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SUPERIOR COURT OF WASHINGTON
FOR KING COUNTY

MARIA LUISA JOHNSON, CARMELIA
DAVIS-RAINES, CHERYL MUSKELLY,
PAULINE ROBINSON, ELAINE SEAY-
DAVIS, TONI WILLIAMSON, and
LYNDA JONES,

Plaintiffs,

vs.

SEATTLE PUBLIC UTILITIES, a
department of the CITY OF SEATTLE, a
municipality,

Defendant.

Case No.: 15-2-03013-2 SEA

**SECOND AMENDED COMPLAINT
FOR DAMAGES, INJUNCTIVE AND
DECLARATORY RELIEF**

I. JURISDICTION

1.1 The plaintiff, Maria Luisa Johnson, is a Filipina woman. At all times relevant to this complaint she was a citizen of the United States residing in King County.

1.2 The plaintiff, Carmelia Davis-Raines, is an African American woman. At all times relevant to this complaint she was a citizen of the United States residing in King County.

1 1.3 The Plaintiff, Cheryl Muskelly, is an African American woman. At all
2 times relevant to this Complaint she was a citizen of the United States residing in King
3 County.

4 1.4 The Plaintiff, Pauline Robinson, is an African American woman. At all
5 times relevant to this Complaint she was a citizen of the United States residing in King
6 County.

7 1.5 The Plaintiff, Elaine Seay-Davis, is an African American woman. At all
8 times relevant to this Complaint she was a citizen of the United States residing in King
9 County.

10 1.6 The Plaintiff, Toni Williamson, is an African American woman. At all
11 times relevant to this Complaint she was a citizen of the United States residing in King
12 County.

13 1.7 The defendant, City of Seattle is a municipality existing under the laws of
14 Washington. Seattle Public Utilities (“SPU”), has its headquarters in King County,
15 Washington, is a department of the City of Seattle, a municipal corporation, and is
16 organized and exists under the laws of the State of Washington.

17 1.8 The Plaintiff, Lynda Jones, is an African American woman. At all times
18 relevant to this Complaint she was a citizen of the United States residing in King County.

19
20 **II. FACTS**

21 **Background**

22 2.1 Defendant SPU is a public utility that supplies water, sewer, drainage,
23 garbage, and recycling services to approximately 1.4 million customers in and around
24 Seattle, Washington. SPU was formed in 1997 when City of Seattle merged the Solid
25

1 Waste Utility, the Drainage and Wastewater Utility, the Water Department, and certain
2 customer service operations of Seattle City Light.

3 2.2 SPU's Customer Service Branch operates a contact center where Utility
4 Account Representatives (UARs) answer phone calls from SPU and Seattle City Light
5 (SCL) customers. UARs are authorized to make certain transactions to a customer's utility
6 account through the Consolidated Customer Service System (CCSS). Examples of
7 transactions that UARs may be asked to make include: postponing a payment, arranging to
8 pay an invoice in installments, or forgiving a penalty charge. Some transactions have
9 financial impacts upon the accounts, while others are purely administrative in nature.
10 During a typical workday, UARs receive 20 or more emails and field approximately 50
11 customer calls.

12 2.3 Approximately 300 SPU employees can enter transactions or review
13 customer accounts through CCSS. There are approximately 2 million customer accounts
14 in CCSS, with a total of \$1.2 billion in utility charges billed annually.

15 **Facts Common to Each Plaintiff**

16 2.35 Since 1999, a series of audits and investigations, performed by the
17 Washington State Auditor's Office, Seattle City Auditor, and SPU revealed substantial and
18 persistent issues with SPU's monitoring of, and control over, customer utility accounts.

19 2.36 The State Auditor's Office performed an audit of Seattle City Light between
20 January 1, 1995 and September 30, 1999. A report issued December 17, 1999, concluded
21 that SCL "failed to take reasonable measures to prevent employees from entering into
22 contracts that violated the City's Code of Ethics."

23 2.37 The State Auditor's Office audited SPU from July 1, 2007 through June 30,
24 2008. That audit "identified a weakness in internal control over utility customer accounts."
25 The audit discovered that account technicians could make adjustments to customer

1 accounts without supervisory review. Additionally, while the billing system could
2 generate a report of all adjustments, the function had not been activated.

3 2.38 The State Auditor’s Office audited the City of Seattle between July 1, 2008
4 and June 30, 2009. In a report dated May 10, 2010, the State Auditor’s Office repeated its
5 earlier recommendations to SPU and SCL “to improve monitoring control over
6 adjustments to individual customer accounts.”

7 2.39 On November 4, 2010, SPU started an investigation into CCSS adjustments
8 made by at least three suspects. Prompted by what it discovered in that investigation, SPU
9 began a comprehensive audit of CCSS transactions in February 2011. This audit
10 eventually “found a total of 1,336 transactions, over the 12-year period, made by
11 employees on their own accounts, those of family members, or close personal friends. 718
12 of these transactions had a financial impact on the accounts.” The audit further found
13 “eight instances of employees who made multiple [payment arrangements] for themselves
14 or a family member,” in most cases otherwise inconsistent with policy. Additionally, the
15 audit found “143 credit adjustments made by employees to their own utility accounts, or
16 their family members’ or friends’, for a total of \$1,467.”

