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County of Los Angeles

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10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

11 **FOR COUNTY OF LOS ANGELES**

12 **UNLIMITED JURISDICTION**

13 GEIR AASEN, individually, and on behalf of others  
14 similarly situated; GEIR AASEN and DANIEL  
15 PISCINA, as Taxpayers,

16 Plaintiff(s),

17 v.

18 CHARLTON H. BONHAM, individually, and in  
19 his official capacity as Director of the California  
20 Department of Fish and Wildlife; WADE  
21 CROWFOOT, individually, and in his official  
22 capacity as Secretary of the California Natural  
23 Resources Agency; and DOES 1-100, inclusive,

24 Defendant(s).

Case No: **20STCV38981**

**CLASS ACTION**

COMPLAINT FOR DECLARATORY  
AND INJUNCTIVE RELIEF AND  
DAMAGES

**42 U.S.C. §§ 1981, 1983, 1985 [First and  
Fourteenth Amendments]; California  
Constitution, Article I, § 31; California  
Code of Civil Procedure § 526a**

**JURY TRIAL DEMANDED**

1 **PRELIMINARY STATEMENT**

2 1. This class action seeks to eliminate discriminatory policies and customs in California  
3 state agencies that institutionalize racial preferences in connection with recruiting, hiring, and other  
4 conditions of employment and which overtly treat people as racial categories rather than individuals.

5 2. Defendants WADE CROWFOOT and CHARLTON H. BONHAM (collectively  
6 “Defendants”), who are acting Secretary for the California Natural Resources Agency and Director for  
7 the California Department of Fish and Wildlife, respectively, have implemented policies and customs  
8 that are steeped in Critical Race Theory (“CRT”), a branch of postmodern academic theory, which  
9 promotes invidious race discrimination.

10 3. After the national upheaval stemming from the death of George Floyd Defendants started  
11 engaging in racially divisive messaging to their employees through work-related emails to class  
12 members, official blog posts, and seminars. These communications describe existing and future policies  
13 that, on their face, are rooted in CRT. Defendants’ policies and customs created an atmosphere of racial  
14 intimidation in their agencies that caused, and continue to cause, significant harm to Plaintiff and the  
15 Class.

16 **INTRODUCTION**

17 **The Essence of Critical Race Theory is the Promotion of Racial Homogeneity and Resentment**  
18 **Towards People of Different Races**

19 4. In order to understand the discriminatory nature of Defendants’ conduct, it is crucial to  
20 understand what CRT is and how it manifests itself in this context – state-sponsored policies and  
21 customs implemented by heads of the government’s most influential agencies.

22 5. CRT scholarship began in the 1970’s as the study of law as it pertains to issues of race.  
23 Its stated goal was revolutionary political change and a repudiation of the idea that the Constitution and  
24 law could adequately address racial problems in society.

25 6. Critical Race Theorists Richard Delgado and Jean Stefancic, in their seminal text *Critical*  
26 *Race Theory: An Introduction*, describe it thus:

27 ///

28 ///

1 Unlike traditional civil rights discourse, which stresses incrementalism and  
2 step-by-step progress, critical race theory questions the very foundations of  
3 the liberal order, including equality theory, legal reasoning, Enlightenment  
4 rationalism, and neutral principles of constitutional law.

5 ...

6 [C]ritical race scholars are discontented with liberalism as a framework for  
7 addressing America’s racial problems. Many liberals believe in color  
8 blindness and neutral principles of constitutional law. They believe in  
9 equality, especially equal treatment for all persons, regardless of their  
10 different histories or current situations.<sup>1</sup>

11 7. CRT’s overarching principle is that racism is not aberrational in society but is the *status*  
12 *quo*. This means that in every human interaction the question is not, *did* racism occur? But *how* did  
13 racism manifest itself in the situation? CRT begins with the assumption that racism occurred and then  
14 seeks out evidence to support its conclusion. In their communications to class members Defendants  
15 repeatedly point to stories from the news media that assume, without any factual basis, that interactions  
16 between individuals *must* have been racist because the people involved were of different races.  
17 Defendants then use these baseless assumptions – from isolated incidents between individuals – to state  
18 in conclusory fashion that “countless black Americans...are endangered in their everyday lives” by  
19 white Americans, all of whom promote and benefit from ‘**systemic racism.**’

20 8. The term ‘**systemic racism,**’ often used interchangeably with ‘**white supremacy,**’ is  
21 used in CRT to propagate the idea that white Americans are all racist and are complicit in a society  
22 whose main function is the oppression of non-whites.<sup>2</sup>

23 9. CRT believes that white dominance is permanently rooted in society and is necessary for  
24 the psychic and material well-being of white Americans who benefit from and perpetuate the system.  
25 Starting with this racially essentialist assumption, CRT concludes that all whites benefit from this  
26 oppression, which is dubbed ‘**white privilege.**’ Defendants repeatedly castigate class members with this

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27 <sup>1</sup> Richard Delgado and Jean Stefancic, *Critical Race Theory: An Introduction* (2017).

