

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF PENNSYLVANIA

<hr/>	:	CIVIL ACTION
CARLOS VEGA	:	
Philadelphia, PA 19145	:	
and	:	NO.
JOSEPH WHITEHEAD, JR.	:	
Philadelphia, PA 19129	:	
	:	JURY TRIAL DEMANDED
Plaintiffs,	:	
v.	:	
	:	
CITY OF PHILADELPHIA	:	
Philadelphia, PA 19107	:	
and	:	
LAWRENCE S. KRASNER	:	
Philadelphia, PA 19107	:	
Defendants.	:	

COMPLAINT

I. PRELIMINARY STATEMENT

Plaintiffs, Carlos Vega (“Plaintiff Vega”) and Joseph Whitehead, Jr. (“Plaintiff Whitehead”), join in bringing this action alleging age discrimination against their former employer, the City of Philadelphia (the “City”), and Lawrence S. Krasner (“Defendant Krasner”), who currently serves as District Attorney for the City. The action is brought pursuant to the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. §621 et seq. (“ADEA”), and the Pennsylvania Human Relations Act, as amended, 43 P.S. §951 et seq. (“PHRA”). Plaintiffs had long, successful and distinguished careers with the City as Prosecutors in the City’s District Attorney’s Office (“DA’s Office”), which spanned 35 years in the case of Plaintiff Vega and 28 years in the case of Plaintiff Whitehead, until the City and Defendant Krasner (collectively, “Defendants”) caused

Plaintiffs to be involuntarily terminated from their employment with the City in January of 2018. From 1987 until January 2018, Plaintiff Vega worked as a Prosecutor in the Homicide Unit of the DA's Office, and from 2014 until January 2018, Plaintiff Whitehead was also a Prosecutor in that Unit. In January 2018, Plaintiff Vega's age was 61 and Plaintiff Whitehead's age was 64. Prior to being terminated by Defendants, both Plaintiffs intended to continue working for the City as Prosecutors for years to come.

In February 2017, Defendant Krasner announced his candidacy for District Attorney ("DA") of the City. Throughout the course of his campaign for DA, Defendant Krasner made a series of public statements that reflected his strong bias against and stereotypical views of older Prosecutors, and his unwavering preference and affinity for young Prosecutors. Defendant Krasner even declared publicly that if he were elected, he would fire older Prosecutors and replace them with young Prosecutors. On November 7, 2017, Defendant Krasner won the election for District Attorney, and on January 2, 2018, he was sworn into office as the City's new DA. Three days later, on January 5, 2018, Defendant Krasner directed that a number of Assistant District Attorney ("ADAs") in the DA's Office, including Plaintiffs, be informed that day that he was demanding their resignations; that they were not to return to work after January 5, 2018; and that if they refused to resign, they would be fired. Consistent with Defendant Krasner's discriminatory plan and directive, Plaintiffs were informed separately by the City on January 5, 2018 that they had the Hobson's choice of either resigning or being fired. Plaintiffs were given no explanation for why they were being forced out, and Defendant Krasner never contacted or met with them to give them a reason. When

Plaintiffs refused to tender their resignations on January 5, 2018, they were instructed by the City to clear out their offices that day, thereby ending their careers with the City after a combined 63 years of loyal and dedicated service. After they were evicted by the City, Plaintiffs were replaced by or had their cases reassigned to substantially younger, less experienced Prosecutors who were not as qualified as Plaintiffs. After assuming office, Defendant Krasner continued to make public remarks that revealed his antipathy toward older Prosecutors and his partiality for young Prosecutors; and since taking office as District Attorney, he has hired many young Prosecutors, a large number of whom are recent law school graduates.

The ages of Plaintiffs was a determinative and motivating factor in Defendants' decisions which caused Plaintiffs' employment with the City to be terminated. To remedy the acts of age discrimination alleged herein, Plaintiffs seek relief in the form monetary damages for loss of retirement benefits; monetary damages for past and future lost wages; reinstatement as an alternative to future lost wages; liquidated damages under the ADEA; compensatory damages under the PHRA for emotional distress, harm to reputation, and other non-economic harm; attorney's fees and costs; and other affirmative relief.

II. PARTIES

1. Plaintiff Vega is an adult individual residing in Philadelphia, Pennsylvania, who was born on July 9, 1956 and is presently 63 years of age.

