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7 SUPERIOR COURT OF THE STATE OF CALIFORNIA
8 FOR THE COUNTY OF ORANGE-CENTRAL
9

Judge David Chaffee

10 BRANDON SONTAG,)
11 Plaintiff,)
12)
13 vs.)
14)
15 CITY OF SANTA ANA, a Municipal)
Corporation; SANTA ANA POLICE)
16 DEPARTMENT, a public safety)
department; CARLOS ROJAS, Chief of)
Police; DOES I-X, inclusive)
17 Defendants.)

Case No. 30-2017-00902039-CU-OE-CJC
CIVIL COMPLAINT
1. VIOLATION OF THE PUBLIC SAFETY OFFICERS PROCEDURAL BILL OF RIGHTS ACT, GOVERNMENT CODE §3304
2. VIOLATION OF GOVERNMENT CODE §3305.5
3. VIOLATION OF GOVERNMENT CODE §3303 AND §3306.5
4. REQUEST FOR DECLARATORY RELIEF
5. PETITION FOR WRIT OF MANDATE [C.C.P. §1085]
6. PETITION FOR WRIT OF MANDATE [C.C.P. §1094.5]
7. VIOLATION OF DUE PROCESS
REQUEST FOR INJUNCTIVE AND/OR /MANDAMUS RELIEF

22
23 COMES NOW, PLAINTIFF/PETITIONER BRANDON SONTAG, and alleges as
24 follows:

25 1. In May 2015, the Santa Ana Police Department’s Marijuana Dispensary
26 Task Force, along with Plaintiff, Santa Ana Police Officer Brandon Sontag, served a
27 search warrant to a marijuana dispensary. The officers actions were recorded on
28 hidden cameras and manipulated excerpts of the video were released to the media

1 alleging that the officers engaged in inappropriate comments and consumed marijuana
2 edibles. The Orange County District Attorney's office initiated a criminal investigation
3 and the Santa Ana Police Department ("SAPD") initiated a concurrent internal affairs
4 investigation into the officers.

5 2. The altered video recording went "viral" and there was public pressure for
6 all officers to be terminated based on the false allegations that officer ingested
7 marijuana. Plaintiff Sontag, immediately upon hearing the false allegations submitted to
8 a drug screening that evidenced that he did not have any marijuana in his system.
9 Ultimately, both the Orange County District Attorney's office and the Santa Ana Police
10 Department were able to determine that no officer consumed marijuana but
11 the public pressure, based on false allegations, was overwhelming.

12 3. Plaintiff Sontag, together with other officers, instituted a lawsuit against
13 the use of the illegal recording (Penal Code §632-637.2) and for the Police
14 Department's violations of the Public Safety Officers Procedural Bill of Rights Action
15 (Government Code §3300, et seq.). This litigation is currently pending in the Court of
16 Appeals.

17 4. After Sontag's Internal Affairs interviews, wherein he was completely
18 truthful with the IA investigators (the OCDA never asked to interview him), both the
19 District Attorney's office and the Santa Ana Police Department were able to determine
20 the that initial allegations of marijuana consumption were not true, but believed that
21 there were other alleged acts of misconduct by the officers.

22 5. In September 2015, the Internal Affairs Investigation was completed. On
23 November 20, 2015, Commander Gominsky provided his review and recommendation
24 regarding Officer Sontag. Gominsky, not being provided all the information known to
25 department officials, sustained an allegation of "Conduct Personal" based on an
26 "isolated acts of poor decision making" and recommended disciplinary action of a
27 suspension and transfer back to patrol. On or about December 10, 2015, Deputy Chief
28 McGeachy concurred with Commander Gominsky's recommendations.

1 within this complaint, the nature of the claims and amount in controversy meet the
2 requirements of jurisdiction in the Superior Court. This Court is empowered with initial
3 jurisdiction to entertain suits brought pursuant to California Government Code §3300, et
4 seq., and for traditional mandamus action.

5 12. Plaintiff requests a jury trial on all non-mandamus relief.

6 13. Under Government Code §3309.5, Plaintiff need not exhausted all his
7 administrative remedies. Moreover, Plaintiff has asserted his rights in the
8 administrative action to no avail, and there are no additional administrative remedies
9 available to his at this time. Therefore Plaintiff asserts that he has exhausted all
10 administrative remedies required of him.

11 14. Plaintiff filed a Tort Claim with the City of Santa Ana, setting for the same
12 facts as set forth herein. The Tort Claim was rejected by the City on September 8,
13 2016.

14 **PARTIES**

15 15. Plaintiff Brandon Sontag at all times mentioned herein was employed as a
16 sworn, full time police officer for the City of Santa Ana, Santa Ana Police Department
17 and as such was and is to be afforded all of the rights under Government Code §3300,
18 et seq., state law, City and/or Police Department resolution, policy and past practice.
19 As a full time, sworn officer with the Santa Ana Police Department, Sontag had a
20 vested right to continued employment with the City of Santa Ana. Sontag could only be
21 disciplined and/or removed from his position for good cause and was to be afforded all
22 due process rights.

23 16. Defendant, City of Santa Ana, is a Municipal Corporation existing under
24 the Constitution and the laws of the State of California. The City of Santa Ana, via state
25 law, resolution, policy and past practice, has afforded sworn members of the Santa Ana
26 Police Department with the same rights as afforded to sworn peace officers under
27 Government Code §3300, et seq.

28 17. Defendant, Santa Ana Police Department, is a public safety department,

1 as that terms is used in Government Code §3309.5.

2 18. Defendant, Carlos Rojas is the Chief of Police for the City of Santa Ana,
3 Santa Ana Police Department, and is charged with the supervision, management of
4 personnel, including personnel investigations and discipline of employees of the Santa
5 Ana Police Department. Plaintiff has information and belief that Rojas participated,
6 supervised and/or was actively involved in the incident giving rise to this Complaint.

7 19. At all times herein mentioned, DOES I-X, inclusive, were the agents,
8 servants and employees of Defendant, City of Santa Ana and/or Santa Ana Police
9 Department, and in doing the things hereinafter alleged, were acting within the scope of
10 their authority as such agents, servants and employees with the permission and
11 consent of Defendants. Plaintiff will amend the Complaint to allege true names and
12 capacities of DOES I-X, inclusive when ascertained.

13 **FIRST CAUSE OF ACTION**

14 **VIOLATION OF GOVERNMENT CODE §3304**

15 20. Plaintiff Brandon, for a First Cause of Action against Defendants City of
16 Santa Ana, a Municipal Corporation; Santa Ana Police Department, a public safety
17 department, as that term is used in Government Code §3309.5; Carlos Rojas, Chief of
18 Police, City of Santa Ana; and DOES I-X, inclusive, for a Permanent Injunction,
19 Mandamus Relief and/or other Extraordinary Relief for violation of the Public Safety
20 Officers Procedural Bill of Rights Act, Government Code, as afforded under
21 Government Code §3309.5, realleges paragraphs 1 through 19 as herein above set
22 forth and further alleges:

23 21. Government Code § 3304 provides, in pertinent part, that:

- 24 (a) No public safety officer shall be subjected to punitive action, or
25 denied promotion, or be threatened with any such treatment,
26 because of the lawful exercise of the rights granted under this
27 chapter, or the exercise of any rights under any existing
28 administrative grievance procedure.