17 2.40 SPU’s Risk Management team conducted interviews of seven UAR
18 supervisors, between October 27 and November 14, 2011, seeking information regarding
19 CCSS transactions, policies, and knowledge of the policies. These interviews revealed that
20 SPU did not have identifiable policies in place explicitly prohibiting UARs from making
21 transactions on their own accounts or the accounts of friends, family members, and co-
22 workers, and that supervisors did not have a common understanding of such policies.

23 2.41 All of the supervisors responded that there was no written SPU policy that
24 explicitly prohibited UARs from making transactions on their own accounts or the
25 accounts of friends and family members. The supervisors indicated that this kind of

1 prohibition would be “covered verbally in new hire training, in subsequent discussions
2 with supervisors” with guidance provided through written Workplace Expectations and
3 UAR Expectations and through the City’s Code of Ethics training.

4 2.42 There was considerable variation in the supervisors’ understanding of SPU
5 policy, procedures, and training. Six of the seven supervisors said that policy had always
6 prohibited making transactions on one’s own account, but one supervisor believed this
7 policy hadn’t previously been in writing. Only five of seven supervisors said that it was
8 “never acceptable for an employee to do a transaction on their own account or on their
9 friends’ or family’s accounts.” One supervisor stated it was permissible for a UAR to
10 make a payment arrangement on their own account or the account of friends, family
11 members, or coworkers, provided that the transaction is otherwise within policy guidelines.
12 All the supervisors, except for one, said that employees could not “waive garbage fees, late
13 fees, make some other payment adjustment or create a payment plan for family, friends,
14 co-workers, or for themselves.” However, one supervisor said that some employees may
15 not be aware of that. With regard to training, five of six supervisors responded that
16 training said not to touch the accounts of friends and family members. However, the
17 supervisor who had most recently went through UAR training did not remember learning
18 about this prohibition, nor did he remember ethics training during his orientation.

19 2.43 In a report dated May 17, 2011, the State Auditor’s Office detailed its
20 findings from an audit of the City of Seattle from July 1, 2009 through June 30, 2010. This
21 audit reported that the City “lacks adequate processes to monitor adjustments to accounts
22 that reduce amounts owed by utility customers” The audit identified the cause of the
23 inadequate monitoring: “While SPU intended to revise its reporting and monitoring of
24 adjustments based on prior auditor recommendations, the primary individual responsible
25 for this work retired and so the changes have not yet been implemented.”

1 2.44 On June 7, 2011, the Seattle Times published an article reporting on the
2 State Auditor’s findings that SPU lacked adequate controls over customer accounts,
3 resulting in potentially millions of dollars in lost revenue.

4 2.45 On December 2, 2011, SPU fired three employees and suspended a fourth
5 for making inappropriate CCSS transactions. Then, in March 2012, former SPU Project
6 Engineer, Joseph Phan, was arrested for stealing nearly \$1.1 million from SPU. Phan was
7 among the three employees fired on December 2. He began stealing from SPU in 2006 by
8 diverting money from water-main extension project into his own bank account. By
9 January 2011, he had stolen nearly \$1.1 million.

10 2.46 In response to the audit findings, SPU repeatedly made misleading claims
11 that it required employees to sign confidentiality agreements with ethics statements. First,
12 in December 2011, SPU claimed that it had already required employees with CCSS access
13 to sign confidentiality agreements that included an ethics statement. Later, a State
14 Auditor’s report dated August 16, 2012 stated that SPU claimed that it required employees
15 with access to CCSS to sign confidentiality agreements with an ethics statement. Although
16 SPU created an updated confidentiality agreement with an ethics statement in September
17 2011, SPU only required a handful of employees to sign the updated agreement. At the
18 same time, SPU continued to distribute to other employees the earlier version of the
19 confidentiality agreement, without the ethics statement, as late as August 2012.

20 2.47 SPU also made misleading statements regarding the steps it took in
21 implementing policies to improve monitoring and control over CCSS account adjustments.
22 In a report dated August 16, 2012, the State Auditor’s Office reported that SPU claimed it
23 had adopted a new policy and developed new procedures “that prohibit employees from
24 adjusting their own accounts or those of their families and friends.” SPU claims that it
25 implemented CS-106, a policy prohibiting UARs from making transactions on their own

1 accounts and the accounts of friends, family members, and co-workers, in March 2011.
2 However, SPU retains no documentation of UARs acknowledging receipt of this policy.
3 More than one year later, SPU implemented procedure CS-106.1, outlining procedures by
4 which UARs should process transactions involving their own accounts or accounts of
5 friends, family members, and co-workers. Several SPU employees were unaware of the
6 existence of policy CS-106 until SPU distributed procedure CS-106.1 in July 2012.

7 2.48 As a result of the CCSS investigation, SPU disciplined or threatened to
8 discipline several UARs for allegedly improper transactions. The focus of disciplinary
9 action, or the threat of disciplinary action, was on persons of color, not on Caucasian
10 employees engaging in the same acts. No one working at Seattle City Light in the same
11 position was disciplined for engaging in the same acts.