2. Plaintiff Whitehead is an adult individual residing in Philadelphia, Pennsylvania, who was born on August 12, 1953 and is presently 66 years of age.

3. The City is a municipality and political subdivision of the Commonwealth of Pennsylvania, with municipal offices, including the DA's Office, located at Three South Penn Square, Philadelphia, Pennsylvania 19107.

4. At all relevant times, the City acted through its agents, servants and employees, acting within the scope of their authority, in the course of their employment, and in furtherance of the City's mission, business and affairs.

5. The City is and at all relevant times has been an "employer" within the meaning of the ADEA and the PHRA.

6. At all relevant times, the City has employed a sufficient number of employees to subject it to the provisions and requirements of the ADEA and the PHRA.

7. Defendant Krasner is an adult individual residing in Philadelphia, Pennsylvania, who has served as District Attorney for the City from January 2, 2018 to the present, and whose office is located at Three South Penn Square, Philadelphia, Pennsylvania 19107.

III. JURISDICTION, VENUE AND COMPLIANCE WITH ADMINISTRATIVE PROCEDURES

8. This Court has jurisdiction over Plaintiffs' claims arising under the ADEA pursuant to 28 U.S.C. §1331 and 29 U.S.C. §626(c)(1).

9. This Court has supplemental jurisdiction over Plaintiffs' claims arising under the PHRA pursuant to 28 U.S.C. §1367(a).

10. Venue is proper in this judicial district pursuant to 28 U.S.C. §1391(b) because Defendants reside in this district, and all or a substantial part of the events and occurrences giving rise to Plaintiffs' claims occurred here.

11. On June 26, 2018, Plaintiff Vega filed a timely Complaint against Defendants with the Pennsylvania Human Relations Commission (“PHRC”), in which he complained of the acts and practices of age discrimination alleged herein (“Plaintiff Vega’s PHRC Complaint”).

12. On or about June 26, 2018, Plaintiff Vega’s PHRC Complaint was cross-filed with Equal Employment Opportunity Commission (“EEOC”).

13. Plaintiff Vega’s ADEA claim asserted herein is timely since his PHRC Complaint was cross-filed with the EEOC more than 60 days ago; see 29 U.S.C. §626(d)(1).

14. Plaintiff Vega’s PHRA claim asserted herein is timely since his PHRC Complaint was filed more than one year ago; see 43 P.S. §962(c)(1).

15. On June 26, 2018, Plaintiff Whitehead filed a timely Complaint against Defendants with the PHRC, in which he complained of the acts and practices of age discrimination alleged herein (“Plaintiff Whitehead’s PHRC Complaint”).

16. On or about June 26, 2018, Plaintiff Whitehead’s PHRC Complaint was cross-filed with the EEOC.

17. Plaintiff Whitehead’s ADEA claim asserted herein is timely since his PHRC Complaint was cross-filed with the EEOC more than 60 days ago; see 29 U.S.C. §626(d)(1).

18. Plaintiff Whitehead’s PHRA claim asserted herein is timely since his PHRC Complaint was filed more than one year ago; see 43 P.S. §962(c)(1).

19. Plaintiffs bring this action on their own behalf and collectively as similarly-situated former employees of the City.

20. Attached hereto, as Exhibits "A" and "B", are written consents of Plaintiffs to proceed collectively in this action pursuant to 29 U.S.C. §216(b) and 29 U.S.C. §626(b).

IV. STATEMENT OF FACTS

A. Plaintiff Vega's Employment History and Performance with the City

21. In September 1982, at age 26, Plaintiff Vega was hired by the City as a Prosecutor in the DA's Office.

22. After being hired by the City in 1982, Plaintiff Vega enjoyed a long, successful and distinguished career with the City as a Prosecutor in the DA's Office that lasted more than 35 years.

23. Throughout the course of his employment with the City in the DA's Office, Plaintiff Vega performed his job responsibilities in a highly competent manner and received no disciplinary action.

24. From September 1982 to August 1987, Plaintiff Vega was assigned at various times to the Major Trials, Felony Waiver and Municipal Court Units of the DA's Office.

25. In September 1987, Plaintiff Vega was promoted by the City to the Homicide Unit of the DA's Office, where he worked as a Homicide Prosecutor for more than 30 years until Defendants caused his employment with the City to be involuntarily terminated in January 2018, at age 61.