1 22. As alleged above, after Plaintiff exercised his rights granted under this
2 Act, including the rights under Government Code §3303 (during his interrogations), and
3 his rights under Government Code §3309.5, by bring litigation under the Act,
4 Defendants subjected Plaintiff to punitive action because of the lawful exercise of rights
5 granted under this chapter; to wit, punitive action of termination.

6 23. Furthermore, Sontag successfully pursued his right to an administrative
7 appeal before the Santa Ana Personnel Board. He successfully overturned the
8 termination as the Personnel Board determined that under the facts proven that the
9 penalty of termination was excessive and unwarranted. The Personnel Board ordered
10 his reinstatement and reduced the penalty to a suspension. The Personnel Board's
11 decision became final on November 9, 2016.

12 24. The City has not filed an appeal of the Personnel Board decision, nor has
13 it filed any legal action to stay the effect of the order. Even if the City filed a request for
14 judicial review, the Personnel Board decision must be complied with absent a motion to
15 the superior court seeking a stay. (Code of Civil Procedure §1094.5(g)). As the City
16 has neither appealed or filed the appropriate motion, Sontag should have been
17 immediately reinstated. Defendants have refused, after a number of requests, to
18 reinstated Sontag. This constitutes an unlawful termination in retaliation for Sontag
19 exercising his rights under Government Code §3304.

20 25. As a direct result of Defendants' behavior, Plaintiff has and will continue to
21 incurred harm that can be cured by injunctive/mandamus relief, and attorney's fees in
22 an effort to redress the harm which he/she/it has sustained as a result of said
23 Defendants' outrageous behavior.

24 26. Defendants failed to comply with Government Code §3304 and; therefore,
25 violated Government Code §3309.5(a). As such, Plaintiff is entitled to relief under
26 Government Code §3309.5(d)(1), which provides "In any case where the superior court
27 finds that a public safety department has violated any of the provisions of this chapter,
28 the court shall render appropriate injunctive or other extraordinary relief to remedy the

1 violation and to prevent future violations of a like or similar nature, including, but not
2 limited to, the granting of a temporary restraining order, preliminary injunction, or
3 permanent injunction prohibiting the public safety department from taking any punitive
4 action against the public safety officer.”

5 27. Ancillary and in addition to the extraordinary relief afforded by
6 Government Code §3309.5(d)(1), and to the extent the superior court finds that
7 Defendants, its employees, agents, or assigns, with respect to acts taken within the
8 scope of employment, maliciously violated any provision of this chapter with the intent
9 to injure Plaintiff Sontag, Plaintiff seeks an order that the public safety department shall,
10 for each and every violation, be liable for a civil penalty not to exceed twenty-five
11 thousand dollars (\$25,000) to be awarded to Plaintiff and for reasonable attorney's fees
12 as may be determined by the court. If the court so finds, and there is sufficient
13 evidence to establish actual damages suffered by Plaintiff, Plaintiff seeks an ancillary
14 order that the public safety department shall also be liable for the amount of the actual
15 damages, as proven at trial or hearing on this matter.

16 28. The duty to obey the law in conducting internal affairs investigations and
17 disciplinary appeals is a ministerial duty and is not discretionary. By acting, and failing
18 to act, as set forth above, defendants have violated a ministerial duty. The court can
19 issue an order directing the employer to act.

20 29. Each and every act listed above, individually or jointly, constitutes a
21 violation of Government Code §3300, et seq., and therefore this court is required to
22 render appropriate injunctive or other extraordinary relief to remedy the violation and to
23 prevent future violations of a like or similar nature, including, but not limited to, the
24 granting of a temporary restraining order, a preliminary injunction and a permanent
25 injunction prohibiting the public safety department from taking any punitive action
26 against the public safety officer. (Gov't Code §3309.5).

27 30. Unless this court issues injunctive and/or mandamus relief curing the
28 violations and preventing future violations of a similar nature, Plaintiff Sontag will suffer

1 and will continue to suffer irreparable harm, including, but not limited to the fact that his
2 rights, as afforded by California Government Code §3300, et seq., will be violated
3 without remedy.

4 31. Plaintiff has no plain, speedy or adequate remedy under the law. Plaintiff
5 has attempted to exhaust all administrative remedies to redress the violation of his
6 rights. Furthermore, pursuant to Government Code Section 3309.5, Plaintiff need not
7 pursue any administrative remedy in order to address this problem. Thus, Plaintiff is
8 excused from or has exhausted his administrative remedies. This court is given initial
9 jurisdiction over this matter pursuant to Government Code §3309.5.

10 32. Plaintiff requests this court to award ancillary damages pursuant to C.C.P.
11 §1090 and 1095.

12 33. The actions of defendants, and each of them, were arbitrary and
13 capricious and, therefore, Plaintiff is entitled to recover attorneys' fees pursuant to
14 Government Code §800.

15 34. The success of Plaintiff in this action will result in the enforcement of an
16 important right affecting the public interest in that a significant benefit will be conferred
17 on a large class of persons, that is, public employees, and the necessity and financial
18 burden of private enforcement of said benefit are such as to make appropriate the
19 award of attorney fees pursuant to California Code of Civil Procedure §1021.5.

20
21 **SECOND CAUSE OF ACTION**

22 **VIOLATION OF GOVERNMENT CODE §3305.5**

23 35. Plaintiff Brandon Sontag, for a Second Cause of Action against
24 Defendants City of Santa Ana, a Municipal Corporation; Santa Ana Police Department,
25 a public safety department, as that term is used in Government Code §3309.5; Carlos
26 Rojas, Chief of Police, City of Santa Ana; and DOES I-X, inclusive, for a Permanent
27 Injunction, Mandamus Relief and/or other Extraordinary Relief for violation of the Public
28 Safety Officers Procedural Bill of Rights Act, Government Code, as afforded under

1 Government Code §3309.5, realleges paragraphs 1 through 32 as herein above set
2 forth and further alleges:

3 36. Sontag pursued his right to an administrative appeal before the Santa Ana
4 Personnel Board. He successfully overturned the termination as the Personnel Board
5 determined that under the facts proven that the penalty of termination was excessive
6 and unwarranted. The Personnel Board ordered his reinstatement and reduced the
7 penalty to a suspension. The Personnel Board's decision became final on November 9,
8 2016.

