California and Arizona and is a member of the
14 Los Angeles County Federation of Labor AFL-CIO. Local 11 had called upon union leaders,
15 community leaders, and politicians throughout California to support Los Angeles hotel
16 workers in its effort to obtain fair wages and healthcare benefits. The participants at the rally,
17 including GST Líma, were protesting the employer's failure to treat the hotel workers with
18 dignity and respect. The rally also protested the lack of affordable housing in the greater Los
19 Angeles area and the difficulty working people encountered when attempting to find housing
20 near their workplaces. Hundreds of room attendants, cooks, dishwashers and their
21 community allies and supporters participated in the rally. The organizers coordinated with
22 the Los Angeles Police Department ("LAPD") in advance of the rally to assure them the
23 activities would be peaceful and nonviolent and informed them that a number of leaders
24 would engage in traditional acts of peaceful civil disobedience in order to bring publicity to
25 their cause. Because this could lead to arrests for the acts of peaceful civil disobedience,
26 LAPD made arrangements ahead of time to arrest and process protesters near the site of the
27 rally so as to expedite the process of arresting and quickly releasing those who were to be
28 arrested.

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1 25. GST LÍma, who was off-duty from the LAFD at all material times, was among
2 hundreds of supporters arrested at the rally for peacefully sitting in a roadway, including
3 state and city legislators, other labor leaders, and members of the clergy. Those arrested
4 included California Assemblywoman Wendy Carrillo and Los Angeles City
5 Councilmembers Nithya Raman and Hugo Soto-Martínez. When GST LÍma was arrested,
6 he was sitting next to fellow protester Teresa Romero, the General President of the United
7 Farm Workers of America and a recipient of the Presidential Medal of Freedom that was
8 awarded by President Biden in 2024. The rally, and the hotel workers' plight that was the
9 focus of the rally, received significant media coverage including segments on local television
10 and articles in local newspapers. The arrests were peaceful and without incident. The
11 protesters, including GST LÍma, complied with all instructions of the police with respect to
12 the arrest.

13 26. As photos of the arrest (**Exhibit B**) establish, GST LÍma was wearing a shirt
14 with the IAFF logo clearly identifying him as a union leader — not clothing or any other
15 item that could in any way identify him as a LAFD employee. At no time during the rally or
16 arrest process did GST LÍma make any statement or comment referring to or mentioning his
17 status as an employee of the LAFD.

18 27. GST LÍma was released after his arrest at the scene of the rally. He was in
19 custody for less than ten minutes. Other protesters also arrested at the scene were quickly
20 released. After he was released, GST LÍma did not return to the rally.

21 28. Consistent with established LAFD protocol, GST LÍma promptly reported his
22 arrest to Assistant Fire Chief Kristina Kepner of Defendant LAFD's Professional Standards
23 Division on June 23, 2023 — the day immediately following his arrest. He was directed to
24 contact the Professional Standards office in the future if he was required to appear in court
25 as a result of his arrest. Since the time of his arrest, GST LÍma has never been contacted
26 orally or in writing, directly or indirectly, from any law enforcement or prosecutorial
27 officials and has never been directed to appear in court as a result of his arrest.

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1 29. GST LÍma was not, and cannot be, charged with a crime related to his arrest
2 or participation in the rally. The period of time provided under state law for charging crimes
3 related to failure to disperse or any other crime he could conceivably be charged with has
4 lapsed.

5 30. Upon information and belief, no other attendees arrested at the rally have been
6 charged with a crime related to the rally.

7 31. It was not until October 30, 2023, that GST LÍma was questioned about his
8 arrest at the rally by an internal affairs investigator of Defendant LAFD’s Professional
9 Standards Division. He truthfully and accurately reported that he was arrested on June 22,
10 2023, while participating in a peaceful, nonviolent rally that was not related to the LAFD or
11 his position as an employee of the LAFD. The interview lasted approximately five minutes.

12 32. GST LÍma heard nothing further from the Defendant LAFD regarding his
13 arrest until approximately seven months later when, on June 3, 2024, he was served with a
14 written reprimand from Defendant LAFD concerning his arrest “for failure to disperse from
15 a protest declared an unlawful assembly.” The reprimand was signed by Defendant Paige
16 and indicated he was the Initiating Officer. As an official of the Professional Standards
17 Division, Defendant Paige reports to Assistant Fire Chief Kepner.

18 33. On June 3, 2024, GST LÍma was served with the notice of discipline by
19 Captain Silverman of LAFD’s Professional Standards Division at the Frank Hotchkin
20 Memorial Training Center, the training center for the LAFD. GST LÍma was present in his
21 LAFD Captain’s uniform at the Center at the invitation of the LAFD to address newly
22 promoted fire Captains. He shared his experience as the senior most Captain II in the LAFD.
23 He also provided guidance and advice based on his experience in emergency and
24 nonemergency incidents while serving as an LAFD Captain.

