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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES – CENTRAL DISTRICT

SAM DE SYLVA, an individual;

Plaintiff,

v.

CITY OF PASADENA, a public entity; TONY
RUSSO, an individual; and DOES 1-99,
inclusive;

Defendants.

Case No.: **23STCV13132**

**UNLIMITED COMPLAINT FOR
DAMAGES**

- 1) FEHA DISCRIMINATION: DISABILITY
DISPARATE TREATMENT
- 2) FEHA DISCRIMINATION: FAILURE TO
ENGAGE IN INTERACTIVE PROCESS
- 3) FEHA HARASSMENT: WORK
ENVIRONMENT HARASSMENT –
PUBLIC ENTITY
- 4) FEHA HARASSMENT: WORK
ENVIRONMENT HARASSMENT –
INDIVIDUAL DEFENDANT
- 5) FEHA RETALIATION
- 6) FEHA FAILURE TO PREVENT
HARASSMENT, DISCRIMINATION, OR
RETALIATION
- 7) BATTERY

[JURY FEE DEPOSIT POSTED]

COMES NOW THE Plaintiff SAM DE SYLVA, (“Plaintiff”), who heretofore alleges the following facts in support of their Unlimited Complaint for Damages and hereby respectfully demands *a speedy jury trial* on all causes of action stated herein as against Defendants CITY OF PASADENA (the “City”) and TONY RUSSO (“Russo”), who along with DOES 1-99, inclusive,

1 are referred to herein as the “Defendants”.

2
3 **CASE SYNOPSIS**

4 1. The Pasadena Police Department has a history of racial discrimination and
5 harassment against non-white employees. Plaintiff is a non-white lieutenant with a history of
6 exceptional performance at the Pasadena Police Department.

7 2. After Plaintiff gave statements to investigators about the unlawful actions of certain
8 fellow officers, as described herein below, he was subjected to a continuous pattern of harassment,
9 discrimination, and retaliation. On one occasion, Plaintiff was actually physically battered by a
10 fellow officer. Plaintiff sought the filing of criminal charges, but his command staff refused to take
11 Plaintiff’s report or refer the matter to the District Attorney’s Office.

12 **ALLEGATIONS COMMON TO ALL CAUSES OF ACTION**

13 **Jurisdiction and Venue**

14 3. This Court has jurisdiction of the subject matter of Plaintiff’s claims. Jurisdiction is
15 proper in this Court because the damages and claims alleged and demanded herein by Plaintiff
16 exceeds \$25,000, and Plaintiff herein does make a demand and prayer for damages, in excess, of the
17 jurisdictional limit of this Court.

18 4. This Court has personal jurisdiction over Defendant City in that it was, at all relevant
19 periods of time covered by this complaint, a public entity maintaining a place of business where it
20 employed Plaintiff at: 100 N. Garfield Avenue, Pasadena, California 91109.

21 5. Upon information and belief, defendant Russo is an employee of the Pasadena Police
22 Department. Russo has frequent and on-going contacts in the County of Los Angeles.

23 6. Venue in this Court is proper in that, upon information and belief, all Defendants
24 reside in the County of Los Angeles.

25 7. All the harm suffered by Plaintiff took place within this judicial district.

26 8. Plaintiff was an employee of Defendant City.

27 **Relationship Between the Defendants**

28 9. Plaintiff is informed and believes, and thereupon alleges, that Defendants, and each

1 of them, were at all times mentioned herein the agents, servants, and employees of each other, or
2 otherwise were acting with the full knowledge and consent of each other. Plaintiff is further
3 informed and believes, and upon such basis and belief alleges, that in doing all of the things alleged
4 in this complaint, Defendants, and each of them, were acting within the scope and authority of their
5 agency, servitude, or employment, and were acting with the express and/or implied knowledge,
6 permission and consent of one another. Plaintiff is further informed and believes, and upon such
7 basis and belief alleges, that Defendants learned of, ratified, and/or approved the wrongful conduct
8 of its agents and/or employees identified in this Complaint as having engaged in wrongful conduct.

9 10. Plaintiff is informed and believes, and thereupon alleges, that at all relevant times,
10 Defendants, and each of them, were business entities or individuals who owned, controlled, or
11 managed the business which has damaged Plaintiff, and are each therefore jointly, severally, and
12 individually liable to Plaintiff.