26. As a Prosecutor in the DA's Office, Plaintiff Vega worked in the administrations of five District Attorneys for the City (Edward G. Rendell, Ronald D. Castille, Lynne Abraham, Seth Williams, and Kelley Hodge), with no interruption in his service.

27. As a Homicide Prosecutor in the DA's Office, Plaintiff Vega tried approximately 150 Homicide jury trials to verdict with excellent overall results; and in addition, he successfully resolved many Homicide cases by way of guilty pleas.

28. As a Homicide Prosecutor in the DA's Office, Plaintiff Vega enjoyed an excellent reputation for competence, ethics and integrity among his peers and colleagues, the criminal defense bar, and the judiciary.

29. As a Homicide Prosecutor in the DA's Office, Plaintiff Vega played a vital role in mentoring and supervising less experienced ADAs, as well as legal interns.

B. Plaintiff Whitehead's Employment History and Performance with the City

30. In 1989, at age 35, Plaintiff Whitehead was hired by the City as an ADA in the DA's Office.

31. After being hired by the City in 1989, Plaintiff Whitehead enjoyed a long, successful and distinguished career as a Prosecutor for the City that lasted more than 28 years until Defendants caused his employment with the City to be involuntarily terminated in January 2018, at age 64.

32. Plaintiff Whitehead worked in the administrations of District Attorneys Castille, Abraham, Williams and Hodge, with no interruption in his service.

33. Plaintiff Whitehead's employment history with the City is summarized in the chart below:

Year(s)	Title/Responsibilities
1989 to 1991	Assigned to Municipal Court, Juvenile and Major Trial Units of DA's Office
1991	Assigned to Special Investigations Unit of DA's Office
1991 to 1992	Member of Narcotics Strike Force in DA's Office
1992 to 1995	Served as Chief ADA for Juvenile Habitual Offenders' Unit of DA's Office
1995 to 2002	Served as Chief ADA for Special Narcotics Unit of DA's Office
2002 to 2006	Served as Deputy District Attorney in Narcotics Division of DA's Office
2006 to 2013	While continuing employment with the City, he was cross-designated by the City and the Federal Government to serve as a Special Assistant United States Attorney for the Eastern District of Pennsylvania
November 2013 to November 2014	Served as an ADA – Prosecutor in Trial Division/Central Bureau of DA's Office
November 2014 to January 2018	Assigned to Homicide Unit of DA's Office as a Homicide Prosecutor

34. Throughout the course of his lengthy career as a Prosecutor for the City, Plaintiff Whitehead was an exemplary employee who built a distinguished record of service on behalf of the City and its citizens.

35. As a Prosecutor for the City, Plaintiff Whitehead achieved very good results while earning an sterling reputation for competence, ethics and integrity among

his peers and colleagues, federal/state/local prosecutors, the criminal defense bar, and the federal and local judiciary.

36. At no time during the course of his career with the City did Plaintiff Whitehead receive any disciplinary action.

C. Plaintiffs' Career Plans as of and Prior to January 5, 2018

37. On or about November 21, 2017, Plaintiff Vega elected to enter the City's Deferred Retirement Option Program ("DROP"), and as a condition of entering the DROP, he agreed that he would voluntarily separate from his employment with the City in four years, on or about November 21, 2021, in exchange for the City's agreement to pay him monthly pension benefits as well as a lump sum payout of approximately \$485,000 upon his separation.

38. From November 21, 2017 until January 5, 2018, Plaintiff Vega planned to continue his employment with the City until November 2021, at which time he would voluntarily separate from his employment with the City in exchange for receiving the lucrative benefits to which he was entitled under the DROP.

39. On or about May 9, 2016, Plaintiff Whitehead elected to enter the DROP, and as a condition of entering the DROP, he agreed that he would voluntarily separate from his employment with the City in four years, on or about May 9, 2020, in exchange for the City's agreement to pay him monthly pension benefits as well as a lump sum payout of more than \$285,000 upon his separation.

40. From May 9, 2016 until January 5, 2018, Plaintiff Whitehead intended to continue his employment with the City until May 2020, at which time he would

voluntarily separate from his employment with the City in exchange for receiving the lucrative benefits to which he was entitled under the DROP.