25 34. Specifically, the notice of discipline alleged GST LÍma violated Section 10 of
26 the LAFD’s Rules, which requires that members of the LAFD “[f]amiliarize themselves with
27 and be obedient to the rules, regulations, practices ... and procedures of the Department.”
28 The discipline also claimed that GST LÍma’s activity somehow violated Section 13 of the

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1 Rules, which demands that all members of the LAFD “[b]e governed by the ordinary and
2 reasonable rules of behavior observed by law-abiding and self-respecting citizens” and
3 “[c]onduct themselves in a manner which will not tend to impair the good order and
4 discipline of the Department.”

5 35. The existence of this discipline will adversely impact GST LÍma’s promotional
6 opportunities within the LAFD, and therefore his earning potential, and also serve as the
7 basis for harsher discipline to be imposed on him by the LAFD in the future, including
8 unpaid suspensions or even discharge. Throughout his years of service with LAFD, GST
9 LÍma has been the first in his class to be promoted to higher level positions. The existence
10 of the improperly imposed discipline will impede and adversely impact his promotional
11 opportunities within the LAFD because discipline is a factor in promotional decisions.

12 36. On June 12, 2024, GST LÍma filed a grievance protesting the discipline
13 pursuant to the provisions of the Memorandum of Understanding (“MOU”) between
14 UFLAC and Defendant LAFD. To date, the LAFD has not resolved the grievance.

15 37. In his position as the second-highest elected official in IAFF, hundreds of
16 thousands of IAFF members, including thousands of UFLAC members, view GST LÍma as
17 one of their most important leaders, advocates and union officials. The improper disciplining
18 of such a prominent union leader sends the message to these members that they can be
19 disciplined by their fire departments for engaging in protected speech and associational
20 activity. The conduct of the Defendants in improperly disciplining GST LÍma has and will
21 chill the exercise of the rights of IAFF and UFLAC members protected by federal and state
22 law.

23 38. GST LÍma was disciplined pursuant to an official policy, practice or custom
24 maintained by the Defendants of disciplining LAFD employees who are arrested but not
25 charged for their participation in a peaceful rally.

26 39. The application of this official policy, practice, or custom maintained by the
27 Defendants is unconstitutional and illegal under the United States Constitution, the
28 California Constitution, and the California Labor Code.

1 40. Attending rallies to support working people — including fire fighters, City
2 employees, and employees of private organizations — in their attempts to better their
3 working conditions is central to the purpose of IAFF and UFLAC.

4 41. The discipline of GST Líma has caused other UFLAC members to raise
5 questions and concerns about the application of this official policy, practice, or custom
6 maintained by the Defendants to their own activities. At the June 2024 meeting of the
7 UFLAC Executive Board, members of the Executive Board shared these concerns directly
8 with GST Líma and conveyed their concern that they and other UFLAC members could be
9 put at risk for exercising their own rights to engage in conduct like his — *i.e.*, speaking out
10 about matters of public concern, participating in peaceful protests or public demonstrations,
11 and other such conduct protected under the United States Constitution, the California
12 Constitution, and the California Labor Code. At the meeting, UFLAC President Freddy
13 Escobar discussed the significance of this issue with the Executive Board members and GST
14 Líma, and the Board unanimously supported the effort to challenge the Defendants' conduct
15 in order to protect the rights of UFLAC members.

16 42. CPF President Brian Rice has discussed with GST Líma the impact of the
17 official policy, practice, or custom maintained by the Defendants on the members of his
18 organization who work throughout California. As the chartered state association of IAFF,
19 the CPF's mission aligns with that of IAFF, focusing on improving the lives and working
20 conditions of career fire fighters, including areas such as workplace safety and health,
21 pensions, survivor benefits, and training. Among other things, President Rice conveyed that
22 the Defendants' actions undermine the protections afforded California's 35,000 professional
23 fire fighters under the California Constitution and the California Labor Code, as Defendants'
24 policy, practice and custom would leave fire fighters subject to potential discipline for
25 speaking out about matters of public concern or engaging in peaceful protests and public
26 demonstrations.

27 43. Similar to the questions and concerns raised by UFLAC members and officials
28 and CPF President Rice, GST Líma has received questions and concerns from IAFF national

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1 officials, and his discipline was an issue of discussion and concern at IAFF’s June 2024
2 Executive Board meeting in Boston, Massachusetts, attended by all IAFF officers and a
3 number of IAFF members. IAFF General President Edward Kelly and other Executive
4 Board members expressed the concern that the application of this official policy, practice,
5 or custom maintained by the Defendants sends the message to members across the United
6 States and Canada that even the second-highest elected official in IAFF can be disciplined for
7 exercising rights protected under law. In addition, 14th District Vice President Danny Todd,
8 the duly elected District Vice President representing IAFF members in Alabama, Arkansas,
9 Louisiana, Mississippi, and Tennessee, and 12th District Vice President Walter Dix, the duly
10 elected District Vice President representing IAFF members in Florida, Georgia, North
11 Carolina, South Carolina, Puerto Rico, and the Caribbean Islands, expressed concern that
12 members in their geographic areas in particular — areas generally without provisions
13 enabling public collective bargaining — would be reluctant to engage in union and other
14 protected activities because GST Lima, the second-highest elected official in IAFF, could be
15 subjected to improper discipline for exercising rights protected under law.

