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7 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
8 **COUNTY OF SAN DIEGO, NORTH COUNTY DIVISION**
9

10 NOEL BUCKHANON, an individual,)

11 Plaintiff,)

12 v.)

13 NORTH COUNTY TRANSIT DISTRICT, a)
Municipal Corporation, and DOES 1 through)
14 20, inclusive,)

15 Defendants.)

CASE NO. **37-2016-00038114-CU-OE-NC**
[General Civil]

COMPLAINT FOR DAMAGES FOR:

- 16 1. Discrimination in Violation of Gov. Code
17 § 12940(a);
- 18 2. Discriminatory Harassment and Failure to
19 Take Corrective Action in Violation of Gov.
20 Code §12940(j);
- 21 3. Failure to Prevent Discriminatory
22 Harassment in violation of Gov. Code
23 §12940(k);
- 24 4. Failure to Accommodate Disability in
25 Violation of Gov. Code § 12940(m);
- 26 5. Failure To Provide a Timely, Good Faith
27 Interactive Process in Violation of Gov. Code
28 § 12940(n);
6. Retaliation in Violation of Gov. Code
§12940(h);
7. Retaliation in Violation of Public Policy;
8. Intentional Infliction of Emotional
Distress.

REQUEST FOR JURY TRIAL

1 **GENERAL ALLEGATIONS**

2 **A. The Parties**

3 1. Plaintiff Noel Buckhanon is, and at all times mentioned herein was, an individual
4 residing in the County of San Diego, State of California.

5 2. Defendant North County Transit District (hereafter "NCTD" or "Defendant") is, and
6 at all times mentioned herein was, a municipal corporation doing business in the State of California
7 and located in Oceanside, California. NCTD is, and at all times mentioned herein was, subject to
8 suit under the California *Fair Employment and Housing Act*, California Government Code Section
9 12900 *et seq* (hereinafter "FEHA").

10 3. Plaintiff is ignorant of the true names and capacities of Defendants sued herein as
11 DOES 1 through 20, inclusive, and therefore sues these Defendants by such fictitious names.
12 Plaintiff will amend this complaint to allege their true names and capacities when ascertained.
13 Plaintiff is informed and believes and thereon alleges that each of these fictitiously named defendants
14 are responsible in some manner for the occurrences herein alleged, and that Plaintiff's injuries as
15 herein alleged were proximately caused by the aforementioned Defendants.

16 4. Plaintiff is informed and believes, and thereon alleges, that each of the Defendants
17 herein were, at all times relevant to this action, the agent, employee, representing partner, or joint
18 venturer of the remaining Defendants and were acting within the course and scope of that
19 relationship. Plaintiff is further informed and believes, and thereon alleges, that each of the
20 Defendants herein gave consent to, ratified, and authorized the acts alleged herein to each of the
21 remaining Defendants.

22 **B. Jurisdiction, Venue, and Administrative Claims**

23 5. The unlawful practices complained of herein occurred in Oceanside, California.

24 6. On February 19, 2016, Plaintiff filed a timely charge of discrimination with the
25 California *Department of Fair Employment and Housing* (hereafter "DFEH") against Defendants,
26 and each of them, and thereafter received from the DFEH a notice of right to bring a civil action
27 against each Defendant.

28 **C. Factual Allegations**

1 7. This action involves a series of harmful acts and omissions by Defendants, and each
2 of them, against Plaintiff. The factual allegations set forth hereinafter are for the sole purpose of
3 stating causes of action against Defendants, and each of them, and are not intended to be an inclusive
4 list of all of the harmful acts and omissions performed by Defendants, and each of them, against
5 Plaintiff.

6 8. On August 28, 2014, Plaintiff commenced full time employment with NCTD as a
7 Code Enforcement Officer. Plaintiff's Supervisor for the first three (3) months of her employment
8 was Gregg Gotto (hereafter "GOTTO"). Thereafter, Plaintiff's Supervisor was William Farlow
9 (hereafter "FARLOW").

10 9. Throughout her employment with Defendant, Plaintiff has been the only female
11 African American Code Enforcement Officer, and is often the only woman working in the field.

12 10. Throughout her employment with Defendant, Plaintiff has been subjected to severe
13 and pervasive harassment and discriminatory treatment due to her race and gender. Defendants'
14 discriminatory conduct includes, but is not limited to, the following conduct:

- 15 a. Plaintiff's first supervisor, GOTTO, refused to provide her with the necessary
16 tools to do her job as a Code Enforcement Officer, as discussed herein. For
17 example, GOTTO refused to provide Plaintiff with a citation book, required
18 for Code Enforcement Officers, and basic supplies. When Plaintiff requested
19 these items, GOTTO responded to her with sarcasm and hostility.
- 20 b. Plaintiff has been denied employment-related benefits that are afforded to her
21 similarly situated colleagues.
- 22 c. Defendants' policies and procedures have been applied differently to Plaintiff
23 than her similarly situated colleagues who are not African American and
24 female.
- 25 d. Plaintiff is often given the less desirable assignments, while the better
26 assignments are given to her similarly situated colleagues who are not
27 African American and female.
- 28 e. Plaintiff has been denied cross-training that is afforded to her similarly

1 situated colleagues who are not African American and female. .

2 f. Certain coworkers frequently make discriminatory jokes and comments about
3 Plaintiff's race and gender. NCTD has been aware of this harassing conduct
4 toward Plaintiff but does nothing to prevent it.

5 g. Plaintiff was denied opportunities for overtime while her similarly situated
6 colleagues were afforded such opportunities.

7 h. Cameras were placed throughout the transit center and Controllers were
8 responsible for monitoring the camera feed. The cameras could zoom in close
9 enough that Controllers were able to read text messages on a passenger's cell
10 phone. Plaintiff's coworkers regularly used the cameras to zoom in on female
11 passenger's breasts and buttocks, while making obscene and offensive
12 comments of a sexual nature. For example, the male employees made
13 comments like, "little white girls with big ol' booties" and discussed where
14 they would like to put their faces.

15 i. On occasion, one of Plaintiff's male colleagues told her, "Let's see if we can
16 find some balloons on camera today," while gesturing at his chest. That
17 colleague would then look for female passengers with large breasts. When
18 Plaintiff responded this his comments were inappropriate, he laughed and
19 replied, "I know," while waving Plaintiff away.

20 j. Plaintiff's male colleagues told her not to stop people from having sex in the
21 OTC's parking lot, and to "just watch and wait until he puts the tip in, then
22 go get them." FARLOW was present when this comment was made to
23 Plaintiff, yet he did nothing in response.

24 k. On July 16, 2015, special trains were dispatched for Opening Day at the Del
25 Mar Racetrack. When Plaintiff asked why only male Code Enforcement
26 Officers were assigned to work that day, she was told by a male colleague,
27 "This day is for the guys. They appreciate the size of the dresses more."

28 l. On August 29, 2015, special trains were dispatched for a Taylor Swift

1 concert. Upon seeing the many young girls heading to the concert, Plaintiff's
2 male coworker moaned and said, "Lots of eye candy on the train today."
3 Another officer then stated, "Are the girls of legal age? Shit, I don't care!"
4 The group of male Controllers laughed together. Many of the young girls
5 were pre-teen.