9 37. Plaintiff is informed and believes, and thereon alleges that Chief Rojas is
10 refusing to reinstated Officer Sontag because Officer Sontag may have a "Brady" letter
11 in his file.

12 38. Government Code § 3305.5, provides, in part, "(a) A punitive action, or
13 denial of promotion on grounds other than merit, shall not be undertaken by any public
14 agency against any public safety officer solely because that officer's name has been
15 placed on a Brady list, or that the officer's name may otherwise be subject to disclosure
16 pursuant to *Brady v. Maryland* (1963) 373 U.S. 83." Plaintiff alleges that the refusal to
17 comply with the Personnel Board's decision, thus, constituting punitive action, is based
18 solely because on the belief that Sontag's name has been placed on a Brady list, or
19 that his name may otherwise be subject to disclosure pursuant to *Brady*.

20 39. As a direct result of Defendants' behavior, Plaintiff has and will continue to
21 incurred harm, damages and attorney's fees in an effort to redress the damages which
22 he/she/it has sustained as a result of said Defendants' outrageous behavior.

23 40. Defendants failed to comply with Government Code §3305.5 and;
24 therefore, violated Government Code §3309.5(a). As such, Plaintiff is entitled to relief
25 under Government Code §3309.5(d)(1), which provides "In any case where the superior
26 court finds that a public safety department has violated any of the provisions of this
27 chapter, the court shall render appropriate injunctive or other extraordinary relief to
28 remedy the violation and to prevent future violations of a like or similar nature, including,

1 but not limited to, the granting of a temporary restraining order, preliminary injunction, or
2 permanent injunction prohibiting the public safety department from taking any punitive
3 action against the public safety officer.”

4 41. Ancillary and in addition to the extraordinary relief afforded by
5 Government Code §3309.5(d)(1), and to the extent the superior court finds that
6 Defendants, its employees, agents, or assigns, with respect to acts taken within the
7 scope of employment, maliciously violated any provision of this chapter with the intent
8 to injure Plaintiff Sontag, Plaintiff seeks an order that the public safety department shall,
9 for each and every violation, be liable for a civil penalty not to exceed twenty-five
10 thousand dollars (\$25,000) to be awarded to Plaintiff and for reasonable attorney's fees
11 as may be determined by the court. If the court so finds, and there is sufficient
12 evidence to establish actual damages suffered by Plaintiff, Plaintiff seeks an ancillary
13 order that the public safety department shall also be liable for the amount of the actual
14 damages, as proven at trial or hearing on this matter.

15 42. The duty to obey the law in conducting internal affairs investigations and
16 disciplinary appeals is a ministerial duty and is not discretionary. By acting, and failing
17 to act, as set forth above, defendants have violated a ministerial duty. The court can
18 issue an order directing the employer to act.

19 43. Each and every act listed above, individually or jointly, constitutes a
20 violation of Government Code §3300, et seq., and therefore this court is required to
21 render appropriate injunctive or other extraordinary relief to remedy the violation and to
22 prevent future violations of a like or similar nature, including, but not limited to, the
23 granting of a temporary restraining order, a preliminary injunction and a permanent
24 injunction prohibiting the public safety department from taking any punitive action
25 against the public safety officer. (Gov't Code §3309.5).

26 44. Unless this court issues injunctive and/or mandamus relief curing the
27 violations and preventing future violations of a similar nature, Plaintiff Sontag will suffer
28 and will continue to suffer irreparable harm, including, but not limited to the fact that his

1 rights, as afforded by California Government Code §3300, et seq., will be violated
2 without remedy.

3 45. Plaintiff has no plain, speedy or adequate remedy under the law. Plaintiff
4 has attempted to exhaust all administrative remedies to redress the violation of his
5 rights. Furthermore, pursuant to Government Code Section 3309.5, Plaintiff need not
6 pursue any administrative remedy in order to address this problem. Thus, Plaintiff is
7 excused from or has exhausted his administrative remedies. This court is given initial
8 jurisdiction over this matter pursuant to Government Code §3309.5.

9 46. Plaintiff requests this court to award ancillary damages pursuant to C.C.P.
10 §1090 and 1095.

11 47. The actions of defendants, and each of them, were arbitrary and
12 capricious and, therefore, Plaintiff is entitled to recover attorneys' fees pursuant to
13 Government Code §800.

14 48. The success of Plaintiff in this action will result in the enforcement of an
15 important right affecting the public interest in that a significant benefit will be conferred
16 on a large class of persons, that is, public employees, and the necessity and financial
17 burden of private enforcement of said benefit are such as to make appropriate the
18 award of attorney fees pursuant to California Code of Civil Procedure §1021.5.

19 **THIRD CAUSE OF ACTION**

20 **VIOLATION OF GOVERNMENT CODE §3303 AND §3306.5**

21 49. Plaintiff Brandon Sontag, for a Third Cause of Action against Defendants
22 City of Santa Ana, a Municipal Corporation; Santa Ana Police Department, a public
23 safety department, as that term is used in Government Code §3309.5; Carlos Rojas,
24 Chief of Police, City of Santa Ana; and DOES I-X, inclusive, for a Permanent Injunction,
25 Mandamus Relief and/or other Extraordinary Relief for violation of the Public Safety
26 Officers Procedural Bill of Rights Act, Government Code, as afforded under
27 Government Code §3309.5, realleges paragraphs 1 through 48 as herein above set
28 forth and further alleges:

1 50. Government Code §3303(h) provides that “If prior to or during the
2 interrogation of a public safety officer it is deemed that he or she may be charged with a
3 criminal offense, he or she shall be immediately informed of his or her constitutional
4 rights. At the outset of the administrative investigation giving rise to this action,
5 Defendants deemed that the officers may be charged with a criminal offense. They did
6 not inform Plaintiff of this fact, nor did they advise him of his constitutional rights until
7 after his first interrogation began.

8 51. Government Code §3303(c) provides, in part, that the public safety officer
9 under investigation shall be informed of the nature of the investigation prior to any
10 interrogation. Plaintiff was informed that the nature of the investigation was an
11 allegation that he ate food belonging to the business; to wit marijuana edibles. Plaintiff
12 clarified that this was the nature of the investigation and Defendants took no action to
13 inform Plaintiff that the allegation involved any other action related to the consumption
14 of food. Defendants later changed the nature of the investigation to include non-
15 marijuana edibles but did not inform Plaintiff of the change to the nature of the
16 investigation.

17 52. Furthermore, Plaintiff was informed that he was being investigated for
18 pulling down certain video cameras (as his direct supervisor ordered him to do).
19 Defendants later changed the nature of the investigation regarding the destruction of
20 property without informing Plaintiff of the change to the nature of the investigation.