16 44. Defendants’ retaliation against and improper disciplining of GST Lima is not
17 only an injury to Lima, but an injury to all IAFF and UFLAC members.

18 **STATEMENT OF CLAIMS**

19
20 **COUNT I**

21
22 42 U.S.C. § 1983 — Violation of Plaintiff’s Rights to Free Speech
23 Pursuant to the First and Fourteenth Amendments to the United States
24 Constitution
25 (GST Lima v. all Defendants)
26

27 45. GST Lima incorporates by reference the allegations in Paragraphs 1 through
28 44, as if fully set forth herein.

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1 46. GST LÍma’s right to speak freely about matters of public concern is protected
2 by the First and Fourteenth Amendments to the United States Constitution. Public and
3 private citizens have a vital interest in free and open discussion on issues of public interest
4 and importance.

5 47. It is a violation of the First and Fourteenth Amendments to the United States
6 Constitution for public employers, including Defendants, to discriminate against or
7 discipline employees in retaliation for engaging as a private citizen in speech about matters
8 of public interest and concern.

9 48. GST LÍma attended the rally on June 22, 2023, to support striking hotel
10 workers while off-duty in his capacity as a union officer, union member, labor leader and
11 private citizen. GST LÍma is a prominent public spokesperson and advocate for the labor
12 community and the interests of the working middle class in Los Angeles, California, and
13 across the United States. The issues raised by the rally are matters of public interest and
14 concern, and GST LÍma’s right to engage in speech about such issues and participate in
15 protest activity and demonstrations about such issues is protected by the First and Fourteenth
16 Amendments to the United States Constitution.

17 49. By serving the improper discipline on June 3, 2024, Defendants, acting
18 individually and/or jointly, discriminated against and disciplined GST LÍma for speaking
19 publicly about matters of public interest and concern and attending and participating in the
20 June 22, 2023, rally. In so doing, Defendants discriminated against and disciplined GST
21 LÍma in retaliation for engaging in activity protected by the First and Fourteenth
22 Amendments’ guarantee of the right of free speech.

23 50. Such conduct by Defendants was done in a knowing, willful, wanton, reckless,
24 and bad faith manner, which violates clearly established constitutional provisions and rights
25 that a reasonable person would have known.

26 51. As a direct, foreseeable, and proximate result of Defendants’ unlawful
27 conduct, GST LÍma has suffered, and continues to suffer, injuries and irreparable harm.

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1 private citizen. The issues raised by the rally are matters of public interest and concern, and
2 GST Lima’s right to engage in speech about such issues and participate in protest activity
3 and demonstrations about such issues is protected by the First and Fourteenth Amendments
4 to the United States Constitution.

5 58. The improper discipline served on June 3, 2024, has caused concern among
6 UFLAC and IAFF members about the exercise of their right to engage in speech about
7 matters of public interest and concern as private citizens. These concerns have been
8 conveyed to the leadership of IAFF and UFLAC. Consequently, Defendants, acting
9 individually and/or jointly, have chilled the exercise of rights protected by the First and
10 Fourteenth Amendments to the United States Constitution.

11 59. Such conduct by Defendants was done in a knowing, willful, wanton, reckless,
12 and bad faith manner, which violates clearly established constitutional provisions and rights
13 that a reasonable person would have known.

14 60. As a direct, foreseeable, and proximate result of Defendants’ unlawful
15 conduct, the members of IAFF and UFLAC have suffered, and continue to suffer, injuries
16 and irreparable harm.

17 61. IAFF and UFLAC members would have standing to sue for this violation in
18 their own right because their constitutional right to free speech has been chilled and
19 threatened.

20 62. As labor unions, engaging in protected First Amendment activities such as
21 attending rallies to support working people and improve their working conditions is central
22 to the purpose of IAFF and UFLAC. Thus, IAFF’s and UFLAC’s interests in eliminating
23 and redressing Defendant’s conduct which restrains members’ First and Fourteenth
24 Amendment rights to participate in rallies and other protected First Amendment activities to
25 support working people are germane to these organizations’ purpose.

26 63. Defendants’ conduct complained of herein infringes upon all IAFF and
27 UFLAC members’ First and Fourteenth Amendment rights in an identical manner, and all
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1 IAFF and UFLAC members therefore have an identical right to redress such a violation of
2 their First and Fourteenth Amendment rights.

