

1 JOHN A. GIRARDI, State Bar No. 54917
GIRARDI|KEESE
2 1126 Wilshire Boulevard
Los Angeles, CA 90017
3 (213) 977-0211 Telephone
(213) 481-1554 Facsimile

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4 LAWRENCE J. LENNEMANN, State Bar No. 134108
5 LAW OFFICE OF LAWRENCE J. LENNEMANN
707 Wilshire Boulevard, Suite 4300
6 Los Angeles, CA 90017-3622
(310) 795-6317 Telephone
7 lennemann@att.net

8 Attorneys for Plaintiffs
LAURA FRANKS and
9 JOHN FRANKS

10 **SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE**
11 **CENTRAL JUSTICE CENTER**

13 LAURA FRANKS, an Individual; and JOHN
14 FRANKS, an Individual

15
16 Plaintiffs,

17 vs.

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19
20 CITY OF SANTA ANA, a municipality; and
21 DOES 1 - 50, Inclusive,

22 Defendants.
23

CASE NO.: 30-2019-01051892-CU-OE-CJC
Judge Theodore Howard

PLAINTIFFS' COMPLAINT FOR:

- (1) VIOLATION OF LABOR CODE §1102.5;
(2) DISCRIMINATION IN VIOLATION OF
FAIR EMPLOYMENT AND HOUSING ACT;
(3) HARASSMENT IN VIOLATION OF FAIR
EMPLOYMENT AND HOUSING ACT;
(4) RETALIATION IN VIOLATION OF FAIR
EMPLOYMENT AND HOUSING ACT; AND
(5) FAILURE TO TAKE CORRECTIVE
ACTION IN VIOLATION OF THE FAIR
EMPLOYMENT AND HOUSING ACT

REQUEST FOR JURY TRIAL

24 Plaintiff Laura Franks ("LAURA" or "Plaintiff") and Plaintiff John Franks ("JOHN" or "Plaintiff"),
25 (collectively referred to as "PLAINTIFFS"), with knowledge as to their own acts and based upon
26 information and belief with regard to all other matters, by and through their attorneys of record, alleges as
27 follows:
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1 1. LAURA is an individual who, at all times relevant herein, resided within the County of
2 Orange, State of California and was employed by Defendant City of Santa Ana ("CITY") at CITY's
3 business office(s) located in the County of Orange, State of California.
4

5 2. JOHN is an individual who, at all times relevant herein, resided within the County of Orange,
6 State of California and was employed and/or formerly employed by Defendant City of Santa Ana ("CITY")
7 at CITY's business office(s) located in the County of Orange, State of California.
8

9 3. At all times relevant herein, LAURA and JOHN have been married to each other.

10 4. PLAINTIFFS allege that CITY is a municipality doing business in the County of Orange,
11 State of California. The Santa Ana City Council, as the governing body of the City of Santa Ana, acts,
12 represents, and implements policy on the behalf of CITY.
13

14 5. PLAINTIFFS are presently not aware of the true names and/or capacities of defendants DOES
15 1 through 50, inclusive, and therefore sue said defendants by such fictitious names. PLAINTIFFS are
16 informed and believe and upon such information and belief allege that said fictitiously named defendants
17 are directly and proximately responsible for the injuries and damages alleged herein. PLAINTIFFS will
18 amend this Complaint to allege the true names and capacities of said fictitiously named defendants when,
19 and if, ascertained.
20

21 6. Defendants CITY and DOE Defendants 1 through 50 are hereinafter sometimes collectively
22 referred to as "Defendants".
23

24 7. PLAINTIFFS are informed and believes and upon such information and belief allege that at
25 all relevant times each and every Defendant was a principle, agent, employer, employee, manager,
26 supervisor, officer, shareholder and/or owner of each and every other Defendant, and each and every act
27 and/or omission of each and every Defendant occurred by and through the owner of the Defendant and
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1 within the course and scope of such agency and/or employment and/or was approved and/or ratified by the
2 acts and/or omissions of each and every other Defendant.

3
4 8. On or about September 25, 2018, LAURA filed a complaint with the Department of Fair
5 Employment and Housing (“DFEH”) against Defendants and received an immediate “Right to Sue.”

6 9. On or about September 25, 2018, LAURA filed a Government Claim against Defendants
7 which - as of the date of the filing of this Complaint - has been denied by operation of law.

8
9 10. On or about September 26, 2018, CITY was personally served with and received LAURA’s
10 DFEH Complaint and Government Claim.

11
12 **FACTUAL BACKGROUND**

13
14 **A. Both PLAINTIFFS Have Been Long-Term Exemplary Employees with CITY.**

15 11. LAURA has been employed with CITY for approximately 25 years. During her employment
16 with CITY, LAURA has been an exemplary employee, has been recognized numerous times for her
17 meritorious performance and for her leadership and has no disciplinary issues or blemishes in her
18 employment record.

19
20 12. JOHN was also employed with CITY for approximately 25 years as a police officer until his
21 retirement on or about September 12, 2018. During his employment, JOHN was promoted to Corporal and
22 then to Sergeant and served as the President of the Santa Ana Police Officers Association (“SAPOA”) from
23 approximately August 2011 to April 2016.

24
25 **B. In or About 2007, CITY Transferred LAURA to the Background Unit.**

26 13. For the past approximately 25 years, LAURA has been employed as a non-sworn employee,
27 with the position title of “Correctional Supervisor.” This position - where LAURA has spent half of her
28

1 career with CITY - is typically assigned to CITY's Jail. However, as described in more detail below,
2 LAURA has spent the other half of her career working in the Background Unit.

3
4 14. Specifically, approximately 23 years ago, in 1996, upon her return from maternity leave,
5 LAURA was asked to assist in CITY's Police Department Background Unit ("Background Unit") to fill
6 vacancies for the staffing of CITY's new correctional facility. The Background Investigator position is an
7 administrative support function which does not require peace officer training.

8
9 15. At that time, LAURA worked in the Background Unit for approximately two years before
10 returning to the Jail when all of the Jail positions had been successfully filled.

11 16. Then, approximately ten years later, in or about 2007, LAURA was, once again, transferred
12 to the Background Unit in order to again assist with numerous vacancies that were seriously impacting
13 CITY's Police Department.
14

15 **C. In or About 2013, LAURA Becomes a Supervisor in the Background Unit.**

16 17. After a few years, the Background Unit's Commander, then-Lieutenant (now Police Chief)
17 David Valentin decided to retain LAURA in the Background Unit and asked her to assist with the
18 completing of background investigations for sworn - as well as non-sworn - staff as well as non-sworn staff.
19 (Valentin would then proceed to sexually harass LAURA. See Section D below.)
20

21 18. Two sworn Background Investigators, Sergio Enriquez and Steve Winston, reacted negatively
22 to this decision. Nevertheless, LAURA began working on both Enriquez and Winston's incomplete
23 background investigations.
24

25 19. Subsequently, Enriquez was removed from the Background Unit and sent back to Patrol due
26 to his poor attitude and treatment of applicants and the fact that only a few of the dozen vacancies had been
27 filled during his tenure in the Background Unit. (Later, in or about March of 2018 when Valentin became
28 the permanent Police Chief, he placed Enriquez in the position as his Adjutant - wherein Enriquez would

1 frequently appear in the Background Unit, even though his duties and authority did not require him to be
2 there.) Winston retired shortly thereafter.

3
4 20. LAURA successfully managed to fill the vacant positions and was presented with the “Non-
5 Sworn Supervisor of the Year” recognition by the Background Unit’s Commander, then-Lieutenant (now
6 Police Chief) David Valentin.

7
8 21. For several years, LAURA was the only investigator left in the Background Unit. CITY then
9 hired a part-time cadet, Elizabeth Patino, to assist LAURA.

10 22. In or about 2012-2013, new staff (Investigator Sarah Park, Investigator Alma Macchiaroli,
11 Correctional Officer Alnira Romero and Investigator Rashad Wilson) were assigned to the Background Unit
12 at different times as the CITY’s hiring had increased for various reasons. During this time, all sworn
13 leadership had been removed from CITY’s Police Department Personnel Section and it was being overseen
14 by a non-sworn personnel analyst, Anita Queen. After a few months, it was decided to reassign the
15 Background Unit to the training division in order to have some type of sworn overview of the background
16 files. At the time, there were three sworn officers (Macchiaroli, Park and Wilson) and a part-time cadet
17 (Patino) in the Unit with LAURA and Ms. Romero.