13 11. Plaintiff is informed and believes, and thereupon alleges, that at all relevant times,
14 Defendants, and each of them, were in some fashion, by contract or otherwise, the successor,
15 assignor, indemnitor, guarantor, or third-party beneficiary of one or more of the remaining
16 Defendants, and at all relevant times to Plaintiff's claims alleged herein, were acting within that
17 capacity. Plaintiff further alleges that Defendants, and each of them, assumed the liabilities of the
18 other Defendants, by virtue of the fact that each to some degree, wrongfully received and/or
19 wrongfully benefited from the flow of assets from the other Defendants, to the detriment of Plaintiff.
20 Plaintiff further alleges that by wrongfully receiving and/or benefiting from Defendants' assets, and
21 in the consummation of such transactions, a *de facto* merger of the Defendants, and each of them,
22 resulted, such that Defendants, and each of them, may be treated as one for purposes of this
23 Complaint.

24 12. Plaintiff is informed and believes, and thereupon alleges, that at all relevant times
25 mentioned herein, Defendants, and each of them, were the partners, agents, servants, employees,
26 joint venturers, or co-conspirators of each other defendant, and that each defendant was acting
27 within the course, scope, and authority of such partnership, agency, employment, joint venture, or
28 conspiracy, and that each defendant, directly or indirectly, authorized, ratified, and approved the

1 acts of the remaining Defendants, and each of them.

2 **No Claims Arising from Privileged Conduct**

3 13. In the avoidance of doubt, Plaintiff does not herein allege any claim for damages as
4 against Defendants for any privileged action, such as the conducting of an investigation by a public
5 entity. Plaintiff, however, reserves the right to claim all damages arising out of *consequences or*
6 *actions* resulting from, or occasioned by, such a privileged investigation by a public entity.

7 14. Plaintiff expressly excludes from this Complaint any privileged act by any Defendant
8 to this action that would otherwise result in a Special Motion to Strike pursuant to Code Civ. Proc.
9 § 425.16.

10 **Continuing Violations Doctrine Applicable**

11 15. Plaintiff is informed and believes, and thereupon alleges that the allegations in this
12 complaint were part and parcel of continuing violations by Defendants, and therefore none of these
13 bad acts are time-barred given the applicability of the continuing violations doctrine.

14 **Defendant's Sham Investigation as Demonstrative of Actual Malice**

15 16. Defendant engaged in one or more investigations of Plaintiff's allegations as set forth
16 herein and as relayed to Plaintiff's superiors. However, the investigations constituted a purposeful
17 avoidance of truth, inaction, and failure to investigate which was a product of a deliberate decision
18 not to acquire knowledge of facts that would confirm Plaintiff's allegations.

19 17. The failure to meaningfully investigate Plaintiff's complaints establishes pretext,
20 because an inadequate investigation is evidence of pretext. The lack of a rigorous investigation by
21 Defendants is evidence suggesting that Defendant did not value the discovery of the truth so much
22 as a way to cover up the illegality that was uncovered when Plaintiff made their complaints.

23 18. Further, the failure to react promptly to Plaintiff's complaint, or to reprimand the
24 wrongdoers strongly, is evidence relevant to determine whether the employer took sufficient
25 remedial action. Defendants' failure to timely interview the material witnesses is evidence of
26 inadequate remedial action, as Defendant made little or no attempt to investigate Plaintiff's version
27 of events.

28

1 retaliation. This retaliation takes the form of false internal affairs investigations, undeservedly
2 negative performance evaluations, loss of work benefits, denials of promotions, demotions, or
3 termination.

4 25. In March 2021, Plaintiff was named as a witness in an investigation of certain actions
5 in PPD's Traffic Section. Lt. Tony Russo was a supervisor in the Traffic Section and was the target
6 of investigation. Some sergeants who had filed complaints against Russo, which prompted the
7 investigation.

8 26. Lt. Russo is a favorite of the GOBC and has climbed the ranks quickly as a result.
9 Lt. Russo generally behaves in an unprofessional manner, but that has not hindered his career. Lt.
10 Russo has made impermissible racial jokes and political comments in the workplace, some of which
11 led to complaints to Russo's Commander, but no action was taken. Lt. Russo also has a pattern of
12 behaving unprofessionally by pulling on the holstered firearms of other officers (which is incredibly
13 unsafe), yelling at subordinates and colleagues, routinely being late for briefings, telling racially and
14 politically inappropriate jokes, and showing inappropriate videos in the workplace. If Lt. Russo is
15 challenged while engaging in any of these behaviors, he dismisses the actions claiming that he "was
16 joking" or that he will outright deny that the incident occurred in the first place.

17 27. When Lt. Russo found out about the complaint, he initiated an investigation against
18 the sergeant who complained, which prompted the sergeant to file a complaint against Russo with
19 the Human Resources Department. Around the same time, two other sergeants brought their
20 complaints to HR as well.