3 64. Under 42 U.S.C. § 1983, “every person who, under color of any statute,
4 ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia,
5 subjects, or causes to be subjected, any citizen of the United States or other person within
6 the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by
7 the Constitution and laws, shall be liable to the party injured in an action at law, suit in
8 equity, or other proper proceeding for redress.” Thus, Defendants are fully liable to IAFF
9 and UFLAC for their injuries resulting from violation of the First and Fourteenth
10 Amendments.

11 65. Defendants are also liable for IAFF’s and UFLAC’s reasonable attorneys’ fees
12 and costs pursuant to 42 U.S.C. § 1988(b).

13
14 **COUNT III**

15
16 42 U.S.C. § 1983 — Violation of Plaintiff’s Right to Freedom of Association
17 Pursuant to the First and Fourteenth Amendments to the United States
18 Constitution
19 (GST Líma v. all Defendants)

20
21 66. GST Líma incorporates by reference the allegations in Paragraphs 1 through
22 44, as if fully set forth herein.

23 67. GST Líma’s right to freely associate with a labor organization is protected by
24 the First and Fourteenth Amendments of the United States Constitution. Specifically, the
25 First and Fourteenth Amendments protect the right of a public employee to engage in union
26 activity, including attending a rally with other union leaders and engaging in concerted union
27 activities. The public has a vital interest in such free association.
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1 68. GST LÍma attended the rally on June 22, 2023, to support striking hotel
2 workers while off-duty in his capacity as a union officer, union member, labor leader and
3 private citizen. The issues raised by the rally are matters of public interest and concern, and
4 GST LÍma’s right to associate with others and participate in protest activity and
5 demonstrations about such issues is protected by the First and Fourteenth Amendments to
6 the United States Constitution.

7 69. By serving the improper discipline on June 3, 2024, Defendants, acting
8 individually and/or jointly, retaliated against and disciplined GST LÍma for engaging in
9 protected associational activity — namely, his attendance at and participation in the union
10 rally on June 22, 2023. In so doing, Defendants discriminated against and disciplined GST
11 LÍma in retaliation for engaging in activity protected by the First and Fourteenth
12 Amendments’ guarantee of the right of association.

13 70. Such conduct by Defendants was done in a knowing, willful, wanton, reckless,
14 and bad faith manner, which violates clearly established constitutional provisions and rights
15 that a reasonable person would have known.

16 71. As a direct, foreseeable, and proximate result of Defendants’ unlawful
17 conduct, GST LÍma has suffered, and continues to suffer, injuries and irreparable harm.

18 72. Under 42 U.S.C. § 1983, “every person who, under color of any statute,
19 ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia,
20 subjects, or causes to be subjected, any citizen of the United States or other person within
21 the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by
22 the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity,
23 or other proper proceeding for redress.” Thus, Defendants are liable to GST LÍma for his
24 injuries resulting from Defendants’ retaliation and discipline in violation of the First and
25 Fourteenth Amendments.

26 73. Defendants are also liable for GST LÍma’s reasonable attorneys’ fees and costs
27 pursuant to 42 U.S.C. § 1988(b).

28

COUNT IV

42 U.S.C. § 1983 — Violation of Plaintiffs’ Right to Freedom of Association

Pursuant to the First and Fourteenth Amendments to the United States

Constitution

(IAFF and UFLAC v. all Defendants)

74. IAFF and UFLAC incorporate by reference the allegations in Paragraphs 1 through 44, as if fully set forth herein.

75. IAFF members’ and UFLAC members’ right to freely associate is protected by the First and Fourteenth Amendments of the United States Constitution. The public has a vital interest in such free association.

76. It is a violation of the First and Fourteenth Amendments of the United States Constitution for public employers, including Defendants, to discriminate against, discipline, or discharge employees for exercising their rights to free association.

77. At all relevant times, GST Lima was an officer of IAFF, a labor organization to which approximately 350,000 fire fighters, including approximately 3,600 employed by Defendant City, belong, and a UFLAC member. GST Lima regularly participated in the activities of these labor organizations and acted as a spokesperson for their members on matters of public interest and concern, including fire fighter compensation and fire fighter safety.

78. At all relevant times, Defendants were aware of GST Lima’s association with IAFF and UFLAC because GST Lima regularly participated in the activities of these labor organizations and acted as a spokesperson for their members on matters of public interest and concern, including fire fighter compensation and fire fighter safety.

79. By serving the improper discipline on June 3, 2024, Defendants, acting individually and/or jointly, chill the free association of IAFF and UFLAC members, among other organizations, and intimidate other fire personnel and community members from

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1 similarly associating with or actively participating in protected union associational activities
2 for fear of being disciplined for participating in constitutionally protected activities.

3 80. Such conduct by Defendants was done in a knowing, willful, wanton, reckless,
4 and bad faith manner, which violates clearly established constitutional provisions and rights
5 that a reasonable person would have known.