28 <sup>2</sup> Because one of CRT’s central tenets is that words define reality, and not vice-versa, CRT’s use of terminology is often a Trojan Horse where its words and phrases do not comport with their ordinary usage. A good example is the term ‘anti-racist’ which to a reasonable person means someone who is against racism. But in CRT, to be ‘anti-racist’ means to actively engage in racial discrimination in favor of non-white people. See, e.g., Ibram X. Kendi, *How To Be an Antiracist* (2019).

1 claim, requiring that they internalize the accusation that the “default of **white supremacy** exists in  
2 America.”

3 10. According to CRT, because all white Americans are racist (regardless of who they are or  
4 how they behave) and are complicit in upholding ‘**white supremacy**’ they are obligated to atone for  
5 their blood sin by engaging in a lifelong commitment to activism that perpetuates the never-ending cycle  
6 of treating people as racial categories, rather than individuals, and engaging in anti-white discrimination  
7 to ‘end racism.’<sup>3</sup>

8 11. This is where the term “**silence is violence**” originates. In CRT, there is no neutrality or  
9 just being a good human being. Any white person not engaging in CRT-approved activism is declared to  
10 be ‘complicit’ in perpetuating ‘**white supremacy**’ and is considered as guilty as someone who commits  
11 actual violence.

12 12. Defendants proliferate these ideas by explicitly accusing class members – civil servants  
13 that have dedicated their entire lives to protecting California’s natural resources – of “**perpetuating the**  
14 **violence of the system.**” Defendants also use the “**silence is violence**” canard against class members,  
15 indicating that unless class members buy into and engage in the specific type of political activism that  
16 Defendants support, that class members are as guilty as those who commit actual racial violence.

17 13. The communications to class members are saturated with continual messaging that casts  
18 blame on them for the “pervasive and persistent **systemic racism** in our society” strictly because of their  
19 race.

20 14. After accusing class members of engaging in violence if they do not ascribe to  
21 Defendants’ racially divisive ideas or for being born with the wrong skin color, Defendants’  
22 communications propose to implement a plan of atonement: Putting in place training and hiring  
23 practices that implement CRT-approved political loyalty oaths and racial quotas. In CRT, this is what is  
24 referred to as “**Diversity, Inclusion, and Equity**” (“DIE”). As explained, above, while these terms carry  
25 a certain meaning to the average person they mean something entirely different in CRT terminology.  
26

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27 <sup>3</sup> As in postmodernism, logical inconsistencies (*e.g.*, engaging in racial discrimination to eliminate  
28 racism or working to end racism even though it is ‘permanent’ in society) are a feature of CRT, not a  
bug.

1           15.     While technically rooted in CRT, the DIE industry operates in the world of corporate and  
2 government consulting, training, and administration and siphons roughly \$10 billion annually from the  
3 companies and governments paying for these services. Like CRT which teaches that racism is present in  
4 *all* interactions, DIE activists operate under the assumption that *all* imbalances and disparities in every  
5 industry can be attributed to racism (conveniently ignoring or explaining away industries where  
6 “oppressed” groups are overrepresented) – thus justifying the need for their services.

7           16.     Hence, the word “equity” in DIE initiatives does not mean equality of opportunity for all,  
8 regardless of immutable characteristics, but specifically means the use of racial quotas to achieve  
9 representation of racial groups in proportion to their overall percentages in a given population. Similarly,  
10 “diversity” in DIE vocabulary does not simply refer to people of different backgrounds but only those  
11 who vocally promote CRT’s identitarianist narrative of oppression. Finally, “inclusion” means  
12 amplifying only those voices that espouse CRT philosophy and suppressing any dissenting speech.

13           17.     Defendants have repeatedly made clear to employees that they have already begun  
14 implementing racial quotas into the hiring process as well as expecting ideological loyalty statements to  
15 CRT and DIE initiatives by creating “long-term changes embedding **racial equity** actions into  
16 department culture, policies, and practices,” changing “our approaches to hiring and increasing the  
17 diversity of our candidate pools,” and “includ[ing] **equity and inclusion** questions in interviews.”  
18 Defendants promise to bring this indoctrination into their state agencies by “implement[ing] activities  
19 that embed **racial equity** in our organizations.”

20           18.     Defendants justify implementation of their unlawful race-based policies by following a  
21 dialectical structure that mirrors CRT’s indoctrination methodology: First, Defendants bring up  
22 examples of isolated incidents that they claim, without evidence, are rooted in racism. Second,  
23 Defendants use those incidents as ‘proof’ of their conclusory allegation that any racially disparate  
24 outcomes in society are the product of racism, even when the claims are belied by empirical evidence.  
25 Third, Defendants propose to “dialogue” about the issues while making it clear that any opinions  
26 opposing the CRT narrative will be met with retaliation. Fourth, Defendants propose to implement DIE  
27 in their Agencies through the means of race-based hiring, promotion, and other terms and conditions of  
28 employment.

1 19. Plaintiff, GEIR AASEN, on behalf of himself and persons similarly situated, seeks  
2 damages for Defendants' racially discriminatory policies and practices. Plaintiffs also seek declaratory  
3 and injunctive relief to eliminate Defendants' implementation of these policies in California state  
4 agencies.