21 28. Some of the complaints against Lt. Russo concerned unlawful and fraudulent
22 behavior. Between September and November 2021, when Russo was in the Traffic Section, he
23 would falsify statistics to obtain more grant money, falsify time records, and bill for hours that were
24 not actually worked. Plaintiff complained to Lt. Russo, a supervisory level employee of PPD, that
25 these actions were illegal and Russo told him to "relax" and that the "Commander is okay with it."
26 Lt. Russo also directed subordinate officers to issue warning "citations" to members of the public
27 in order artificially inflate citation statistics. Moreover, Lt. Russo would also report that double the
28 number of warning citations had been actually issued. This practice, again, was to artificially inflate

1 statistics to make it appear that his leadership resulted in far more proactive police work. Plaintiff
2 nevertheless reported and resisted these illegal behaviors to Lt. Russo and other command staff.

3 29. In June 2021, Plaintiff was contacted by Sgt. Gomez about alleged inappropriate
4 racial and political comments Lt. Russo made in the workplace. Plaintiff was later interviewed by
5 an investigator on October 18, 2021. The investigator was retired chief, Dan Bressler, who had very
6 specific questions for Plaintiff. Bressler interviewed Plaintiff three different times. According to
7 Bressler, it was further alleged that Lt. Russo had retaliated against several sergeants because they
8 advised him that racial jokes and political comments are inappropriate in workplace, especially for
9 his rank.

10 30. Plaintiff gave statements against Lt. Russo, confirming that Russo had made
11 inappropriate, racially and politically derogatory comments. Plaintiff also complained of these
12 political and racial comments to supervisory level staff at PPD but Command Staff took no action
13 against Russo.

14 31. After the investigation into Lt. Russo was completed, there was a recommendation
15 that Lt. Russo receive 160 hours of unpaid leave as discipline, which then-Chief Moody was going
16 to enforce. However, in or around May 2022, Chief Moody rotated out of control and Chief Clawson
17 took over. Then-Chief Clawson, Commander Chute, Commander Grisafe, and then-Commander
18 Goodman liked Lt. Russo and minimized his discipline to 40 hours of unpaid leave instead. Plaintiff
19 is informed and believes that the Interim HR Director who initiated the HR investigation, Alex Soto,
20 was upset at Lt. Russo's reduction in discipline because there appeared to be no legitimate basis for
21 the reduction.

22 32. On or around September 25, 2021, Lt. Russo came up behind Plaintiff at the scene
23 of an incident and kicked Plaintiff in the leg so hard that it buckled his knee. Lt. Russo nonsensically
24 said he was testing the padding on Plaintiff's pants. In reality, Lt. Russo's action was retaliation for
25 Plaintiff's statements against Russo concerning Russo's racially inappropriate comments in the
26 preceding months. Moreover, Russo's kicking of Plaintiff constituted a battery, a criminal act under
27 Penal Code §242. Plaintiff further complained of this incident to command staff and communicated
28 that he desired prosecution for the offense. Command Staff refused Plaintiff's request, saying they

1 would handle the matter internally. This is another example of the GOBC protecting its own to the
2 detriment of the Plaintiff and other officers, even when the office in question has committed a
3 criminal act.

4 33. Lt. Russo's battery caused Plaintiff to suffer a tear to his meniscus and chondral
5 patella and further required surgery on his knee. As a result of the pain from the senseless battery,
6 Plaintiff could not run for several weeks. Plaintiff did not file a Worker's Compensation claim at
7 first because he was afraid of the potential retaliation for doing so. However, Lt. Gordon learned of
8 the battery by Lt. Russo and Lt. Gordon caused a Worker's Compensation claim to be filed on
9 Plaintiff's behalf. Plaintiff did so and underwent surgery, physical therapy, and lengthy recovery
10 period – which is still on-going. Plaintiff was off work for more than six months, losing substantial
11 overtime opportunities and pay because of the injury and related recovery period. Plaintiff remains
12 on light duty and is not permitted to work overtime as a result. Plaintiff has lost more than \$60,000
13 in salary and overtime to-date, in addition to his other economic and non-economic damages.

14 34. On another occasion, Lt. Russo happened to be in Plaintiff's office when Plaintiff
15 got a call from HR about giving statements in the investigation into Russo. Russo commented about
16 Plaintiff giving statements and the implication was that Plaintiff should claim to know nothing.