21 53. Government Code §3303(g) provides, in part, that The complete
22 interrogation of a public safety officer may be recorded. If a tape recording is made of
23 the interrogation, the public safety officer shall have access to the tape if any further
24 proceedings are contemplated or prior to any further interrogation at a subsequent time.
25 The public safety officer shall be entitled to a transcribed copy of any notes made by a
26 stenographer or to any reports or complaints made by investigators or other persons,
27 except those which are deemed by the investigating agency to be confidential. During
28 and after the administrative investigation, Plaintiff, through his counsel, requested all

1 the materials required to be disclosed by this section. Plaintiff has learned that
2 numerous documents, video recordings, and other types of evidence obtained during
3 the administrative investigation by the investigators and Defendants were not produced
4 to Plaintiff. In fact, some of these materials are believed to included exculpatory
5 evidence that would demonstrate that Plaintiff did not engaged in alleged misconduct.

6 54. Government Code §306.5(a) provides that “Every employer shall, at
7 reasonable times and at reasonable intervals, upon the request of a public safety
8 officer, during usual business hours, with no loss of compensation to the officer, permit
9 that officer to inspect personnel files that are used or have been used to determine that
10 officer’s qualifications for employment, promotion, additional compensation, or
11 termination or other disciplinary action.” Subsection (b) further provides “Each
12 employer shall keep each public safety officer s personnel file or a true and correct
13 copy thereof , and shall make the file or copy thereof available within a reasonable
14 period of time after a request therefor by the officer.” In this case, Plaintiff, through
15 counsel, requested copies of his personnel file including those used to determined
16 Plaintiff’s disciplinary action. Defendants intentionally denied Plaintiff access to the
17 administrative investigation file and/or numerous documents, video recordings, and
18 other types of evidence obtained during the administrative investigation by the
19 investigators and Defendants. In fact, some of these materials are believed to included
20 exculpatory evidence that would demonstrate that Plaintiff did not engaged in alleged
21 misconduct.

22 55. As a direct result of Defendants' behavior, Plaintiff has and will continue to
23 incurred harm, damages and attorney's fees in an effort to redress the damages which
24 he/she/it has sustained as a result of said Defendants' outrageous behavior.

25 56. Defendants failed to comply with Government Code §3303 and/or 3306.5
26 and; therefore, violated Government Code §3309.5(a). As such, Plaintiff is entitled to
27 relief under Government Code §3309.5(d)(1), which provides “In any case where the
28 superior court finds that a public safety department has violated any of the provisions of

1 this chapter, the court shall render appropriate injunctive or other extraordinary relief to
2 remedy the violation and to prevent future violations of a like or similar nature, including,
3 but not limited to, the granting of a temporary restraining order, preliminary injunction, or
4 permanent injunction prohibiting the public safety department from taking any punitive
5 action against the public safety officer.”

6 57. Ancillary and in addition to the extraordinary relief afforded by
7 Government Code §3309.5(d)(1), and to the extent the superior court finds that
8 Defendants, its employees, agents, or assigns, with respect to acts taken within the
9 scope of employment, maliciously violated any provision of this chapter with the intent
10 to injure Plaintiff Sontag, Plaintiff seeks an order that the public safety department shall,
11 for each and every violation, be liable for a civil penalty not to exceed twenty-five
12 thousand dollars (\$25,000) to be awarded to Plaintiff and for reasonable attorney's fees
13 as may be determined by the court. If the court so finds, and there is sufficient
14 evidence to establish actual damages suffered by Plaintiff, Plaintiff seeks an ancillary
15 order that the public safety department shall also be liable for the amount of the actual
16 damages, as proven at trial or hearing on this matter.

17 58. The duty to obey the law in conducting internal affairs investigations and
18 disciplinary appeals is a ministerial duty and is not discretionary. By acting, and failing
19 to act, as set forth above, defendants have violated a ministerial duty. The court can
20 issue an order directing the employer to act.

21 59. Each and every act listed above, individually or jointly, constitutes a
22 violation of Government Code §3300, et seq., and therefore this court is required to
23 render appropriate injunctive or other extraordinary relief to remedy the violation and to
24 prevent future violations of a like or similar nature, including, but not limited to, the
25 granting of a temporary restraining order, a preliminary injunction and a permanent
26 injunction prohibiting the public safety department from taking any punitive action
27 against the public safety officer. (Gov't Code §3309.5).

28 60. Unless this court issues injunctive and/or mandamus relief curing the

1 violations and preventing future violations of a similar nature, Plaintiff Sontag will suffer
2 and will continue to suffer irreparable harm, including, but not limited to the fact that his
3 rights, as afforded by California Government Code §3300, et seq., will be violated
4 without remedy.

5 61. Plaintiff has no plain, speedy or adequate remedy under the law. Plaintiff
6 has attempted to exhaust all administrative remedies to redress the violation of his
7 rights. Furthermore, pursuant to Government Code Section 3309.5, Plaintiff need not
8 pursue any administrative remedy in order to address this problem. Thus, Plaintiff is
9 excused from or has exhausted his administrative remedies. This court is given initial
10 jurisdiction over this matter pursuant to Government Code §3309.5.

11 62. Plaintiff requests this court to award ancillary damages pursuant to C.C.P.
12 §1090 and 1095.

13 63. The actions of defendants, and each of them, were arbitrary and
14 capricious and, therefore, Plaintiff is entitled to recover attorneys' fees pursuant to
15 Government Code §800.

16 64. The success of Plaintiff in this action will result in the enforcement of an
17 important right affecting the public interest in that a significant benefit will be conferred
18 on a large class of persons, that is, public employees, and the necessity and financial
19 burden of private enforcement of said benefit are such as to make appropriate the
20 award of attorney fees pursuant to California Code of Civil Procedure §1021.5.

21 **FOURTH CAUSE OF ACTION**

22 **DECLARATORY RELIEF RE GOVERNMENT CODE §3300, ET SEQ**

23 65. Plaintiff Brandon Sontag, for a Fourth Cause of Action against Defendants
24 City of Santa Ana, a Municipal Corporation; Santa Ana Police Department, a public
25 safety department, as that term is used in Government Code §3309.5; Carlos Rojas,
26 Chief of Police, City of Santa Ana; and DOES I-X, inclusive, for declaratory relief
27 reallege paragraphs 1 through 64 as herein above set forth and further allege:

28 66. An actual controversy now exists between the Defendants and Plaintiff

1 concerning officers' rights under Government Code §3300, et seq., including what
2 constitutes retaliation under Government Code §3304; what is prohibited under
3 Government Code §3305.5; and what is required by Government Code §3303 and/or
4 §3306.5. Plaintiff believes the Defendants violated his and other officers' rights and that
5 he/they are entitled to relief under Government Code §3309.5.