D. Public Age-Biased Comments Made by Defendant Krasner While He Was Running for District Attorney

41. In February 2017, Defendant Krasner announced his candidacy for District Attorney of the City, with the election to be held on November 7, 2017.

42. After announcing his candidacy for District Attorney, Defendant Krasner proceeded to make a series of public statements that revealed his personal hostility toward older Prosecutors who had worked in the DA's Office for many years, a category into which Plaintiffs neatly fit.

43. Defendant Krasner's public pronouncements made during his campaign touted his fondness and affinity for young Prosecutors, and revealed his plan to fire older Prosecutors if he were elected District Attorney so that he could replace them with the young Prosecutors he much preferred.

44. One glaring example of Defendant Krasner's ageism surfaced on May 16, 2017, when he gave an interview to "The Intercept" and made the following statements regarding how he intended to restructure the DA's Office to comport with his preconceived, stereotyped views of older Prosecutors:

"If you have a truly progressive DA, there's going to be a certain portion of the DA's office who can't stand the idea of change. They're going to leave. There are other people who are going to be made to leave because you cannot bring about real change and leave people in place who are going to fight change every step of the way. The ones who will leave will tend to be my generation, people who started in this business 30 years ago, which means they'll also tend to be white and male. That results in more openings,

opportunities for greater diversity, and if we are to judge by what's happened in other jurisdictions, the office will become a tremendous magnet for new talent, because there are a ton of people who are either coming out of law school or who are mid-career who would love to work in a truly progressive DA's office but haven't been able to find any."

(Emphasis added).

45. In the interview he gave on May 16, 2017, Defendant Krasner further explicated his discriminatory views when he stated that "there are a lot of just malleable, mostly younger attorneys who did what they were told, and always wanted to do the right thing, and with proper training will do the right thing," and "I think real cultural change is possible."

46. As the November 2017 election drew closer, Defendant Krasner gave an interview to Jacobin Radio on October 7, 2017, wherein he again divulged his obsession with hiring young Prosecutors and his contempt for older Prosecutors, who he pigeonholed in the interview as being too rigid and set in their ways, notwithstanding Plaintiffs' excellent performance records with the City.

47. The provocative, age-biased statements that Defendant Krasner made during the radio interview on October 7, 2017 are quoted below:

"[T]here is no question that the old guard in that [DA's] office is in control and the old guard in that office is not desiring change at all. In fact, one of them went out of his way to say that 'there is nothing wrong with this ship, the ship does not need to be righted and we do not need an outsider telling us what to do.' Well that crowd needs to go."

"They need to get out of the way and let people who are ex-Prosecutors who have been on the other side, let people

who have a real moral compass about justice and, you know, let people who are sophisticated and modern and understanding of the mistakes that have been made in the last fifty years. Let them run the show. And if we can really do that, then I think there are those Prosecutors who are open to those ideas and that vision then there are new Prosecutors who are going to be coming mid-career or straight out of law school
....”

“There is an old guard there [in the DA's Office] who actually thinks Lynne Abraham for 19 years was doing the right thing when frankly, she almost never did the right thing at all. You know, there's that crew, they're very loyal to a particular way of doing things. Which is very authoritarian, very unscientific, very political and they are not only going to resist, they are you might say in the throes of trying to resist even now. Those folks got to go. I mean some of them are leaving already which is a good choice and some of them are going to go.”

“So, yes, there will be turnover . . . and people whose vision is incompatible with the progressive vision of the next District Attorney in Philadelphia, and I hope that person will be me . . . I mean they will be well-served to find another place to work.”

(Emphasis added).

48. On October 24, 2017, Defendant Krasner gave a radio interview to WHYY, on a program hosted by Marty Moss-Coane, in which he once again expressed his partiality for a new generation of young Prosecutors, as well as the prejudicial generalization – which ignored Plaintiffs' career accomplishments – that older, experienced Prosecutors were too intransigent to work in the DA's Office.

49. For example, in the WHYY interview, Defendant Krasner continued to typecast young and old Prosecutors, and to ignore the wealth of experience that older Prosecutors like Plaintiffs could bring to the table, when he proclaimed:

“So I think what we are going to see is broad support among a lot of younger ADAs, but we are going to see that there are some people in there whose vision for a DA's Office is so entrenched that they are unwilling to embrace a new one. They have in fact caused the problem which got us where we are, and that they will be better served working somewhere else.”