6 m. Plaintiff's male colleagues repeatedly showed her images of Caucasian
7 women dressed in revealing bikinis or sheer, tight tops, and topless with only
8 their hands covering their breasts. Plaintiff's coworkers told her, "That's what
9 a real woman looks like."

10 n. Plaintiff's male coworker asked her, "If I lick you, will you taste like
11 chocolate?"

12 o. Plaintiff's male colleagues regularly made sexually suggestive gestures and
13 sang the lyrics to sexually suggestive songs. During Plaintiff's initial training,
14 the male Controllers continually sang the lyrics to "Freak me baby," a song
15 about performing sex acts, to Plaintiff.

16 p. The male and female employees at NCTD share one (1) bathroom. When
17 Plaintiff commenced employment with NCTD, there were Maxim magazines
18 in the bathroom. Maxim magazines always contain pictures of semi-naked
19 women. After a few months the magazines were finally removed.

20 q. The male Code Enforcement Officers regularly made degrading comments
21 about female passengers at the transit station. For example, female passengers
22 were often called prostitutes based on their attire. Moreover, Plaintiff was
23 told by her male co-workers that only female passengers ages twenty-four
24 (24) and under that were "cute" would be provided assistance; female
25 passengers over age twenty-four (24) had "aged out" and would not be given
26 assistance. Plaintiff's male co-workers also referred to young female
27 passengers as "hot," and stated "I would hit that" about the young girls.

28 r. Plaintiff's male colleagues regularly asked her to come to their desks to look

1 at something, only to be shown videos of women “twerking,” or dancing
2 suggestively in bikinis.

3 s. Plaintiff’s male colleagues referred to a sex act as “red wings,” which they
4 said was slang for performing oral sex on a woman while she is menstruating.
5 They would also comment on the “taste” while performing such sex acts.
6 Plaintiff was disgusted, offended, and humiliated by these comments.

7 t. On September 19, 2015, a male coworker told Plaintiff that he thought she
8 was a “side chick,” referring to a woman who has extra-marital affairs with
9 men. Plaintiff’s coworker then told another officer that Plaintiff was a “side
10 chick.” The men laughed at Plaintiff.

11 11. FARLOW and/or GOTTO were present when Plaintiff’s male colleagues made most
12 of the comments described above. Instead of taking action to stop the inappropriate comments,
13 FARLOW and GOTTO laughed along with the other male employees.

14 12. Plaintiff repeatedly told her male colleagues that she found their comments
15 inappropriate and offensive.

16 13. For nearly twelve (12) months, Plaintiff was frequently denied the rest and meal
17 breaks afforded to her by California law. Despite an employee complaint to Human Resources about
18 the lack of meal and rest breaks, Plaintiff and her coworkers continued to be denied their rest and
19 meal breaks.

20 14. In August 2015, a “lunch log” was implemented which required Plaintiff to document
21 that she took a meal break even if she had not been afforded one. Plaintiff’s coworkers were
22 subjected to the same “lunch log” requirements. Plaintiff complied with Defendants’ demand to
23 falsify meal break records because she feared retaliation if she refused.

24 15. Defendants did not issue a citation book to Plaintiff until November 2014, nearly
25 three (3) months after her hire date. Thus, Plaintiff was not able to perform a significant job duty,
26 i.e. issue citations, for the first three months of her employment. According to information and belief,
27 similarly situated male Code Enforcement Officers were issued citation books within two (2) days
28 of their hire date.

1 16. In early December 2014, Plaintiff attended a week-long PC 832 course required for
2 her employment with NCTD. Plaintiff was also required to take a test in order to receive her *Laws*
3 *of Arrest* Certificate. Plaintiff told Jaime Becerra (hereafter "BECERRA"), Chief of Transit
4 Enforcement, that she would be taking the certification test on January 13, 2015, and needed
5 approval for her travel time for the test.

6 17. In January 2015, days before Plaintiff was scheduled to travel for her certification test
7 process, BECERRA told Plaintiff that "somewhere the ball got dropped on approval for [her] travel."
8 Plaintiff and BECERRA tried to arrange for her short-notice travel through Human Resources, to
9 no avail. BECERRA then denied Plaintiff's timely travel request from December, without
10 explanation. Plaintiff told BECERRA that if she did not take the test on January 13, 2015, which was
11 the only test date available, she would have to re-take the week-long PC 832. FARLOW suggested
12 to Plaintiff that she ignore BECERRA's denial of her travel and take the test on January 13, 2015,
13 as scheduled, to "show initiative." Plaintiff followed FARLOW's recommendation and took the test,
14 and passed it.

15 18. When Plaintiff returned to work she was told her travel expenses would not be
16 reimbursed by NCTD because her travel was not approved. Thus, Plaintiff had to personally incur
17 the expenses.

18 19. Upon commencing employment with NCTD, Plaintiff was assigned to work in the
19 Control Center for eight (8) months. Plaintiff's similarly situated colleagues, that had not requested
20 a permanent assignment, were typically assigned to the Control Center for only one (1) week.

21 20. Following her assignment to the Control Center, Plaintiff was continuously assigned
22 to work at the Oceanside transit center (hereafter "OTC"). According to information and belief,
23 Plaintiff's similarly situated colleagues have not been assigned to a single transit station for a
24 continuous period, unless they requested a permanent assignment.

25 21. Due to her assignments, Plaintiff has not been given the opportunity for cross-training
26 on other tasks. Plaintiff's similarly situated colleagues have been cross-trained in multiple areas.

27 22. While assigned to the OTC, Plaintiff was responsible for monitoring and patrolling
28 the transit center during the day and night.

1 23. A large transient population lives in tents and bushes around the OTC and often
2 frequent that transit station. Some of the transient population is under the influence of drugs and/or
3 alcohol, and some suffer from mental health issues. Consequently, these individuals have been
4 aggressive with Plaintiff and other Code Enforcement Officers assigned to the OTC, creating an
5 unsafe situation for Plaintiff and her colleagues.

6 24. Despite the known safety issues associated with the transient population around the
7 OTC, Plaintiff has been forced to work alone at night on many occasions without safety equipment
8 or proper training to defend herself from an attack. When Plaintiff asked colleagues what she should
9 do in the event of a physical attack, she was simply told, "just hit them in the head with your radio
10 and run." Plaintiff was very frightened when forced to work alone because she feared for her physical
11 safety.

12 25. According to information and belief, San Diego Metropolitan Transit System
13 ("MTS") employs armed security officers to patrol the transit centers. Moreover, the MTS trains its
14 Code Enforcement Officers on safety issues; NCTD does not. Plaintiff was immediately concerned
15 for her personal safety and the safety of the entire team of CEOs that were required to work alone.

16 26. Throughout Plaintiff's employment with Defendant, she sought additional training
17 and cross-training, to no avail. As a Code Enforcement Officer, Plaintiff was considered a First
18 Responder, which carried significant responsibility. Nevertheless, Plaintiff was not provided with
19 any training for emergency evacuation procedures for the trains and busses she was responsible for
20 monitoring. This created an unsafe situation for Plaintiff and NCTD's passengers.