12 2.49 Many, if not most, of the allegedly improper CCSS transactions for which
13 UARs were disciplined, or threatened with discipline, pre-dated July 2012, when SPU
14 distributed procedure CS-106.1. Prior to that date, SPU failed to adequately communicate
15 to UARs any policy that prohibited the employees making transactions on their own
16 accounts or the accounts of friends, family members, and co-workers.

17 2.50 SPU targeted persons of color, making them scapegoats for the misdeeds of
18 SPU managers, who had falsely claimed to the State Auditor and to the City Council for
19 more than a decade, that policies and procedures were in place to ensure that SPU
20 employees did not engage in self-dealing. This focus stems from the \$1.1 million
21 embezzlement by Mr. Phan in 2011.

22 2.51 Prior to filing this lawsuit, Maria Luisa Johnson, Carmelia Davis-Raines,
23 Cheryl Muskelly, Pauline Robinson, Elaine Seay-Davis, Toni Williamson, and Lynda
24 Jones each properly filed an administrative claim with the City of Seattle, which satisfied
25

1 the requirements of state law for persons who seek to sue the City of Seattle in court. For
2 each, at least sixty days has expired since the filing.

3 2.52 Seattle Public Utilities is liable for the actions of its employees and agents
4 under the doctrine of respondeat superior.

5 2.53 SPU has engaged in and is engaging in a continuing violation of the civil
6 rights of Maria Luisa Johnson, Carmelia Davis-Raines, Cheryl Muskelly, Pauline
7 Robinson, Elaine Seay-Davis, Toni Williamson and Lynda Jones.

8 **Individual Allegations**

9 **Luisa Johnson**

10 2.54 Ms. Johnson is a Filipina woman.

11 2.55 Ms. Johnson and her husband, Shaun Johnson, live in Shoreline. The
12 residence has a SCL account in Mr. Johnson's name with Ms. Johnson listed as co-
13 applicant. Neither Ms. Johnson nor Mr. Johnson have SPU accounts.

14 2.56 Ms. Johnson began working at SPU in April 2001. She was laid off in
15 sometime around October 2003 but rehired around May 2004. Ms. Johnson worked in the
16 Customer Service Branch as a UAR her entire tenure with SPU.

17 2.57 During her tenure with SPU, Ms. Johnson was recognized for the
18 exceptional quality of her work. From 2004 to the time her employment with SPU was
19 terminated, she has consistently met or exceeded expectations, evidenced by her
20 supervisors' ratings in her Employee Performance Reviews.

21 2.58 Sometime around July 2012, Ms. Johnson was notified of CS-106.1, a
22 procedure prohibiting employees from performing transactions on their own accounts, and
23 accounts of friends, family members, and other employees. This procedure was given to
24 Ms. Johnson while she was working at her desk. After reading and signing the procedure,
25 Ms. Johnson informed her supervisor, Alan Authers, that she made payment arrangements

1 on her own account in the past. Prior to receiving CS-106.1, Ms. Johnson believed that it
2 was permissible to make such transactions and that all other employees were doing so.

3 2.59 On November 13, 2012, Ms. Johnson was interviewed by Guillemette
4 Regan and Nancy Coyle regarding allegedly improper CCSS transactions and Ms.
5 Johnson's understanding of SPU and City policies. On May 9, 2013, Ms. Johnson received
6 a letter from Susan Sanchez, the Customer Service Branch Deputy director, and an
7 attached memorandum, notifying her that she had been recommended for termination and
8 placed on administrative leave. That letter alleged that Ms. Johnson had violated the
9 City's Code of Ethics, SPU's customer account policies, and Workplace Expectations for
10 Everyone. Ms. Johnson allegedly made 30 payment arrangements on her own account
11 between October 2005 and June 2011, two of which were after the supposed
12 implementation of CS-106 in March 2011. Additionally, Ms. Johnson allegedly violated
13 the Ethics Code by waiving a \$10 late fee on her own account in May 2005, although she
14 would have otherwise been entitled to the adjustment.

15 2.60 The memorandum also alleged that Ms. Johnson made payment
16 arrangements for herself after failing two payment arrangements in a calendar year. The
17 memorandum claimed that this violated a policy. However, no such policy existed until
18 late 2012, and then it only applied to SCL.

19 2.61 On June 27, 2013, Ms. Johnson received a letter from Ray Hoffman,
20 notifying her of his decision to terminate her employment immediately.

21 2.62 The CCSS transactions that were the basis for Ms. Johnson's termination
22 were made between May 25, 2005 and June 27, 2011—all before July 2012, when she was
23 notified of procedure CS-106.1.

24 **Toni Williamson**

25 2.63 Ms. Williamson is an African American woman.