“There’s a completely different culture in terms of the education of young Prosecutors who are coming out of law schools as opposed to what we experienced thirty years ago when we came out of law school. So I expect to have very broad support among the vast majority of the young Prosecutors who are in there. It’s more of . . . a generational issue as I see it.”

(Emphasis added).

50. Defendant Krasner gave another radio interview on October 24, 2017, to WURD, in which he again revealed his discriminatory attitudes toward older Prosecutors. For example, when Defendant Krasner was asked by WURD why Philadelphia’s former District Attorney, Lynne Abraham, had “lasted so long,” he stated that “one explanation would be that the generation of people who identified strongly with Archie Bunker, and I don’t mean his likeable side, that generation of people is now aging out.”

51. Defendant Krasner’s pre-election public statements, when viewed in their entirety, show compellingly that he had unfairly prejudged older Prosecutors with many years of experience, and was targeting them for the “chopping-block” if he was elected District Attorney.

E. Consistent with Defendant Krasner's Previously-Announced Discriminatory Plan, Defendants Caused Plaintiffs' Employment with the City to be Terminated Within Three Days of Defendant Krasner Being Sworn In as District Attorney

52. On November 7, 2017, Defendant Krasner won the election for District Attorney of the City, and on Tuesday, January 2, 2018, he was sworn into office as the City's new District Attorney.

53. After taking office, Defendant Krasner wasted little time in implementing his plan to rid the DA's Office of some of its oldest, most experienced Prosecutors, a category that included Plaintiffs.

54. Plaintiffs, at ages 61 and 64, were two of the victims of Defendant Krasner's purge of older Prosecutors.

55. On Friday, January 5, 2018, at Defendant Krasner's direction, Defendant Krasner's recently-appointed Chief of Staff, Arun Prabhakaran ("Prabhakaran"), drafted and sent a memorandum to Rachel Mitchell ("Mitchell"), Human Resources Director for the DA's Office, which identified those ADAs for whom Defendant Krasner "requests the resignations . . . effective Friday, January 12, 2018, with the understanding that they are not to return to work once notified [on] Friday, January 5, 2018" ("January 5, 2018 Memo").

56. The January 5, 2018 Memo identified Plaintiff Vega and Plaintiff Whitehead as among the ADAs whose resignations would be requested on January 5, 2018, and whose last day of work for the City would be January 5, 2018.

57. On January 5, 2018, the City's offices were closed due to a snowstorm.

58. Even with the City's offices closed because of the snowstorm, Prabhakaran called Plaintiff Vega on January 5, 2018, and instructed him to report to a designated City office that day.

59. On January 5, 2018, as directed by Prabhakaran, Plaintiff Vega went to the office to which he was told to report, and upon his arrival, he was greeted by a police officer who escorted him to the Human Resources ("HR") Department of the DA's Office.

60. When Plaintiff Vega arrived in the DA's Office's HR Department on January 5, 2018, he met with Mitchell, who informed him that Defendant Krasner was demanding that he resign immediately and that if he refused to resign, his employment would be terminated. Mitchell gave Plaintiff Vega no reason or explanation for this action.

61. When Plaintiff Vega told Mitchell on January 5, 2018 that he would not resign, he was directed to remove all of his personal belongings from his office that day and to then leave the building.

62. After collecting his personal belongings on January 5, 2018, Plaintiff Vega was escorted out of the building, thus ending his prominent 35-year career with the City.

63. Defendant Krasner never contacted, met with or spoke to Plaintiff Vega about Defendants' decision to force him out of his employment with the City after 35 years.

64. Defendants did not provide Plaintiff Vega with any document or correspondence explaining why he was being ousted from his employment with the City after 35 years.

65. Shortly after January 5, 2018, to protect his health care benefits for himself and his family, Plaintiff Vega retired as a City employee in order to avoid being fired.

66. Plaintiff Vega was forced to retire from the City, and his forced retirement was the equivalent of an involuntary termination since prior to January 5, 2018, he had no intention of resigning or retiring until November 2021; and his retirement was provoked by Defendants' demand that he resign on January 5, 2018 under threat that he would be fired if he refused to resign.

