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ELECTRONICALLY
FILED
Superior Court of California,
County of San Francisco

10/16/2023
Clerk of the Court
BY: KALENE APOLONIO
Deputy Clerk

12 SUPERIOR COURT OF THE STATE OF CALIFORNIA
13 COUNTY OF SAN FRANCISCO

14 **CGC-23-609790**

15 RONALD GREGER, an individual

16 Petitioner and
17 Plaintiff,

18 v.

19 SAN FRANCISCO BAR PILOTS, an
20 unincorporated association, SAN
21 FRANCISCO BAR PILOTS
22 BENEVOLENT AND PROTECTIVE
23 ASSOCIATION, a California non-profit
24 mutual benefit corporation, and Does 1-100,

25 Respondents and
26 Defendants.

Case No.

**VERIFIED PETITION FOR WRIT OF
MANDATE AND COMPLAINT FOR
DAMAGES**

1. **Writ of Mandamus**
2. **Retaliation**
3. **Wrongful Termination in Violation of Public Policy**

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PLAINTIFF and PETITIONER Ronald Greger (“Greger”) hereby petitions this court for a preemptory and alternative writ of mandamus under sections 1085 and 1094.6 directed to DEFENDANTS and RESPONDENTS the San Francisco Bar Pilots, an unincorporated association, and the San Francisco Bar Pilots Benevolent and Protective Association, a California non-profit mutual benefit corporation, and DOES 1 through 10, and hereby complains against DEFENDANTS and DOES 1 through 10, as follows:

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1 **PARTIES**

2 1. Petitioner and Plaintiff Captain Ronald Greger is a master mariner
3 licensed by the California Board of Pilot Commissioners (the “Board” or “BOPC”) to pilot
4 commercial ships throughout the Bays of San Francisco, San Pablo, and Suisun (collectively,
5 the “Bays”). Licensed Pilots have exclusive authority, except as otherwise provided by law,
6 to pilot vessels from the high seas to the Bays and within and along the waters of the Bays.

7 2. Captain Greger was a member of the San Francisco Bar Pilots and the
8 San Francisco Bar Pilots Benevolent and Protective Association from approximately January
9 24, 2019 until July 12, 2023. At all relevant times, Captain Greger was a resident of Napa
10 County, California.

11 3. Respondent and Defendant San Francisco Bar Pilots (“SFBP”) is an
12 unincorporated association comprised of all Pilots licensed by the Board to pilot ships in the
13 Bays. The SFBP was purportedly formed to allow Board-licensed Pilots to share in the
14 administration and costs associated with providing pilotage service. The SFBP operates
15 under bylaws which set forth, among other things, how a pilot’s membership from the SFBP
16 may be terminated.

17 4. Respondent and Defendant San Francisco Bar Pilots Benevolent and
18 Protective Association (the B&P) is California mutual, non-profit, benefit association
19 organized under California Corporations Code § 7110 *et seq.* The B&P owns or leases all
20 boats, facilities, and other equipment utilized by the SFBP. Each licensed Pilot who wishes
21 to become a member of the SFBP must also join the B&P. Membership requirements for the
22 B&P are set forth in the B&P’s by laws and include paying a membership fee which is based
23 on the average annual net income of Pilots, averaged over the three preceding calendar years.

24 **DOE DEFENDANTS**

25 5. Capt. Greger is ignorant of the true names and capacities of Defendants
26 and Respondents sued herein as DOES 1-10, inclusive, and therefore sues these Defendants
27 and Respondents by such fictitious names. Capt. Greger will amend this Complaint and
28 Petition to allege their true capacities when ascertained. Capt. Greger is informed and

1 believes and thereon alleges that each of the fictitiously named Defendants and Respondents
2 are responsible in some manner for the occurrences herein alleged.

3 **JURISDICTION AND VENUE**

4 6. This Court has jurisdiction over this action pursuant to Code of Civil
5 Procedure sections 1085, and 1086 and because the monetary damages and restitution sought
6 here in for Defendants' conduct exceeds the minimum jurisdictional limits of the Superior
7 Court.

8 7. Venue for this action properly lies in the California Superior Court for
9 the County of San Francisco pursuant to Code of Civil Procedure sections 395(a) because
10 Defendants' principal places of business are located in San Francisco, California.

11 **FACTUAL BACKGROUND**

12 8. The California Legislature has declared that "the individual physical
13 safety and well-being of pilots is of vital importance in providing required pilot services"
14 across the Bays and the "enhancement of navigational safety is of the utmost concern to state
15 pilotage." Cal. Harb. & Nav. Code §§ 1101(h) and 1102.