6 81. As a direct, foreseeable, and proximate result of Defendants' unlawful
7 conduct, IAFF and UFLAC members have suffered irreparable harm.

8 82. IAFF and UFLAC members would have standing to sue for this violation in
9 their own right because their constitutional right to free association has been chilled and
10 threatened.

11 83. As labor unions, the central purpose of IAFF and UFLAC is to bring
12 working people together to improve their working conditions and fight injustice. Thus,
13 IAFF's and UFLAC's interests in eliminating and redressing Defendants' conduct which
14 restrains members' First and Fourteenth Amendment rights to so associate with IAFF and
15 UFLAC and engage in union activities are germane to these organizations' purpose.

16 84. Defendants' conduct complained of herein infringes upon all IAFF and
17 UFLAC members' First and Fourteenth Amendment rights in an identical manner, and all
18 IAFF and UFLAC members therefore have an identical right to redress such a violation of
19 their First and Fourteenth Amendment rights.

20 85. Under 42 U.S.C. § 1983, "every person who, under color of any statute,
21 ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia,
22 subjects, or causes to be subjected, any citizen of the United States or other person within
23 the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by
24 the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity,
25 or other proper proceeding for redress." Thus, Defendants are fully liable to IAFF and
26 UFLAC members for their injuries resulting from Defendants' retaliation and discipline of
27 GST LÍma in violation of the First and Fourteenth Amendment.

28

1 86. Defendants are also liable for IAFF’s reasonable attorneys’ fees, UFLAC’s
2 reasonable attorneys’ fees, and these organizations’ costs pursuant to 42 U.S.C. § 1988(b).

3
4 **COUNT V**

5 Violation of Plaintiff’s Right to Freedom of Speech

6 Pursuant to Article I of the California Constitution

7 (GST Líma v. all Defendants)

8
9 87. GST Líma incorporates by reference the allegations in Paragraphs 1 through
10 44, as if fully set forth herein.

11 88. GST Líma’s right to attend a rally with other union leaders and/or to engage
12 in protected union activity is protected by the California Constitution. CAL. CONST. art. I, §
13 2.

14 89. GST Líma’s right to speak freely about matters of public interest and concern
15 is protected by the California Constitution. The public has a vital interest in free and open
16 discussion on issues of public interest and importance.

17 90. It is a violation of the California Constitution for public employers, including
18 Defendants, to discriminate against or discipline employees in retaliation for engaging as a
19 private citizen in speech about matters of public concern.

20 91. GST Líma attended the rally to support striking hotel workers while off-duty
21 in his capacity as a union officer, labor leader, union member, and private citizen. The issues
22 protested by the rally participants are matters of public interest and concern, and GST Líma’s
23 right to speak on such issues, and engage in demonstrations and protest activities over such
24 issues, is protected by the California Constitution.

25 92. By service of the improper discipline on June 3, 2024, Defendants, acting
26 individually and/or jointly, discriminated against and disciplined GST Líma for speaking
27 publicly about matters of public interest and concern. In so doing, Defendants discriminated
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1 against and disciplined GST Lima in retaliation for engaging in activity protected by the
2 California Constitution’s guarantee of the right of speech.

3 93. Such conduct by Defendants was done in a knowing, willful, wanton, reckless,
4 and bad faith manner, which violates clearly established constitutional provisions and rights
5 that a reasonable person would have known.

6 94. Plaintiffs seek only declaratory and injunctive relief under this Count.

7
8 **COUNT VI**

9 Violation of Plaintiffs’ Right to Freedom of Speech

10 Pursuant to Article I of the California Constitution

11 (IAFF and UFLAC v. all Defendants)

12
13 95. IAFF and UFLAC incorporate by reference the allegations in Paragraphs 1
14 through 44, as if fully set forth herein.

15 96. The right of GST Lima, an IAFF officer and UFLAC member, to attend a rally
16 with other union leaders and/or to engage in protected union activity is protected by the
17 California Constitution. CAL. CONST. art. I, § 2.

18 97. The right of GST Lima, an IAFF officer and UFLAC member, to speak freely
19 about matters of public interest and concern is protected by the California Constitution. The
20 public has a vital interest in free and open discussion on issues of public interest and
21 importance.

22 98. It is a violation of the California Constitution for public employers, including
23 Defendants, to discriminate against or discipline employees in retaliation for engaging as a
24 private citizen in speech about matters of public concern.

25 99. GST Lima, an IAFF officer and UFLAC member, attended the rally to support
26 striking hotel workers while off-duty in his capacity as a union officer, labor leader, union
27 member, and private citizen. The issues protested by the rally participants are matters of
28 public interest and concern, and GST Lima’s right to speak on such issues, and engage in

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1 demonstrations and protest activities over such issues, is protected by the California
2 Constitution.