6 67. Plaintiff desires a judicial determination of the officers' rights and
7 remedies under Government Code §3300, et seq., as discussed above, so that they
8 may know, what if any, relief Sontag and/or the other officers are entitled to and
9 whether the process used by Defendants will be permitted by the courts or must be
10 modified to fall within compliance of Government Code §3300, et seq.

11 68. Plaintiff seeks a declaration of the Court that his rights, as referenced
12 above have been violated and that he is entitled to the full relief afforded him under
13 Government Code §3309.5.

14 69. Plaintiff requests this court to award damages pursuant to C.C.P. §1090
15 and 1095.

16 70. The actions of Defendants, and each of them, were arbitrary and
17 capricious and, therefore, Plaintiff is entitled to recover attorneys' fees pursuant to
18 Government Code §800.

19 71. The success of Plaintiff in this action will result in the enforcement of an
20 important right affecting the public interest in that a significant benefit will be conferred
21 on a large class of persons, that is, public employees, and the necessity and financial
22 burden of private enforcement of said benefit are such as to make appropriate the
23 award of attorney fees pursuant to California Code of Civil Procedure §1021.5.

24 **FIFTH CAUSE OF ACTION**

25 **PETITION FOR WRIT OF MANDATE UNDER C.C.P. §1085**

26 72. Plaintiff Brandon Sontag, for a Fifth Cause of Action against Defendants
27 City of Santa Ana, a Municipal Corporation; Santa Ana Police Department, a public
28 safety department, as that term is used in Government Code §3309.5; Carlos Rojas,

1 Chief of Police, City of Santa Ana; and DOES I-X, inclusive, for a Writ of Mandate
2 compelling Defendants, and each of them, to reinstate Sontag to his prior position with
3 the Santa Ana Police Department with all lost pay, benefits and seniority rights,
4 realleges paragraphs 1 through 71 as herein above set forth and further alleges:

5 73. California Code of Civil Procedure §1085(a) provides, in pertinent part: “A
6 writ of mandate may be issued by any court to any inferior tribunal, corporation, board,
7 or person, to compel the performance of an act which the law specially enjoins, as a
8 duty resulting from an office, trust, or station, or to compel the admission of a party to
9 the use and enjoyment of a right or office to which the party is entitled, and from which
10 the party is unlawfully precluded by that inferior tribunal, corporation, board, or person.

11 74. The Santa Ana Municipal Code provides, in Chapter 9, Article V:

12 §9-118(c): “Except as specified in subparagraph (d), any employee,
13 other than one serving a probationary period, holding a
14 position in the civil service shall be subject to suspension
15 without pay for a period not to exceed ninety (90) days, or to
16 demotion, or to dismissal subject to a right to appeal to the
17 personnel board in accordance with the procedures set forth
18 in this article...”;

19 §9-118(d): “Each or any of said actions relating to suspension,
20 demotion, or dismissal may be taken by the officer having
21 power of appointment to the position for reasonable and
22 sufficient cause...”;

23 §9-118(e): “Each such employee shall have ten (10) calendar days after
24 receipt of the written decision of the appointing authority in
25 which to file a notice requesting a hearing before the
26 personnel board. Such request for a hearing shall be filed
27 with the executive director of personnel services. If a hearing
28 is requested, the personnel board shall thereupon set a date

1 for hearing the matter at its earliest convenience. Hearing
2 procedures shall be informal, and the rules of evidence
3 generally applicable to administrative proceedings shall
4 apply.”;

5 §9-118(f): “The personnel board shall make written findings which shall
6 state as to each charge whether or not such charge is
7 sustained. The personnel board shall also set forth in writing
8 its conclusions and recommendations based upon such
9 findings, and within ten (10) days after concluding the
10 hearing, it shall certify its findings, conclusions, and
11 recommendations to the officer from whose action the
12 appeal was taken, and to the city manager and the city
13 council.

14 §9-118(g) “If, with respect to a suspension, demotion, or dismissal, the
15 personnel board shall conclude that the employee charged
16 was not guilty of the act or omission resulting in such
17 suspension, demotion, or dismissal, a recommendation by it
18 of reinstatement without loss of pay shall be binding upon
19 the appointing authority, who forthwith shall order such
20 reinstatement. In the event that the personnel board shall
21 conclude that the employee was guilty of the act or omission
22 resulting in such suspension, demotion, or dismissal but that
23 the penalty was not warranted under the circumstances, the
24 personnel board may review the severity and
25 appropriateness of the punishment. A recommendation by it
26 of a greater or lesser punishment or of reinstatement with or
27 without loss of pay shall be binding upon the appointing
28 authority, who forthwith shall order the same.

1 75. Plaintiff received a Notice of Adverse Action and timely, and properly
2 appealed the matter to the Santa Ana Personnel Board. The Personnel Board
3 concluded that the employee was guilty of the act or omission resulting in such
4 dismissal but that the penalty was not warranted under the circumstances. The
5 personnel board reviewed the severity and appropriateness of the punishment and
6 entered a recommendation of a suspension. This decision was binding upon the
7 appointing authority, who forthwith was required to order the same, but did not.

8 76. The Memorandum of Understanding between the City of Santa Ana and
9 the Santa Ana Police Officers Association (Police Officers and Police Sergeant
10 bargaining group), provides, in part, that “Any permanent employee covered by this
11 Agreement may only be disciplined in accordance with the standards and procedures
12 and subject to all rights of appeal set forth in Santa Ana Municipal Code Section 9-9, 9-
13 10, 9-118.1, et seq. (Article XVII, Section 17.1).

14 77. The Memorandum of Understanding further provides, in part, that “In the
15 event an employee is reduced, suspended and/or discharged, and upon appeal the City
16 Manager, Personnel Board or a court of competent jurisdiction does not sustain such
17 reduction, suspension and/or discharge, the employee shall be entitled to his base rate
18 or salary including all additives, vacation and sick leave as if such unstained reduction,
19 suspension or discharge had not been invoked.” (Article XVII, Section 17.2).

20 78. Defendants, upon the Personnel Board not sustaining the discharge, has
21 not paid to Plaintiff the benefits called for under the Memorandum of Understanding.

22 79. California Government Code §3304(b) provides that “No punitive
23 action...shall be undertaken by any public agency against any public safety officer who
24 has successfully completed the probationary period that may be required by his or her
25 employing agency without providing the public safety officer with an opportunity for
26 administrative appeal.

27 80. Sontag was a peace officer covered by Government Code §3300, et seq.,
28 and had completed the probationary period that were required of him by the employing

1 agency. As Sontag was able to successfully appeal the punitive action implemented
2 against him, but Defendants have refuse to comply with and/or honor the decision on
3 the administrative appeal, Defendant have failed to provide Sontag with an opportunity
4 for an administrative appeal.

5 81. Government Code §3304.5, provides “An administrative appeal instituted
6 by a public safety officer under this chapter shall be conducted in conformance with
7 rules and procedures adopted by the local public agency.” Defendants, as referenced
8 above, have not complied with rules and procedures adopted by the local public
9 agency.