17 35. On or around December 31, 2021, Lt. Russo began harassing and retaliating against
18 Plaintiff and others who gave statements against him. Cpl. Irvin Myles was subjected to retaliation
19 when Russo said he would write-up Myles for not having the hood up on his holster (triple retention
20 holster), even though it is not a violation of PPD policy. Cpl. Myles wrote an email to Human
21 Resources and command staff saying that Russo was engaging in retaliation and was trying to get
22 him (Myles) in trouble for nothing. Russo also tried to get Plaintiff removed from leading the Rose
23 Parade so that he (Russo) could do it himself. Plaintiff told Russo he would not step aside and
24 reported the issue to command staff. Clawson sided with Plaintiff because, in Plaintiff's view,
25 Clawson saw that the retaliation came just days after investigatory interviews and wanted to avoid
26 the further appearance of impropriety. Russo then withheld information related to duties that
27 Plaintiff was supposed to complete before the parade so that Plaintiff would fail. Plaintiff found out
28 the day of the parade about Russo's deception, so he organized an emergency meeting with superiors

1 to address the issues before the failure occurred. Notably, Russo's harassing and retaliatory actions
2 seem to be taken against those employees, like Plaintiff, who are not Caucasian.

3 36. Plaintiff is a well-respected employee of the PPD with 21 years of outstanding
4 evaluations. Plaintiff does not have a single evaluation with anything negative. Despite this history
5 of outstanding performance, Plaintiff and three other employees are now being painted as
6 problematic employees because they cooperated in the investigations against Lt. Russo.

7 37. Since giving statements against Russo and other GOBC members, Plaintiff's pay
8 raises have been withheld, he was denied a take home car for several months (a negotiated item for
9 Lieutenants) while other newly promoted male white Lieutenants were issued vehicles, he has been
10 denied a flex schedule (another negotiated item for Lieutenant), he is the only lieutenant who has
11 had his work credit card taken from him, he is the only lieutenant without an assigned parking spot,
12 and he is the only Lieutenant in the PPD who works at a cubicle rather than having an office. To be
13 clear, Plaintiff previously had an office, but the day after he made a rebuttal to a bogus negative
14 evaluation, Plaintiff was moved to a cubicle. Plaintiff was also refused the accrual of 88 hours of
15 vacation time while he was on medical leave, while similarly situated officers on medical leave as
16 a result of work-related injuries are allowed to accrue leave. The retaliatory acts are numerous and
17 obvious.

18 38. Plaintiff has also been threatened with concocted and baseless internal affairs
19 investigations by Commander Grisafe if Plaintiff were to cooperate in any future HR investigations
20 of GOBC members.

21 39. For himself, Lt. Russo has retaliated against Plaintiff by forcing him to buy
22 equipment out of his own pocket when the same equipment is provided free of charge to other
23 officers. Russo has also changed Plaintiff's assignments at the last minute, withheld information
24 from Plaintiff to make him appear incompetent, and ordered Plaintiff to take actions against other
25 minority officers that were unwarranted or unsupported. Russo did this with the support of the
26 GOBC, including then-Chief Clawson.

27 40. In February 2023, Plaintiff returned to work following his recovery from Lt. Russo's
28 battery against him. Rather than assigning Plaintiff to a field assignment or to command a unit,

1 which would be typical for a lieutenant of Plaintiff's caliber and experience, Deputy Chief Chute
2 ordered Plaintiff to work as a dispatcher, a civilian position – not even as a supervisor in Dispatch.
3 Plaintiff asked Chute if there had ever been a time when a lieutenant was assigned to dispatch as a
4 dispatcher. Chute responded, "no." Chute also told Plaintiff that he (Plaintiff) may also have to work
5 a night shift – a less desirable shift. Plaintiff challenged the assignment to Chute, saying that there
6 are two other lieutenants on light duty who are permitted to work in their normal assignments.
7 Normally, if a lieutenant is on light duty and there are no sworn positions available, that lieutenant
8 would be permitted to remain on paid leave. Plaintiff, however, was not afforded this benefit and
9 was instead humiliated by being placed in a civilian position with no supervisory duties. The act of
10 assigning Plaintiff to dispatch is a violation of Government Code § 3303(j) which states, "No public
11 safety officer shall be loaned or temporarily reassigned to a location or duty assignment if a sworn
12 member of his or her department would not normally be sent to that location or would not normally
13 be given that duty assignment under similar circumstances."

14 41. Plaintiff was scheduled to return to duty (in February 2023) at the same time as
15 another lieutenant who had also been on leave – Lt. Mario Ortiz. Ortiz was initially assigned to the
16 Detective Division upon his return, but after Plaintiff complained of being assigned to Dispatch,
17 Deputy Chief Chute placed Plaintiff in the Detective Division and allowed Ortiz to remain off-work
18 at full pay. Ortiz was not assigned to Dispatch, nor was it even a consideration by Chute to do so.