16 9. Board licensed Pilots have exclusive authority, except as otherwise
17 provided by law, to pilot vessels from the high seas to the Bays and within and along the
18 waters of the Bays. *See* Cal. Harb. & Nav. Code § 1125.

19 10. The majority of all Pilots licensed by the Board appoint one Pilot to act
20 as the Port Agent, a statutorily created position. The Port Agent is "responsible for the
21 general supervision and management of all matters related to the business and official duties"
22 of licensed pilots. Cal. Harb. & Nav. Code § 1130; 7 CCR § 218 (b). In addition, the Port
23 Agent is responsible for assigning pilots to vessels. 7 CCR § 218 (d)(1). Although the Port
24 Agent is not compensated by the Board, the Port Agent reports to the Board and is expected
25 to "carry out the orders of the Board, under applicable law, and to otherwise administer the
26 affairs of the pilots. Cal. Harb. & Nav. Code § 1130; 7 CCR § 218(a). The Port Agent is a
27 member as well as an officer and/or director of both the SFBP and the B&P.

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1 11. On May 10, 2023, the Board of Directors for the B&P adopted a
2 resolution to expel Capt. Greger from the Association pursuant to section 2.05(b) of its
3 bylaws on the grounds that Capt. Greger had allegedly engaged in “willful misconduct which
4 materially and adversely affects the well-being and business of the Association.” The
5 resolution suspended Greger from the B&P. Because membership in B&P is a membership
6 requirement for SFBP, this resolution effectively suspended him from the SFBP as well.

7 12. The resolution was based on four specific accusations:

- 8 • Violation of provisions of the SFBP Rules Governing Sick Leave
9 based on Capt. Greger’s application and receipt of sick leave
10 benefits for an absence that began on January 9, 2023;
- 11 • Failure to carry out assigned pilotage duties based on Capt. Greger’s
12 January 4, 2023 decision to not pilot the M/V CENTURY GREEN
13 from Benicia to Anchorage 9 in the San Francisco bay during a
14 storm;
- 15 • Violations of the SFBP Harassment Policy and Code of Conduct
16 based (i) on written complaints written by SFBP Business Director
17 Capt. Anne McIntyre on March 7, 2022, October 16, 2020, and
18 August 18, 2020; (ii) an October 29, 2020 report by Captain Joe
19 Long based on an incident that occurred on October 22, 2020; (iii) a
20 June 24, 2019 report by Dispatcher Shawn Boland regarding a June
21 23, 2019 phone call with Capt. Greger; and (iv) emails written and
22 transmitted by Capt. Greger to SFBP “all-pilots” listserv from 2019
23 through late 2020; and
- 24 • The suspicion that Capt. Greger had recorded a July 27, 2022 SFBP
25 policy committee meeting and subsequently distributed the
26 recording in or about November 2022 to various individuals
27 including the staff and president of the Board.

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1 13. Capt. Greger’s expulsion and wrongful termination by the SFBP and
2 B&P was a direct consequence of and in retaliation for Capt. Greger engaging in protected
3 activity throughout his tenure as an SFBP Pilot. Those protected activities include, but are
4 not limited to, publicly raising concerns about the SFBP/B&P financial practices and pilot
5 applications for Paycheck Protection Program (PPP) loans, SFBP’s gate-keeping of those
6 eligible to become pilot trainees (which artificially limits the number of pilots available to
7 work and results in pilot fatigue and “minimum rest period” violations), a pilot’s right to
8 cancel sailing of vessels due to unsafe weather conditions, and complaining to the Board
9 about the Port Agent’s refusal to dispatch him to work after he was declared fit for duty in
10 accordance with applicable law.

11 14. An attorney who was retained by the SFBP to investigate complaints
12 made by Capt. McIntyre and others about Capt. Greger’s conduct, including emails
13 transmitted via the “all pilots” listserv, reached a determination on November 3, 2020 that
14 Capt. Greger had *not* violated the SFBP’s anti-harassment policy.

15 15. The SFBP was aware of the July 27, 2022 recording and suspected that
16 Capt. Greger was responsible for its existence months before it resolved to expel him. It
17 launched an internal investigation, the results of which were inconclusive.

18 16. Another SFBP pilot who previously recorded an SFBP policy meeting
19 without consent, was not disciplined for such conduct; instead, SFBP issued that pilot a letter
20 informing him that his act of recording the meeting was considered “a serious lapse in
21 judgment” and suggested that he write a letter of apology.