18
19
20 23. After a few years, LAURA replaced the Background Unit’s supervisor.

21 24. In or about October of 2014, the training Sergeant (now Commander) Phil Craft called
22 LAURA into his office and told LAURA that he was not familiar with the background process and stated:
23 “We all know who runs the Unit. You do. So you are going to oversee the Unit.” LAURA was told to keep
24 him informed and to come to him for any necessary signatures. LAURA was told to focus on the
25 administration and supervision of the Background Unit; not to conduct background investigations.
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1 25. In or about 2015, Sergeant Craft was promoted to Commander and Sergeant Andy Alvarez
2 was transferred to the Training Division. Sergeant Alvarez made clear to LAURA that LAURA was to
3 remain as Supervisor in the Background Unit, with the same responsibilities and duties.
4

5 26. Until recently, LAURA typically supervised three full-time Background Investigators (two
6 sworn and one non-sworn), three part-time Background Investigators (retired sworn police officers) and one
7 part-time cadet.
8

9 27. For the last approximately five years, LAURA has not only been the highest producing
10 Background Investigator but has been recognized by all administrative staff within the police department
11 (as well as outside of the immediate police department) as the leader and supervisor of the Background Unit,
12 ensuring the best interests of the Police Department is always at the forefront of how the Background Unit
13 conducts business on a daily basis.
14

15 **D. LAURA Was Sexually Harassed by Now-Chief of Police Valentin.**

16 28. Sometime in the 2010-2013 time frame, LAURA - based upon both her personal interactions
17 and as related to her by her co-workers Sarah Park and Virginia O'Leary - was the recipient of ongoing
18 sexually-inappropriate statements, texts and actions from Lieutenant (now-Chief) Valentin.
19

20 29. LAURA rejected Valentin's sexual advances toward her.

21 30. These events, of which the CITY was aware, culminated with Valentin apologizing to
22 LAURA and stating: "According to my wife I am a better father than I am a husband" and with LAURA
23 feeling awkward, uncomfortable, confused and disgusted.
24

25 **E. CITY Failed to Compensate LAURA in her Supervisor Position.**

26 31. LAURA's Performance Evaluations for the last several years reflect the fact that her duties
27 were those of the Background Unit Supervisor. Additionally, LAURA has many emails, employee
28 evaluations and commendations identifying her as a "Background Supervisor."

1 32. CITY’s pertinent Memorandum of Understanding (“MOU”) states: “After an employee has
2 served two consecutive calendar weeks in a vacant, full-time, budgeted, higher-level position, he/she shall
3 be compensated at the Temporary Upgrade Assignment Pay rate for each full day that he/she is assigned to
4 the higher-level position, retroactive to the first day of said assignment. [October 2014.] An employee
5 serving in a temporary upgrade assignment will be paid a temporary assignment pay premium at a rate set
6 ten (10) salary rate ranges (5%).”
7

8 33. Despite LAURA’s position and the mandates of the MOU, CITY failed to properly
9 compensate for her upgrade pay.
10

11 **F. During JOHN’s Tenure as SAPOA President, He Disclosed A Violation of or**
12 **Noncompliance with a Local, State or Federal Rule/s or Regulation/s by Persons**
13 **at CITY to Persons at CITY with Authority to Address and Investigate such**
14 **Conduct. JOHN Was then Forced to Resign as POA President.**
15

16 34. By way of brief background, and as CITY is well aware from other lawsuits and other public
17 records and documents, during JOHN’s tenure as POA President, other CITY employees were involved in
18 a scheme to assure the election of certain candidates for CITY’s City Council who, in advance of the 2016
19 election and in order to receive \$400,000.00 in POA support, “pledged” to vote to support
20 removal/termination of both then-Chief of Police Carlos Rojas and then-City Manager David Cavazos; a
21 move which CITY’s own City Council members described in testimony under oath as “illegal”, “bribery”,
22 “extortive”, “coercive”, “corruption”, “against the law” and “in violation of [CITY’s] Charter.”
23

24 35. This scheme eventually led to City Manager Cavazos being “severed” pursuant to an
25 approximately \$400,000.00 payment and led to, in December of 2018, Chief Rojas settling his constructive
26 termination lawsuit against CITY.
27
28

1 36. Since, as set forth in more detail below, JOHN refused to participate in the illegal scheme,
2 in order to effectuate same, CITY first needed to force JOHN to resign from his position as POA President
3 so that CITY's Sergeant Gerry Serrano could take control of the SAPOA
4

5 37. Specifically, in or about late 2015, CITY's Mayor Miguel Pulido called JOHN. During this
6 telephone conversation, Mayor Pulido referred to then-City Manager Cavazos with words to the effect that
7 they "have to do something about this guy" and otherwise clearly intimated that then-City Manager Cavazos
8 must be terminated or otherwise removed. JOHN quickly cut Mayor Pulido off and terminated the telephone
9 call as it was very clear to JOHN that the phone call was about to go down an improper and unethical path.
10

11 38. Shortly thereafter, JOHN then disclosed to a government agency and/or law enforcement
12 agency and/or a person with authority over him or to an employee with authority to investigate, discover,
13 or correct legal violations and/or noncompliance with a state, or federal statute and/or a violation of and/or
14 noncompliance with a local, state and/or federal rule and/or regulation. [U.S.C Criminal Code, §§ 201, Title
15 18, *et seq.*; *California Penal Code*, §§ 67, 67.5, 68, 70, 71, 73, 74, 85, 86; 26 U.S.C. 7201, 26 U.S.C.
16 7202, 26 U.S.C. 7203, 26 U.S.C. 7206; Santa Ana Municipal Code §§ 9-2.5, 9-118, 9-118.7, Santa Ana City
17 Charter, §§ 408, 425, 700, 703(d), 1107, 1206, 1208, 1501; and 18 U.S.C. §§ 1961-1968 (Racketeer
18 Influenced and Corrupt Organization Act.)
19
20

21 39. JOHN immediately reported the telephone conversation to then-Chief of Police Rojas.
22 Additionally, JOHN subsequently spoke with and confirmed this conversation with then-City Manager
23 Cavazos.
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25 40. As referenced above, in or about May of 2016, JOHN was then constructively forced to resign
26 his position as the POA President. JOHN was replaced by Serrano.
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G. Gerry Serrano.

41. While Serrano is now the SAPOA President, he is first and foremost a CITY Sergeant, employed by and compensated by CITY.

42. In or about October of 2011, Serrano was arrested by the Westminster Police Department following his involvement in a hit-and-run DUI. This information became part of the public record shortly before Serrano made his unsuccessful bid for the Garden Grove City Council.

43. The Police Report associated with Serrano's arrest stated that Serrano attempted to "chest bump" the arresting officer (a member of a neighboring police organization) and repeatedly called the officer a "piece of shit" and an "asshole." The Police Report described Serrano as "angry", "argumentative", "belligerent" and "defiant" and stated that Serrano told the male hit-and-run victim - after his wife (the female hit-and-run passenger) asked Serrano for his driver's license - "you're letting your wife control you".

44. Serrano was justifiably disciplined by former Chief Rojas for this conduct. To this date, Serrano has maintained a grudge against not only Chief Rojas, but against those perceived to be loyal to the former Chief.

H. Shortly After - and in Retaliation for - JOHN's Disclosure, CITY Sergeant Serrano Fabricated an "Issue" with LAURA's Supervisor Position. Then, Although Both CITY's Personnel Department and CITY's Highest Ranking Police Personnel Both Approved a Reclassification for LAURA, Serrano Continued to Retaliate by Improperly Interfering with Same.

45. As detailed above, LAURA had, for an extensive time period, been working as the Background Unit's Supervisor.

1 46. However, following JOHN's disclosure of the scheme which involved Serrano, LAURA was
2 advised that Serrano - (and supposedly) the SAPOA - was having an issue with her "working out of
3 classification."

4
5 47. More specifically, Serrano claimed that LAURA should be sent back to the Jail because her
6 position was somehow "temporary" and/or "rotational." However, by that time, LAURA had been in her
7 position for over 11 years.

8
9 48. Serrano also claimed that there was an "issue" with LAURA's non-sworn status. (LAURA
10 was informed that Serrano's stance was that a non-sworn employee should not supervise sworn staff because
11 the non-sworn employees are "incapable" or "inferior." However, there are various examples of positions
12 within CITY's Police Department where non-sworn have supervised sworn in administrative roles.
13 Furthermore, there is **no** wording in the Municipal Code, in the CITY's Charter or in the SAPOA
14 Memorandum of Understanding ("MOU") prohibiting this status.