10 82. The duty to obey the law in conducting internal affairs investigations and
11 disciplinary appeals is a ministerial duty and is not discretionary. By acting, and failing
12 to act, as set forth above, Defendants have violated a ministerial duty. The court can
13 issue an order directing the employer to act.

14 83. Sontag requests mandamus relief ordering Defendants, and each of
15 them, based on the Personnel Board decision, the City’s Municipal Code and/or state
16 law to vacated/revoked the disciplinary action against Sontag, to return and restore
17 Sontag to his previous position and/or to pay Sontag all back wages, benefits and other
18 compensation, with 7% interest, from the date of termination to the date of
19 reinstatement.

20 84. Plaintiff requests this court to award ancillary damages pursuant to C.C.P.
21 §1090 and 1095.

22 85. The actions of defendants, and each of them, were arbitrary and
23 capricious and, therefore, Plaintiff is entitled to recover attorneys' fees pursuant to
24 Government Code §800.

25 86. The success of Plaintiff in this action will result in the enforcement of an
26 important right affecting the public interest in that a significant benefit will be conferred
27 on a large class of persons, that is, public employees, and the necessity and financial
28 burden of private enforcement of said benefit are such as to make appropriate the

1 award of attorney fees pursuant to California Code of Civil Procedure §1021.5.

2 87. Sontag has no plain, speedy or adequate remedy under the law. Plaintiff
3 has exhausted all administrative remedies to redress the violation of his rights.
4 Furthermore, pursuant to Government Code Section 3309.5, he need not pursue any
5 administrative remedy in order to address this problem. Thus, Plaintiff is excused from
6 or has exhausted his administrative remedies. This court is given initial jurisdiction over
7 this matter pursuant to Government Code §3309.5.

8 **SIXTH CAUSE OF ACTION**

9 **PETITION FOR WRIT OF MANDATE UNDER C.C.P. §1094.5**

10 88. Plaintiff Brandon Sontag, for a Sixth Cause of Action against Defendant
11 City of Santa Ana, a Municipal Corporation, for a Writ of Mandate overturning certain
12 findings of the Santa Ana Personnel Board, realleges paragraphs 1 through 87 as
13 herein above set forth and further alleges:

14 89. The City of Santa Ana has created a civil service system wherein the
15 Santa Ana Personnel Board, (hereinafter "Board") is and was an administrative body of
16 the City of Santa Ana tasked with providing administrative appeal hearing for peace
17 officers' appeal from punitive action (pursuant to Government Code §3304 and/or
18 §3304.5).

19 90. All of the acts complained of herein by Sontag against City of Santa
20 Ana/Personnel Board (hereinafter referred to just as the Personnel Board) were done
21 and performed by said Defendants by and through their authorized agents, servants
22 and/or employees, and each of them, all of whom at all relevant times herein were
23 acting within the course, purpose and scope of said agency, service and/or employment
24 capacity and/or in their individual capacity but purportedly within the course, purpose
25 and scope of said agency, service and/or employment capacity. Moreover, Defendants
26 and their agents ratified all of the acts complained of herein.

27 91. The City of Santa Ana, via the City Attorney's office, hired a private
28 attorney firm to provide "legal advice to the Personnel Board." The private law firm

1 specializes in defending cities against employees claims and prosecuting disciplinary
2 actions against employees. In reality, the contract with the private law firm indicates
3 that City hired the private firm to "...to assist the City Attorney in the provision of legal
4 services to the City.." The contract further provides that the private firm is hired to
5 "assist the City Attorney by acting as the Legal Advisor to the City of Santa Ana
6 Personnel Board." Finally, the contract provides that the private firm will be engaged on
7 a case by case basis at \$300 per hour; thus, causing a financial interest in the outcome
8 of cases.

9 92. Respondent Personnel Board granted the hearing, but did not require the
10 City of Santa Ana to comply with all the Personnel Board rules. Specifically, the Board
11 allowed the City to withhold discovery and documents; to use unauthenticated exhibits
12 and evidence; allowed admissible recordings into evidence, and further allowed the City
13 to miss deadlines established by the Personnel Board. Rulings regarding these
14 procedural matters was made at the recommendation of the attorney who was hired to
15 assist the City Attorney's office.

16 93. At the time of the Personnel Board hearing, in order to reserve his rights
17 in the other pending litigation (POBRA case), Plaintiff, in order to insure that he did not
18 waive any legal rights, was forced to raise POBRA claims during the hearing.

19 94. Evidentiary hearings were held on twelve evenings. Plaintiff, however, was
20 not allowed to fully litigate his POBRA/Illegal Recording claims as the Board, under the
21 guidance of the private law firm, denied the opportunity to fully address these claims.

22 95. The Personnel Board also did not allow Plaintiff to conduct discovery or
23 present certain evidence that would demonstrate that the penalty imposed against
24 Plaintiff was even more excessive and unwarranted than found by the Board.

25 96. Ultimately, the Personnel Board sustained the allegations of misconduct
26 against Plaintiff, but also determined that the disciplinary action, termination, taken
27 against Sontag was without just cause. The Personnel conducted a public vote on
28 these charges, but did not address any POBRA or illegal recording issues.

1 97. The private law firm, hired to assist the City Attorney, then drafted written
2 Findings, Conclusions and Recommendations (“Findings”). The Findings correctly
3 noted the Board’s ruling on the merits of the disciplinary action, but then included
4 provision that rejected all POBRA and Recording claims. The rejection of POBRA and
5 Recording claims were based, at least in part, on matters not argued before the Board.
6 The Findings exceeded those issues voted on by the Board.

7 98. While the Personnel Board properly determined that the penalty of
8 termination was excessive and unwarranted under the facts and evidence in this case,
9 it was incorrect regarding the sustaining of the allegations of misconduct, including, but
10 not limited to, the destruction of evidence.

11 99. The preponderance of the properly admitted evidence shows that Plaintiff
12 did not engage in the acts of misconduct alleged. In fact, the evidence demonstrates
13 that Plaintiff, when taking action regarding video cameras was directed to do such
14 action by the supervisor in charge of the search.

15 100. The Findings do not constitute a proper written decision under the law and
16 does not accurately reflect the Employee's positions, the facts of the case or the law.

17 101. Respondents, and each of them, had and have a ministerial duty to strictly
18 follow state law, as well as their own written Rules and Regulations, as they relate to
19 disciplinary actions and processes.

20 102. Code of Civil Procedure §1094.5 provides, in pertinent part, as follows:

21 “(a) Where the writ is issued for the purpose of inquiring into the validity of
22 any final administrative order or decision made as the result of a proceeding in which by
23 law a hearing is required to be given, evidence is required to be taken, and discretion in
24 the determination of facts is vested in the inferior tribunal, corporation, board, or officer,
25 the case shall be heard by the court sitting without a jury. All or part of the record of the
26 proceedings before the inferior tribunal, corporation, board, or officer may be filed with
27 the petition, may be filed with respondent's points and authorities, or may be ordered to
28 be filed by the court ...