1 2.64 Ms. Williamson was hired by the City of Seattle in 1992, working as a
2 Customer Service Representative with the Solid Waste Utility. Ms. Williamson became a
3 UAR I in 1998. In December 1999, Ms. Williamson earned a merit raise to UAR II. In
4 order to earn this raise, Ms. Williamson had to meet a minimum score on an evaluation
5 that included a test, an interview, and a monitoring session. As a UAR II, Ms. Williamson
6 was eligible to take on additional responsibilities and authority. Examples of additional
7 responsibilities include: assisting in training, working on escrow, assisting supervisors with
8 customer callbacks, taking escalated calls (customer calls that another UAR was unable to
9 settle), and opening or closing the call center.

10 2.65 During Ms. Williamson's time at SPU, she was recognized for the excellent
11 quality of her work. In 1994, she received a Solid Waste Utility Excellence in Service
12 Award as a member of the Customer Service Staff. In 2012, she was received an award
13 from Employee Recognition Program, recognizing her excellent work in 2011. Since
14 2002, Ms. Williamson has received positive performance reviews, consistently meeting or
15 exceeding expectations as reviewed by her supervisors.

16 2.66 Sometime around July 2012, Ms. Williamson was first notified of procedure
17 CS-106.1 during an aisle meeting. Prior to this, she had no notice of the procedure and she
18 believed that it was permissible to make CCSS transactions on her own account and that all
19 other employees were doing so.

20 2.67 At this meeting, Ms. Williamson discovered that there was also an older
21 policy. At a later meeting with her union, Ms. Williamson learned that SPU claimed it
22 emailed that policy to the workforce in 2011. Ms. Williamson never saw that policy. Prior
23 to 2012, no one told Ms. Williamson that there was a policy, gave her training on the
24 policy, and no one complained about UARs making adjustments to their own accounts or
25 the accounts of friends and family members. Ms. Williamson has no recollection of

1 receiving a UAR expectations document in 2011 that contained a prohibition against
2 making transactions on one's own account or the accounts of friends and family members.

3 2.68 On May 2, 2013, Guillemette Regan interviewed Ms. Williamson about
4 allegedly improper CCSS transactions that Ms. Williamson made. On June 20, 2013, Ms.
5 Williamson received a letter from Susan Sanchez, notifying her that she was recommended
6 for termination and was being placed on administrative leave, effective immediately.

7 2.70 On August 15, 2013, Ms. Williamson received a letter from Ray Hoffman,
8 informing her of his decision to terminate her employment immediately. That letter stated
9 that an SPU audit found that she had made 94 transactions on her own utility account and
10 the accounts of friends and relatives. These transactions amounted to "gross misuse of
11 [her] position, violation of the Ethics Code and SPU's customer service policies."

12 2.71 Mr. Hoffman's letter emphasized that Ms. Williamson had made three types
13 of transactions with financial impacts on the accounts. First, she allegedly removed two
14 late fee penalties from her own account and twelve from the accounts of friends and family
15 members, nine of which violated the late-fee rebate policy. Second, she allegedly removed
16 a \$5.50 extra garbage charge from her own account and twelve such charges, totaling
17 \$137.50, from the account of a family friend without the corresponding service orders.
18 Finally, she allegedly made a payment arrangement on her own account, her sister's
19 account, and 33 arrangements on her friend's account. Ms. Williamson's friend was
20 ineligible for 14 of those arrangements due to her failure to fulfill previous arrangements.

21 2.72 Ms. Williamson had no notice of an SPU policy that prohibited UARs from
22 making transactions on their own accounts until July 2012. The allegedly improper
23 transactions all took place between February 2001 and October 2010—well over a full year
24 before she was first notified of CS-106.

25

1 **Elaine Seay-Davis**

2 2.73 Ms. Seay-Davis is an African American woman.

3 2.74 Ms. Seay-Davis was hired by the City of Seattle Department of Health
4 Human Services as a temporary employee in November 1994. In December 1998, she
5 began working for SPU in the Customer Service Branch as a UAR. Ms. Seay-Davis
6 earned a merit raise to UAR II in December 1999. To earn this raise, Ms. Seay-Davis
7 passed an evaluation consisting of a test, an interview, and a monitoring session. As a
8 UAR II, Ms. Seay-Davis was eligible to take on additional responsibility and authority.

9 2.75 Ms. Seay-Davis was recognized for her exceptional work at SPU. Since
10 2000, she consistently met or exceeded standards, as reviewed by her supervisors in her
11 annual Employee Performance Reviews. Additionally, Ms. Seay-Davis was nominated for
12 consideration of an award through SPU's 2011 Employee Recognition Program.

13 2.76 Ms. Seay-Davis has physical disabilities as a consequence of multiple
14 sclerosis. She requested to work from home sometime around 2002 or 2003 as an
15 accommodation, and SPU granted her request roughly three years later, around September
16 2006. SPU provided Ms. Seay-Davis with a computer, phone, and a chair. Ms. Seay-
17 Davis received customer calls at home just as other UARs did at the SPU contact center.

18 2.77 When Ms. Seay-Davis began telecommuting, she still went to the contact
19 center to attend team meetings.