67. As a result of Defendants' action that caused Plaintiff Vega's employment with the City to be involuntarily terminated in January 2018, Plaintiff Vega lost the lucrative DROP benefits he would have received had he remained employed by the City until November 2021; and he has also lost the salary payments and benefits he would have received as an ADA until his DROP date; and as a further result of his being forced out of his employment with the City, he has suffered and will suffer additional economic losses as well as emotional distress, embarrassment, humiliation, loss of self-confidence, loss of self-esteem, and other non-economic losses.

68. On January 5, 2018, with City's offices closed due to the snowstorm, Plaintiff Whitehead received a phone call from Prabhakaran, who instructed him to report to the DA's Office within one hour.

69. Upon his arrival at the DA's Office on January 5, 2018, Plaintiff Whitehead was escorted by a District Attorney Detective to the HR Department of the DA's Office, where he saw Prabhakaran; and Prabhakaran instructed him to meet with Deborah Hoffman ("Hoffman"), an HR Administrator.

70. Upon entering Hoffman's office, Plaintiff Whitehead was advised by Hoffman that Defendant Krasner was demanding his immediate resignation and that if he refused to resign, he would be fired.

71. After hearing the startling news that his illustrious 28-year career with the City was about to come to an end, Plaintiff Whitehead remained silent while Hoffman looked at her computer screen; and after awhile, Hoffman turned to Plaintiff Whitehead, said to him that he had enough time in with the City to retire, and asked him why he would not then retire.

72. When Plaintiff Whitehead did not respond to Hoffman's question regarding retirement, Hoffman told Plaintiff Whitehead that he had until Monday, January 8, 2018 at 12:00 noon to tender his resignation, and that his refusal to resign by that time would be deemed by the City to be an involuntary termination of his employment.

73. Because Plaintiff Whitehead refused to resign while in Hoffman's office on January 5, 2018, Hoffman instructed him to clear out his office that day; and after leaving Hoffman's office, Plaintiff Whitehead walked to his office to collect his personal belongings and then left the building, thus ending his esteemed 28-year career with the City.

74. Defendant Krasner never contacted, met with or spoke to Plaintiff Whitehead about Defendant's decision to force him out of his employment with the City after 28 years.

75. Plaintiff Whitehead was given no reason or explanation for the action that was taken against him; and Defendants did not provide him with any document or correspondence explaining why he was being ousted from his employment with the City after 28 years.

76. Shortly after January 5, 2018, in order to protect the widest range of health care benefits for himself and his family, Plaintiff Whitehead retired as a City employee in order to avoid being fired.

77. Plaintiff Whitehead was forced to retire from the City, and his forced retirement was the equivalent of an involuntary termination since prior to January 5, 2018, he had no intention of resigning or retiring until May 2020; and his retirement was provoked by Defendants' demand that he resign on January 5, 2018 under threat that he would be fired if he refused to resign.

78. As a result of Defendants' action that caused Plaintiff Whitehead's employment with the City to be involuntarily terminated in January 2018, Plaintiff Whitehead lost the lucrative DROP benefits he would have received had he remained employed by the City until May 2020; and he also lost the salary payments and benefits he would have received as an ADA until his DROP date; and as a further result of his being forced out of his employment with the City, he has suffered and will suffer

additional economic losses as well as emotional distress, embarrassment, humiliation, loss of self-confidence, loss of self-esteem, and other non-economic losses.

79. On or about January 5, 2018, consistent with Defendant Krasner's discriminatory stratagem, Defendants also demanded the resignations of other older, long-tenured Prosecutors, who like Plaintiffs were advised by the City that they would be fired if they did not resign.

F. Defendants Retained Many Much Younger, Less Experienced Prosecutors in the Homicide Unit After Defendants Caused Plaintiffs' Employment with the City to be Involuntarily Terminated

80. After Defendants forced Plaintiffs out of their employment with the City, Defendants retained in and/or hired or promoted into the Homicide Unit, where Plaintiffs had worked, at least ten substantially younger Prosecutors who were less experienced and less qualified than Plaintiffs (collectively, "Plaintiffs' Comparators").

81. Some of Plaintiffs' Comparators were assigned, took over and/or assumed Plaintiffs' former job responsibilities and case files.

82. Based on Plaintiffs' many years of experience as Prosecutors as well as their skills, qualifications, performance records, and the high value they offered to the City, Defendants should have retained Plaintiffs as employees of the City instead of at least two of Plaintiffs' Comparators.