1 (b) The inquiry in such a case shall extend to the questions whether the
2 respondent has proceeded without, or in excess of jurisdiction; whether there was a fair
3 trial; and whether there was any prejudicial abuse of discretion. Abuse of discretion is
4 established if the respondent has not proceeded in the manner required by law, the
5 order or decision is not supported by the findings, or the findings are not supported by
6 the evidence;

7 (c) Where it is claimed that the findings are not supported by the
8 evidence, in cases in which the court is authorized by law to exercise its independent
9 judgment on the evidence, abuse of discretion is established if the court determines
10 that the findings are not supported by the weight of the evidence. In all other cases,
11 abuse of discretion is established if the court determines that the findings are not
12 supported by substantial evidence in the light of the whole record.

13 103. In the matter at hand, Respondent Personnel Board, issued a document
14 entitled "Findings, Conclusion and Recommendation. ("Decision")

15 104. The Board's Decision that the disciplinary action against Sontag was
16 excessive and unwarranted was correct and is not being challenged by this action.

17 105. The Board's decision that Plaintiff engaged in certain misconduct,
18 Plaintiff's rights under POBRA, Gov't Code section 3300, et seq., were not violated
19 during the administrative investigation and disciplinary process, and the recordings
20 were not illegal, are not supported by the weight of the evidence, are not supported by
21 substantial evidence and an error as a matter of fact and/or law. Furthermore, said part
22 of the Decision is not supported by the findings. Plaintiff further contends that the
23 findings of the Board, regarding these matters, are not supported by the evidence.

24 106. It is further alleged that the Respondents proceeded without or in excess
25 of its jurisdiction, there was prejudicial abuse of discretions, and Petitioner was denied
26 due process of law and a fair hearing, including, but not limited to allowing the
27 appearance of bias taint the hearing (See *Quintero v. City of Santa Ana* (2003) 114
28 Cal.App.4th 810). Finally, it is alleged that Respondents have not proceeded in the

1 manner required by law, the order or decision is not supported by the findings, or the
2 findings are not supported by the evidence.

3 107. In fact, the evidence showed that Petitioners POBRA rights (Gov't Code
4 §3300, et seq., were violated without any justification; that the recordings constitute
5 illegal recording under Penal Code §§632 and/or 637.5; and that Plaintiff did not
6 engage in acts of misconduct.

7 108. Petitioner seek a Writ of Mandate overturning, revoking, and/or find null
8 and void the administrative decision at it relates to the sustained acts of misconduct,
9 the POBRA issues and the recording issues.

10 109. Plaintiff requests this court to award damages pursuant to C.C.P. §1090
11 and 1095.

12 110. The actions of defendants, and each of them, were arbitrary and
13 capricious and, therefore, Plaintiff is entitled to recover attorneys' fees pursuant to
14 Government Code §800.

15 111. The success of Plaintiffs in this action will result in the enforcement of an
16 important right affecting the public interest in that a significant benefit will be conferred
17 on a large class of persons, that is, public employees, and the necessity and financial
18 burden of private enforcement of said benefit are such as to make appropriate the
19 award of attorney fees pursuant to California Code of Civil Procedure §1021.5.

20 **SEVENTH CAUSE OF ACTION**

21 **VIOLATION OF DUE PROCESS RIGHTS**

22 112. Plaintiff Brandon Sontag, for a Seventh Cause of Action against
23 Defendants City of Santa Ana, a Municipal Corporation; Santa Ana Police Department,
24 a public safety department, as that term is used in Government Code §3309.5; Carlos
25 Rojas, Chief of Police, City of Santa Ana; and DOES I-X, inclusive, brings an action for
26 equitable relief and damages for violation of his due process rights and realleges
27 paragraphs 1 through 111 as herein above set forth and further alleges:

28 113. California law require that when a public employee, with a vested right to

1 continued employment, is to be subject to disciplinary action, including termination, the
2 employee shall be provided due process.

3 114. In this case, Defendants denied Plaintiff due process by concealing
4 evidence; by not providing an opportunity, prior to the disciplinary action, to fully
5 address the decision-maker (*Skelly* violation); by not mandating that the employer only
6 use proper and admissible evidence; by entrapping the employee into certain conduct;
7 by providing an administrative hearing tainted by the appearance of bias; by not
8 allowing discovery of relevant evidence; by not honoring final decisions directing the
9 reinstatement of Plaintiff's employment; and/or by treating Plaintiff differently than
10 similarly situated employees.

11 115. Based on the above, Plaintiff is entitled to declaratory, injunctive and/or
12 monetary relief.

13 116. Plaintiff requests this court to award damages pursuant to C.C.P. §1090
14 and 1095.

15 117. The actions of defendants, and each of them, were arbitrary and
16 capricious and, therefore, Plaintiff is entitled to recover attorneys' fees pursuant to
17 Government Code §800.

18 118. The success of Plaintiffs in this action will result in the enforcement of an
19 important right affecting the public interest in that a significant benefit will be conferred
20 on a large class of persons, that is, public employees, and the necessity and financial
21 burden of private enforcement of said benefit are such as to make appropriate the
22 award of attorney fees pursuant to California Code of Civil Procedure §1021.5.

23 WHEREFORE, Plaintiff prays for judgment against Defendants, and each of
24 them, as follows:

25 **First Cause of Action**

26 119. Plaintiff seeks any and all relief he is entitled to relief under Government
27 Code §3309.5(d)(1), which provides "In any case where the superior court finds that a
28 public safety department has violated any of the provisions of this chapter, the court

1 shall render appropriate injunctive or other extraordinary relief to remedy the violation
2 and to prevent future violations of a like or similar nature, including, but not limited to,
3 the granting of a temporary restraining order, preliminary injunction, or permanent
4 injunction prohibiting the public safety department from taking any punitive action
5 against the public safety officer.”

6 120. Ancillary and in addition to the extraordinary relief afforded by
7 Government Code §3309.5(d)(1), and to the extent the superior court finds that
8 Defendants, its employees, agents, or assigns, with respect to acts taken within the
9 scope of employment, maliciously violated any provision of this chapter with the intent
10 to injure Plaintiff Sontag, Plaintiff seeks an order that the public safety department shall,
11 for each and every violation, be liable for a civil penalty not to exceed twenty-five
12 thousand dollars (\$25,000) to be awarded to Plaintiff and for reasonable attorney's fees
13 as may be determined by the court. If the court so finds, and there is sufficient
14 evidence to establish actual damages suffered by Plaintiff, Plaintiff seeks an ancillary
15 order that the public safety department shall also be liable for the amount of the actual
16 damages, as proven at trial or hearing on this matter.