22 17. Capt. Greger’s decision on January 4, 2023 to not pilot the M/V
23 Century Green—a day during which the Bay Area was in the throes of a “bomb cyclone” and
24 atmospheric river conditions—was based on *both* the ship master of the M/V GREEN’S and
25 Capt. Greger’s informed professional judgment that the conditions were too dangerous to
26 pilot the vessel. In exercising his discretion not to pilot the M/V GREEN in such
27 circumstances, Capt. Greger had reasonable cause to believe that he was acting in accordance
28 with, inter alia, California Harbors & Navigations Code §1132 which provides that “[e]very

1 pilot in charge of a vessel arriving in Monterey Bay and the Bay of San Francisco, San Pablo,
2 or Suisun, shall safely moor the vessel in place and position *as directed by the master of the*
3 *vessel, consistent with safe navigation* and not contrary to law.” (Emphasis added).

4 18. Capt. Greger’s leave of absence, which began on January 9, 2023 and
5 precipitated his request for sick leave benefits, occurred after he complained to the Port Agent
6 that he was being harassed for the cancelled sailing of the M/V GREEN. Capt. Greger
7 informed the Port Agent on January 7, 2023 that he was suffering from stress and sleep
8 deprivation (as a result of the harassment). When Capt. Greger took his leave of absence, he
9 had reasonable cause to believe that it was unsafe for him to pilot vessels and that he should
10 accordingly refuse pilotage assignments. California law dictates that a “pilot shall refuse a
11 pilotage assignment if he or she is physically or mentally fatigued and has a reasonable belief
12 that [an] assignment cannot be carried out in a competent and safe manner.” Cal. Harb. &
13 Nav. Code § 1146.

14 19. Capt. Greger provided the SFBP with a medical excuse slip from his
15 treating physician and submitted an SFBP Sick Leave eligibility form for his medical leave of
16 absence indicating that he was suffering from, among other things, anxiety and insomnia.

17 20. Capt. Greger was subsequently declared “Not Fit for Duty” by a Board-
18 appointed medical officer in February 2023; he was thereafter declared “Fit for Duty” on or
19 about April 3, 2023.

20 21. Although Capt. Greger was ready and able to work as of April 3, 2023,
21 the Port Agent refused to dispatch Capt. Greger, ostensibly because Capt. Greger had
22 declined to provide the SFBP and B&P with access to private medical information unrelated
23 to his most recent absence.

24 22. Capt. Greger complained to the Board that the Port Agent refused to
25 dispatch him. Capt. Greger had reasonable cause to believe that by refusing to dispatch him,
26 the Port Agent was failing to perform his statutory duties in violation of California law.

27 23. On April 13 and April 16, 2023, Allen Garfinkle, the Executive Director
28 of the Board, contacted the Port Agent and requested that he “place Captain Greger’s name

1 on the SFBP dispatch board so that he receives piloting assignments in the ordinary course of
2 business.”

3 24. On April 17, 2023, the Port Agent informed Mr. Garfinkle that he
4 would not dispatch Capt. Greger.

5 25. That same day, the Board published the agenda for its upcoming April
6 27 Board Meeting. Agenda Item 18 was the Board’s consideration of whether the Port Agent
7 may refuse to dispatch a pilot who is currently licensed and fit for duty.

8 26. In a memo dated April 26, 2023, Dennis Eagen, Board Counsel,
9 recommended that the Board officially order the Port Agent to dispatch Capt. Greger.

10 27. That same day, an attorney for SFBP wrote to the Board that “SFBP has
11 determined that grounds exist to bring proceedings to disassociate the pilot according to the
12 bylaws” and that the Port Agent would not dispatch Capt. Greger pending commencement of
13 expulsion proceedings.

14 28. At the April 27 Board Meeting, Board Counsel presented the staff
15 recommendation. During public comment, SFBP reiterated that it was expelling Capt. Greger
16 and maintained its position that the Port Agent was not obligated to dispatch all licensed
17 pilots found fit for duty. After a closed session discussion, the Board announced that the
18 agenda item would remain on the agenda for the next Board Meeting.

19 29. On May 10, 2023, the B&P board of directors officially resolved to
20 expel Capt. Greger from the B&P and SFBP.

21 30. On May 24, 2023, Attorney Eagen again recommended in a written
22 memo that the Board direct the Port Agent to dispatch Capt. Greger and opined that the Port
23 Agent’s refusal to assign Capt. Greger undermined the authority of the Board.

24 31. During its May 25, 2023 meeting, the Board began a public discussion
25 regarding the Port Agent’s authority to refuse to dispatch Capt. Greger. During that
26 discussion SFBP urged the Board to not take up the matter because it brought up “issues
27 fundamental to the pilotage system” and argued that the pending disassociation would obviate

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1 the need for the Board to make such an order. The Board ultimately decided to table the
2 issue.