3 100. The improper discipline served on June 3, 2024, has caused concern among
4 UFLAC and IAFF members about the exercise of their right to engage in speech about
5 matters of public interest and concern as private citizens. These concerns have been
6 conveyed to the leadership of IAFF and UFLAC. Consequently, Defendants, acting
7 individually and/or jointly, have chilled the exercise of rights protected by the California
8 Constitution.

9 101. Such conduct by Defendants was done in a knowing, willful, wanton, reckless,
10 and bad faith manner, which violates clearly established constitutional provisions and rights
11 that a reasonable person would have known.

12 102. By serving the improper discipline on June 3, 2024, Defendants, acting
13 individually and/or jointly, discriminated against and disciplined GST LÍma, an IAFF officer
14 and UFLAC member, for speaking publicly about matters of public interest and concern. In
15 so doing, Defendants' discipline of a member of IAFF and UFLAC for engaging in activity
16 protected by the California Constitution's guarantee of the right of speech chills all IAFF
17 and UFLAC members from engaging in similar protected speech activities.

18 103. IAFF and UFLAC members would have standing to sue for this violation in
19 their own right because their right to free speech under the California Constitution has been
20 chilled and threatened.

21 104. As labor unions, engaging in protected activities such as attending rallies to
22 support working people and improve their working conditions is central to the purpose of
23 IAFF and UFLAC. Thus, IAFF's and UFLAC's interests in eliminating and redressing
24 Defendant's conduct which restrains members' rights under the California Constitution to
25 participate in rallies and other protected activities to support working people are germane to
26 these organizations' purpose.

27 105. Defendants' conduct complained of herein infringes upon all IAFF and
28 UFLAC members' rights under the California Constitution an identical manner, and all IAFF

1 and UFLAC members therefore have an identical right to redress such a violation of their
2 rights under the California Constitution.

3 106. Plaintiffs seek only declaratory and injunctive relief under this Count.

4
5 **COUNT VII**

6 Violation of Plaintiff’s Right to Freedom of Assembly

7 Pursuant to Article I of the California Constitution

8 (GST Líma v. all Defendants)

9
10 107. GST Líma incorporates by reference the allegations in Paragraphs 1 through
11 44, as if fully set forth herein.

12 108. GST Líma’s right to attend a rally with other union leaders is protected by the
13 California Constitution. CAL. CONST. art. I, § 3.

14 109. It is a violation of the California Constitution for public employers, including
15 Defendants, to discriminate against or discipline employees in retaliation for attending a
16 rally.

17 110. GST Líma attended the rally on June 22, 2023, to support striking hotel
18 workers while off-duty in his capacity as a union officer, labor leader, union member, and
19 private citizen. The issues raised by the rally are matters of public interest and concern, and
20 GST Líma’s right to associate with others and participate in protest activity and
21 demonstrations about such issues is protected by the California Constitution.

22 111. At all relevant times, Defendants were aware of GST Líma's association with
23 labor organizations, because GST Líma regularly participated in the activities of labor
24 organizations and acted as a spokesperson for their members on matters of public interest
25 and concern, including fire fighter compensation and fire fighter safety, as well as the
26 advancement of labor and employee rights generally.

27 112. By issuing the improper discipline on June 3, 2024, Defendants, acting
28 individually and/or jointly, discriminated against and disciplined GST Líma for exercising

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1 his right to free assembly. In so doing, Defendants discriminated against and disciplined
2 GST Líma in retaliation for engaging in activity protected by the California Constitution’s
3 guarantee of the right to free assembly.

4 113. By so doing, Defendants unlawfully chilled GST Líma from engaging in
5 associational activities including, but not limited to, attending public and labor rallies.

6 114. Such conduct by Defendants was done in a knowing, willful, wanton, reckless,
7 and bad faith manner, which violates clearly established constitutional provisions and rights
8 that a reasonable person would have known.

9 115. Plaintiffs seek only declaratory and injunctive relief under this Count.

10 **COUNT VIII**

11 **Violation of Plaintiffs’ Right to Freedom of Assembly**

12 **Pursuant to Article I of the California Constitution**

13 **(IAFF and UFLAC v. all Defendants)**

14 116. IAFF and UFLAC incorporate by reference the allegations in Paragraphs 1
15 through 44, as if fully set forth herein.

16 117. The right of GST Líma, an IAFF officer and UFLAC member, to attend a rally
17 with other union leaders is protected by the California Constitution. CAL. CONST. art. I, § 3.
18 The public has a vital interest in such free association.

19 118. It is a violation of the California Constitution for public employers, including
20 Defendants, to discriminate against or discipline employees in retaliation for attending a
21 rally and exercising their rights to free association.