15
16 49. CITY decided to remedy this situation by reclassifying LAURA to the position of
17 Background Supervisor. This would result in a both a monetary raise, as well as a permanency in the
18 Background Unit. (At this time, CITY was proposing closing the Jail and several Jail staff members were
19 facing possible layoffs.)

20
21 50. Serrano opposed this reclassification.

22 51. Because of Serrano's opposition to CITY's decision to reclassify LAURA, LAURA was
23 asked to research the civilian Background Supervisor position with other agencies that had that position.
24 LAURA compiled the information, assisted in the creation of the Background Supervisor position wording
25 regarding the duties and responsibilities.

26
27 52. LAURA's position was formally approved by: (1) Commander Semelsberger; (2)
28 Administrative Deputy Chief Jim Schnabl; and then (3) by Police Chief Rojas.

1 53. LAURA's position was then formally approved by CITY's Personnel Department (CITY
2 Assistant Personnel Director Ellen Smiley and CITY Personnel Director Ed Raya.)

3
4 54. In or about mid-April of 2017, LAURA's position was placed on the CITY's April 18, 2017
5 CITY Council Meeting Agenda, with staff recommendations for approval. However, the night of CITY's
6 City Council Meeting, Serrano attended the meeting and challenged LAURA's reclassification. LAURA
7 (along with everyone involved) was confused by this decision and by Serrano's actions, considering Serrano
8 had been the person who requested the reclassification issue be addressed.
9

10 55. As a result of Serrano's interference, the reclassification of LAURA's position was not
11 discussed that night - or ever - by CITY's City Council.

12 56. Many discussions took place as to Serrano's motivation. LAURA was repeatedly advised that
13 this was obviously taking place due to what was described as "Serrano having a target on [LAURA's] back
14 due to Serrano's disdain for" JOHN and that Serrano was "out to get" JOHN through LAURA. These
15 discussions occurred on a weekly, if not daily, basis.
16

17 57. Additionally, as referenced above, LAURA was advised that during SAPOA Board Meetings
18 and other conversations there, LAURA's position was discussed, with the goal to devise a plan to replace
19 LAURA as a Supervisor in the Background Unit.
20

21 58. During the first week of October of 2017, LAURA spoke to Correctional Officer Norma
22 Sbabo. Officer Sbabo informed LAURA that several SAPOA board members (presumably at Serrano's
23 direction) had contacted her in an attempt to solicit her to file a grievance against LAURA for being assigned
24 in the Background Unit for "too long." Officer Sbabo informed LAURA that Serrano had a plan (which, as
25 set forth in detail below, eventually came to fruition) to send a sworn officer to the Background Unit, learn
26 the supervisor job and send LAURA back to the Jail.
27
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1 59. LAURA then spoke with one of the SAPOA Jail representatives who told LAURA that no
2 one had ever complained to him about LAURA's placement in the Background Unit. This person told
3 LAURA that he had informed Serrano of this during a SAPOA Board Meeting but that Serrano entirely
4 ignored him.
5

6 60. During this time frame, LAURA was unable to walk into the building or attend a meeting
7 without the issue being brought up to her.
8

9 61. Then, on October 5, 2017, LAURA forwarded an email to Serrano and, at 10:14 p.m. that
10 same day, Serrano responded, in pertinent part, as follows, denying his involvement and blaming CITY's
11 Police Department:

12 "I believe you are misinformed. You are correct that it is my responsibility to look after the overall
13 welfare of the entire membership, not just an individual.

14 Months ago several detention officers were severed [sic] with pink slips and were facing lay-offs.
15 Eight detention officers received notices and how horrible for them to lose their jobs. At that time,
16 my sole concern was ensuring no one lost their job as you could agree should've been the priority.
17 During this period, per MOU the affected employees had the legal ability to 'bump' and ask for
18 reclassifications in lieu of law-offs to other PD positions. During this time, all reclassifications were
19 placed on hold.

20 The fact is our detention facility is severely understaffed which also poses an officer safety concern.
21 Officer safety should always be of a paramount concern. Many of your colleagues, detention officers,
22 have voiced their concerns of forced overtime, officer safety, denied days off, staffing, etc. and to
23 include the temporary rotational position in the background unit that you are currently in. Their
24 concerns are just as meaningful to them.

25 The chief of police is looking at the Background Unit and bringing it in line with industry standards
26 and best practices within the law enforcement community.

27 The POA does not dictate police or management decisions at the police department. The chief is the
28 sole person who has the authority and decides how his Background Unit functions.

 The POA has not filed a lawsuit on behalf of the membership stating that detention officers are
working outside their hired job classification.

 In closing, the POA does not affect policy at the PD and the chief solely as the department head
decides how he manages his organization. The POA has not filed any suit and any decision on your
status as a detention officer working outside of your hired job classification, staffing concerns at the

1 jail or perceived preferential treatment is not my concern but one of liability purposes the PD may
2 address.”

3 62. In or about early October of 2017, LAURA emailed Ms. Smiley and asked to meet with her.

4 63. On October 9, 2017, LAURA met with Ms. Smiley. LAURA advised Ms. Smiley of what
5 was occurring that this was causing undue stress, pressure and anxiety. Ms. Smiley reconfirmed that CITY’s
6 Personnel Department was fully on board with LAURA being reclassified, that CITY’s Personnel
7 Department agreed that LAURA deserved the supervisor position and that CITY’s Personnel Department
8 were as confused as LAURA as to Serrano’s actions.

9 64. Ms. Smiley also stated that, due to LAURA’s longevity in the position (11 years), the position
10 was not considered rotational and that LAURA had certain “property rights” to the position.

11 65. Ms. Smiley told LAURA that the deciding factor would be that of then-Acting Chief
12 Valentin. - not the SAPOA’s. (Shortly after former Police Chief Rojas’ unlawful constructive termination
13 resulting from the above-described unlawful conspiracy and bribery scheme: (1) in or about June 2017,
14 CITY appointed Valentin was as acting Police Chief; and (2) on or about February 20, 2018, CITY officially
15 appointed Valentin to Police Chief.) However, Ms. Smiley said that, since Serrano was “running the city”,
16 they would have to wait to see what Valentin’s stance would be once he officially became Chief because
17 he was “in debt” to Serrano (due to the above-described election bribery scheme) and “owed” his Acting
18 Chief position to Serrano. Ms. Smiley felt that Valentin would be reluctant to go against the Serrano’s
19 wishes.
20 wishes.

21 66. LAURA advised Ms. Smiley that her comments about Serrano running CITY made her more
22 nervous and apprehensive about her position and what Serrano could possibly do.

23 67. LAURA left the meeting feeling more intimidated, fearful and concerned with her future.
24 This was especially true in light of what CITY (Serrano/SAPOA/City Council) had recently done to former
25 City Manager Cavazos and former Police Chief Rojas.
26
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1 68. Ms. Smiley told LAURA that Valentin would most likely not make any decision until he had
2 permanently secured the Chief position. Ms. Smiley advised LAURA to wait to file any type of claim until
3 after the appointment of the new City Manager.
4

5 **I. The “Recruiting Coordinator” Position.**

6 69. On October 17, 2017, CITY created a new sworn position for “Recruiting Corporal.”

7 70. While the description made clear that any applicant did not need to know anything about
8 backgrounds or have any background experience, the position’s duties included “the direct supervision and
9 leadership of the background unit.”
10

11 71. As such, the description also made clear that this new position would result in the elimination
12 LAURA’s Background Unit Supervisor reclassification.
13

14 72. On October 19, 2017, LAURA discussed this new position with Deputy Chief Jim Schnabl.
15 Deputy Chief Schnabl stated: (1) that the original intent of the Recruitment Corporal was to attend recruiting
16 events and oversee recruitment of new and lateral police officers; and (2) that, contrary to the publicized
17 position description, the position had not been designed to supposedly supervise the Background Unit.
18

19 73. Deputy Chief Schnabl told LAURA that the revised description of the position must have
20 come from Valentin’s office.

