



AMENDED
CITY OF WESTMINSTER
CLAIM AGAINST THE CITY

NAME OF CLAIMANT JEREMY FLETCHER PHONE (951) 686-4800

ADDRESS _____

ADDRESS TO WHICH CLAIMANT DESIRES NOTICE TO BE SENT: WAGNER & PELAYES, LLP
1325 Spruce St., Suite 200, Riverside, CA 92507

DATE AND TIME OF OCCURRENCE: _____

LOCATION: City of Westminster

DESCRIBE SPECIFIC LOCATION WHERE INCIDENT OCCURRED: _____
See Attachment

COMPLETE DESCRIPTION OF ALL DAMAGES AND/OR INJURIES INVOLVED: _____
See Attachment

WAS A POLICE REPORT FILED _____ YES _____ NO IF YES, POLICE REPORT NO. _____

NAME OR NAMES OR PUBLIC EMPLOYEE(S) CAUSING THE INJURY, LOSS OR DAMAGE, IF KNOWN: _____

DESCRIBE IN DETAIL WHAT HAPPENED: _____
See Attachment

AMOUNT CLAIMED AS OF DATE OF THIS REPORT: _____

ESTIMATED AMOUNT OF PROSPECTIVE INJURY, DAMAGES, OR LOSS: _____

WHAT, IN YOUR OPINION, CAUSED THE INCIDENT (IF CLAIM IS BASED UPON AN ACCIDENT)
See Attachment

WITNESS:	<u>NAME</u>	<u>ADDRESS</u>	<u>TELEPHONE</u>
1.	_____	_____	_____
2.	_____	_____	_____

I HEREBY CERTIFY UNDER PENALTY OF PERJURY THAT THE FACTS HEREIN ABOVE SET FORTH ARE TRUE AND CORRECT OF MY OWN KNOWLEDGE.

Date: May 2, 2019

Signature: _____

Address: Dennis E. Wagner, Esq.

CITY OF WESTMINSTER

CITY CLERK'S OFFICE

**8200 Westminster Boulevard
Westminster, California 92683
(714) 898-3311**

IMPORTANT – READ BEFORE EXECUTING AND FILING

CLAIM AGAINST THE CITY FORM

1. Claims for death, injury to person, or to personal property must be filed not later than six months after the occurrence (Gov. Code, Sec. 911.2).
2. Claims for damages to real property must be filed not later than one year after the occurrence (Gov. Code, Sec. 911.2).

This form is for the convenience of those desiring to present claims against the city. Claimant is advised to consult his private attorney if he desires legal advice. No employee of the city may give legal advice to any claimant relating to private claims.

ATTACHMENT TO AMENDED CLAIM AGAINST THE CITY OF WESTMINSTER

(Claimant: JEREMY FLETCHER)

Jeremy Fletcher is an officer with the Westminster Police Department and has been employed by the Department for 17 years. Fletcher is over 40 and a white male.

In 2010, sergeant and corporal position testing was announced by the City of Westminster. The announcements stated that to be eligible for both sergeant and corporal the applicant would have to submit an application for and test for each position. Some of the officers at the Department decided to put in for one spot or for the other. In this case, Fletcher tested for the corporal position only. Applicant Phuong only submitted an application for the sergeant position. This occurred in the calendar year 2010. Back in 2010, the testing was different and has evolved over the years.

The active corporal list included, Ogawa, Edinger and Fletcher. This corporal list was allowed to expire, but the sergeant list however was extended. Shortly after this, Phuong was selected for corporal, even though he had never applied for the position. Phuong told people he did not want to leave his special assignment as a detective unless it was for a sergeant position, as he felt it was not worth the change to be a corporal, thus, why Phuong did not apply. Commander Vu, instead called Phuong and told him that if he wanted to be a sergeant, he should take the special assignment as corporal first. Phuong then agreed to accept the corporal position that he had not applied for in the first place. The policy of the Department was not to allow for a special assignment to go to another special assignment. The corporal position at this time was considered a special assignment and not a promotion. This, of course, was a violation of Department policy.