17 **Second Cause of Action**

18 121. Plaintiff seeks any and all relief they are entitled to relief under
19 Government Code §3309.5(d)(1), which provides “In any case where the superior court
20 finds that a public safety department has violated any of the provisions of this chapter,
21 the court shall render appropriate injunctive or other extraordinary relief to remedy the
22 violation and to prevent future violations of a like or similar nature, including, but not
23 limited to, the granting of a temporary restraining order, preliminary injunction, or
24 permanent injunction prohibiting the public safety department from taking any punitive
25 action against the public safety officer.”

26 122. Ancillary and in addition to the extraordinary relief afforded by
27 Government Code §3309.5(d)(1), and to the extent the superior court finds that
28 Defendants, its employees, agents, or assigns, with respect to acts taken within the

1 scope of employment, maliciously violated any provision of this chapter with the intent
2 to injure Plaintiff Sontag, Plaintiff seeks an order that the public safety department shall,
3 for each and every violation, be liable for a civil penalty not to exceed twenty-five
4 thousand dollars (\$25,000) to be awarded to Plaintiff and for reasonable attorney's fees
5 as may be determined by the court. If the court so finds, and there is sufficient
6 evidence to establish actual damages suffered by Plaintiff, Plaintiff seeks an ancillary
7 order that the public safety department shall also be liable for the amount of the actual
8 damages, as proven at trial or hearing on this matter.

9 **Third Cause of Action**

10 123. Plaintiff seeks any and all relief they are entitled to relief under
11 Government Code §3309.5(d)(1), which provides "In any case where the superior court
12 finds that a public safety department has violated any of the provisions of this chapter,
13 the court shall render appropriate injunctive or other extraordinary relief to remedy the
14 violation and to prevent future violations of a like or similar nature, including, but not
15 limited to, the granting of a temporary restraining order, preliminary injunction, or
16 permanent injunction prohibiting the public safety department from taking any punitive
17 action against the public safety officer."

18 124. Ancillary and in addition to the extraordinary relief afforded by
19 Government Code §3309.5(d)(1), and to the extent the superior court finds that
20 Defendants, its employees, agents, or assigns, with respect to acts taken within the
21 scope of employment, maliciously violated any provision of this chapter with the intent
22 to injure Plaintiff Sontag, Plaintiff seeks an order that the public safety department shall,
23 for each and every violation, be liable for a civil penalty not to exceed twenty-five
24 thousand dollars (\$25,000) to be awarded to Plaintiff and for reasonable attorney's fees
25 as may be determined by the court. If the court so finds, and there is sufficient
26 evidence to establish actual damages suffered by Plaintiff, Plaintiff seeks an ancillary
27 order that the public safety department shall also be liable for the amount of the actual
28 damages, as proven at trial or hearing on this matter.

1 **Fourth Cause of Action**

2 125. Plaintiff desires a judicial determination of the officers' rights and
3 remedies under Government Code §3300, et seq., so that it may they may know, what
4 if any, relief Sontag and/or the other officers are entitled to and whether the process
5 used by Defendants will be permitted by the courts or must be modified to fall within
6 compliance of Government Code §3300, et seq. If violations are found, Plaintiff seeks
7 any and all relief they are entitled to the fullest extent afforded under Government Code
8 §3309.5.

9 **Fifth Cause of Action**

10 126. Sontag requests mandamus relief ordering Defendants, and each of
11 them, based on the Personnel Board decision, the City's Municipal Code and/or state
12 law to vacated/revoked the disciplinary action against Sontag, to return and restore
13 Sontag to his previous position and/or to pay Sontag all back wages, benefits and other
14 compensation, with 7% interest, from the date of termination to the date of
15 reinstatement.

16 **Sixth Cause of Action**

17 127. That this court render judgment in favor or Plaintiff Sontag and issue a
18 Writ of Mandate commanding Respondent to:

19 A. Set aside the Decision of the Santa Ana Personnel Board, as it relates
20 to the allegations of misconduct, the POBRA issues and the recording issues, on the
21 basis that Respondents have committed a prejudicial abuse of discretion, said action
22 not being supported by the findings and/or the said findings not being supported by the
23 evidence;

24 B. Cease and Desist from allowing the City Attorney's office and/or an
25 attorney hired to assist the City Attorney's office from serving in the capacity of Legal
26 Advisor and enter an order commanding the Personnel Board to act in accordance with
27 the law and employee's due process rights;

28 C. Alternatively, if the Court determines that Respondents did not provide

1 Plaintiff with a fair hearing and/or if the Court determines that Respondent has
2 committed a prejudicial abuse of discretion, the Court shall order the Decision of the
3 Personnel Board, as it relates to the allegations of misconduct, the POBRA issues
4 and/or the Recording issues, be set aside, and a new ruling entered finding that Plaintiff
5 did not engage in the allegations of misconduct; that Defendants did violate Petitioner's
6 rights under POBRA; and/or that the video recordings were illegally made and are
7 inadmissible.

8 128. Extraordinary relief to remedy the violation and to prevent future violations
9 of a like or similar nature, including, but not limited to monetary damages, an award of
10 attorney fees and the granting of a permanent injunction prohibiting the local public
11 safety department from taking any punitive action against Petitioners in this case.

12 **Seventh Cause of Action**

13 129. Declaratory, injunctive and/or monetary relief for violations of Plaintiff's
14 due process rights.

15 **All Causes of Action**

16 130. Ancillary damages according to proof at the time of trial pursuant to
17 C.C.P. §1090 and 1095;

18 131. To the extent allowed by law, general damages in an amount to be proved
19 at trial;

20 132. To the extent allowed by law, special damages in an amount to be proved
21 at trial;

22 133. Any and all relief afforded under the Code of Civil Procedure §1085;

23 134. Prejudgment interest on any and all awards described above;

24 135. Attorneys' fees pursuant to Government Code §800.

25 136. Attorney fees pursuant to California Code of Civil Procedure §1021.5.

26 137. For costs of suit incurred herein; and

27 138. Such other and further relief as the court deems proper under the
28 circumstances.

1 Dated: February 6, 2017

COREY W. GLAVE, ATTORNEY AT LAW

2 */s/ Corey Glave*

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Corey W. Glave,
Attorney for Plaintiff

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VERIFICATION

The undersigned declares as follows:

I am the attorney of record for the plaintiff in this action. I am verifying this Complaint on the basis that the named plaintiff is absent from the county where I have my office. I have read the foregoing COMPLAINT, and know the contents thereof. The contents are true, except as to the matters which are therein stated on information or belief, and as to those matters I believe them to be true and Plaintiff is acting in good faith in bringing forward such allegations.

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

/S/ Corey Glave

COREY GLAVE