21 74. On October 19, 2017, Deputy Chief Schnabl forwarded the following email to LAURA:

22 “I finished my discussion with the Chief regarding the future of the Backgrounds Unit and your
23 position Laura. The Chief and I recognize the incredible skills you bring to the unit and we don’t
24 want to lose them. The Chief has conveyed to POA how important you are to our #1 goal of
25 recruiting and hiring more officers. The new Corporal will have overall supervision of the unit, but
26 you will remain as a supervisor within the unit. [Training Division Commander Peter Semelsberger]
27 and I will work out how this shared leadership responsibility will work and it will probably be a
28 work in progress as we determine roles and responsibilities.

The move to Background Investigators is going to be delayed however. The POA is standing in the way of us making that move and it is believed the best way to proceed is to leave everything as status quo. Hopefully this gives you some comfort regarding your future in the unit. **I again took the opportunity to reinforce the perception that the POA’s desire to move you out of Backgrounds**

1 is grounded in the POA President's disdain for your husband and the unfair, unethical way
2 he is going after John through you.

3 Don't hesitate to contact me if you have additional questions or concerns." [Emphasis added.]

4 75. On the same date, Training Division Commander Semelsberger responded to Deputy Chief
5 Schnabl's email by forwarding it to LAURA and stating:

6 "I don't know if this gives you the answers you need, but I'm sorry this has become so complicated.
7 You know how I feel about your leadership at work, but more importantly, I hope you know how
8 much I respect and appreciate you as a person. You can always call me if you want to talk."

9 76. Then, on November 9, 2017, Training Division Commander Semelsberger forwarded an
10 email to the entire Police Department which stated:

11 "The Training Division is pleased to announce the selection of Cpl. Oscar Lizardi for the position
12 of Recruitment Coordinator. Date of transfer is December 1, 2017."

13 77. Not surprisingly, Corporal Lizardi - who was not No. 1 on the selection list and who had been
14 preordained to be selected - happened to be a sitting SAPOA Board Member and a participant in the
15 previous discussions to have LAURA removed from the Background Unit.

16
17
18 **J. LAURA Meets and Communicates with Valentin and is Essentially Ignored.**

19 78. In or about early November, 2017, Valentin called a meeting with the Background Unit.
20 Afterwards, Valentin met with both LAURA and Alnira Romero. Valentin advised LAURA and Ms.
21 Romero that he had told Serrano that he did not understand why Serrano was doing what he was doing.

22 79. Valentin further said he told Serrano that if Serrano was "hell bent" on sending LAURA back
23 to the Jail it would not come without negative ramifications to CITY. These words further cemented
24 LAURA's the fears and concerns.

25 80. On November 29, 2017, LAURA forwarded an email to Valentin:

26
27 "I wanted to follow up with you on the status of our reclassification and standing in the background
28 unit. We had a unit meeting with you a few weeks ago and at your request Alnira and I met with you
after the unit meeting to specifically address this issue. I feel uncomfortable and concerned sending

1 this and I would prefer concentrating on my work instead of addressing this issue. Unfortunately, this
2 situation has been lingering for over a year and after our meeting with you, we both left more
3 anxious and concerned with the future security of our positions in the background unit. We were
4 hoping to have some kind of resolution to our reclassification situation by now and especially after
5 our meeting considering some of the things that were discussed - namely the important role Alnira
6 and I both have in the unit and meeting the department's hiring goals. As we both mentioned during
7 the meeting, the uncertainty of our positions within the unit as well as coming in to work on a daily
8 basis not knowing what is going to transpire has caused us both considerable stress and unnecessary
9 hardship. This atop the already existing pressure of trying to meet the department's hiring goals. As
10 you expressed during our meeting, these are not conditions anyone should have to work under and
11 we agree.

12 During our meeting I asked where you stood with regard to the reclassification of our positions and
13 that question went unanswered. You advised us how Mr. Serrano, the SAPOA President, felt about
14 the reclassification and our standing in the unit and what his request was with regard to our position
15 in the background unit. However, you did not tell us where you stood on the issue. Several of the
16 comments you made during this meeting were a cause for concern and left us feeling anxious about
17 our standing in the unit.

18 Some of the things discussed were as follows:

- 19 • You spoke to Mr. Serrano and told him if he was "hell bent" on sending us back to the jail,
20 it would not come without negative ramifications and a negative impact to the background
21 unit and the hiring goals of the department
- 22 • If this move were to take place you would have to be good with it – but you never said if you
23 were or were not good with it
- 24 • You would provide us with sufficient notice before the move occurred

25 These statements struck us as being contradictory and arbitrary to meeting the agency's hiring goals
26 and the recognition of Alnira and my positive contribution not only to the unit as a whole but to
27 meeting the hiring goals. As mentioned during the meeting, below is a historical of what has taken
28 place during the past year:

- The original issue of us working out of classification was brought up over a year ago by Mr.
Serrano
- The police department and the city came up with a remedy to the issue Mr. Serrano raised
by creating and approving a full time background investigator position and a full time
background supervisor position
- Both of these positions were approved across the board by our chain of command at the
police department as well as the indicated staff city personnel (Ed Raya and Ellen Smiley)
- The request for council support was brought forth and set to be presented to City Council
- The night of the council meeting, the item was pulled from the agenda by the SAPOA –
namely Mr. Serrano and Councilman Solorio

Due to this unresolved situation prolonging for over a year I have been proactive in addressing it
with my direct chain of command (Sgt. Alvarez, Commander Semelsberger, Deputy Chief Schnabl
and you) in the hopes of achieving some resolution to the issue brought to light and caused by

1 SAPOA and Mr. Serrano. I have advised all mentioned how this situation is affecting me, as I can't
2 speak for Alnira and her feelings directly other than knowing it is impacting her as well, and causing
3 an uncomfortable and hostile work environment.

4 I also addressed the issue of our reclassification, the hostile/stressful work environment and the
5 SAPOA- Mr. Serrano blocking our reclassification with Assistant Personnel Director Ellen Smiley
6 and SAPOA Attorney Chuck Goldwasser. I also emailed Mr. Serrano about the reclassification issue
7 and his lack of proper representation to us on this issue.

- 8 • Ellen Smiley stated the city is on board with our reclassification, is willing to do a
9 work study for my position and has voiced her concern about the working out of class
10 situation for quite some time. She said the personnel department is willing to do their
11 part and support both Alnira and me in the reclassification issue and Mr. Raya is of
12 the same thought process. She was confused when Mr. Serrano blocked the matter
13 being brought before council. She stated ultimately it is the Chief's decision on the
14 matter not the SAPOA. She said due to my longevity in the position (11 years) it is
15 not considered a rotational position and I have certain rights to the position.
- 16 • SAPOA Attorney Goldwasser said he was not aware that the SAPOA – Mr. Serrano
17 had requested and then blocked our reclassification. He advised me he could not
18 represent me in my concerns because it would be a conflict of interest due to the
19 SAPOA's stance on the matter and the fact that he represents them. He provided me
20 contact information to a labor law attorney and I have contacted a labor law attorney
21 on this matter.

22 / At the advice of my attorney, I emailed Mr. Serrano on October 5th and he responded on October
23 26th. Unfortunately, he did not answer any of my questions but did provide me and advise me of his
24 stance on what his role/ SAPOA's role and the Chief (your) role are in this situation. This is what
25 Mr. Serrano said:

- 26 • The POA does not dictate policy or management decisions at the police department
- 27 • The chief is the sole person who has the authority and decides how his Background
28 Unit functions
- The POA does not affect policy at the PD and the chief solely as the department head
decides how he manages his organization

At this point considering what has transpired over the past year, Mr. Serrano's stance on the issue
and the conversation which took place during our meeting, I can only come to the conclusion that
the only thing holding up our reclassification is Mr. Serrano's issue with it. Our reclassification was
approved over a year ago and has been placed on the shelf because of Mr. Serrano's opinion on the
matter which in his own words should have no bearing on the situation because the SAPOA does
not dictate policy or management decisions. With that said Mr. Serrano's opinion or him being "hell
bent on sending us back to the jail" should have no bearing on the decision as he clearly feels you
are the sole person to have authority with making a decision on our reclassification.

Aside from attempting to resolve this issue and returning to a state of normalcy in my (our) positions
and duties within the background unit, another reason I have addressed this issue with the above

1 named individuals in my chain of command as well as city personnel is because I feel, as I
2 mentioned, this is causing a hostile work environment for me. I feel I am being targeted as well as
3 being retaliated against based on the reasons said forth here as well as Mr. Serrano's ill feelings
4 toward my spouse. For those same reasons and under the circumstances described here I am unable
5 to seek representation on the matter from my own association.