### 5 **PARTIES**

6 20. Plaintiff, GEIR AASEN ("Aasen") is a white employee of the California Department of  
7 Fish and Wildlife ("CDFW") where he has worked for over 30 years. He has dedicated his personal and  
8 professional life to the conservation of California's natural resources for all people regardless of race,  
9 sex, religion, or identity. Mr. Aasen is a taxpayer and citizen of the State of California and has paid  
10 income and other taxes to the State of California during the one-year period prior to the commencement  
11 of this action.

12 21. Plaintiff, DANIEL PISCINA ("Piscina") is a citizen and taxpayer of Los Angeles,  
13 California and has paid real property taxes and income taxes to the State of California and County of  
14 Los Angeles during the one-year period prior to the commencement of this action.

15 22. Defendant, WADE CROWFOOT ("Crowfoot"), is acting Secretary for the California  
16 Natural Resources Agency, part of the Executive Branch of the State of California. The Natural  
17 Resources Agency consists of several departments, including the CDFW. Crowfoot is the official  
18 policymaker for the Natural Resources Agency and its departments. He is sued in both his individual  
19 and official capacities.

20 23. Defendant, CHARLTON H. BONHAM ("Bonham"), is the Director for the CDFW.  
21 Bonham administers the hiring, supervision, and other terms and conditions of employment for CDFW  
22 employees. He is sued in both his individual and official capacities.

23 24. Plaintiffs are not aware of the true names and capacities of the defendants sued herein as  
24 DOES 1-100, inclusive, and therefore sue them by such fictitious names. On information and belief,  
25 Plaintiffs allege that each of these fictitiously named defendants is liable for the claims alleged in this  
26 complaint. Plaintiffs will amend this complaint to add the true names of the fictitiously named  
27 defendants once they are discovered.  
28

1 25. Plaintiffs further alleges on information and belief that at all times relevant hereto each of  
2 the defendants and each of defendants’ representatives, including each DOE, was the agent, principle,  
3 servant, master, employee, employer, joint-venturer, partner, successor-in-interest, and/or co-conspirator  
4 of each other defendant and was at all said times acting in the full course and scope of said agency,  
5 service, employment, joint venture, concert of action, partnership, successorship, or conspiracy, and that  
6 each defendant committed the acts, caused or directed others to commit the acts, or permitted others to  
7 commit the acts alleged in this complaint.

### 8 JURISDICTION AND VENUE

9 26. This Court has jurisdiction over this action pursuant to California Constitution, Article  
10 VI, § 10, which grants the Superior Court “original jurisdiction in all causes except those given by  
11 statute to other trial courts.”

12 27. Venue in this Court is appropriate under Code of Civil Procedure § 393 as the taxpayer  
13 funds and taxpayer-financed resources at issue are being expended or will be expended in the  
14 County of Los Angeles. *Regents of the University of California v. Superior Court* (1970) 3 Cal.3d 529,  
15 542 (“It is where the shaft strikes [the plaintiff], not where it is drawn, that counts.”).

### 16 FACTS

17 28. On or about June 4, 2020, Defendant Bonham published an email to all CDFW  
18 employees insinuating that white employees should recognize their “**white privilege**” and demanding  
19 that employees view every incident between people of different races as evidence of “targeted” acts of  
20 **systemically racist** violence and oppression.

21 29. Bonham states that his decision to publish the email arose directly from a CRT-inspired  
22 thought process, “an article to white organizational leaders that said – **silence is violence.**”

23 30. The email itself strictly follows CRT programming: It focuses on isolated incidents to  
24 conclude, without any basis in fact, that racism occurred. It uses these isolated incidents to argue, again  
25 with no evidentiary backing, that America is a **systemically racist** country and that white employees are  
26 all collectively guilty of “**perpetuating the violence of the system.**” It then demands that to atone for  
27 being born with the wrong skin color employees must buy into Defendants’ CRT-approved political  
28 activist mindset (admit that they are all racist), create “dialogue” (but only that which fits within CRT’s

1 narrow framework), and pursue policy that creates “Equity” (race-based quotas in hiring, promotions,  
2 and benefits of employment).

3 31. Bonham’s invitation to “build a culture of dialogue,” read in light of the tone and  
4 messaging of the rest of his email – which demands that employees recognize their “**privilege**” and  
5 accept CRT’s politically biased vision of America as a hopelessly racist nation – make it clear that the  
6 only “dialogue” that is acceptable at the CDFW is one that only includes CRT-approved talking points,  
7 which are openly hostile to white employees strictly due to their race. This is the definition of  
8 “Inclusion” in CRT’s DIE programming.

9 32. Bonham informs employees that, for several months, he has been making “structural  
10 changes” in the CDFW to “embed[] **racial equity** actions into department culture, policies, and  
11 practices.” This is CRT’s “Equity” provision of the DIE methodology which requires hiring, promotion,  
12 training, and other employment decisions to be based purely on race-based criteria. Bonham informs  
13 class members that he is taking guidance from – and working on these policies together with – Capitol  
14 Collaborative on Race and Equity, a state-sponsored “**racial equity** capacity-building program for  
15 California State employees” that uses invidious race discrimination to achieve “Equity” as defined by  
16 CRT and DIE.