19 42. While Plaintiff was assigned to the Detective Division, Commander Grisafe
20 promptly gave Plaintiff a "poor" performance evaluation. The poor performance evaluation was
21 entirely false and unsupportable, and was clearly designed to further harass, discriminate, and
22 retaliate against Plaintiff. Plaintiff immediately submitted a rebuttal to the evaluation detailing the
23 false and unsupported facts included by Commander Grisafe. The very next work day after
24 submitting the rebuttal, Plaintiff was moved to the position of a grant writer and placed in a cubicle.
25 The position of grant writer is also a civilian position and constitutes a further violation of
26 Government Code § 3303(j). In the grant writer position, Plaintiff is required to have his work
27 approved by a civilian employee in the Finance Department. Plaintiff has written many grant
28 applications for PPD in the past and had never been required to get the approval of a civilian

1 employee.

2 43. Further, upon Plaintiff's return to work from extended medical leave, the City did
3 not enter into or offer to engage in a good faith interactive process meeting to ensure that Plaintiff
4 could perform all of the essential functions of the position to which he was returning.

5 44. Plaintiff was supposed to receive a salary increase in March 2023, but the raise was
6 denied because Plaintiff remains on probation. To be clear, Plaintiff's probation was extended by
7 Commander Grisafe for the purpose of humiliating Plaintiff and denying him his salary increase.

8 45. In addition to the civilian assignment, Plaintiff's supervisor, Commander Grisafe,
9 gave Plaintiff a performance evaluation that failed to contain any of the excellent work Plaintiff had
10 done prior to going out on injury/medical leave and, instead, used Plaintiff's medical leave as a basis
11 to extend Plaintiff's probationary period and deny him a pay raise. These are actions that have not
12 been taken against other lieutenants similarly situated.

13 46. As a result of all of the harassment, discrimination, and retaliation, Plaintiff's
14 physical and mental health have suffered. The stress and anxiety of the situation have caused
15 sleeplessness, increased blood pressure, and metabolic issues. Prior to the events described herein,
16 Plaintiff was in excellent health.

17 **FIRST CAUSE OF ACTION**

18 **FEHA DISCRIMINATION: DISABILITY DISPARATE TREATMENT**

19 **Gov. Code § 12940(a) - CACI 2540**

20 **(Against Public Entity Defendants Only)**

21 47. Plaintiff realleges, and incorporates herein by reference, each and every allegation
22 contained in the foregoing paragraphs, inclusive, as though fully set forth herein. Further, all
23 allegations set forth in this cause of action are pled upon information and belief, unless otherwise
24 stated.

25 48. These defendants were employers with more than five employees or another entity
26 subject to the FEHA.

27 49. Plaintiff was an employee of these defendants.

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1 72. This harassment of Plaintiff was outside the scope of the personnel management
2 duties of the harasser, and the harassment constituted a concerted pattern of harassment or a repeated
3 routine, or a generalized nature. Further, the harassment of Plaintiff was not of a type necessary to
4 business and personnel management, and was instead of a nature engaged in for personal
5 gratification, because of meanness or bigotry, or for other personal motives which communicated
6 an offensive message to Plaintiff. The harasser engaged in harassing conduct toward Plaintiff,
7 outside of the harasser's supervisory role that was based upon one or more of Plaintiff's protected
8 statuses identified herein. The harassment of Plaintiff was not limited to a single day, rather it was
9 an ongoing, concerted, and "mean" program of harassment which was intended to impose one or
10 more of the adverse employment actions identified herein. The harasser's behavior towards Plaintiff
11 was so objectively offensive that it altered the conditions of Plaintiff's employment and created a
12 hostile or abusive work environment.

13 73. Plaintiff was harmed.

14 74. These defendants' conduct was a substantial factor in causing Plaintiff's harm.

FOURTH CAUSE OF ACTION

FEHA HARASSMENT: WORK ENVIRONMENT HARASSMENT

Gov. Code §§ 12923 & 12940(j) - CACI 2522A

(Against Defendant Russo)

18 75. Plaintiff realleges, and incorporates herein by reference, each and every allegation
19 contained in the foregoing paragraphs, inclusive, as though fully set forth herein. Further, all
20 allegations set forth in this cause of action are pled upon information and belief, unless otherwise
21 stated.

22 76. These defendants were employers or another entity subject to the FEHA.

23 77. Plaintiff and Russo were employees of the Defendant City at all times relevant.

24 78. Plaintiff was subjected to harassing conduct due to one or more of the following
25 protected statuses applicable to Plaintiff: color; national origin (includes language restrictions);
26 race; and because Plaintiff gave statements or testimony related to a rights protected by the FEHA.

27 79. The harassing conduct was severe or pervasive.