Phuong was placed on Administrative Leave in and around August 2013, for police misconduct and allegations of public corruption. Investigation was conducted into the allegations by the FBI. Nobody knows the outcome of the investigation, but Phuong continues to work for the Department.

In 2016, Phuong tested for sergeant, again, as he had done earlier when he was handed the corporal position without applying for it. Phuong did not score high enough to be eligible, at this time, to even be considered for the corporal position that he had. This, of course, brings into question his competence to fulfill the corporal position, let alone the sergeant position. Fletcher passed the test, in a combined sergeant/corporal eligibility list was established. Fletcher was finally selected to the corporal position in January 2017, and remained second on the sergeant list, behind Stowers. Phuong displayed basic lack of competence and had been disciplined for failing to supervise but was not removed from his special assignment as a corporal and allowed to continue in place. In March 2017, Chief Ornelas started at Westminster. He allowed the active sergeant list to expire. In December 2017, a new sergeant list was established and now Phuong placed fifth on the list, keeping in mind that Phuong did not score high enough to even be eligible for the corporal position that he already had.

The first four candidates that were established for the December 2017 list scored in the mid to low eighties, or within a few points of each other. Phuong scored in the seventies and the past practice

of the Department had been a minimum of 80% to be eligible for sergeant. Past practice also utilized simply taking the top candidate. Four other Caucasian candidates, two of which, Fletcher and Stowers, had experience as corporal, had never been disciplined and previously tested, placed well and were passed over for the sergeant position in place of Phuong. Stowers was then selected for sergeant a few weeks after Phuong. Either Mike Harary, HR Director, or the Chief indicated that the promotion of Phuong was based upon race, because the City of Westminster has a high concentration of Vietnamese citizens and the Department did not have sufficient representation of Vietnamese officers. A promotion based on race is illegal and violates California law.

After the selection of Phuong, Fletcher had a conversation with Commander Panella while at a crime scene on a call. Panella indicated that the reason for the selection was because the new sergeants had more time as officers and corporals, as did Fletcher. Phuong may have had more time as an officer and corporal, but was incompetent, not qualified and allowed to promote without following the rules. As for Stowers, Stowers did not have more time as an officer or corporal than Fletcher. Thus, Panella lied to Fletcher. When confronted by Fletcher, Panella had no response.

Sometime in 2018, Chief Ornelas abolished the corporal program without notifying the individuals who served as corporals. Fletcher found out along with everybody else through a departmental information bulletin. At a team building seminar, after this occurred, Fletcher had a conversation with the Chief about why the program was abolished and the Chief could not recall why he chose to get rid of it. At this team building seminar, the Chief was talking to a group of sergeants and/or commanders about his recent training with corporate leaders back East and made comments about how minorities made up a small percentage of fortune 500 companies and that we needed more diversity with minorities at Westminster. He then said his selection of Phuong as a sergeant was a step in that direction.

In 2018, the Department then selected Hill, who has never been a corporal and had much less time as an officer than Fletcher or Matt Edinger. Fletcher believes the reason he is not being promoted is because he challenged the Chief on the selection process and anyone who challenged the Chief in any fashion became a person non-gratis with the Chief.

Counsel members of the City and the Mayor routinely make public comments about how the City needs more Vietnamese police officers. Not more highly qualified or educated officers, but just that officers with a certain ethnicity are needed. It is not clear whether the direction was given to the Chief that he had to hire higher Vietnamese officers, or not, but the fact that he hired a Vietnamese officer over other candidates who were more qualified and deserving, brings race discrimination into issue. Phuong has been given plumb assignments to go on TV news stations and to be interviewed and to do public service announcements. Furthermore, the promotions concerned people that were under the age of 40, constituting age discrimination against Fletcher. Fletcher claims discrimination, retaliation and harassment for engaging in lawful activity as an employee of the Westminster Police Department. The City has violated his rights under FEHA and Labor Code § 1102.5, causing him damages for reporting illegal or improper activities of the police department which has resulted in his losing promotional opportunities and his job duties have been impacted. These adverse actions have caused him damage.