17 33. Bonham also makes clear that he plans to bring CRT into his Department through  
18 mandatory “implicit bias training” which has been empirically proven to be a pseudo-science that  
19 promotes resentment towards people of different races and, depending on the training, requires  
20 compelled political speech in violation of the First Amendment.

21 34. On the same day that Bonham issued his email to employees, Crowfoot published a blog  
22 post on the California Natural Resources Agency official government website which is nearly identical  
23 in its CRT-laden structure. The blog post, targeting class members, follows the exact same pattern as  
24 Bonham’s email, accusing class members of “perpetuating the problem” of “pervasive and persistent  
25 **systemic racism** in our society” if they did not agree to embed Defendants’ politically ideological  
26 activism into their place of employment.

27 35. Crowfoot’s post also begins by attempting, without evidence, to link isolated incidents  
28 between individuals to the objectively false narrative of a hopelessly racist country where “countless



1 black Americans [] are endangered in their everyday lives” by white supremacy, which permeates every  
2 aspect of modern America. Like Bonham, Crowfoot uses examples of isolated incidents that have  
3 received attention from mainstream media as conclusive evidence of America’s “pervasive and  
4 persistent **systemic racism**.” Like Bonham, Crowfoot – who is the steward of California’s largest  
5 science-based Agencies – provides no empirical evidence for his conclusory allegations which, in  
6 essence, accuse class members of participation in virulent racism.

7 36. Continuing with the methodology of the DIE playbook, Crowfoot states that he is  
8 implementing policies that will amplify voices that promote CRT ideology and that people’s opinions  
9 will be prioritized based on the race of the person speaking: “All of our leaders—including and  
10 especially me—must address our own **unconscious bias** and minimize its impacts on the decisions we  
11 make. For **white leaders**, this means recognizing that our country’s current challenges mean very  
12 different things based on our race.”

13 37. Crowfoot predictably concludes his message with the final solution proposed by CRT  
14 ideology: “We are in the beginning stages of establishing an environmental justice, **equity and**  
15 **inclusion** program across our agency... [we must] [d]edicate time, personnel, and funding to transform  
16 programs and policies within our agency to prioritize **equity and inclusion**. This includes broadening  
17 participation in programs that focus intensely on this activity—including the Capitol Collaborative on  
18 Race and Equity (CCORE)— where we can learn about, plan for, and implement activities that embed  
19 **racial equity** in our organizations... Acting on these priorities also means recruiting, empowering and  
20 promoting **diverse leaders** that reflect California.”

21 38. Subsequently, Bonham sent an official email to class members inviting them to  
22 participate in Crowfoot’s “Secretary Speaker Series,” held during work hours, titled “What We Can  
23 Learn From Our Past to Move Toward an **Equitable** Future.” The seminar, which was broadcast on  
24 YouTube, was described by Crowfoot as “an important conversation that traces the history of **systemic**  
25 **and institutional racism** and how it translates into today’s workplaces, institutions and general daily  
26 life. The series will also provide context and observations on today’s Black Lives Matter movement and  
27 global uprising against police brutality and **systemic racism** in the wake of the deaths of George Floyd,  
28 Ahmaud Arbery, Breonna Taylor and so many others.”

1           39.     The event, featuring Crowfoot and four panelists, follows the same CRT methodology as  
2 Defendants’ other communications. However, this time the messaging promoting racial homogeneity,  
3 the evils of “**whiteness**,” and demand for plans to implement strict racial quotas in the hiring and  
4 promotion process within state agencies is far more explicit and direct.

5           40.     First, Crowfoot and the speakers engage in the selection bias of isolated incidents as  
6 ‘proof’ of **systemic racism**:

- 7           •     “America has a mental illness. **White supremacy** is a mental illness. It manifests  
8 itself in so many ways and **we all are susceptible to it**... You have to recognize that  
9 even if you’re liberal, even if you support progressive causes, that doesn’t mean you  
10 don’t harbor racist views because of the society we’ve grown up in... That **default of  
white supremacy exists in America**.”
- 11           •     “...the long and ongoing list of African Americans who have lost their lives at the  
12 hands of police brutality... we [California state employees] better own up to **our  
responsibility** that led to this moment...we better start inviting change... the way I  
13 interpret that is recognizing **institutional racism** that exists in our society that’s  
14 helped shape the very institutions that we lead.”
- 15           •     “‘It is not my responsibility to hold both your feelings and my own... you can literally  
16 see comparisons of how **white folks** engage with police and how black folks engage  
17 with police and how disparities are not justified by their actions...in fact **white  
people** get away with a whole lot more than black people do. And so that becomes  
18 this process of real cognitive dissonance... Not really understanding ok, how do I see  
19 myself in all of this...but then I’m recognizing my **white privilege** but I want to  
reject that **privilege** because it’s not something I feel comfortable with but the reality  
is that you have it.”
- 20           •     “‘The assumption that police make us safe is the wrong assumption... **white society**  
21 has relied on the police to enforce all kinds of things on their behalf...**including  
keeping black people in their place**... I don’t see police as a solution for anything”

22           41.     Second, Crowfoot and the speakers then argue that any disparate outcomes in society  
23 must be the result of **white supremacy**:

- 24           •     “California was founded on a structure of inequality and **white control**... You can  
25 take any period in California history and find embedded structures of inequality &  
26 **white control**.”
- 27           •     “‘We in the Agency do not reflect the **diversity** of California. We govern a system of  
28 natural, cultural, and historic resources that do not provide equal access to all  
Californians.”