20 2.78 SPU failed to adequately communicate information from hour-long team
21 meetings and shorter aisle meetings to Ms. Seay-Davis. Sometime around 2012, Ms. Seay-
22 Davis's supervisor, Phil Blaser, retired. David Marshall became her new supervisor.
23 Around this time, she stopped getting notifications of meetings early enough to allow her
24 to arrange for a ride from Metro Access. SPU set up a speakerphone for team meetings to
25 allow Ms. Seay-Davis to listen in, but she couldn't hear everything that was said because

1 speakers at the meetings were often not facing the phone. Ms. Seay-Davis complained
2 about not being able to hear everything, but the problem was never fixed. SPU also
3 installed GoToMeeting technology to allow Ms. Seay-Davis to see what was being
4 displayed on the screen at these meetings, but SPU never used the system. Ms. Seay-Davis
5 would usually receive any written information through email. Later on, SPU used shorter
6 aisle meetings, usually lasting no longer than 15 minutes, to communicate information to
7 employees. SPU did not set up the speakerphone for these meetings. SPU communicated
8 information from the meetings to Ms. Seay-Davis either through email or phone, but did
9 not consistently do so for every meeting. Even when SPU did contact Ms. Seay-Davis, she
10 would only receive part of the information communicated at the meetings. Changes in
11 SPU policy requiring a signature were sent to Ms. Seay-Davis through email.

12 2.79 Sometime around July 2012, Ms. Seay-Davis was notified of procedure CS-
13 106.1. As best she can recall, the policy was emailed to her. She also received a “talking
14 points” document for an aisle meeting on July 17, 2012 that discussed procedure CS 106.1.
15 Prior to receiving notice of this policy, she believed it was permissible to make CCSS
16 transactions on the accounts of her friends and family members, and that all other
17 employees were making such transactions.

18 2.80 On April 11, 2013 Guillemette Regan interviewed Ms. Seay-Davis
19 regarding allegedly inappropriate CCSS transactions. On August 15, 2013, Ms. Seay-
20 Davis received a letter notifying her of her recommendation for termination and placement
21 on administrative leave. SPU’s stated reason for her termination was that an audit found
22 that she made 28 transactions on her own account; the account of her daughter, Teresa
23 Davis; and the account of her friend, Barbara Horne. Of those transactions, 9 were cited as
24 conferring a financial benefit upon the recipient. Three of those transactions were payment
25 arrangements for her daughter’s account between April 17, 2001 and July 26, 2002, and

1 the other six were payment arrangements on Ms. Horne's account between September 20,
2 2002 and November 12, 2010. All 9 of payment arrangements made on the accounts of
3 Teresa Davis and Barbara Horne allegedly violated the City's Ethics Code. SPU also
4 alleged that Ms. Seay-Davis violated its policies by making payment arrangements on her
5 daughter's account on July 25, 2002 and Ms. Horne's account on July 11, 2010 without
6 first receiving an initial payment.

7 2.81 Fearing her imminent termination, Ms. Seay-Davis filed her retirement
8 paperwork sometime around August 27, 2013. The effective date of her retirement was
9 around October 8, 2013.

10 2.82 Ms. Seay-Davis had no duty to stay employed in a discriminatory
11 environment, and had the right to quit (or retire) and sue under the WLAD.

12 2.83 Ms. Seay-Davis had no notice of an SPU policy prohibiting UARs from
13 performing transactions on the accounts of friends or family members until July 2012. The
14 allegedly improper transactions were all made between April 17, 2001 and November 12,
15 2010 – more than seven months before Ms. Seay-Davis was notified of CS-106.1.

16 **Carmelia Davis-Raines**

17 2.84 Ms. Davis-Raines is an African American woman.

18 2.85 Ms. Davis-Raines was hired by the City of Seattle in 1988. Sometime
19 around 1994, she started working as a Customer Service Representative. Ms. Davis-
20 Raines became a UAR in May 1999.

21 2.86 Ms. Davis-Raines earned a merit raise to UAR II in 2003. To earn this
22 raise, Ms. Davis-Raines passed an evaluation consisting of a test, an interview, and a
23 monitoring session. As a UAR II, Ms. Davis-Raines was eligible to take on additional
24 responsibility and authority.

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1 2.87 During Ms. Davis-Raines' time at SPU, she has been recognized for her
2 excellent quality of work. In 1994, she received a Solid Waste Utility Excellence in
3 Service Award as a member of the Customer Service Staff. Since 2002, Ms. Davis-Raines
4 has received positive reviews in her annual Employee Performance Reviews, consistently
5 meeting or exceeding expectations.

6 2.88 Ms. Davis-Raines was notified of procedure CS-106.1 either by email or
7 through the "portal page," but she does not remember exactly when. Sometime around
8 July 2012, she believes that she received a paper copy of what may have been CS-106.1.
9 Prior to being notified of CS-106.1, she did not know of any SPU policy that forbade
10 making transactions on her own account. She believed that all other employees were
11 making such transactions. She does not recall receiving a UAR expectations document in
12 2011 containing prohibitions on the kinds of transactions UARs could make.