21 27. Plaintiff complained repeatedly to Defendants about her unsafe work environment,
22 to no avail.

23 28. Plaintiff was repeatedly subjected to physical threats by train passengers when working
24 alone at night. Moreover, Plaintiff was assaulted and battered by train passengers on multiple
25 occasions. Plaintiff had no training by Defendants to prepare her for physical threats by passengers.

26 29. In March 2015, Plaintiff inquired about her Transit Officer badge because she did not
27 have one. Plaintiff was told it would likely be a long time before she received her badge, "assuming
28 [she was] still there." Thus, Plaintiff was required to ride on trains and busses for NCTD as a Code

1 Enforcement Officer without a badge to show she had some authority.

2 30. In March 2015, GOTTO told Plaintiff that NCTD had never hired an African
3 American woman before. When Plaintiff asked why, GOTTO responded, "I guess they couldn't do
4 the job" and that NCTD "had to hire one now."

5 31. In May 2015, Plaintiff spoke with FARLOW about safety concerns for the Code
6 Enforcement Officers. Plaintiff suggested that they work in pairs on the trains for increased safety.
7 FARLOW responded that being attacked was "bound to happen" and that it was similar to "working
8 at 7-Eleven" where an employee was "bound to get robbed," because "it's just part of the job."
9 FARLOW told Plaintiff that she should be able to defend herself "like the rest of the guys on the
10 trains."

11 32. Throughout her employment with Defendant, Plaintiff suffered from asthma, a
12 disabling condition, which she reported to Defendant.

13 33. Throughout her employment with Defendant, Plaintiff's colleagues smoked e-
14 cigarettes in the small control center, transit center offices, and NCTD vehicles. Plaintiff had
15 difficulty breathing due to her asthma when exposed to e-cigarette vapors. Accordingly, Plaintiff
16 requested that employees not be allowed to smoke in NCTD offices as an accommodation for her
17 disability. Plaintiff's requests were ignored. Consequently, Plaintiff frequently had difficulty breathing
18 while working. Plaintiff's supervisors, including FARLOW and GOTTO, were aware of Plaintiff's
19 complaints and the smoking in NCTD offices and vehicles, but did nothing to stop it. Moreover,
20 Defendant did not advise Plaintiff of her rights as a disabled employee under the *Fair Employment*
21 *and Housing Act* ("FEHA"). Thus, Plaintiff did not understand her rights with respect to an interactive
22 process or reasonable accommodations under the FEHA.

23 34. Plaintiff repeatedly requested an alternative assignment that did not involve working
24 alone on the trains, but FARLOW denied Plaintiff's requests. According to information and belief,
25 other female Code Enforcement Officers, who were not African American, were given alternative
26 assignments upon request so they did not have to work alone on trains.

27 35. On May 9, 2015, as part of her fare-check duties, Plaintiff requested to see a male
28 passenger's ticket to ride the Coaster. When the passenger stated he did not have a ticket, Plaintiff

1 informed him that valid fare was required to ride the Coaster. The passenger responded, "Fuck you,
2 I don't have to do anything. You're not my mother, bitch." When Plaintiff informed him again that
3 a valid fare was required, the passenger told Plaintiff "Fuck you, leave me the fuck alone. You're like
4 a fucking roach, you fat black bitch." When Plaintiff called the Control Center to request police
5 assistance, the passenger became significantly more abusive and threatening toward Plaintiff.
6 Accordingly, Plaintiff left the train car to seek assistance from the Conductor, who could not calm
7 down the passenger. Plaintiff then called the Control Center again to request that a deputy meet the
8 train at the Solana Beach Station to assist with the abusive passenger. After that call, the passenger
9 repeatedly spit in Plaintiff's face and eyes and yelled at her, while pinning Plaintiff against the train's
10 window. Passengers witnessed the serious harassment and abuse against Plaintiff but were not able
11 to intervene. The male passenger then walked toward the next car, while continuing to yell threats at
12 Plaintiff. He then stopped and blocked the door so Plaintiff could not pass through it. Plaintiff then
13 saw the male passenger reach down and then slowly raise his arm up, at which time he pointed what
14 turned out to be a toy gun at her.

15 36. When the train reached the next station, the abusive Passenger fled. Plaintiff still had
16 the man's spit dripping down her face and in her eyes. Plaintiff was in absolute shock from the
17 traumatic event.

18 37. It took Plaintiff forty (40) minutes to travel back to the Oceanside Transit Center
19 before she could thoroughly wash her face with soap. Plaintiff immediately reported the incident to
20 FARLOW and provided a narrative report. Plaintiff was still traumatized by the incident. Defendants
21 failed to take any action whatsoever in response to this ordeal. In fact, upon learning of the incident,
22 FARLOW told Plaintiff, in reference to their unsafe working conditions, "welcome to the club!"
23 Moreover, Plaintiff was not sent for a medical evaluation despite her exposure to the Passenger's
24 saliva.

25 38. On May 23, 2015, FARLOW told Plaintiff that the supervisors had "briefly discussed
26 [her] safety concerns" and decided that, if there were enough Code Enforcement Officers available,
27 they would try to have them work in pairs. Based upon the manner in which FARLOW delivered this
28 news, Plaintiff asked FARLOW if her concerns were being taken seriously. FARLOW responded that

1 GOTTO felt like she was “being a whiner.” From that point forward, despite having adequate staff,
2 Plaintiff was still forced to work alone.

3 39. Plaintiff continued to request that she be allowed to work on the trains with a partner,
4 to no avail. FARLOW informed Plaintiff that NCTD wanted more “train coverage” so there were not
5 enough Code Enforcement Officers to work in pairs. As Plaintiff continued to raise safety concerns,
6 FARLOW told her, “This is the job you were hired to do so just go and do it.” Plaintiff continued to
7 work on the trains alone.

8 40. In May 2015, Robert Keetch (hereafter “KEETCH”) was hired as the new Code
9 Enforcement Officer Manager. When he first met Plaintiff, he asked if she had any concerns she
10 would like to discuss with him. Plaintiff mentioned the ordeal she experienced on May 9th as well as
11 her workplace safety concerns. KEETCH appeared shocked and told Plaintiff he had not been made
12 aware of the incident. KEETCH asked Plaintiff for a copy of the incident report. Plaintiff did not hear
13 anything back from KEETCH after providing him with the incident report.

14 41. In June 2015, Plaintiff reported her workplace safety concerns to Rose Jean-Paul
15 (hereafter “JEAN-PAUL”), Human Resources Manager. Again, Defendants failed to take any action
16 whatsoever in response to Plaintiff’s complaints. Plaintiff continued to work the trains alone.

17 42. On June 6, 2015, only ten (10) minutes prior to the end of her shift, Plaintiff was given,
18 and told to sign, her nine (9) month performance evaluation. Plaintiff received a “Meets
19 Expectations” rating for all ten (10) criteria. However, FARLOW commented in her review that
20 Plaintiff needed improvement in “NCTD Customer Service Procedures.” FARLOW also suggested
21 that Plaintiff take a verbal defense course in order to improve her skills at “dealing with
22 confrontational patrons on her own.” This was the first time Defendants indicated that Plaintiff
23 needed improvement with customer service or communication skills. Since Plaintiff felt these
24 negative comments by FARLOW were discriminatory and retaliatory against her, she looked for
25 FARLOW to discuss her review, but he had left for the day.