22 119. At all relevant times, GST Líma was an officer of IAFF, a labor organization
23 to which approximately 350,000 fire fighters, including approximately 3,600 employed by
24 Defendant City, belong, and a UFLAC member. GST Líma regularly participated in the
25 activities of these labor organizations and acted as a spokesperson for their members on
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1 matters of public interest and concern, including fire fighter compensation and fire fighter
2 safety.

3 120. At all relevant times, Defendants were aware of GST Lima’s association
4 with IAFF and UFLAC because GST Lima regularly participated in the activities of these
5 labor organizations and acted as a spokesperson for their members on matters of public
6 interest and concern, including fire fighter compensation and fire fighter safety.

7 121. By serving the improper discipline on June 3, 2024, Defendants, acting
8 individually and/or jointly, chill the free association of IAFF and UFLAC members, among
9 other organizations, and intimidate other fire personnel and community members from
10 similarly associating with or actively participating in protected union associational activities
11 for fear of being disciplined for participating in constitutionally protected activities. Such
12 conduct by Defendants was done in a knowing, willful, wanton, reckless, and bad faith
13 manner, which violates clearly established constitutional provisions and rights that a
14 reasonable person would have known.

15 122. IAFF and UFLAC members would have standing to sue for this violation in
16 their own right because their right to free association under the California Constitution has
17 been chilled and threatened.

18 123. As labor unions, the central purpose of IAFF and UFLAC is to bring
19 working people together to improve their working conditions and fight injustice. Thus,
20 IAFF’s and UFLAC’s interests in eliminating and redressing Defendant’s conduct which
21 restrains members’ rights under the California Constitution to so associate with IAFF and
22 UFLAC and engage in union activities are germane to these organizations’ purpose.

23 124. Defendants’ conduct complained of herein infringes upon all IAFF and
24 UFLAC members’ rights under the California Constitution in an identical manner, and all
25 IAFF and UFLAC members therefore have an identical right to redress such a violation of
26 their rights under the California Constitution.

27 125. Plaintiffs seek only declaratory and injunctive relief under this Court.
28

COUNT IX

Violation of Plaintiff’s Rights
Pursuant to the California Labor Code
(GST Líma v. all Defendants)

126. GST Líma incorporates by reference the allegations in Paragraphs 1 through 44, as if fully set forth herein.

127. State law prevents employers, including public agencies, from considering any arrest that did not result in conviction as “a factor in determining any condition of employment,” including discipline and promotion. CAL. LAB. CODE § 432.7(a); *Pitman v. City of Oakland*, 243 Cal. Rptr. 306, 309 (Ct. App. 1st Dist. 1988) (finding information about a public employee’s “mere arrest” cannot be used for disciplinary purposes); *Sahakyan v. City of Los Angeles*, No. B308113, 2023 BL 1456, at *8 (Cal. Ct. App. 2d Dist. Jan. 4, 2023) (dismissal of public employee impermissible “merely on the fact of the arrest itself”).

128. GST Líma has not been charged with a crime related to his arrest or participation in rally on June 22, 2023.

129. GST Líma *cannot* be charged with a crime related to his arrest or participation in the rally, as the statute of limitations on charging crimes related to failure to disperse or any other crime he could conceivably be charged with has lapsed.

130. By issuing the discipline on May 20, 2024, and disciplining GST Líma for a mere arrest that cannot result in a criminal conviction, Defendants violated the California Labor Code.

131. As a direct, foreseeable, and proximate result of Defendants’ unlawful conduct, GST Líma has suffered, and continues to suffer, injuries and irreparable harm.

132. These actions, omissions, and decisions of Defendants are contrary to the declared public policy of the State of California and in violation of § 432.7 of the California

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1 Labor Code, and GST LÍma seeks declaratory and injunctive relief preventing Defendants
2 from violating their obligations under this statute.

3 133. Plaintiffs seek only declaratory and injunctive relief under this Count.

4

COUNT X

5

Violation of Plaintiff’s Rights

6

Pursuant to the California Firefighters Procedural Bill of Rights

7

(GST LÍma v. all Defendants)

8

9

10 134. GST LÍma incorporates by reference the allegations in Paragraphs 1 through
11 44, as if fully set forth herein.

12 135. The California Firefighters Procedural Bill of Rights assures the right of off-
13 duty fire fighters to engage in political activity. CAL. GOV’T CODE § 3252(a).

14 136. By serving the discipline on GST LÍma on June 3, 2024, and disciplining GST
15 LÍma for political activity that he engaged in while off-duty, Defendants denied his right to
16 engage in political activity in violation of California Firefighters Procedural Bill of Rights.
17 CAL. GOV’T CODE § 3252(a).

18 137. As a direct, foreseeable, and proximate result of Defendants’ unlawful
19 conduct, GST LÍma has suffered, and continues to suffer, injuries and irreparable harm.

20 138. These actions, omissions, and decisions of Defendants are contrary to the
21 declared public policy of the State of California and in violation of § 3252(a) of the
22 California Government Code, and GST LÍma seeks declaratory and injunctive relief
23 preventing Defendants from violating their obligations under this statute.