- “The educational system locks in disparities for black students.”
- “Cultural programming is a native language to communities of color especially in a society that prioritizes **whiteness** as mainstream culture.”
- “If you have neutral system that has disparate impact it should be changed.” [calling for race-based discrimination]
- “You’ve got to get **diverse people** in the decision-making room to really begin to break out of the box of **keeping people out.**”

42. Third, Crowfoot and the speakers propose to dialogue but exclusively through the epistemology and discourses of CRT and DIE:

- “[This is] a timely topic that centers on **race, equity, and inclusion.**”
- “What makes this time different...is simply the language and **that language is one around intersectionality.**”<sup>4</sup>
- “To **those of you out there who are white:** Do not be silent in the face of racism that you see when colored people are not around. **Silence is complicity.**”

43. Finally, Crowfoot and the speakers call for the dismantling of race-neutral employment practices and for the establishment of a CRT and DIE-based system that uses race as the primary criterion in recruiting, hiring, promotion, and other conditions of employment.

- “One extremely important initiative is on the ballot this year for Californians. That is [Proposition] 16. Specifically around the repeal of Proposition 209 and the reestablishment of **affirmative action.** I think it will make people question their own notions and belief in meritocracy. I think it will make people question their **understanding of equality vs. equity...** [the speaker explains the definition of “equity” in CRT and DIE terminology which means not equal opportunity but equality of outcomes via invidious race discrimination].

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<sup>4</sup> “Intersectionality” is a term used in CRT to promote the anti-humanist concept that people are not individuals but an amalgam of ‘oppressed’ or ‘privileged’ identities. Hence, these ‘intersecting’ identities must constantly grapple with the ‘systemic’ identity-based ‘power dynamics’ in their daily interactions, creating a perverse caste system that imbues authority for an idea based on the number of ‘oppressed’ identities of the speaker (with white, straight males having the least credibility based on their ‘privileged’ identity status). In the employment context this requires treating workers differently based on their immutable characteristics such as race, sex, disability, etc. rather than their individual merit and qualities.

- 1 • “Better ensure representation... [which means] targeted partnership investments  
2 required to ensure that the right people [read: non-whites] are at the table when  
3 decisions are being made.”
- 4 • “If we’re going to have state agencies that are going to be reflective of people of color  
5 in this state we have to figure out how to bring people of color into that agency...  
6 You’ve got to have a **diverse staff** and it’s got to be **at the top**... The other thing you  
7 have to do is you have to measure the results you want to get... One of the things that  
8 you should start to do is to **measure heads of agencies for promotions,  
9 compensation, etc. on how well they create diversity in their organizations**... so  
10 you don’t just have people who do implicit bias trainings or seminars but you have  
11 real changes in numbers... If you have to **tweak the civil service rules** to make that  
12 happen, that’s what you gotta do to make change.” [specifically calling for agency  
13 heads to receive financial incentives to engage in invidious race discrimination].
- 14 • “State agencies have to take a real look at themselves and change the processes that  
15 exist so that the workforce and leadership really **reflect the population**.”

16 44. Crowfoot concludes the seminar by endorsing everything that the other speakers said and  
17 adds his own statement that pledges to continue the process of implementing policies in state  
18 government that disparage, racially intimidate, and discriminate against white employees:

19 “We use the term **systemic inequity** and sometimes that just becomes jargon...  
20 Susan started the presentation identifying the legal system on which our state is  
21 based, specifically and explicitly **disenfranchising non-whites**... so when we  
22 talk about **systemic inequity** we in **state government own these inequities**.  
23 Virgil said something that if you are leading a **neutral system that has disparate  
24 impact, it must be changed**... a lot of the thinking we can slip into in state  
25 government is, yeah, that’s the past **but we have a system that is free from such  
26 inequity and the answer is no we don’t**... Hopefully this is empowering those  
27 of us in state government to actually move beyond confronting the issue and  
28 giving voice to the issue as it’s a popular topic and translating that actually to the  
commitment that in 6 months or 6 years time **we’re held accountable for  
actually making change**.”

45. After Crowfoot’s seminar Bonham notified class members via his official work email that  
he would be hosting another seminar during work hours regarding this same topic.

46. The seminar, according to Bonham was about “**race and equity** in the outdoors” and  
about having “uncomfortable conversations.” It featured Rue Mapp, the director of Outdoor Afro, which  
is self-described as “the nation’s leading, cutting edge network that celebrates and inspires Black  
connections and leadership in nature” and whose aim is “**changing the face** of conservation.”

1           47.     The substance of the program follows a familiar pattern: Bonham and his guest conclude,  
2 without any evidence, that the reason they do not “see people out recreating...**in proportion to their**  
3 **population**” is entirely due to white racism and that they would implement quotas in state agencies to  
4 assure racial equity in who chooses to use California’s outdoor spaces.