26 43. On June 7, 2015, FARLOW told Plaintiff to prepare a report in response to a
27 passenger’s complaint that three (3) Code Enforcement Officers failed to assist the passenger after
28 her bags were stolen. Plaintiff told FARLOW that since she did not witness the entire incident she

1 would ask the other two officers involved to write a report as well. FARLOW responded, "No, just
2 you," indicating that only Plaintiff was required to submit a report. When Plaintiff asked why she was
3 the only one required to submit a report, FARLOW stated, "Don't ask me why, just do it, OK? Can
4 you do that? You best matched the description given, OK?" The passenger's complaint identified
5 three (3) Code Enforcement Officers including a black female, white female, and white male. Only
6 Plaintiff was required to submit an incident report.

7 44. On June 11, 2015, Plaintiff asked FARLOW about his negative comments in her
8 performance evaluation. FARLOW told Plaintiff that, because Plaintiff brought up safety concerns,
9 he had to "include that [Plaintiff] did not feel comfortable with [her] position as a [Code Enforcement
10 Officer] and dealing with aggressive people on [her] own" in her evaluation.

11 45. On June 12, 2015, Plaintiff contacted JEAN-PAUL to inform her of FARLOW's
12 retaliatory comments in her performance evaluation.

13 46. On June 18, 2015, Plaintiff was standing next to Code Enforcement Officers Maria
14 Rogers (hereafter "ROGERS") and Jake Raceles (hereafter "RACELES"), when FARLOW entered
15 the room. FARLOW looked at ROGERS and RACELES and shouted with excitement, "my A team!"
16 FARLOW then asked only ROGERS and RACELES to attend the upcoming Board Meeting, and
17 completely ignored Plaintiff. In response, RACELES and ROGERS both stated that they had attended
18 the last Board Meeting and did not want to go again. Plaintiff was never asked to attend a board
19 meeting.

20 47. On June 23, 2015, after refusing to show valid fares, Plaintiff asked two (2)
21 passengers, one male and one female, to leave the property. Plaintiff completed her rounds and
22 learned that the passengers were still on the property. Plaintiff approached the passengers again to
23 remind them that valid fare was required to ride the Amtrak train. The male passenger replied, "Get
24 the fuck out of here bitch. We don't have to show you shit, nigga. I got something for you and it ain't
25 no ticket." He then gave Plaintiff the middle finger. The two passengers screamed obscenities at
26 Plaintiff and referred to her with derogatory names. Consequently, Plaintiff called the Control Center
27 to request police assistance. The passengers moved their cart filled with bags, blankets, and other
28 items toward the Customer Service office and continued to yell profanities at Plaintiff. When Plaintiff

1 informed the passengers that they could not loiter around the station, the female passenger screamed
2 that Plaintiff was harassing her and said, "I don't give a fuck who you called, I'm not leaving." At that
3 time, the Coaster came into the station and Plaintiff left the Customer Service area to sweep the
4 incoming train. When Plaintiff returned the harassing passengers were off the property. Plaintiff
5 immediately submitted a report detailing the incident.

6 48. In July 2015, RACELES told Plaintiff that he did not "see anything wrong" with using
7 the word "niggas." Plaintiff responded that she was "deeply offended" by the use of the word and that
8 she personally had never used it. RACELES then asked Plaintiff if he could call her "ninja," would
9 was in place of "nigga." Plaintiff responded that "ninja" had the same connotation as "nigga" and that
10 RACELES should not use either word around her. Plaintiff stated that she had never been called the
11 word "nigger" to her face so many times in her life than during her employment with NCTD.
12 RACELES responded, "It's not that serious, get over it." Plaintiff was shocked and upset at
13 RACELES' discriminatory comments.

14 49. In or late July or early August 2015, Plaintiff submitted a scheduling request to Mike
15 Mitchell (hereafter "MITCHELL"), Lead Code Enforcement Officer Supervisor, to be switched to
16 the graveyard shift. The Code Enforcement Officers that were assigned to the graveyard shift were
17 responsible for closing the transit stations and refueling the cars. More importantly, the graveyard
18 shift officers typically worked in pairs, which is what Plaintiff wanted for safety reasons. Since
19 Defendants had absolutely ignored Plaintiff's safety complaints, and penalized her for them in her
20 evaluation, among other ways, she did not want to mention her true reason for requesting the
21 graveyard shift. Thus, Plaintiff told MITCHELL that working the graveyard shift "would be a huge
22 financial relief" for her because she could utilize her employment benefits and ride the COASTER
23 train without charge, instead of driving to work each day.

24 50. On August 5, 2015, Plaintiff informed MITCHELL that she was unable to find a
25 coworker willing to switch shifts with her. MITCHELL told Plaintiff that she was at the top of the
26 list for any graveyard shifts that became available.

27 51. On August 20, 2015, Plaintiff met with JEAN-PAUL to discuss her concerns about
28 FARLOW's comments in her performance evaluation. JEAN-PAUL told Plaintiff that nothing in an

1 employee's performance evaluation should be a surprise to the employee. KEETCH also told Plaintiff
2 "a supervisor's own personal concerns should not be added to an evaluation if it is not accurate" and
3 instructed Human Resources to revise FARLOW's comments regarding Plaintiff's workplace safety
4 concerns.

5 52. In late August 2015, GOTTO asked Plaintiff about a passenger complaint against a
6 male and female African-American Code Enforcement Officer regarding an incident that allegedly
7 occurred on July 18, 2015. The passenger claimed that when she requested that other passengers not
8 be allowed to smoke in the transit center, the female officer called her a "ghetto hood rat." The
9 passenger had revised her complaint three (3) times and changed the date of the alleged incident with
10 each revision. Plaintiff explained to GOTTO that she had no such interaction with the passenger, and
11 could provide the names of the female officers who had worked on the alleged dates in question.
12 According to information and belief, GOTTO did not follow-up with any other female officer
13 regarding the passenger complaint.

14 53. On August 24, 2015, GOTTO told Plaintiff to provide a report of the incident alleged
15 by the passenger, as described in paragraph 52, above. GOTTO told Plaintiff that the passenger
16 described a male and female African American officer and Plaintiff was the only female African
17 American officer. Plaintiff responded that she was not involved in that incident.

18 54. On August 25, 2015, Plaintiff told GOTTO, for the third time, that she did not have
19 any interaction or contact with the passenger on July 18, 2015. Plaintiff then submitted a report
20 detailing her shift on July 22, 2015. Later, a male African American officer was also asked to submit
21 a report regarding the alleged incident.

22 55. On August 26, 2015, Plaintiff asked JEAN-PAUL for a copy of her revised nine (9)
23 month performance review. Plaintiff also informed JEAN-PAUL that, as of August 28, 2015, she
24 would be out of her one (1) year probationary period. Thus, Plaintiff requested information about the
25 new probation release process. According to information and belief, Plaintiff was supposed to receive
26 a \$2.00/hour pay raise after her successful release from her probationary period. Plaintiff did not
27 receive a pay increase.