13 2.89 Ms. Davis-Raines was recently informed that SPU claimed that it first
14 emailed out policy CS-106 in April 2011. Ms. Davis-Raines does not recall receiving this
15 email. Prior to July 2012, no one ever told her that there was a new policy, no one ever
16 gave her training on a new policy, and no one complained about UARs making
17 adjustments to their own accounts or the accounts of friends or family members.

18 2.90 Ms. Regan first interviewed Ms. Davis-Raines in December 2012, asking
19 about CCSS transactions made between 2002 and 2012 on the accounts of Ms. Davis-
20 Raines and her mother. Ms. Regan conducted a second interview on August 13, 2013.
21 When Ms. Davis-Raines declined to disclose additional information, Ms. Regan terminated
22 the interview and Susan Sanchez came into the room and read her recommendation for a
23 three-day suspension.

24 2.91 On August 13, 2013, Ms. Davis-Raines received a letter from Ms. Sanchez,
25 notifying her that she had been recommended for a three-day suspension without pay. This

1 suspension was based upon an audit finding that Ms. Davis-Raines performed 17
2 transactions on utility accounts belonging to herself and her mother, all of which allegedly
3 violated the City's Code of Ethics. Of these transactions, three had a financial impact: the
4 creation of two payment arrangements and the removal of one late fee on her mother's
5 account, all between 2004 and 2005.

6 2.92 A memorandum attached to Ms. Sanchez's letter noted that the three
7 transactions with financial impacts were otherwise consistent with payment arrangement
8 and late fee rebate policies. Auditors also found 80 payment arrangements set up on Ms.
9 Davis-Raines' account between 2001 and 2012. Of those arrangements, 67 "failed for lack
10 of sufficient payment or carry-forward of incomplete payment arrangements."
11 Additionally, in February 2011, a co-worker created a payment arrangement while Ms.
12 Davis-Raines' account was in shut-off status without the required 75% down payment.

13 2.93 On October 17, 2013, Ms. Davis-Raines received a letter from Ray
14 Hoffman, notifying her of his decision to impose a one-day suspension from work without
15 pay. This letter cited the basis for the disciplinary action as the 17 transactions that
16 allegedly violated the City's Code of Ethics and the three transactions on Ms. Davis-
17 Raines' mother's account that had a financial impact. The letter noted that the number of
18 payment arrangements on Ms. Davis-Raines' own account was not the basis for discipline.

19 2.94 The allegedly improper CCSS transactions that were the basis for Ms.
20 Davis-Raines' suspension took place in 2004 and 2005—several years before SPU created
21 CS-106 and notified Ms. Davis-Raines of the policy.

22 **Cheryl Muskelly**

23 2.95 Ms. Muskelly is an African American woman.

24 2.96 Ms. Muskelly was hired by the City of Seattle in 1990 as an Administrative
25 Specialist with the Solid Waste Utility. In 1993, she began working as a Customer Service

1 Representative. In 1998, she became a UAR I with newly formed SPU. She continued to
2 work as a UAR until the time of her retirement in 2013.

3 2.97 During Ms. Muskelly's tenure with SPU, she was recognized for her high-
4 quality work. In 1994, she was a part of the Customer Service Staff that was nominated
5 for a 1994 Excellence in Service Award given out by the Solid Waste Utility. Since 2003,
6 she consistently met or exceeded standards, as evidenced by her supervisors' reviews in
7 her yearly Employee Performance Reviews.

8 2.98 Ms. Muskelly was informed of CS-106.1 sometime around July 2012. As
9 best as she can recall, a paper copy of the policy was placed on her desk, but was taken
10 away before she had an opportunity to see it. She also recalls there being an aisle meeting
11 around the same time, but cannot recall what was discussed at the meeting. Prior to
12 learning about CS-106.1, Ms. Muskelly believed that there was no SPU policy or
13 procedure that prohibited UARs from making transactions on their own accounts. Ms.
14 Muskelly believed all other employees were making such transactions.

15 2.99 Ms. Muskelly later learned that SPU claimed to have emailed a policy to the
16 workforce in April 2011. She does not recall seeing that policy—it may have been buried
17 in all the other emails she would get during the day. Prior to July 2012, no one told her
18 there was a new policy, gave her training on the new policy, or complained about UARs
19 making adjustments to their own accounts or the accounts of friends and family members.

20 2.100 Sometime around April 2013, Ms. Muskelly had a meeting with Debra
21 Russell concerning possible policy violations. At that time, Ms. Muskelly was told that
22 she would have another meeting to follow up about those allegations. At the follow-up
23 meeting, Ms. Regan accused Ms. Muskelly of performing two kinds of improper
24 transactions. First, she alleged that Ms. Muskelly made a yard waste container request on
25 the account of her son, Thurston Delane Muskelly II, despite the fact that he never had an

1 account with the city. There was no money associated with the transaction. Second, Ms.
2 Regan claimed that Ms. Muskelly made payment arrangements upon the account
3 associated with a rental property owned by her husband, Thurston Edward Muskelly. This
4 property was acquired by Mr. Muskelly prior to their marriage. There were several
5 arrangements for the utilities accounts in the names of the tenants.