5           48.     The conversation begins with the conjectural claim that black people do not frequent  
6 California’s outdoor spaces in proportion to their population due to white supremacy and “generational  
7 trauma.”<sup>5</sup> Bonham discusses the idea that “bad things happening in the woods” approximately 100 years  
8 ago in the Jim Crow South has led black individuals today to believe that “being around trees is unsafe.”

9           49.     Bonham brings up the tragic story of Emmitt Till as evidence of the modern “fear of the  
10 outdoors and safety [concerns]... and this cultural dynamic where the outdoors might be a place where  
11 you were lynched.”<sup>6</sup>

12           50.     Bonham further attempts to ingratiate himself by villainizing white people with his claim  
13 that “I’ve seen it myself where black Americans, people of color, or of different sexual orientation have  
14 had **white folks** approach them and it’s a very uncomfortable experience...with this bar of entitlement,  
15 ‘why are you on my public lands?’”

16           51.     The statement is even more sinister considering that Bonham vilifies “**white folks**” not  
17 just as racists but as a stand-in for a monolithic oppressor that targets all minority groups like people of  
18 “different sexual orientation.” This is one of the fundamental principles of CRT: That “**whiteness**” is a  
19 property – a social and institutional status and identity imbued with legal political, economic, and social  
20 rights and privileges that are denied to others. As such, all “**white folks,**” by pure accident of birth, are  
21 complicit in racism and personally responsible for its existence and continuation in society.

22           52.     This ‘dialogue,’ which fits squarely within DIE parameters, continues with Bonham  
23 suggesting that ideas and policy goals should be prioritized based on the identity of the speaker from the  
24

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25 <sup>5</sup> “Transgenerational trauma” is a term used for the unsubstantiated proposition in psychology that  
26 trauma can be biologically transferred between generations. There is no legitimate, empirical evidence  
27 which supports the validity of this theory.

28 <sup>6</sup> The horrific kidnapping and murder of 14-year-old Emmitt Till is widely known to be one of the  
catalysts for the civil rights movement. However, the murder did not occur in “the woods.” Till was  
kidnapped at gunpoint from his great-uncle’s house, driven to a barn where his murderers beat and  
tortured him, then shot and his body dumped in a river.

1 CRT perspective, rather than objective truth: “I’m a white older male...you’re a black female ... there’s  
2 a lot there for discussion around **cultural competence and awareness.**”<sup>7</sup>

3 53. Having established DIE’s theoretical prerogative that racial (and other) identity should be  
4 the litmus test for policy, Bonham sets the stage for the inevitable conclusion of all CRT-based  
5 programs: The speakers openly state that California’s outdoors agencies must engage in race-based  
6 hiring and promotion practices. Mapp suggests that agencies must “live into every aspect of what **equity**  
7 is... when I look at board and it has the **usual populations**...it doesn’t signal that there’s a commitment  
8 to change.”

9 54. The quota policy goal is meant to be instituted at the very top ranking positions in the  
10 agencies, regardless of qualifications: “Who’s at the table of decisionmaking?... **if we don’t have people**  
11 **working in the Agency...**” Bonham agrees: “I get the question...how many folks of color do you have  
12 in your leadership group. It’s gotta start at my level **to change our face.**”

13 55. Mapp then concludes with a veiled threat to agencies that don’t implement her CRT-  
14 driven racial quota system: “I hope other organizations follow suit...because if they don’t want to  
15 change then **they should be thinking about succession planning.**”

### 16 CLASS ALLEGATIONS

17 56. This class action is brought pursuant to California and federal law and section 382 of the  
18 California Code of Civil Procedure by the individual named Plaintiff on behalf of himself and the  
19 following class (the “Class”):

20 All past, present, or potential white employees of the California Natural Resources Agency or the  
21 California Department of Fish and Wildlife who – as a result of the operation of past, current, or  
22 planned policies and practices – have been, are being, or will be discriminated against in the

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23  
24 <sup>7</sup> This idea in CRT is known as ‘standpoint theory’ which posits that one’s position in society relative to  
25 systemic power (as determined by group identity) – rather than empirical, fact-driven analysis – confers  
26 special knowledge and, in turn, authority regarding policy matters. See, *e.g.*, Patricia Hill Collins, *Black*  
27 *Feminist Thought: Knowledge, Consciousness, and the Politics of Empowerment* (2000). In practice, this  
28 requires abandoning race-neutral policies and decisions based on individual merit in favor of purely  
race-based evaluations where the ‘privileged’ [white] are required to “shut up and listen” while the  
‘oppressed’ [non-white] dictate policy. This theme is deeply entrenched in all of Defendants’  
communications to the Class, like Bonham’s statement in one of his emails that he should “get out of the  
way and listen and learn.”

1 terms and conditions of employment, including but not limited to recruitment, hiring,  
2 promotions, and training, because of their race.

3 57. Plaintiff does not know the exact size or identities of the proposed Class as such  
4 information is in the control of defendants. Based on an estimate of approximately 19,000 permanent  
5 staff employed by the California Natural Resources Agency, including approximately 3,000 CDFW  
6 employees, Plaintiff alleges on information and belief that the total Class size consists of thousands of  
7 members.