28 56. On August 26, 2015, GOTTO told Plaintiff that she was required to complete an

1 additional training checklist before she would be released from probation. When Plaintiff asked why
2 she was being subjected to this new requirement, GOTTO stated, "Everyone will have to do [the
3 additional checklist] yearly" from then on. According to information and belief, similarly situated
4 employees were not required to complete an additional training checklist in order to be released from
5 probation.

6 57. On August 26, 2015, Plaintiff complained to KEETCH regarding GOTTO's refusal
7 to release her from probation. KEETCH promised Plaintiff that he would meet with GOTTO.

8 58. On August 27, 2015, JEAN-PAUL provided Plaintiff with a copy of her revised 9-
9 month performance evaluation. FARLOW's comments were changed to reflect that Plaintiff's
10 concerns "will result in increased awareness and identification of additional training" and protocols
11 "to mitigate risks for [Code Enforcement Officers]." JEAN-PAUL also informed Plaintiff that her
12 final probation performance evaluation "will be forth coming" in the next couple of weeks.

13 59. By August 29, 2015, Plaintiff still had not received her badge, despite her previous
14 inquiries. According to information and belief, Code Enforcement Officers that were hired three (3)
15 months after Plaintiff had received their badges approximately four (4) months earlier. Plaintiff asked
16 KEETCH why she had not received her badge. He stated he would check with GOTTO. Plaintiff
17 never received a response from KEETCH or GOTTO.

18 60. In approximately August 2015, Plaintiff learned that two (2) other Code Enforcement
19 Officers had previously been spit on by homeless passengers, similar to what Plaintiff had
20 experienced on May 9, 2015. However, Plaintiff also learned that those officers were immediately
21 provided with a medical evaluation to test them for Hepatitis C, which was not the case with Plaintiff.
22 Plaintiff was not afforded any form of medical evaluation after her ordeal, putting her at risk for
23 Hepatitis C if that passenger was infected. Plaintiff was extremely upset that she had not been offered
24 any medical treatment or evaluation by Defendants, and became worried about her health.

25 61. On August 31, 2015, Plaintiff contacted JEAN-PAUL to inquire about the procedure
26 she needed to follow to obtain medical care and evaluation due to the incident she endured on May
27 9, 2015. JEAN-PAUL told Plaintiff on September 1st that she should have been referred to workers'
28 compensation on May 9th, following the incident, to be evaluated for Hepatitis C. While JEAN-PAUL

1 authorized Plaintiff to get vaccinated for Hepatitis C, Plaintiff was not authorized to be monitored for
2 possible exposure to Hepatitis C, as her colleagues were after experiencing a similar incident.

3 62. In approximately September 2015, a graveyard shift became available. While Plaintiff
4 had requested that shift and was promised the next available graveyard shift, she was not told about
5 it or given it.

6 63. On September 2, 2015, Plaintiff again inquired about her badge, which she still had
7 not received. Later that day, GOTTO and FARLOW brought Plaintiff's badge to the Escondido
8 Transit Center, asked Plaintiff to sign that she had received it, and immediately left, without
9 explanation for the delay in providing her badge.

10 64. In September 2015, Plaintiff was finally released from probation, several weeks after
11 her scheduled release date.

12 65. On September 9, 2015, Plaintiff received her twelve (12) month performance
13 evaluation from GOTTO. Plaintiff received a "Meets Expectations" rating for all ten (10) criteria.

14 66. On September 15, 2015, Plaintiff requested to work the available graveyard shift.

15 67. On September 17, 2015, FARLOW told Plaintiff that, according to MITCHELL, shift
16 adjustments for "personal reasons" could not be accommodated at that time. Plaintiff was told that
17 no shift adjustments would be considered until at least March 2016. According to information and
18 belief, Plaintiff's similarly situated colleague was allowed to switch shifts for personal reasons.

19 68. In October 2015, Plaintiff was approached by a homeless man who asked
20 her if she would be working until 10 p.m. that day. Plaintiff refused to respond, but the man stated
21 that he would know whether Plaintiff had left for the day because he knew Plaintiff's car. The
22 transients living around the transit center had a direct view of all the cars that entered and exited the
23 transit center parking lot. Plaintiff feared for her safety because she had no way to physically protect
24 herself when her shift ended each night.

25 69. In October 2015, Plaintiff learned that a simulated Emergency Response training was
26 scheduled for October 22, 2015. While BECERRA, the Exercise Lead, asked Plaintiff to participate
27 in the safety exercise, Plaintiff was later denied that opportunity. BECERRA ultimately selected four
28 (4) of Plaintiff's male colleagues to participate in the exercise.

1 70. On October 14, 2015, Plaintiff's colleague commented that his wife had recently
2 forbidden him from using racial slurs in their home. Plaintiff responded, "When you have the entire
3 English language to use and you choose to use racial slurs, it means you have a very limited
4 vocabulary." Mr. Stoval-Anderson, who is Caucasian, laughed and stated, "Not necessarily, I have
5 a huge vocabulary and still use racial slurs." The other officer commented that he would fight his
6 wife's decision "tooth and nail." Mr. Stoval-Anderson then replied, "I will also fight it as hard as we
7 white people fought segregation." Plaintiff was shocked by her colleagues' racist comments.

8 71. On November 6, 2015, Plaintiff was placed on a medical leave of absence due to her
9 own serious health condition that resulted from Defendants' failure to provide Plaintiff with a safe
10 working environment.

11 ///

12 **FIRST CAUSE OF ACTION**

13 **Discrimination in Violation of FEHA [Gov. Code §12940(a)]**

14 **(By Plaintiff Against Defendants)**

15 72. Plaintiff incorporates by reference and re-alleges each and every preceding Paragraph
16 of this Complaint as if fully set forth herein.

17 73. As set forth above, Plaintiff was subjected to ongoing discriminatory treatment due
18 to her race, gender, and physical disability.

19 74. Defendants' conduct, described above, violated California Government Code section
20 12940(a).

21 75. As a proximate result of the wrongful acts of Defendants, and each of them, Plaintiff
22 has been harmed in that Plaintiff has suffered and will continue to suffer actual, consequential, and
23 incidental financial losses, including without limitation loss of income, salary, commissions and
24 benefits, and the intangible loss of employment-related opportunities for growth in her field and
25 damage to her professional reputation, all in an amount according to proof at the time of trial.

26 76. As a proximate result of the wrongful acts of Defendants, and each of them, Plaintiff
27 has suffered and continues to suffer anxiety, worry, embarrassment, humiliation, mental anguish, and
28 emotional distress. Plaintiff has experienced emotional, mental and physical symptoms arising from

1 the wrongful acts of Defendants, and each of them, and has required medical attention and treatment
2 for said symptoms. Plaintiff is informed and believes and thereon alleges that she will continue to
3 experience emotional and physical suffering for a period of time in the future she cannot presently
4 ascertain. Plaintiff has suffered past, present and future damages in an amount to be shown according
5 to proof at the time of trial.