6 2.101 SPU policy did not require residential accounts to be in the name of the
7 property owner until July 2011, and even then, the policy would not be effective until the
8 tenants then living at the residence moved out.

9 2.102 On May 11, 2013, Ms. Muskelly's mother was involved in a major
10 accident. Consequently, Ms. Muskelly went on FMLA to help with her mother's care.
11 While caring for her mother, Ms. Muskelly began hearing from fellow SPU employees
12 about management investigating and disciplining employees.

13 2.103 Fearing her possible termination and potential loss of benefits, Ms.
14 Muskelly decided to retire. She filed her notice of retirement, naming her last day of work
15 as May 10, 2013. Ms. Muskelly remained on FMLA until July 2, 2013, which was the
16 date of her retirement.

17 2.104 Ms. Muskelly had no duty to stay employed in a discriminatory
18 environment, and had the right to quit (or retire) and sue under the WLAD.

19 2.105 The allegedly improper CCSS transactions took place between 2010 and
20 July 2011. These were all before Ms. Muskelly had notice of CS-106.1 in July 2012.

21 **Pauline Robinson**

22 2.106 Ms. Robinson is an African American woman.

23 2.107 Ms. Robinson was hired by the City of Seattle in 1990, where she worked
24 for Seattle Municipal Court in case prep and collections. Ms. Robinson transferred to SPU
25 in 1997, where she worked in the Customer Service Branch as a UAR.

1 2.108 Ms. Robinson’s tenure with SPU, she had never been subjected to
2 discipline.

3 2.109 Sometime in 2011, during a team meeting, Ms. Robinson’s team was
4 informed of a policy prohibiting UARs from making transactions on their own accounts or
5 accounts of friends or family members.

6 2.110 In late 2011 or early 2012, Ms. Robinson signed a document, which had
7 been presented to her by management, that said she could not make transactions on her
8 own account or the accounts of family members, friends, or other employees. After
9 discussing this matter with her union representative, Ms. Robinson signed a form
10 acknowledging her receipt of the document. Before this, Ms. Robinson had not seen or
11 signed any such policy.

12 2.111 SPU claimed that it emailed a policy to the workforce in April 2011. But
13 Ms. Robinson never saw this policy—it must have been buried under all the other emails
14 she got during the day. Prior to the 2011 team meeting, no one told her that there was a
15 new policy, trained her on a new policy, or complained about UARs making adjustments
16 on their own accounts or the accounts of friends or family members.

17 2.112 In late March 2013, Ms. Robinson’s supervisor told her that Debra Russell
18 wanted to speak with her. At that meeting, Ms. Robinson was informed that she was being
19 investigated and would have another meeting to discuss the matter further. About two
20 weeks later, Ms. Robinson had a meeting with Guillemette Regan, who informed Ms.
21 Robinson that she was being investigated for making inappropriate transactions. Ms.
22 Regan accused Ms. Robinson of making transactions on the accounts of her daughter,
23 Angela Kent, and her friend, Patricia Ballard.

24 2.113 On information and belief, Ms. Regan said that Ms. Robinson made a
25 payment arrangement on her daughter’s account in 2003 and Ms. Ballard’s account in

1 2001. Ms. Robinson was surprised to hear that she was being investigated for transactions
2 she had made so long ago. Ms. Robinson did not believe any policy prohibited those
3 transactions at the time.

4 2.114 In June 2013, Ms. Robinson heard that Toni Williamson had been fired for
5 allegedly making improper transactions. Knowing Ms. Williamson's exemplary record,
6 Ms. Robinson felt certain that she was going to be fired as well. Because Ms. Robinson
7 feared losing her retirement benefits, and also because the stress was aggravating her
8 existing health problems, she decided to retire. Ms. Robinson filed for retirement
9 sometime around early June 2013, with the last day working for SPU July 2nd.

10 2.115 Ms. Robinson had no duty to stay employed in a discriminatory
11 environment, and had the right to quit (or retire) and sue under the WLAD.

12 2.116 The transactions that formed the basis for SPU's investigation into Ms.
13 Robinson occurred between 2001 and 2003—eight years before SPU even claimed that it
14 initially implemented CS-106.

15 **Lynda Jones**

16 2.117 Ms. Jones is an African American woman, age 49. Race and age
17 were a substantial factor in SPU's decisions to discipline and suspend her. She was treated
18 differently than younger Caucasian employees doing the same job.

19 2.118 Ms. Jones was hired by the City of Seattle in 2002 and has most
20 recently been working in the Seattle Public Utilities' Customer Service Branch as a Utility
21 Account Representative I (UAR I) where she is paid \$27.80 per hour. As a UAR, she was
22 permitted to make certain transactions to a customer's utility account through the
23 Consolidated Customer Service Center to address customer issues and requests for service.
24 These transactions included responding to customers' requests to postpone payments,
25 make payments in installments, and getting a late payment fee rebated if a customer had

1 not previously been charged late fees. During a typical day at the contact center, they
2 received 20 or more emails per day and 50 or more customer calls per day. Ms. Jones does
3 not recall being told that they could not make these same adjustments for friends and
4 family that the made for any other customer.