6 In order to avoid the above information seeming to come out of left field, please allow me to explain
7 and advise you of some of the things which have occurred over the last several months. On numerous
8 occasions I have received unsolicited information from varying staff members within the department
9 with regard to what they describe as Mr. Serrano being out to get me and having a target on me
10 because of his ill feelings toward my spouse. This has occurred on a weekly if not daily basis. I must
11 say this has had a negative impact on me personally and has adversely affected my ability to
12 concentrate on my job. I have also been advised there have been SAPOA board meetings in which
13 my position has been discussed and mainly to devise a plan on how to replace me in the background
14 unit. Apparently part of the discussion in these meetings included a plan to put a sworn supervisor
15 in place in the background unit (which recently happened) to learn my job, and then I would be sent
16 back to the jail. I understand SAPOA meetings and their stance on certain issues probably are not
17 considered work place related, however they (SAPOA) have now brought these issues to the
18 workplace during work hours and they are negatively impacting me in many ways. My only
19 response to all this has been to address it with the appropriate individuals in my chain of command
20 giving them an opportunity to correct it without needing to involve legal remedies, to work harder
21 and continue to motivate the background unit.

22 I can't stress enough how very uncomfortable, anxious and concerned I feel sending this and having
23 to address this. In my 24 years with the department I have never faced anything like this, I have never
24 had a negative incident regarding my performance, never had an IA investigation, never had an IOD
25 situation, never brought negative attention to the department and I love my job. I worked directly
26 for you during the first four years of my eleven year tenure in the background unit and would trust
27 you know my work ethic. During our meeting you mentioned numerous times you had only heard
28 positive feedback about both Alnira's and my work performance. To my knowledge and experience,
the SAPOA should not have any involvement with regard to our career, our abilities, capabilities and
they should have no basis on the decision about our reclassification.

For the past year I have been told too many times to remain silent on this issue and stay status quo
for fear of being sent back to the jail, not being reclassified or being retaliated against for taking any
kind of action to defend Alnira or myself. Unfortunately she finds herself tangled in this situation
as well for different reasons and simply being in the unit with a jail classification. In the meantime,
other positions and events are taking place around me such as the recent chain of events unfolding
within my unit to include Cpl. Lizardi being selected as the recruitment corporal who will be the
"direct supervisor and leader" of the background unit. With this taking place effective Dec. 3rd, I
can see everything I have been told over the last few months as being planned by the SAPOA coming
to fruition. This position was created in November of 2017 and will be taking effect less than a
month later on Dec. 3rd. Our positions and reclassification are over a year in the making and still
pending. I also know Cpl. Lizardi is a current sitting SAPOA board member who possibly
participated in the board meetings discussing my position and how to replace me. Although this has
only been "chatter" taking place, when it comes to pass, perception becomes reality.

1
2 We truly hope to come to a resolution to this issue with regard to our reclassification and receive a
3 concrete answer from you with regard to your stance on it and possibly how you will proceed moving
4 forward on our reclassification. Again we love are job and want to be able to continue doing it and
5 meeting the department's goals without the added unnecessary and unfair stress of working with
6 uncertainty.

7 I apologize for the long email but I felt it important to provide you with all the facts and necessary
8 information surrounding this situation. Thank you Sir for your attention in this matter and I look
9 forward to hearing from you."

10 81. LAURA received no response from Valentin.

11 **K. In April of 2018, CITY Improperly Demotes LAURA.**

12 82. On April 14, 2018, LAURA was presented with two "options" regarding her employment
13 with:

14 Option #1 was to be reclassified to the position of background investigator and take approximately
15 at \$2000 a month pay cut to continue to do the same job and duties that she been doing for the past
16 11 years.

17 Option #2 was to return the jail with her current position and take a 2.5% pay cut as well as an
18 additional significant cut in pay due to the overtime hours she would work due to the work required
19 in the Background Unit.

20 83. Not only were both of these "Options" punitive towards LAURA, as both entailed a
21 significant pay cut, a loss of opportunity to work overtime and the opportunity to increase her overall
22 retirement benefits, but neither "Option" made sense for the operation of CITY, CITY's hiring goals or
23 CITY's staffing levels.

24 84. On April 18, 2018, LAURA forwarded the following email to CITY's City Manager Raul
25 Godinez, copied to CITY's City Attorney Sonia Cavazos and to Deputy Chief Doug McGeachy:

26 "On Monday, April 16th, I was presented with the attached memo regarding my current position in
27 the Santa Ana Police Department Background Unit. I have been a hardworking employee throughout
28 my 25 years of tenure with the City of Santa Ana. With all due respect, I would like to request to
meet with you in person in order to share with you some additional important facts about my
particular situation which you may not be aware of.

1 For over six months I have informed every member in my direct chain of command, including the
2 Chief of Police and Ellen Smiley, that I have been working in a hostile work environment. Indeed,
3 it has been documented in writing by others in my chain of command that the motivation for the
4 desire to move me out fo the background unit results from the POA president's disdain for my
5 husband and the unfair, unethical way that he is going after my husband through me. To this date,
6 nothing has been done about my situation and it has never been addressed or discussed with me with
7 regard to any action being taken.

8 I feel the attached offer/ultimatum which was presented to me with regard to my current working
9 conditions not only is a serious disadvantage to me as a tenured, productive, loyal employee but is
10 a form of retaliation for my reporting the hostile work environment. I would like to discuss this with
11 you in person in an attempt to reach a resolution which will hopefully not result in me having to take
12 legal action.

13 I truly hope you are willing to meet with me and would appreciate a moment of your time to have
14 a discussion with you about my situation. The deadline for my response as you know [after a
15 requested weekend extension] is Monday, April 23rd at 0800 am. If I could meet with you well in
16 advance of the deadline, I would greatly appreciate it. I look forward to hearing from you.”

17 85. LAURA received no response whatsoever to her email.

18 86. Thus, on Monday, April 23, 2018, LAURA responded to the two “Options” as follows:

19 “During our meeting on Monday, April 16, 2018 at 1330 hours, I was presented with two “options”
20 which deviated from my current position with the City of Santa Ana Police Department. You
21 requested a response from me by Friday, April 20, 2018, which was then extended to Monday, April
22 23, 2018 at 0800 hours. I have asked in writing to speak with the City Manager regarding this issue
23 but, as of this morning's deadline, have received no response or acknowledgment to my request.

24 By way of brief history, I was sent to the background unit in 2007 to assist with the numerous
25 vacancies that were seriously impacting the department at the time. I successfully managed to fill
26 these positions and was presented with the Non-Sworn Supervisor of the Year recognition by then
27 Lieutenant Valentin who was in charge of the background unit. I additionally was asked to remain
28 in the unit and assist with all of the other departmental wide hiring needs. I have done so successfully
to this date without any disciplinary issues or reprimands.

Moving forward almost 11 years from that date, I have held the integrity and standards of the
department with pride and loyalty. I have been an exemplary employee and have been recognized
numerous times for my meritorious performance and my leadership in the unit. For the last almost
five years, I have not only been the highest producing background investigator but have been
recognized by all administrative staff within the department (as well as outside of the immediate
police department) as the leader and supervisor of the unit. The decision maker serving as the
watchman to ensure the best interest of the department is always at the forefront of how the unit
conducts business on a daily basis.

1 With that said, I am not agreeable to either of the options presented to me without the requisite due
2 process. I don't believe this is the way a loyal and hardworking 25 year employee should be treated
3 because I deem them both to be punitive in nature which will cause substantial damage to me. It is
4 my belief that the basis for this action is to punish me (and to punish my husband through me) in
5 retaliation for, among other things, my continuous complaints regarding the hostile conditions of my
work place - which complaints have never been addressed or even acknowledged by the
city/department(with the exception of my direct chain of command).”

6 **L. On or About May 14, 2018, CITY Improperly Transferred LAURA from the**
7 **Background Unit to the Jail.**

8
9 87. Despite LAURA's response to CITY's two "Options", CITY proceeded to transfer LAURA
10 to the Jail.

11 88. At the time of LAURA's transition, LAURA was advised about conversations in which the
12 then-Background Unit Corporal (Lizardi) eluded to the Background Unit staff that some possible wrong
13 doing on LAURA's part had caused her to be sent back to the Jail. The dissemination of this false
14 information added to the continued hostility of LAURA's environment. Furthermore, others were falsely
15 informed that LAURA was transferred so quickly and with such short notice in order to increase her
16 retirement pay, when exactly the opposite is true (i.e., the transfer will adversely affect LAURA's retirement
17 because her highest pay years determine her retirement base.)
18

19
20 **L. On May 21, 2018, LAURA filed an Inappropriate Conduct Complaint Report**
21 **with CITY.**

22
23 89. On May 21, 2018, LAURA filed an lengthy Inappropriate Conduct Complaint Report with
24 CITY.