6 77. As a proximate result of the wrongful acts of Defendants, and each of them, Plaintiff
7 has been forced to hire an attorney to prosecute her claims herein, and has incurred and is expected
8 to continue to incur attorneys fees and costs in connection therewith. Accordingly, Plaintiff requests
9 attorneys fees and costs under California Government Code section 12965(b).

10 78. The above-recited actions of Defendants were done with malice and oppression, and
11 in reckless disregard of Plaintiff's rights under California law, in that Defendants engaged in such
12 despicable conduct in order to cause injury to Plaintiff and to subject Plaintiff to cruel and unjust
13 hardship in conscious disregard of her rights. Moreover, Defendants, and each of their acts and
14 omissions in continuing, confirming, and ratifying said conduct, were done with the knowledge that
15 Plaintiff's emotional and physical distress would thereby increase, and with a wanton and reckless
16 disregard of the consequences to Plaintiff. Thus, an award of punitive damages in an amount to be
17 determined at trial is justified against Defendants, and each of them.

18 **SECOND CAUSE OF ACTION**

19 **Discriminatory Harassment and Failure to Take Corrective Action**

20 **in Violation of Gov. Code Section 12940(j)**

21 **(By Plaintiff Against Defendants)**

22 79. Plaintiff incorporates by reference and re-alleges each and every preceding Paragraph
23 of this Complaint as if fully set forth herein.

24 80. As set forth above, Plaintiff was subjected to ongoing discriminatory harassment due
25 to Plaintiff's race, gender, and disability by her supervisors and colleagues, that was both unwelcome
26 and highly offensive. Defendants had actual and constructive knowledge of the harassment and
27 discriminatory work environment that Plaintiff was forced to endure, but it took no action to stop the
28 discrimination and harassment against Plaintiff.

1 81. Defendants' conduct, described above, violated California Government Code Section
2 12940, subsection (j).

3 82. As a proximate result of the wrongful acts of Defendants, and each of them, Plaintiff
4 has been harmed in that Plaintiff has suffered and will continue to suffer actual, consequential, and
5 incidental financial losses, including without limitation loss of income, salary and benefits, and the
6 intangible loss of employment-related opportunities for growth in her field and damage to her
7 professional reputation, all in an amount according to proof at the time of trial.

8 83. As a proximate result of the wrongful acts of Defendants, and each of them, Plaintiff
9 has suffered and continues to suffer anxiety, worry, embarrassment, humiliation, mental anguish, and
10 emotional distress. Plaintiff has experienced emotional, mental and physical symptoms arising from
11 the wrongful acts of Defendants, and each of them, and has required medical attention and treatment
12 for said symptoms. Plaintiff is informed and believes and thereon alleges that she will continue to
13 experience emotional and physical suffering for a period of time in the future she cannot presently
14 ascertain. Plaintiff has suffered past, present and future damages in an amount to be shown according
15 to proof at the time of trial.

16 84. As a proximate result of the wrongful acts of Defendants, and each of them, Plaintiff
17 has been forced to hire an attorney to prosecute her claims herein, and has incurred and is expected
18 to continue to incur attorneys fees and costs in connection therewith. Accordingly, Plaintiff requests
19 attorneys fees and costs under California Government Code section 12965(b).

20 85. The above-recited actions of Defendants were done with malice and oppression, and
21 in reckless disregard of Plaintiff's rights, in that Defendants engaged in such despicable conduct in
22 order to cause injury to Plaintiff and to subject Plaintiff to cruel and unjust hardship in conscious
23 disregard of her rights. Moreover, Defendants, and each of their acts and omissions in continuing,
24 confirming, and ratifying said conduct, were done with the knowledge that Plaintiff's emotional and
25 physical distress would thereby increase, and with a wanton and reckless disregard of the
26 consequences to Plaintiff. Thus, an award of punitive damages in an amount to be determined at trial
27 is justified against Defendants, and each of them.

28

1 **THIRD CAUSE OF ACTION**

2 **Failure to Prevent Discriminatory Harassment**
3 **in Violation of FEHA [Gov. Code Section 12940(k)]**
4 **(By Plaintiff Against Defendants)**

5 86. Plaintiff incorporates by reference and re-alleges each and every preceding Paragraph
6 of this Complaint as if fully set forth herein.

7 87. As set forth above, Plaintiff was subjected to ongoing discriminatory harassment due
8 to Plaintiff's race, gender, and disability by her supervisors and colleagues, that was both unwelcome
9 and highly offensive.

10 88. While Defendants had actual and constructive knowledge of the discriminatory
11 treatment and harassment that Plaintiff was forced to endure, Defendants failed to take all reasonable
12 steps to prevent such discrimination from occurring. Thus, Defendants violated the *Fair Employment*
13 *and Housing Act*, set forth in California *Government Code* Section 12940, subsection (k).

14 89. As a proximate result of the wrongful acts of Defendants, and each of them, Plaintiff
15 has been harmed in that Plaintiff has suffered and will continue to suffer actual, consequential, and
16 incidental financial losses, including without limitation loss of income, salary and benefits, and the
17 intangible loss of employment-related opportunities for growth in her field and damage to her
18 professional reputation, all in an amount according to proof at the time of trial

19 90. As a proximate result of the wrongful acts of Defendants, and each of them, Plaintiff
20 has suffered and continues to suffer anxiety, worry, embarrassment, humiliation, mental anguish, and
21 emotional distress. Plaintiff has experienced emotional, mental and physical symptoms arising from
22 the wrongful acts of Defendants, and each of them, and has required medical attention and treatment
23 for said symptoms. Plaintiff is informed and believes and thereon alleges that she will continue to
24 experience emotional and physical suffering for a period of time in the future she cannot presently
25 ascertain. Plaintiff has suffered past, present and future damages in an amount to be shown according
26 to proof at the time of trial.

27 91. As a proximate result of the wrongful acts of Defendants, and each of them, Plaintiff
28 has been forced to hire an attorney to prosecute her claims herein, and has incurred and is expected

1 to continue to incur attorneys fees and costs in connection therewith. Accordingly, Plaintiff requests
2 attorneys fees and costs under California Government Code section 12965(b).

3 92. The above-recited actions of Defendants were done with malice and oppression, and
4 in reckless disregard of Plaintiff's rights under the FEHA, in that Defendants engaged in such
5 despicable conduct in order to cause injury to Plaintiff and to subject Plaintiff to cruel and unjust
6 hardship in conscious disregard of her rights. Moreover, Defendants, and each of their acts and
7 omissions in continuing, confirming, and ratifying said conduct, were done with the knowledge that
8 Plaintiff's emotional and physical distress would thereby increase, and with a wanton and reckless
9 disregard of the consequences to Plaintiff. Thus, an award of punitive damages in an amount to be
10 determined at trial is justified against Defendants, and each of them.

11 **FOURTH CAUSE OF ACTION**

12 **Failure To Accommodate in Violation of FEHA [Gov. Code Section 12940(m)]**

13 **(By Plaintiff Against Defendants)**

14 93. At all times mentioned herein, Plaintiff suffered from a disability which limited
15 various major life activities. Moreover, Plaintiff was regarded or treated as having a disability that
16 made the achievement of a major life activity difficult.

17 94. As set forth above, Defendant repeatedly failed and refused to provide Plaintiff with
18 reasonable accommodations for her disability, in violation of Government Code Section 12940,
19 subsection (m).