5 2.119 Sometime after October 2012, Ms. Jones was notified verbally of
6 CS-106, a policy prohibiting employees from performing transactions on their own
7 accounts or accounts of family, friends or other employees. Prior to receiving that policy,
8 it was permissible to make such transactions and that all other employees did so.

9 2.120 On March 26, 2013, Ms. Jones received a memorandum instructing
10 her to participate in an investigation by SPU's Risk and Quality Assurance (RQA) office.
11 She was interviewed a few days later. This investigation resulted in a report that she
12 received, along with a letter dated July 9, 2013 from Susan Sanchez, Customer Service
13 Branch Deputy Director, who recommended that Ms. Jones be suspended for three days
14 without pay. The suspension was based on an audit finding that Ms. Jones made seven
15 transactions for her family members. Six of these transactions were administrative with no
16 benefit to anyone. The other one was a March 22, 2011 adjustment where she rebated a
17 \$10 late fee. While Ms. Sanchez' letter indicated it was on Ms. Jones' sister's account, the
18 transaction report indicated it was on her daughter's account. Ms. Jones did not recall the
19 transaction at the time of the investigation. The investigative report found that this did not
20 violate any customer service policy her daughter had no prior late fees, but did state that
21 she violated Ethics Code SMC 4.16. On July 25, 2013, Mr. Hoffman gave Ms. Jones a
22 one-day suspension without pay. Prior to that suspension, Ms. Jones had never received a
23 disciplinary action from the City, and had received all above average and meets
24 expectations on her performance reviews.

25

1 2.121 In response to a PRA request, Ms. Jones obtained copies of
2 “Confidentiality Agreements” for SPU employees that she had never seen before. Ms.
3 Jones had never seen prohibitions against making adjustments to her or her family
4 member’s accounts that are contained in the November 7, 2011 Confidentiality Agreement
5 signed by a supervisor. For example, her November 7, 2011 form contains the following
6 new language:

7
8 c. My user identification is assigned to me. I understand that I am not to
9 share my user identification with anyone; nor am I to use another
10 employee’s user identification to access utility accounts.

11 d. Per the City’s Code of Ethics, I understand that I must never post any
12 transactions on my own utility account(s) or on the accounts of any of my
13 friends of family members without supervisory authorization.

14 On information and belief, only a few managers signed this form. On information and
15 belief, no one from the contact center signed such a form.

16 2.122 Until the fall of 2012 when Ms. Jones saw the new CS-106, she had
17 never been told not to make adjustments to her or her family’s accounts.

18 2.123 Most of the people working in the contact center are persons of
19 color. The focuses of disciplinary actions were on persons of color, and over 40 years of
20 age, not on Caucasians doing the same job. On information and belief, no one working at
21 Seattle City Light in a similar position was disciplined for engaging in the same acts.

22 2.124 Ms. Jones and other persons of color over the age of 40 were made
23 scapegoats to cover up for the misdeeds of SPU managers who falsely claimed to the State
24 Auditor and to the City Council that policies and procedures were in place to ensure that
25 SPU employees did not engage in self-dealing.

 2.125 On information and belief, the focus on SPU employees of color over age
40 is a result of SPU’s failure to detect several years of embezzlement of \$1.1M by Joseph

1 Phan, an SPU Project Engineer that was not discovered until 2011 as indicated in the
2 attached Seattle Times Article (Exhibit 5, LRJ000139-141).

3
4 **III. CAUSES OF ACTION**

5 3.1 Each plaintiff realleges paragraphs one and two of the complaint, and
6 hereby incorporates the same by reference.

7 3.2 The facts set forth above state a claim against Seattle Public Utility/ City of
8 Seattle for intentional discrimination against each individual plaintiff in violation of the
9 Washington Law Against Discrimination, RCW 49.60 *et al.* for harassment, disparate
10 treatment and retaliation based on race and/or age.

11 3.3 The facts set forth above state a claim against Seattle Public Utility/ City of
12 Seattle for discrimination against each individual plaintiff in violation of the Washington
13 Law Against Discrimination, RCW 49.60 for disparate impact based on race and/or age.

14
15 **IV. PRAYER FOR RELIEF**

16 WHEREFORE, each individual plaintiff prays for relief as follows:

17 4.1 Damages for back pay, front pay, lost benefits, and medical expenses in an
18 amount to be proved at trial;

19 4.2 Damages for loss of enjoyment of life, emotional distress, injury to
20 reputation, fear, personal indignity, embarrassment, humiliation, anxiety, and anguish
21 experienced and with reasonable probability to be experienced by the plaintiff in the future,
22 and;

23 4.3 Prejudgment interest in an amount to be proved at trial;

24 4.4 Reasonable attorney's fees and costs;

25 4.5 A permanent injunction for each plaintiff;

1 **CERTIFICATE OF SERVICE**

2
3 I, Jodie Branaman, certify under penalty of perjury under the laws of the State of
4 Washington that on April 4, 2016, I electronically filed the foregoing document with the
5 Clerk of the Court using the ECR –E-Filing system, and caused a true and correct copy to
6 be served on the party listed below using the E-Serve application.

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