1 80. A reasonable person in Plaintiff’s circumstances, sharing one or more of Plaintiff’s
2 protected statuses, would have considered the work environment to be hostile, intimidating,
3 offensive, oppressive, or abusive.

4 81. Plaintiff considered the work environment to be hostile, intimidating, offensive,
5 oppressive, or abusive.

6 82. Defendant Russo participated in, and encouraged other to participate in, the harassing
7 conduct.

8 83. This harassment of Plaintiff was outside the scope of the personnel management
9 duties of the harasser, and the harassment constituted a concerted pattern of harassment or a repeated
10 routine, or a generalized nature. Further, the harassment of Plaintiff was not of a type necessary to
11 business and personnel management, and was instead of a nature engaged in for personal
12 gratification, because of meanness or bigotry, or for other personal motives which communicated
13 an offensive message to Plaintiff. The harasser engaged in harassing conduct toward Plaintiff,
14 outside of the harasser’s supervisory role that was based upon one or more of Plaintiff’s protected
15 statuses identified herein. The harassment of Plaintiff was not limited to a single day, rather it was
16 an ongoing, concerted, and “mean” program of harassment which was intended to impose one or
17 more of the adverse employment actions identified herein. The harasser’s behavior towards Plaintiff
18 was so objectively offensive that it altered the conditions of Plaintiff’s employment and created a
19 hostile or abusive work environment.

20 84. Plaintiff was harmed.

21 85. Defendant Russo’s conduct was a substantial factor in causing Plaintiff’s harm.

22 86. In doing the things herein alleged, the acts and conduct of Defendant Russo
23 constituted “malice,” “oppression” and/or “fraud” (as those terms are defined by Civ. Code §
24 3294(c)), in that these acts were intended to cause injury to Plaintiff and/or constituted despicable
25 conduct carried on by the individual defendants with willful and conscious disregard of the rights
26 of Plaintiff, with the intention of the individual defendants to deprive Plaintiff of property and legal
27 rights, justifying an award of exemplary and punitive damages in an amount according to proof, in
28 order to deter the individual defendants from similar conduct in the future, should be made.

1 **FIFTH CAUSE OF ACTION**

2 **FEHA RETALIATION**

3 **Gov. Code § 12940(h) - CACI 2505**

4 **(Against Public Entity Defendants Only)**

5 87. Plaintiff realleges, and incorporates herein by reference, each and every allegation
6 contained in the foregoing paragraphs, inclusive, as though fully set forth herein. Further, all
7 allegations set forth in this cause of action are pled upon information and belief, unless otherwise
8 stated.

9 88. These defendants were employers with more than five employees or another entity
10 subject to the FEHA.

11 89. Plaintiff was an employee of these defendants.

12 90. Plaintiff engaged in one or more of the following protected acts: participated as a
13 witness in a discrimination or harassment complaint, and reported or resisted any form of
14 discrimination or harassment.

15 91. These defendants took one or more of the following adverse employment actions
16 against Plaintiff: constructively demoted; denied any employment benefit or privilege; denied work
17 opportunities or assignments; and reprimanded.

18 92. Plaintiff having engaged in one or more of the aforementioned protected acts was a
19 substantial motivating reason for these defendants' decision to subject Plaintiff to one or more of
20 the above adverse employment actions.

21 93. Plaintiff was harmed.

22 94. These defendants' decision to subject Plaintiff to one or more of these adverse
23 employment actions was a substantial factor in causing Plaintiff's harm.

24 **SIXTH CAUSE OF ACTION**

25 **FEHA FAILURE TO PREVENT HARASSMENT,
26 DISCRIMINATION, OR RETALIATION**

27 **Gov. Code § 12940(k) - CACI 2527**

1 **(Against Public Entity Defendants Only)**

2 95. Plaintiff realleges, and incorporates herein by reference, each and every allegation
3 contained in the foregoing paragraphs, inclusive, as though fully set forth herein. Further, all
4 allegations set forth in this cause of action are pled upon information and belief, unless otherwise
5 stated.

6 96. These defendants were employers with more than five employees or another entity
7 subject to the FEHA.

8 97. Plaintiff was an employee of these defendants.

9 98. Plaintiff was subjected to harassment and retaliation in the course of employment.

10 99. These defendants failed to take all reasonable steps to prevent the harassment,
11 discrimination, or retaliation.

12 100. Plaintiff was harmed.

13 101. These defendants' failure to take all reasonable steps to prevent harassment,
14 discrimination, or retaliation was as substantial factor in causing Plaintiff's harm.