20 95. As a proximate result of the wrongful acts of Defendants, and each of them, Plaintiff
21 has been harmed in that Plaintiff has suffered and will continue to suffer actual, consequential, and
22 incidental financial losses, including without limitation loss of income, salary and benefits, and the
23 intangible loss of employment-related opportunities for growth in her field and damage to her
24 professional reputation, all in an amount according to proof at the time of trial.

25 96. As a proximate result of the wrongful acts of Defendants, and each of them, Plaintiff
26 has suffered and continues to suffer anxiety, worry, depression, embarrassment, humiliation, mental
27 anguish, and emotional distress. Plaintiff has experienced emotional, mental and physical symptoms
28 arising from the wrongful acts of Defendants, and each of them, and has required medical attention

1 and treatment for said symptoms. Plaintiff is informed and believes and thereon alleges that she will
2 continue to experience emotional and physical suffering for a period of time in the future she cannot
3 presently ascertain. Plaintiff has suffered past, present and future damages in an amount to be shown
4 according to proof at the time of trial.

5 97. As a proximate result of the wrongful acts of Defendants, and each of them, Plaintiff
6 has been forced to hire an attorney to prosecute her claims herein, and has incurred and is expected
7 to continue to incur attorneys fees and costs in connection therewith. Accordingly, Plaintiff requests
8 attorneys fees and costs under California Government Code section 12965(b).

9 98. The above-recited actions of Defendants were done with malice and oppression, and
10 in reckless disregard of Plaintiff's rights under the FEHA, in that Defendants engaged in such
11 despicable conduct in order to cause injury to Plaintiff and to subject Plaintiff to cruel and unjust
12 hardship in conscious disregard of her rights. Moreover, Defendants, and each of their acts and
13 omissions in continuing, confirming, and ratifying said conduct, were done with the knowledge that
14 Plaintiff's emotional and physical distress would thereby increase, and with a wanton and reckless
15 disregard of the consequences to Plaintiff. Thus, an award of punitive damages in an amount to be
16 determined at trial is justified against Defendants, and each of them.

17 **FIFTH CAUSE OF ACTION**

18 **Failure To Provide a Timely, Good Faith Interactive Process in Violation of FEHA**

19 **[Gov. Code Section 12940(n)]**

20 **(By Plaintiff Against Defendants)**

21 60. Plaintiff incorporates by reference and re-alleges each and every preceding Paragraph
22 of this Complaint as if fully set forth herein.

23 61. At all times mentioned herein, Plaintiff suffered from a disability which limited
24 various major life activities. Moreover, Plaintiff was regarded or treated as having a disability that
25 made the achievement of a major life activity difficult.

26 62. As set forth above, Defendant repeatedly failed and refused to provide Plaintiff with
27 a timely, good faith interactive process meeting, as required by the FEHA, to discuss reasonable
28 accommodations for Plaintiff's disability. In fact, Plaintiff was never once provided with an

1 interactive process to discuss accommodations for her disability. Thus, Defendants' conduct violated
2 California Government Code Section 12940, subsection (n).

3 99. As a proximate result of the wrongful acts of Defendants, and each of them,
4 Plaintiff has been harmed in that Plaintiff has suffered and will continue to suffer actual,
5 consequential, and incidental financial losses, including without limitation loss of income, salary and
6 benefits, and the intangible loss of employment-related opportunities for growth in her field and
7 damage to her professional reputation, all in an amount according to proof at the time of trial.

8 100. As a proximate result of the wrongful acts of Defendants, and each of them, Plaintiff
9 has suffered and continues to suffer anxiety, worry, depression, embarrassment, humiliation, mental
10 anguish, and emotional distress. Plaintiff has experienced emotional, mental and physical symptoms
11 arising from the wrongful acts of Defendants, and each of them, and has required medical attention
12 and treatment for said symptoms. Plaintiff is informed and believes and thereon alleges that she will
13 continue to experience emotional and physical suffering for a period of time in the future she cannot
14 presently ascertain. Plaintiff has suffered past, present and future damages in an amount to be shown
15 according to proof at the time of trial.

16 101. As a proximate result of the wrongful acts of Defendants, and each of them, Plaintiff
17 has been forced to hire an attorney to prosecute her claims herein, and has incurred and is expected
18 to continue to incur attorneys fees and costs in connection therewith. Accordingly, Plaintiff requests
19 attorneys fees and costs under California Government Code section 12965(b).

20 102. The above-recited actions of Defendants were done with malice and oppression, and
21 in reckless disregard of Plaintiff's rights under the FEHA, in that Defendants engaged in such
22 despicable conduct in order to cause injury to Plaintiff and to subject Plaintiff to cruel and unjust
23 hardship in conscious disregard of her rights. Moreover, Defendants, and each of their acts and
24 omissions in continuing, confirming, and ratifying said conduct, were done with the knowledge that
25 Plaintiff's emotional and physical distress would thereby increase, and with a wanton and reckless
26 disregard of the consequences to Plaintiff. Thus, an award of punitive damages in an amount to be
27 determined at trial is justified against Defendants, and each of them.

28

1 **SIXTH CAUSE OF ACTION**

2 **Retaliation in Violation of FEHA [Gov. Code §12940(h)]**

3 **(By Plaintiff Against Defendants)**

4 103. Plaintiff incorporates by reference and re-alleges each and every preceding Paragraph
5 of this Complaint as if fully set forth herein.

6 104. As set forth above, Plaintiff requested reasonable accommodations for her disability
7 on numerous occasions, to no avail. Defendants failed and refused to provide Plaintiff with reasonable
8 accommodations, without explanation or an interactive process meeting. In addition, Plaintiff made
9 numerous complaints to Defendants, to no avail.

10 105. In retaliation for Plaintiff's protected activities under the FEHA, she was subjected to
11 retaliatory treatment, as set forth above.

12 106. Defendants' conduct violated California *Government Code* Section 12940, subsection
13 (h).

14 107. As a proximate result of the wrongful acts of Defendants, and each of them, Plaintiff
15 has been harmed in that Plaintiff has suffered and will continue to suffer actual, consequential, and
16 incidental financial losses, including without limitation loss of income, salary, commissions and
17 benefits, and the intangible loss of employment-related opportunities for growth in her field and
18 damage to her professional reputation, all in an amount according to proof at the time of trial.

19 108. As a proximate result of the wrongful acts of Defendants, and each of them, Plaintiff
20 has suffered and continues to suffer anxiety, worry, embarrassment, humiliation, mental anguish, and
21 emotional distress. Plaintiff has experienced emotional, mental and physical symptoms arising from
22 the wrongful acts of Defendants, and each of them, and has required medical attention and treatment
23 for said symptoms. Plaintiff is informed and believes and thereon alleges that she will continue to
24 experience emotional and physical suffering for a period of time in the future she cannot presently
25 ascertain. Plaintiff has suffered past, present and future damages in an amount to be shown according
26 to proof at the time of trial.