3 32. SFBP and B&P expelled Capt. Greger on July 12, 2023.

4 **CAUSES OF ACTION**

5 **FIRST CAUSE OF ACTION**

6 **Writ of Mandamus**

7 (Cal. Code of Civ. Proc. §§ 1085 1094.5 - against all Respondents)

8 33. Capt. Greger realleges and incorporates herein by reference all of the
9 preceding paragraphs above, as though fully set forth herein.

10 34. Defendants' expulsion of Capt. Greger was neither done in good faith or
11 in a fair and reasonable manner as prescribed by California Corporations Code § 7341,
12 s18320, and/or applicable common law.

13 35. Defendants' prejudicially abused their discretion in expelling Capt.
14 Greger. The expulsion was arbitrary, irrational, unreasonable, based on bias, based on the
15 substantively capricious application of Defendants' purported rules, unsupported by the
16 record and evidence, and in violation of public policy.

17 36. Defendants' decision to expel Capt. Greger substantially affected his
18 vested right to work as a Board-licensed pilot.

19 37. Capt. Greger has exhausted his administrative remedies because there is
20 no administrative appeal procedure provided for in the applicable by laws.

21 38. Capt. Greger has no plain, speedy, or adequate remedy at law and will
22 suffer irreparable injury if this Petition is not granted.

23 **SECOND CAUSE OF ACTION**

24 **Retaliation**

25 (Cal. Labor Code §§ 98.6, 1102.5, 6310, 6311 - against all Defendants)

26 39. Capt. Greger Capt. Greger realleges and incorporates herein by
27 reference paragraphs 1-27 above, as though fully set forth herein.

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1 51. Defendants' expulsion/termination of Capt. Greger was in violation of
2 well-established public policies, including those articulated in the California Harbors &
3 Navigation Code and the California Labor Code, as well as their interpretative regulations.

4 52. As a direct and proximate result of Defendants' expulsion/termination
5 of Capt. Greger, Capt. Greger has suffered lost compensation and benefits, emotional distress,
6 and other damages to be proven at time of trial.

7 53. Defendants' officers, directors, and managing agents committed the acts
8 alleged herein maliciously, fraudulently, and oppressively with the wrongful intention of
9 injuring Plaintiff and/or with conscious disregard for Capt. Greger's rights. Capt. Greger is
10 therefore entitled to recover and herein prays for punitive damages in an amount sufficient to
11 deter Defendants and others for such conduct.

12 WHEREFORE, Petitioner and Plaintiff pray that:

13 1. Alternative and peremptory writs of mandate issue under seal of this
14 Court commanding Defendants and Respondents to vacate the expulsion and reinstate Capt.
15 Greger's membership in both the SFBP and B&P; and further prays for

16 2. Injunctive relief;

17 3. Declaratory relief;

18 4. Equitable relief;;

19 5. Compensatory damages, including but not limited to, back pay, front
20 pay, and other benefits that Plaintiff would have been afforded but-for Defendants' retaliation
21 and/or wrongful termination of Plaintiff;

22 6. Punitive damages where appropriate;

23 7. Statutory penalties as allowed by law;

24 8. Costs and expenses of this writ and litigation as allowed by law;

25 9. Reasonable attorneys' fees where appropriate;

26 10. Pre- and post-judgment interest on all damages and other monetary
27 relief awarded herein; and

28 11. Such other and further relief that the Court considers just and proper.

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JURY TRIAL DEMAND

Plaintiff hereby demands a trial by jury on his Second and Third Causes of Action.

Dated: October 10, 2023

ROGERS JOSEPH O'DONNELL



By: _____
SHARON ONGERTH ROSSI
LAUREN KRAMER SUJEETH
Attorneys for Petitioner and Plaintiff
RONALD GREGER

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VERIFICATION

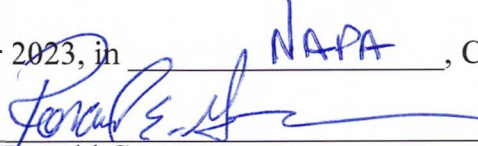
I, Ronald Greger, declare that:

I am the Petitioner and Plaintiff in this case, and I make this verification for this reason. I have read the foregoing VERIFIED PETITION FOR WRIT OF MANDATE AND COMPLAINT FOR DAMAGES;

I have personal knowledge of all of the facts recited in the above-referenced document, except for those matters which I believe to be true based upon information available to me, and therefore, verify them as true and correct to the best of my knowledge.

I declare under the penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 10th day of October 2023, in NAPA, California



Ronald Greger