15 **SEVENTH CAUSE OF ACTION**

16 **BATTERY (CACI 1300)**

17 **(Against Defendant Russo Only)**

18 102. Plaintiff realleges, and incorporates herein by reference, each and every allegation
19 contained in the foregoing paragraphs, inclusive, as though fully set forth herein. Further, all
20 allegations set forth in this cause of action are pled upon information and belief, unless otherwise
21 stated.

22 103. Defendant Russo touched Plaintiff with the intent to harm or offend Plaintiff.

23 104. Plaintiff did not consent to the touching.

24 105. Plaintiff was harmed by Defendant Russo's conduct.

25 106. In doing the things herein alleged, the acts and conduct of Defendant Russo
26 constituted "malice," "oppression" and/or "fraud" (as those terms are defined by Civ. Code §
27 3294(c)), in that these acts were intended to cause injury to Plaintiff and/or constituted despicable
28 conduct carried on by the individual defendants with willful and conscious disregard of the rights

1 of Plaintiff, with the intention of the individual defendants to deprive Plaintiff of property and legal
2 rights, justifying an award of exemplary and punitive damages in an amount according to proof, in
3 order to deter the individual defendants from similar conduct in the future, should be made.

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PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment as against Defendants, jointly and severally, as follows, for:

- 1) Compensatory damages in an amount according to proof at time of trial.
- 2) Attorney’s fees and costs pursuant to all applicable statutes or legal principles, including, but not limited to: Gov. Code § 12965(b)
- 3) Punitive, or exemplary damages pursuant to Civ. Code § 3294 as against Defendant Russo only.
- 4) Costs of suit incurred.
- 5) Civil penalties as permitted by statute.
- 6) Prejudgment interest on all amounts claimed as permitted by law.
- 7) All other general, specific, direct, indirect, consequential, and incidental damages, in an amount according to proof at time of trial.
- 8) Such other and further relief as the Court may deem proper.

ROMERO LAW, APC

DATED: June 8, 2023

By: 

Alan Romero (SBN 249000)
Lucas E. Rowe (SBN 298697)
Sara Simms (SBN 268011)
Eric Hahn (SBN 311771)
Angela Xie (SBN 333530)
Attorneys for Plaintiff
SAM DE SYLVA


DEMAND FOR JURY TRIAL

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Plaintiff hereby makes demand for Jury Trial, and has timely posted the jury fee deposit.

ROMERO LAW, APC

DATED: June 8, 2023

By: 

Alan Romero (SBN 249000)
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Attorneys for Plaintiff
SAM DE SYLVA

EXHIBIT 1



Civil Rights Department

KEVIN KISH, DIRECTOR

2218 Kausen Drive, Suite 100 | Elk Grove | CA | 95758
800-884-1684 (voice) | 800-700-2320 (TTY) | California's Relay Service at 711
calcivilrights.ca.gov | contact.center@calcivilrights.ca.gov

June 7, 2023

Alan Romero
251 S. Lake Avenue, Suite 930
Pasadena, CA 91101

RE: **Notice to Complainant's Attorney**
CRD Matter Number: 202306-20912908
Right to Sue: De Sylva / Pasadena Police Department

Dear Alan Romero:

Attached is a copy of your complaint of discrimination filed with the Civil Rights Department (CRD) pursuant to the California Fair Employment and Housing Act, Government Code section 12900 et seq. Also attached is a copy of your Notice of Case Closure and Right to Sue.

Pursuant to Government Code section 12962, CRD will not serve these documents on the employer. You must serve the complaint separately, to all named respondents. Please refer to the attached Notice of Case Closure and Right to Sue for information regarding filing a private lawsuit in the State of California. A courtesy "Notice of Filing of Discrimination Complaint" is attached for your convenience.

Be advised that the CRD does not review or edit the complaint form to ensure that it meets procedural or statutory requirements.

Sincerely,

Civil Rights Department



Civil Rights Department

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June 7, 2023

RE: Notice of Filing of Discrimination Complaint
CRD Matter Number: 202306-20912908
Right to Sue: De Sylva / Pasadena Police Department

To All Respondent(s):

Enclosed is a copy of a complaint of discrimination that has been filed with the Civil Rights Department (CRD) in accordance with Government Code section 12960. This constitutes service of the complaint pursuant to Government Code section 12962. The complainant has requested an authorization to file a lawsuit. A copy of the Notice of Case Closure and Right to Sue is enclosed for your records.

Please refer to the attached complaint for a list of all respondent(s) and their contact information.

No response to CRD is requested or required.