8 58. There are questions of law and fact which are common to all members of the Class and  
9 which predominate over any questions affecting only individual members including, but not limited to,  
10 the following:

- 11 a. whether defendants engaged in the conduct alleged herein;
- 12 b. whether defendants instituted policies and customs within California agencies that  
13 amounted to discrimination or preferential treatment on the basis of race;
- 14 c. whether defendants instituted policies and customs within California agencies that  
15 created a racially intimidating work environment;
- 16 d. whether defendants instituted policies and customs within California agencies that  
17 required compelled speech as a condition of employment in violation of public  
18 employees' First Amendment rights;
- 19 e. whether Plaintiffs are entitled to declaratory relief that defendants have violated 42  
20 U.S.C. §§ 1981, 1983, 1985 and the California Constitution;
- 21 f. Whether this Court should issue an injunction that defendants cease and desist their  
22 discriminatory practices and order that defendants take steps to ensure that their  
23 a2020gencies do not discriminate or grant preferential treatment on the basis of race, and;
- 24 g. whether defendants, or any of them, are liable to the Class for the legal claims alleged  
25 below.

26 59. The claims of the individual named Plaintiff are typical of the claims of the Class and do  
27 not conflict with the interests of any other members of the Class in that Plaintiff and the other members  
28 of the Class were subjected to the same practices of defendants.

1           60.     The individual named Plaintiff will fairly and adequately represent the interests of the  
2 Class because he is committed to the vigorous prosecution of the Class claims and has retained attorneys  
3 who are qualified to pursue this litigation and have experience in class actions.

4           61.     Class action is superior to other methods for the fast and efficient adjudication of this  
5 controversy and does not create any problems of manageability.

6                                   **FIRST CAUSE OF ACTION – For Damages**  
7                                   **(Against defendants in their individual capacities)**

8                                   **42 U.S.C. §§ 1981, 1983, 1985**

9           62.     The preceding paragraphs are incorporated by reference.

10          63.     Defendants have implemented, and continue to implement, racially discriminatory  
11 policies and practices in connection with recruiting, hiring, promotions, compensation, and terms and  
12 conditions of employment.

13          64.     Defendants’ use of race is not narrowly tailored to a compelling interest.

14          65.     Defendants’ continuous and persistent race discrimination adversely affected the terms  
15 and conditions of Plaintiff’s, and the Class’s, employment and has deprived them of a working  
16 environment free of racial intimidation.

17          66.     Defendants’ use of compelled speech in mandatory ‘implicit bias’ trainings and  
18 requirement of loyalty oaths to CRT and DIE ideology in recruiting, hiring, promotions, compensation,  
19 and terms and conditions of employment violates the First Amendment rights of Plaintiff and the Class.

20          67.     That as a further direct and proximate result of said unlawful employment practices  
21 Plaintiff and the Class have suffered the indignity of discrimination and invasion of their right to be free  
22 from discrimination.

23          68.     That as a further direct and proximate result of said unlawful employment practices,  
24 Plaintiff and the Class have suffered extreme emotional distress, shame, intimidation, humiliation,  
25 indignation, embarrassment, and fear.

26          69.     Defendants' discriminatory and unlawful employment practices identified in this  
27 complaint have been intentional, deliberate, willful, systematic, and conducted in callous disregard of  
28



1 the federally protected rights of Plaintiff and the Class granted under 42 U.S.C. §§ 1981, 1983, and  
2 1985. As a result, the plaintiffs are entitled to compensatory and punitive damages.

3 WHEREFORE, Plaintiff prays for judgment and relief as set forth below.

4 **SECOND CAUSE OF ACTION – For Injunctive & Declaratory Relief**

5 **(Against defendants in their official capacities)**

6 **42 U.S.C. §§ 1981, 1983, 1985; California Constitution, Article I, § 31**

7 70. The preceding paragraphs are incorporated by reference.

8 71. Defendants, under color of law, have implemented, and continue to implement, racially  
9 discriminatory policies and practices in connection with recruiting, hiring, promotions, compensation,  
10 and terms and conditions of employment.

11 72. Defendants’ policies practices, customs, conduct, and acts alleged herein resulted in, and  
12 will continue to result in, irreparable injury to Plaintiff and the Class, including but not limited to  
13 violation of their constitutional and statutory rights. Plaintiff and the Class have no plain, adequate, or  
14 complete remedy at law to address the wrongs described herein.

15 73. In addition, Plaintiff and the Class are threatened with further injury in the form of racial  
16 discrimination, intimidation, and violations of California Constitution, Article I, § 31 (“The State shall  
17 not discriminate against, or grant preferential treatment to, any individual or group on the basis of race...  
18 in the operation of public employment). As such, this action is seeking, in part, declaratory and  
19 injunctive relief as the only means for securing complete relief and bringing to an end the irreparable  
20 injury resulting from defendants' civil rights violations.

21 74. Defendants have acted and refused to act on grounds generally applicable to the putative  
22 class. Injunctive and declaratory relief for the putative class as a whole is appropriate.

23 75. Plaintiff and the Class therefore seek injunctive and declaratory relief from this court to  
24 ensure that Plaintiff and persons similarly situated will not suffer violations of their rights from  
25 defendants’ illegal and unconstitutional policies, customs, and practices described herein.