25 90. On May 24, 2018, LAURA forwarded an email to Ms. Ferrer as follows:

26 “I am following up to the memo I submitted to you on May 21, 2018. While it is clear that I have
27 suffered not only a reduction in pay but other adverse actions that resulted in harm and that were
28 disciplinary in nature (despite how the City may wish to characterize them), I have not heard from
you (or from anyone) regarding the scheduling of the mandated Skelly hearing. Considering the facts
of my current employment status as well as the detailed information I provided to you in my memo,
I assumed the need for this hearing would be obvious.”

1 actually further retaliated against her. JOHN told Mr. Pham that LAURA's transfer was punitive and that
2 she had requested the mandated Skelly hearing with no response from CITY.

3
4 98. JOHN reminded Mr. Pham that, while Serrano's supposed "issue" was LAURA working "out
5 of class," LAURA's punitive transfer resulted in her still working "out of class", only now in the Jail as
6 doing the duties of a Correctional Officer. Mr. Pham responded that LAURA's transfer was somehow
7 related to the Jail being "very short staffed." This which was nonsensical as one of the "Options" offered
8 by CITY was to stay in the Background Unit (as a lower paid non-supervisor Background Investigator.)

9
10 99. Relatedly, JOHN told Mr. Pham: (1) that CITY currently had a male non sworn manager
11 (Boris Duran) supervising two sworn officers (Matt Chitjian and Alan Gonzalez); (2) that, in the past, CITY
12 had a non sworn manager (Mike Lewellen) supervising sworn officers; (3) that when Deputy Chief Schnabl
13 was transferred to Patrol, CITY replaced him with another male non sworn manager (Robert Carroll); and
14 (4) that LAURA was replaced by Oscar Lizardi who was then replaced in May of 2018 by another male (Pete
15 Duran.)

16
17 100. On June 15, 2018, JOHN confirmed his meeting with Mr. Pham as follows:

18
19 "Thank you again for meeting with me on Monday, June 11, 2018. I just want to clarify although we
20 discussed my frustration with the City's treatment of my wife, I want to be clear I requested this
21 meeting for a hostile work environment and retaliation that I have been suffering. This meeting
22 resulted from my May 16th request to Lourdes Ferrer for a complaint form. When, on June 6th, after
23 I had received no response and after I again inquired about the form, Ms. Ferrer told me that there
24 was no complaint form for sworn personnel - only for non-sworn personnel. I then requested to have
25 a meeting with you and was provided with your email address by Ms. Ferrer.

26
27 At our June 11th meeting, you and I discussed that I have been suffering from a hostile work
28 environment primarily because of the actions of current POA President Gerry Serrano. As you are
aware from your prior meeting with my wife, Laura Franks, Serrano has a personal vendetta against
me and is using his political power to retaliate against me by targeting Laura.

We discussed that I had immediately proceeded Serrano as the SAPOA President. We also discussed
that, during my tenure as President, Serrano and several other police department employees devised
a plan to remove me from my position, to elect Serrano as SAPOA President, with the ultimate goal
being orchestrating the removal (with certain members of the City Council) of both (now former)
City Manager David Cavazos and (now former) Police Chief Rojas and to replace Chief Rojas with

1 David Valentin. As you are aware, this envisioned chain of events did, in fact, play out, resulting
2 in the City both paying a settlement to Mr. Cavazos and currently defending itself against a lawsuit
3 filed by Chief Rojas.

4 We discussed that Serrano's desire to retaliate against me results primarily from two incidents. First,
5 we discussed that I refused Serrano's request to use my "political influence" against the Chief Rojas
6 after Serrano was justifiably disciplined by Chief Rojas. Secondly, we discussed that I reported to
7 Chief Rojas an unethical/legally non-compliant incident following a telephone conversation I had
8 with Mayor Pulido regarding Mayor Pulido's desire to play dirty politics by the need to "do
something" to (now former) City Manager Cavazos. (You are aware of the POA's involvement in
the 2016 City Council elections and that it is an understatement at best to say that Serrano politically
supports Mayor Miguel Pulido.)

9 As you had just met with Laura, we briefly discussed the issues involving her. We discussed that,
10 despite the fact that she had repeatedly complained to people at the City (i.e., Ellen Smiley, Chief
11 Valentin and City Manager Godinez), all of her complaints have gone essentially unanswered and
12 entirely unaddressed. In fact, not only did Chief Valentin fail to address her complaints but he
13 (presumably pursuant to pressure from Serrano) further retaliated against her by transferring her
chain of command who supported her (Commander Semelsberger and Deputy Chief Schable) to
Field Operations.

14 We discussed that, after 12 years of her working in Backgrounds, my wife was transferred back to
15 the Jail (after being subjected to belittling emails and comments.) While this transfer resulted in a
16 loss of pay, the City ignored her written request for a Skelly hearing.

17 This retaliatory transfer was entirely unrelated to Laura's work performance. Rather, Serrano has
18 attempted to further retaliate against me, through my wife. (This has been confirmed in writing by
19 her Deputy Chief.) Serrano has stated that he wanted her transferred out of Backgrounds because she
20 is a "non-sworn" employee supervising "sworn" employees. However, not only has she been in that
21 position for approximately 12 years, but there is nothing in the MOU, City Charter or Municipal
Code that forbids this. In fact, in practice, the City had in the past and currently has a male non-
sworn employee doing exactly that. (Relatedly, Laura was replaced in Backgrounds by a male POA
board member who has, since the time of her transfer, been replaced by yet another male employee.)

22 I also told you Laura is now working "out of class" in the Jail which was supposedly was Serrano's
23 "issue" with her in Backgrounds. She is doing the duties of a Correctional Officer, with no re-
24 training, despite having not worked in the Jail for approximately 12 years. You're reponse to that
25 statement was "the jail is very short staffed." However, if that was the true reason for her transfer,
why did the City also offered her a full-time (lower-paid) position in Backgrounds?

26 You told me never in your 30 years had you seen a Union President target employees like Serrano
27 was doing to both me and Laura. You told me that I had a very good lawsuit against Serrano
28 personally and the SAPOA. You told me that you had personally warned Serrano that he was going
to get sued. You described Serrano as someone who needed to be sued as he was "drunk on power".
I explained to you that THE CITY is responsible for allowing a continuous and on-going hostile
work environment to occur for both me and my wife, about which she has repeatedly complained

1 and which has never been addressed, which has negatively impacted both of us in numerous
2 ways. Serrano is a CITY employee and the CITY is allowing this conduct to continue.

3 Again, while I appreciate you meeting with me, this matter remains entirely unresolved.”

4 101. JOHN is informed and believes and thereon alleges that CITY did nothing to investigate or
5 otherwise respond to his complaint.

6
7 **N. CITY’s Police Chief Valentin Furthered Serrano’s Vendetta by Approving to**
8 **LAURA’s Improper Transfer/Demotion.**

9 102. In early June of 2018, JOHN spoke with Vice President of the SAPOA Sergeant Jim
10 Armstrong.

11
12 103. Sergeant Armstrong confirmed to JOHN that the SAPOA Board has not discussed removing
13 LAURA from her Background Investigator position. To the contrary, the extent of the Board involvement
14 was when Serrano, at one Board Meeting, quickly covered the subject of Police Department personnel
15 working “out of class,” simply advising that Serrano and Valentin were working to resolve the issue.

16
17 104. Sergeant Armstrong also told JOHN that he was glad that he had been unaware of what
18 Serrano had caused to be done to LAURA because, had he known, he would have spoken up against it as
19 it was wrong and unethical. Sergeant Armstrong also told JOHN that it appeared Serrano was acting on his
20 own, without any Board action or attorney advice.

21
22 105. Likewise, also in June of 2018, JOHN spoke with SAPOA Executive Board Member
23 Corporal Leo Rodriguez. Corporal Rodriguez also confirmed to JOHN that he, as a Board Member, had
24 been unaware of any SAPOA plan to transfer LAURA.

25
26 106. Corporal Rodriguez was adamant that Valentin was the deciding factor behind LAURA’s
27 transfer.