27 109. As a proximate result of the wrongful acts of Defendants, and each of them, Plaintiff
28 has been forced to hire an attorney to prosecute her claims herein, and has incurred and is expected

1 to continue to incur attorneys fees and costs in connection therewith. Accordingly, Plaintiff requests
2 attorneys fees and costs under California Government Code section 12965(b).

3 110. The above-recited actions of Defendants were done with malice and oppression, and
4 in reckless disregard of Plaintiff's rights under California law, in that Defendants engaged in such
5 despicable conduct in order to cause injury to Plaintiff and to subject Plaintiff to cruel and unjust
6 hardship in conscious disregard of her rights. Moreover, Defendants, and each of their acts and
7 omissions in continuing, confirming, and ratifying said conduct, were done with the knowledge that
8 Plaintiff's emotional and physical distress would thereby increase, and with a wanton and reckless
9 disregard of the consequences to Plaintiff. Thus, an award of punitive damages in an amount to be
10 determined at trial is justified against Defendants, and each of them.

11 **SEVENTH CAUSE OF ACTION**

12 **Retaliation in Violation of Public Policy**

13 **(By Plaintiff Against Defendants)**

14 111. Plaintiff incorporates by reference and re-alleges each and every preceding Paragraph
15 of this Complaint as if fully set forth herein.

16 112. As set forth above, Plaintiff complained to Defendants on numerous occasions about
17 discrimination and her unsafe working conditions. In retaliation for Plaintiff's complaints,
18 Defendants subjected Plaintiff to retaliatory treatment and harassment, as set forth above.

19 113. Defendants' conduct violated the public policies of the State of California, as set forth
20 in the California Government Code and Labor Code. It has long been the public policy of California
21 to prohibit retaliatory treatment against an employee for reporting safety and health concerns and
22 discrimination in the workplace.

23 114. As a proximate result of the wrongful acts of Defendants, and each of them, Plaintiff
24 has been harmed in that Plaintiff has suffered and will continue to suffer actual, consequential, and
25 incidental financial losses, including without limitation loss of income, salary, commissions and
26 benefits, and the intangible loss of employment-related opportunities for growth in her field and
27 damage to her professional reputation, all in an amount according to proof at the time of trial.

28 115. As a proximate result of the wrongful acts of Defendants, and each of them, Plaintiff

1 has suffered and continues to suffer anxiety, worry, embarrassment, humiliation, mental anguish, and
2 emotional distress. Plaintiff has experienced emotional, mental and physical symptoms arising from
3 the wrongful acts of Defendants, and each of them, and has required medical attention and treatment
4 for said symptoms. Plaintiff is informed and believes and thereon alleges that she will continue to
5 experience emotional and physical suffering for a period of time in the future she cannot presently
6 ascertain. Plaintiff has suffered past, present and future damages in an amount to be shown according
7 to proof at the time of trial.

8 116. The above-recited actions of Defendants were done with malice and oppression, and
9 in reckless disregard of Plaintiff's rights under California law, in that Defendants engaged in such
10 despicable conduct in order to cause injury to Plaintiff and to subject Plaintiff to cruel and unjust
11 hardship in conscious disregard of her rights. Moreover, Defendants, and each of their acts and
12 omissions in continuing, confirming, and ratifying said conduct, were done with the knowledge that
13 Plaintiff's emotional and physical distress would thereby increase, and with a wanton and reckless
14 disregard of the consequences to Plaintiff. Thus, an award of punitive damages in an amount to be
15 determined at trial is justified against Defendants, and each of them.

16 **EIGHTH CAUSE OF ACTION**

17 **Intentional Infliction of Emotional Distress**

18 **(By Plaintiff Against All Defendants)**

19 117. Plaintiff incorporates by reference and re-alleges each and every preceding Paragraph
20 of this Complaint as if fully set forth herein.

21 118. Defendants' conduct toward Plaintiff described above, including but not limited to the
22 conduct set forth in paragraphs 10, 31, 33, 34, 37, 39, 48, 60, and 70, was extreme and outrageous,
23 was intended to cause Plaintiff emotional distress, or done with reckless disregard of the probability
24 of causing Plaintiff emotional distress, and was the substantial factor in causing Plaintiff severe
25 emotional distress.

26 119. Defendants' conduct, referenced above, was so outrageous that it went beyond all
27 possible bounds of decency, and could never be tolerated in a civilized community.

28 120. As a proximate result of the wrongful acts of Defendants, and each of them, Plaintiff

1 has been harmed in that Plaintiff has suffered and will continue to suffer actual, consequential, and
2 incidental financial losses, including without limitation loss of income, salary and benefits, all in an
3 amount according to proof at the time of trial.

4 121. As a proximate result of the wrongful acts of Defendants, and each of them, Plaintiff
5 has suffered and continues to suffer anxiety, worry, embarrassment, humiliation, mental anguish, and
6 emotional distress. Plaintiff has experienced emotional, mental and physical symptoms arising from
7 the wrongful acts of Defendants, and each of them, and has required medical attention and treatment
8 for said symptoms. Plaintiff is informed and believes and thereon alleges that she will continue to
9 experience emotional and physical suffering for a period of time in the future she cannot presently
10 ascertain. Plaintiff has suffered past, present and future damages in an amount to be shown according
11 to proof at the time of trial.

12 122. The above-recited actions of Defendants were done with malice and oppression, and
13 in reckless disregard of Plaintiff's rights, in that Defendants engaged in such despicable conduct in
14 order to cause injury to Plaintiff and subject Plaintiff to cruel and unjust hardship in conscious
15 disregard of her rights. Moreover, Defendants, and each of their acts and omissions in continuing,
16 confirming, and ratifying said conduct, were done with the knowledge that Plaintiff's emotional and
17 physical distress would thereby increase and with a wanton and reckless disregard of the
18 consequences to Plaintiff. Thus, an award of punitive damages in an amount to be determined at trial
19 is justified against all Defendants.

20 **PRAYER**

21 WHEREFORE, Plaintiff prays for judgment against Defendants, and each of them, as
22 follows:

23 **FOR CAUSES OF ACTION ONE THROUGH SIX:**

- 24 1. For past and future lost wages, income and benefits, and other monetary relief
- 25 according to proof;
- 26 2. For general damages according to proof at trial;
- 27 3. For medical expenses;
- 28 4. For punitive damages according to proof at trial;

- 1 5. For attorney's fees;
2 6. For costs of suit herein incurred;
3 7. For prejudgment interest on all amounts claimed; and
4 8. For such other and further relief as the court deems proper.

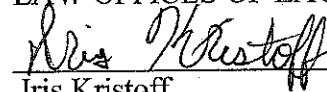
5 FOR CAUSES OF ACTION SEVEN AND EIGHT:

- 6 1. For past and future lost wages, income and benefits, and other monetary relief
7 according to proof;
8 2. For general damages according to proof at trial;
9 3. For medical expenses, future medical expenses, and other special damages;
10 4. For punitive damages according to proof at trial;
11 5. For costs of suit herein incurred;
12 6. For prejudgment interest on all amounts claimed; and
13 7. For such other and further relief as the court deems proper.

14 Dated: October 28, 2016

LAW OFFICES OF LAURA J. FARRIS

15 By:



Iris Kristoff

Attorney for Plaintiff, Noel Buckhanon

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