26 WHEREFORE, Plaintiff prays for judgment and relief as set forth below.

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28 ///

1                                   **INDIVIDUAL CLAIM ON BEHALF OF TAXPAYER PLAINTIFFS**  
2                                   **THIRD CAUSE OF ACTION – Taxpayer’s Action for Injunctive Relief**

3                                   **(Against defendants in their official capacities)**

4                                   **Code of Civil Procedure § 526a**

5           76.     The preceding paragraphs are incorporated by reference.

6           77.     Plaintiffs are citizens and residents of the United States and of the State of California  
7 who were assessed and have paid taxes to the State of California within one year of the  
8 commencement of this action.

9           78.     Defendants, by illegally implementing racially discriminatory policies and customs in  
10 connection with recruiting, hiring, promotions, compensation, and terms and conditions of employment  
11 in California state agencies are wasting, intend to waste, or will waste taxpayer funds and taxpayer-  
12 financed resources.

13           79.     Defendants will continue to expend and waste tax monies as alleged herein in violation of  
14 California law to the irreparable injury of Plaintiffs, requiring a multiplicity of suits, unless restrained by  
15 the issuance of an injunction under California Code of Civil Procedure § 526a.

16           80.     Taxpayer Plaintiffs have a well-recognized interest in enjoining the unlawful expenditure  
17 of tax funds. (See Cal. Code Civ. Proc., § 526a, subd. (a) [“An action to obtain a judgment, restraining  
18 and preventing any illegal expenditure of, waste of, or injury to, the estate, funds, or other property of a  
19 local agency, may be maintained against any officer thereof, or any agent, or other person, acting in its  
20 behalf, either by a resident therein, or by a corporation, who is assessed for and is liable to pay, or,  
21 within one year before the commencement of the action, has paid, a tax that funds the defendant local  
22 agency, including . . . [a] sales and use tax . . . .”].)

23           81.     There is an actual controversy between Taxpayer Plaintiffs, on the one hand, and  
24 defendants, on the other, concerning their respective rights and duties in that Taxpayer Plaintiffs contend  
25 that the policies and/or practices of defendants directly discriminate or give preferential treatment on the  
26 basis of race, and that defendants contend in all respects to the contrary.

1 82. Unless and until defendants' unlawful policies and/or practices, as alleged herein, are  
2 preliminarily and permanently enjoined by order of this Court, they will continue to cause great and  
3 irreparable injury to Taxpayer Plaintiffs.

4 WHEREFORE, Plaintiffs pray for judgment and relief as set forth below.

5 **DEMAND FOR JURY TRIAL**

6 83. Plaintiffs hereby demands a trial by jury on all claims so triable.

7 **PRAYER FOR RELIEF**

8 WHEREFORE, Plaintiffs pray for relief and judgment as follows:

9 A. An order certifying the proposed Class, appointing the named Plaintiff as the  
10 representative of the Class, and appointing the law firms representing the named Plaintiff as counsel for  
11 the Class.

12 B. General and compensatory damages for Plaintiff and the Class for the violations of their  
13 federal constitutional and statutory rights, and pain and suffering, all according to proof.

14 C. Punitive damages, according to proof.

15 D. A declaration that Defendants, through the actions, omissions, policies, practices, and/or  
16 procedures complained of, violate:

17 1. For the Class: a. 42 U.S.C. §§ 1981, 1983, 1985; and b. Article I, § 31 of the  
18 California Constitution.

19 2. For Taxpayer Plaintiffs: a. California Code of Civil Procedure section 526a.

20 E. Preliminary and permanent injunctive relief for the Class and Taxpayer Plaintiffs:

21 1. Preliminary and permanent injunctive relief requiring Defendants, their successors in  
22 office, agents, employees, and assigns, and all persons acting in concert with them, to  
23 eliminate policies, customs, and/or practices in the California Natural Resources  
24 Agency and the California Department of Fish and Wildlife that discriminate or give  
25 preferential treatment to individuals based on race in recruiting, hiring, promotion,  
26 and other terms and conditions of employment.

27 2. Preliminary and permanent injunctive relief requiring Defendants, their successors in  
28 office, agents, employees, and assigns, and all persons acting in concert with them, to

1 eliminate policies, customs, and/or practices in the California Natural Resources  
2 Agency and the California Department of Fish and Wildlife that use compelled  
3 speech in 'implicit bias' trainings, recruiting, hiring, promotions, compensation, and  
4 other terms and conditions of employment, that requires employees to state that any  
5 race is inherently racist, or to utter any other statement that amounts to racial  
6 scapegoating or stereotyping.

7 F. Attorneys' fees, costs, interest, and expenses pursuant to 42 U.S.C. §1988, section 1021.5  
8 of the California Code of Civil Procedure, and other relevant statutes.

9 G. And such other and further relief as the Court may deem proper.

10  
11  
12 DATE: October 12, 2020

THE PIVTORAK LAW FIRM

13  
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15  
16 By:



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18 DAVID PIVTORAK,  
19 Attorney for Plaintiffs,  
20 GEIR AASEN and  
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