28 107. As such, on June 13, 2018, JOHN forwarded the following email to Mr. Pham:

1 “Thank you for meeting with me on Monday. I had a conversation last night with SAPOA Vice
2 President Jim Armstrong. He was unaware of all of the issues surrounding me and my wife. He
3 stated there has been no conversation at any board meetings of any executive board meetings
4 regarding Laura Franks working in Backgrounds. He assured me there has been no talk and no board
5 action taken on any of these issues. He felt it was retaliatory and unethical and actually glad he did
6 not know about this. So it appears based on my conversation with the Second in Command of the
7 POA, that Mr. Serrano is either acting on his own with false threats of lawsuits or acting in concert
8 with Chief Valentin. The aforementioned opinion was also relayed by Sgt. Armstrong. I believe this
9 is the City’s opportunity to do the right thing in this matter. SAPOA cannot file lawsuits without
10 board action (unanimous vote). They have all been kept in the dark about the specifics of this issue.
11 I do not expect a response from you but I respectfully request an acknowledgment that you received
12 this email.”

9 **O. CITY Conducts an “Investigation” of LAURA’s (but not JOHN’s) Claims.**

10 108. Having received no further communication, on July 6, 2018, LAURA emailed Mr. Pham:

11 “I am contacting you to inquire about the status of my investigation. I met with you a month ago and
12 I have yet to be contacted by anyone from your office or any independent investigators about the
13 investigation into my hostile work environment claim.

14 I know for a fact that DC McGeacy and DC Schnabl filed a similar claim and they met with an
15 investigator less than a month of their claim submission. I reported my hostile work environment
16 claim to the department and the city over a year and nine months ago. As I mentioned during our
17 meeting, I am far from being a conspiracy theorist, but I can’t help but wonder and note the obvious
18 difference in how the claims are being handled. I fail to understand why as a non sworn female, my
19 claim appears to continue to go on ignored and given little importance, while a claim submitted by
20 my sworn male counterparts was initiated with minimal delay.

21 At this point, I am considering going to the DFHA or any other avenue of relief to get this looked
22 into and resolved. It is apparent to me from this continued delay that the dirty city politics are
23 indeed, as Ellen Smiley stated, in control of the city. The manner in which this is being handled by
24 what is supposed to be a professional governmental entity, is truly a shame. I am disappointed to be
25 treated with such little regard and not merit as much as a minor communication to advise me of any
26 status update on my claim.

27 In addition, I submitted an outside employment request form to Chief Valentin’s office close to a
28 month ago and to this date have not received a response. I have it on good authority that sworn male
staff have submitted outside employment requests and some have been approved within a day of
being received.

As you know, my move back to the jail came with a significant pay cut, a loss of opportunity to work
overtime and the opportunity to increase my overall retirement benefits. I sent an email to Lourdes
Ferrer several months ago inquiring/requesting a Skelly Hearing for this punitive action which has
also gone ignored and unanswered. As a non sworn female employee, I have been and continue to
be disadvantaged and my concerns ignored. My husband and I recently purchased a home and this

1 entire situation starting with the hostile environment, disparaging treatment and financial loss has
2 placed us in a bad financial, emotional and mental position.

3 Mr. Pham I am truly exhausted and tired of this whole situation. Please let me know at your earliest
4 convenience when my claim will be looked into or any sort of investigation initiated.”

5 109. Finally, on July 17, 2018, LAURA was informed that an interview with an outside
6 investigator (later identified as Rhonda Garcia) has been scheduled for August 1, 2018.

7 110. Three months later, on October 16, 2018, LAURA received a follow-up letter, addressed with
8 another person’s name, which stated in pertinent part, that: “The investigator conducted a thorough review
9 and assessment of the facts and evidence obtained during the course of this investigation and found no
10 evidence of harassment, hostile work environment or retaliation that would constitute a violation of the law
11 or City policy.”

12 111. The result of this “investigation” came as no surprise to LAURA, as LAURA is informed and
13 believes and thereon alleges that the CITY-paid investigator failed to interview pertinent witnesses, failed
14 to gather pertinent information and otherwise failed to properly investigate her claims.
15

16
17 **P. Apparently not Satisfied with Improperly Demoting LAURA, CITY has**
18 **Continued to Retaliate Against JOHN After his Retirement.**
19

20 112. As referenced above, JOHN was employed by CITY from approximately July 1, 1993 until
21 his retirement on or about September 12, 2018.

22 113. It is a relatively common practice for retiring peace officers, at or around the time of their
23 retirement, to apply to a different law enforcement agency. As such, on or about February, 2018, JOHN
24 applied for the position of Deputy Sheriff Lateral with the Orange County Sheriff’s Department (“OCSD”).
25

26 114. JOHN passed all of the requisite examinations (Oral, Psych, Medical and Background)
27 required by the OCSD mandated by OCSD’s hiring procedure.
28

1 115. Only one issue remained in order for JOHN to be hired: CITY needed to complete an
2 outstanding Internal Affairs (“IA”) Investigation regarding a CITY in-custody death that tangentially
3 involved JOHN.
4

5 116. As early as August of 2018, in order to resolve the sole remaining issue prior to JOHN’s
6 hiring, OCSD Background Investigator Edith Lucero began requesting updates on the closure of the IA
7 investigation. However, CITY’s Police Department failed to properly respond to Investigator Lucero’s
8 communications. Instead, CITY’s Police Department improperly directed Investigator Lucero to
9 Commander Sorenson in Personnel (and not Internal Investigations). Not only was Commander Sorenson
10 off on an extended leave during that time frame but Personnel would not have any Internal Investigation
11 records. Thereafter, Investigator Edith Lucero contacted CITY’s Police Department on numerous occasions
12 only to have her calls be consistently ignored.
13
14

15 117. Investigator Lucero told JOHN that “something is not right” and that she felt that she was
16 being “given the run around.”
17

18 118. In or about August of 2018, JOHN followed up with Sgt. Elms and JOHN was told: (1) that
19 the IA investigation “was done”; and (2) that CITY “was just waiting for the autopsy/toxicology report
20 which [Sgt. Elms] received last week.”
21

22 119. On August 27, 2018, JOHN informed Investigator Lucero that he had been informed that
23 CITY has received the Toxicology reports and that the investigation simply needed to be typed up by the
24 IA Sergeant who had informed JOHN that “there were no issues on any officers involved.”
25

26 120. On October 16, 2018, JOHN sent the following email to Investigator Lucero:
27

28 “I just want to update you on my SAPD Internal Affairs investigation. The investigation was
completed approximately 5 weeks ago by Sgt. Chuck Elms. I spoke to Sgt. Elms in person and he
stated he forwarded the summary to his Commander, Jose Gonzalez. Sgt. Elms told me there were
no negative issues and in fact commended me for my handling of the scene as the supervisor. I
explained to him this investigation was the only issue stalling my hiring process with the Orange

1 County Sheriff's Department. Sgt. Elms told me, 'someone has a hard on' for me and he did not
2 expect it to be signed off by SAPD Chief Valentin 'anytime soon.'

3 Around the same timeframe, I also spoke to Internal Affairs Commander Jose Gonzalez. He
4 confirmed he signed off on the investigation conducted by Sgt. Elms. He also confirmed there were
5 no issues. He asked if this investigation was 'holding me up with Station 18.' I told him yes it was.
6 Commander Gonzalez said he would not tell Chief Valentin this information because it would 'just
7 sit on his desk.'

8 Since then, I have been told by several high ranking members of the Santa Ana Police Department
9 that Chief Valentin knows this investigation is holding me up and he is not going to sign it anytime
10 soon.

11 I believe Chief Valentin is retaliating against me due to a lawsuit filed by my wife who currently
12 works for the Santa Ana Police Department. The lawsuit involves hostile work environment and
13 names City of Santa Ana, Chief Valentin and SAPOA President Gerry Serrano as defendants. I was
14 SAPOA President from 2011 to 2016. When I transferred back to patrol, the current SAPOA regime
15 pushed to have the City Manager fired and the former police Chief was forced to seek employment
16 elsewhere. Since then, Chief Valentin and Gerry Serrano have created a hostile and retaliatory
17 environment for me, my wife and several other SAPD employees.

18 Based on the aforementioned, I believe Chief Valentin knows there are no issues on my investigation
19 as it was signed off by his IA Commander. He also knows by not signing off on it, it has slowed my
20 employment process with the Orange County Sheriffs Department further continuing his retaliation
21 toward me."