24 139. Plaintiffs seek only declaratory and injunctive relief under this Count.

25

REQUESTS FOR RELIEF

26

27 Accordingly, Plaintiffs request that this Court enter judgment on their behalf and enter an
28 order directing the award of other relief, as follows:

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1 A. Declaring that Defendants unlawfully violated Plaintiffs’ rights and privileges
2 secured by the First and Fourteenth Amendments to the United States Constitution;

3 B. Declaring that Defendants unlawfully violated Plaintiffs’ rights and privileges
4 secured by Article I of the California Constitution;

5 C. Declaring that Defendants unlawfully violated GST Líma’s rights under
6 California law;

7 D. Entering preliminary and permanent injunctions restraining and preventing
8 Defendants from interfering with and infringing upon Plaintiffs’ rights under the First and
9 Fourteenth Amendments to the United States Constitution, Article I of the California
10 Constitution, and California law; and from otherwise ignoring Defendant’s obligations
11 under the United States Constitution, California Constitution, and California law with
12 respect to Plaintiffs and all other persons similarly situated;

13 E. Ordering Defendants to rescind the retaliatory, discriminatory, and otherwise
14 unlawful discipline they issued GST Líma;

15 F. Awarding GST Líma compensatory damages for injuries to redress violations
16 of the United States Constitution;

17 G. Awarding Plaintiffs punitive damages to redress the knowing, willful, wanton,
18 reckless, and bad faith nature of Defendants’ violation of his United States Constitutional
19 rights;

20 H. Awarding Plaintiffs costs and attorneys’ fees pursuant to 42 U.S.C. § 1988 or
21 any applicable statute or authority;

22 I. Awarding Plaintiffs any other relief to which they are entitled and/or which
23 this Court deems necessary and proper.

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A jury trial is demanded for all claims triable by jury.

Respectfully submitted,

DATED: July 29, 2024

JOHN R. MOONEY
(Motion for Admission Pro Hac Vice to Follow)
PETER J. LEFF
(Motion for Admission Pro Hac Vice to Follow)
MATTHEW WATTS
(Motion for Admission Pro Hac Vice to Follow)
MOONEY, GREEN, SAINDON, MURPHY &
WELCH, P.C.

By: /s/ John R. Mooney
JOHN R. MOONEY
Attorneys for Frank Lima, International Association
of Firefighters and United Firefighters of Los
Angeles City, IAFF Local 112

DATED: July 29, 2024

DANA S. MARTINEZ
BUSH GOTTLIEB, A Law Corporation

By: /s/ Dana S. Martinez
DANA S. MARTINEZ
Attorneys for Frank Lima, International Association
of Firefighters and United Firefighters of Los
Angeles City, IAFF Local 112

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Exhibit A

F-1105 (4/21)

CITY OF LOS ANGELES
DEPARTMENT OF FIRE

Distribution:

Part 1 – Member

Part 2 – Professional Standards Division

Part 3 – Personnel Services Section

REPRIMAND

MEMBER'S EID:

35181

DATE:

May 20, 2024

DTS NUMBER:

23-0295-01

NAME:

Franklin V. Lima

RANK:

Captain II

ASSIGNMENT:

Fire Chiefs Office

You are hereby issued this F-1105/Reprimand for the following violations of the Department Rules and Regulations:

Los Angeles City Fire Department Rules and Regulations:

Section 10 All members shall:

- f. Familiarize themselves with and be obedient to the rules, regulations, practices and practices and procedures of the Department.

Section 13 All members shall:

- a. Be governed by the ordinary and reasonable rules of behavior observed by law-abiding and self-respecting citizens.
- d. Conduct themselves in a manner which will not tend to impair the good order and discipline of the Department.

In that you, Franklin V. Lima, did, on June 22, 2023, violate Los Angeles City Fire Department rules, regulations, practices, and procedures when you were arrested by the Los Angeles Police Department for failure to disperse from a protest declared an unlawful assembly.

Based on the October 28, 2016, Letter of Agreement entered at the time of the new Memorandum of Understanding (MOU), which provides for an administrative appeal for Reprimands under the grievance process outlined in Article 2 of the MOU, you can invoke the grievance process should you decide to Not Concur with the Reprimand. The procedures for instituting a grievance under Article 2 are enumerated in Section III of Article 2.1 - Grievance Procedures. There are strict timelines for pursuing a grievance should you determine not to concur with the reprimand.

INITIATING OFFICER'S SIGNATURE:



Roy A. Paige, Battalion Chief
Professional Standards Division

TRANSMITTING OFFICERS' SIGNATURES:



BUREAU COMMANDER'S SIGNATURE:

I concur with this reprimand:

Yes

No

MEMBER'S SIGNATURE:



DATE:

6-3-24

Exhibit B



unitehere11