83. Defendants' retention of Plaintiffs' Comparators over Plaintiffs was consistent and in conformity with Defendant Krasner's previously-announced goal to remove "the old guard" and to transform the DA's Office into a haven for young Prosecutors.

84. Defendants' action in retaining Plaintiffs' Comparators over Plaintiffs is reflective of and compatible with Defendant Krasner's typecasting and categorization of older Prosecutors based on his personal biases and prejudices.

G. After Plaintiffs Were Forced Out of Their Jobs with the City, Defendant Krasner Continued to Make Age-Biased Remarks About Older Prosecutors and to Boast Publicly About His Preference for Young Prosecutors

85. After being sworn in as District Attorney, Defendant Krasner did not halt his practice of making public comments that compared older Prosecutors unfavorably to young Prosecutors.

86. As one example, on April 18, 2018, Defendant Krasner gave a radio interview to WBUR in which he made the following remarks when asked about generational differences among Prosecutors:

"I think the younger generation actually really understands these issues, and I see that as they come out of law school, and as I speak to them . . . They have grown up with DNA proving that innocent people end up in jail. They've grown up with an understanding that mass incarceration is not only a huge problem for a society that claims to be free, but it's also racist. These are discussions they've had, and that they're willing to have. So I feel like we are actually very strong among a lot of the prosecutors.

Some of the older ones, I mean let's be honest, it's hard to look back on your career and think that you were doing a good thing by stuffing so many people of color in jail. It's hard to look back on that and say, 'I guess I dedicated my life to doing something that's kinda negative.'"

(Emphasis added).

87. Defendant Krasner's branding of older Prosecutors as "racist" is particularly offensive to Plaintiffs given the fact that Plaintiff Whitehead is African-

American and Plaintiff Vega is Hispanic, and that Plaintiffs were held in such high esteem as Prosecutors by their supervisors, peers, members of the criminal defense bar, and judges before whom they appeared.

88. In fact, Plaintiffs are not "racist" and Defendant Krasner's labeling them as such is appalling, false and defamatory; and on many occasions, the victims of the crimes prosecuted by Plaintiffs and their family members were non-white.

89. Additionally, as Prosecutors, Plaintiffs did not typically have the final say as to which cases would be prosecuted or taken to trial; and those decisions were routinely made or approved by persons in supervisory roles over Plaintiffs, and in many cases, after consultation with victims of crimes, their families and law enforcement officials.

90. Another example of Defendant Krasner's ageist mentality came to light on May 4, 2018, when he participated in a roundtable discussion in Philadelphia, and referred to "generational shifts that are meaningful" while declaring that "generationally [we are] moving to a better place" because of the "young folks."

91. To further show his age-related bias, Defendant Krasner stated in the May 4, 2018 roundtable discussion that he was "trying very hard, right now, to recruit into our office . . . some of the best young graduates from law school that we can find."

92. Further proof of Defendant Krasner's discriminatory views of older Prosecutors was revealed in a podcast interview he gave on May 25, 2018, to "The Voice of San Diego." When asked in that interview if he got "much in the way of

pushback” from “career prosecutors” after he was sworn in as District Attorney,

Defendant Krasner, speaking in sweeping generalities, responded in part by stating:

- “So, once we got that core group to move on, and we did it frankly, as humanely as you can, we found that among the younger attorneys there was a whole lot of excitement and interest because they have heard of ‘mass incarceration.’”
- “They [referring to younger attorneys] believe in racial justice, and when there was resistance, it was amongst some, not all, of the more senior attorneys, whose training had been done in a certain way.”
- “They [referring to the more senior Prosecutors] still had that sports mentality that they were trying to maximize everything rather than a balanced mentality that bent towards justice.”
- “Fascinating generational dynamic here, it seems, for whatever reason, younger people are a lot more cognizant of the reality of the racist system. . .”

(Emphasis added).

93. In the May 25, 2018 podcast interview, Defendant Krasner heaped praise on young Prosecutors as a group, and again asserted his false premise and biased theory that older Prosecutors like Plaintiffs were part of a “racist system” and were unable to embrace change.

94. Defendant Krasner’s public comments made after the January 2018 purge further support Plaintiffs’ claim that they were targeted for termination by Defendants because of Defendant Krasner’s stereotyping of older Prosecutors and his blatant favoritism of young Prosecutors.