22 121. On Tuesday, October 23, 2018, JOHN again spoke with Commander Gonzalez who told
23 JOHN it should be completed - **by Chief Valentin simply signing off on the IA** - by the end of that week
24 or, at the latest, by sometime in the next week.

25 122. CITY continued to fail to provide JOHN with the single remaining item he needed in order
26 to be hired by the OCSD.

27 123. As such, on January 11, 2019, JOHN was forced to withdraw from the OCSD hiring process.
28 Thereafter, on or about January 24, 2019, JOHN filed a complaint with the DFEH and received an
immediate "Right to Sue". JOHN's DFEH Complaint was personally served on and received by CITY on
January 28, 2019.

1 **FIRST CAUSE OF ACTION**
2 **VIOLATION OF LABOR CODE §1102.5**
3 **(LAURA Against All DEFENDANTS)**

4
5 124. PLAINTIFFS reallege Paragraphs 1 through 123 above and incorporate same as though fully
6 set forth herein.

7 125. JOHN, as described more fully above, disclosed (or believes he disclosed and/or had
8 reasonable cause to believe that the information disclosed) information to a government agency, and/or to
9 those with authority over the employee or authority to investigate, discover, or correct, Defendants' violation
10 of a state or federal statute and/or Defendants' violation or noncompliance with a local, state, or federal rule
11 or regulation, regardless of whether disclosing the information is part of the employee's job duties.
12 Additionally, JOHN, as described more fully above, refused to participate in the conduct disclosed and
13 provided information to Defendants' investigator regarding same.

14
15 126. The protections afforded by *Labor Code* §1102.5 specifically extend to an employee who is
16 a family member of the person who engaged in, or was perceived to have engaged in, the protected activity.
17 As referenced above, at all times relevant herein, JOHN and LAURA were married to each other.

18
19 127. As a result of JOHN's disclosures, Defendants demoted, transferred and otherwise created
20 adverse employment actions for LAURA in retaliation for JOHNS's disclosure of information of and/or
21 JOHN's refusal to participate in an unlawful act. JOHN's refusal to participate and/or disclosure of the
22 information was a contributing factor in Defendants' decision to demote and otherwise retaliate against
23 LAURA.

24
25 128. LAURA was harmed and Defendants' conduct was a substantial factor in causing LAURA's
26 harm.
27
28

1 damages, attorneys' fees, litigation costs, future damages and past damages, lost economic earning capacity
2 in future employment endeavors and such further relief as shown at the time of Trial and in excess of the
3 minimal jurisdictional of this Court.
4

5 **THIRD CAUSE OF ACTION**

6 **HARASSMENT IN VIOLATION OF FAIR EMPLOYMENT AND HOUSING ACT**

7 **(LAURA Against All DEFENDANTS)**

8
9 135. PLAINTIFFS reallege Paragraphs 1 through 134 above and incorporate same as though fully
10 set forth herein.

11 136. The harassment included but was not limited to unwanted and unwelcome comments directly
12 to LAURA that were reported to PLAINTIFFS and by PLAINTIFFS, as further alleged herein above.

13
14 137. The harassing conduct from Defendants was so severe, widespread or persistent that a
15 reasonable person in LAURA's circumstances would have considered the work environment to be hostile
16 and abusive. LAURA considered the work environment to be hostile or abusive.

17 138. Defendants whether or not named or designated as a Doe was/were a supervisor with actual
18 or reasonably perceived authority over LAURA and engaged in the harassing conduct against PLAINTIFFS.

19
20 139. LAURA was harmed and Defendants' conduct was a substantial factor in causing LAURA's
21 harm.

22 140. As a direct and legal result of the harassment LAURA suffered due to her protected status,
23 LAURA suffered harm and injury that was legally (proximately) caused by the conduct of Defendants. Said
24 harm and injury includes, but is not limited to, special (economic) damages, general (non-economic)
25 damages, attorneys' fees, litigation costs, future damages and past damages, lost economic earning capacity
26 in future employment endeavors and such further relief as shown at the time of Trial and in excess of the
27 minimal jurisdictional of this Court.
28

1 **FOURTH CAUSE OF ACTION**

2 **RETALIATION IN VIOLATION OF FAIR EMPLOYMENT AND HOUSING ACT**

3 **(PLAINTIFFS Against All DEFENDANTS)**

4
5 141. PLAINTIFFS reallege Paragraphs 1 through 140 above and incorporate same as though fully
6 set forth herein.

7 142. Section 12940 of the California *Government Code* prohibits employers from retaliating
8 against employees or former employees who have complained about discriminatory or harassing treatment.

9
10 143. PLAINTIFFS protested the discriminatory treatment of LAURA based on her protected
11 status.

12 144. PLAINTIFFS complained, formally and informally, about discrimination, harassment and
13 retaliation. PLAINTIFFS' protected activities have led to further adverse employment actions.

14
15 145. PLAINTIFFS have been harmed and Defendants' retaliatory conduct was a substantial factor
16 in causing PLAINTIFFS' injuries, harm, damages, attorneys' fees and costs as set forth above.

17 146. As a direct and legal result of the retaliation PLAINTIFFS suffered due to their protected
18 status, PLAINTIFFS suffered harm and injury that was legally (proximately) caused by the conduct of
19 Defendants. Said harm and injury includes, but is not limited to, special (economic) damages, general (non-
20 economic) damages, attorneys' fees, litigation costs, future damages and past damages, lost economic
21 earning capacity in future employment endeavors and such further relief as shown at the time of Trial and
22 in excess of the minimal jurisdictional of this Court.
23
24
25
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28

1 **FIFTH CAUSE OF ACTION**

2 **FAILURE TO TAKE CORRECTIVE ACTION**

3 **IN VIOLATION OF FAIR EMPLOYMENT AND HOUSING ACT**

4 **(PLAINTIFFS Against All DEFENDANTS)**

5
6 147. PLAINTIFFS reallege Paragraphs 1 through 146 above and incorporate same as though fully
7 set forth herein.

8
9 148. DEFENDANTS have suffered with a number of lawsuits and complaints alleging
10 discrimination, harassment and retaliation putting DEFENDANTS on notice and providing knowledge of
11 the need to eliminate discrimination, harassment and retaliation.

12
13 149. Under the law, as well as their own policies, DEFENDANTS had an obligation to take
14 corrective action to prevent further discrimination, harassment and retaliation of PLAINTIFFS but failed
15 to do so in violation of Section 12940 of the California *Government Code*. DEFENDANTS failed to
16 conduct proper investigations, failed to turn over the results of these investigations, failed to implement
17 proper policies to prevent discrimination, harassment and retaliation and failed to properly punish those in
18 engaged in misconduct to deter further such future actions.

19
20 150. After PLAINTIFFS (and others) complained about and opposed the harassing, discriminatory
21 and retaliatory conduct set forth herein, DEFENDANTS failed to conduct proper investigations, failed to
22 turn over the results of these investigations, failed to implement proper policies to prevent discrimination,
23 harassment and retaliation and failed to properly punish those in engaged in misconduct to deter further such
24 future actions.

25
26 151. As a direct and legal result of the retaliation PLAINTIFFS suffered due to their protected
27 status, PLAINTIFFS suffered harm and injury that was legally (proximately) caused by the conduct of
28 Defendants. Said harm and injury includes, but is not limited to, special (economic) damages, general (non-

1 economic) damages, attorneys' fees, litigation costs, future damages and past damages, lost economic
2 earning capacity in future employment endeavors and such further relief as shown at the time of Trial and
3 in excess of the minimal jurisdictional of this Court.
4

5 WHEREFORE, PLAINTIFFS pray for Judgment against Defendants, and each of them, as follows:


- 6 1. For compensatory damages, including loss of earnings, deferred compensation, bonuses,
7 vacation and other employment perquisites and other special and general damages according to proof;
8
9 2. Damages for pain and suffering and severe emotional distress;
10
11 3. Interest, including pre-judgment interest, at the prevailing legal rate;
12
13 4. Attorneys' fees and costs incurred herein; and
14
15 5. Costs of suit and such further and other relief as the Court deems just and proper.

16 **REQUEST FOR TRIAL BY JURY**

17 PLAINTIFFS hereby demand a Trial by Jury.

18
19 DATED: February 14, 2019

LAW OFFICE OF LAWRENCE J. LENNEMANN

20
21 By: 
22 LAWRENCE J. LENNEMANN
23 Attorneys for Plaintiffs, LAURA FRANKS and
24 JOHN FRANKS
25
26
27
28