Sincerely,

Civil Rights Department



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June 7, 2023

Sam De Sylva

RE: **Notice of Case Closure and Right to Sue**
CRD Matter Number: 202306-20912908
Right to Sue: De Sylva / Pasadena Police Department

Dear Sam De Sylva:

This letter informs you that the above-referenced complaint filed with the Civil Rights Department (CRD) has been closed effective June 7, 2023 because an immediate Right to Sue notice was requested.

This letter is also your Right to Sue notice. According to Government Code section 12965, subdivision (b), a civil action may be brought under the provisions of the Fair Employment and Housing Act against the person, employer, labor organization or employment agency named in the above-referenced complaint. The civil action must be filed within one year from the date of this letter.

To obtain a federal Right to Sue notice, you must contact the U.S. Equal Employment Opportunity Commission (EEOC) to file a complaint within 30 days of receipt of this CRD Notice of Case Closure or within 300 days of the alleged discriminatory act, whichever is earlier.

Sincerely,

Civil Rights Department

1 **COMPLAINT OF EMPLOYMENT DISCRIMINATION**
2 **BEFORE THE STATE OF CALIFORNIA**
3 **Civil Rights Department**
4 **Under the California Fair Employment and Housing Act**
5 **(Gov. Code, § 12900 et seq.)**

6 **In the Matter of the Complaint of**

7 Sam De Sylva

CRD No. 202306-20912908

8 Complainant,

9 vs.

10 Pasadena Police Department

11 Respondents

12 **1. Respondent Pasadena Police Department is an employer** subject to suit under the
13 California Fair Employment and Housing Act (FEHA) (Gov. Code, § 12900 et seq.).

14
15 **2. Complainant Sam De Sylva**, resides in the City of , State of .

16 **3. Complainant alleges that on or about March 1, 2023**, respondent took the
17 following adverse actions:

18 **Complainant was harassed** because of complainant's national origin (includes language
19 restrictions), color.

20 **Complainant was discriminated against** because of complainant's disability (physical,
21 intellectual/developmental, mental health/psychiatric) and as a result of the discrimination
22 was reprimanded, demoted, denied any employment benefit or privilege, denied work
23 opportunities or assignments.

24 **Complainant experienced retaliation** because complainant reported or resisted any form
25 of discrimination or harassment, participated as a witness in a discrimination or harassment
26 complaint and as a result was reprimanded, demoted, denied any employment benefit or
27 privilege, denied work opportunities or assignments.

1 **Additional Complaint Details:** The Pasadena Police Department (“PPD”) has a history of
2 discriminatory behavior towards minority employees. Plaintiff has been a victim of this for
3 years. The PPD has an internal police department gang known as the ‘Good Old Boys Club’
4 (“GOBC”). The GOBC mainly consists of very high ranking male, white employees. Currently
5 there are at least one lieutenant (Russo), a police Commanders (Grisafe), Deputy Chief
6 (Chute), a former Commander (Goodman), and the former Chief of Police (Clawson), who
7 were or are in the GOBC.

8 If any employee dares to challenge a member of the GOBC on the bases that the
9 individual is violating PPD policies or the law, the complaining individual would be subject to
10 retaliation. This retaliation takes the form of false internal affairs investigations,
11 undeservedly negative performance evaluations, loss of work benefits, denials of
12 promotions, demotions, or termination.

13 In March 2021, Plaintiff was named as a witness in an investigation of certain actions
14 in PPD’s Traffic Section. Lt. Tony Russo was a supervisor in the Traffic Section and was the
15 target of investigation. Some sergeants who had filed complaints against Russo, which
16 prompted the investigation.

17 Lt. Russo is a favorite of the GOBC and has climbed the ranks quickly as a result. Lt.
18 Russo generally behaves in an unprofessional manner, but that has not hindered his career.
19 Lt. Russo has made impermissible racial jokes and political comments in the workplace,
20 some of which led to complaints to Russo’s Commander, but no action was taken. Lt. Russo
21 also has a pattern of behaving unprofessionally by pulling on the holstered firearms of other
22 officers (which is incredibly unsafe), yelling at subordinates and colleagues, routinely being
23 late for briefings, telling racially and politically inappropriate jokes, and showing
24 inappropriate videos in the workplace. If Lt. Russo is challenged while engaging in any of
25 these behaviors, he dismisses the actions claiming that he “was joking” or that he will
26 outright deny that the incident occurred in the first place.

27 When Lt. Russo found out about the complaint, he initiated an investigation against
28 the sergeant who complained, which prompted the sergeant to file a complaint against
29 Russo with the Human Resources Department. Around the same time, two other sergeants
30 brought their complaints to HR as well.

31 Some of the complaints against Lt. Russo concerned unlawful and fraudulent
32 behavior. Between September and November 2021, when Russo was in the Traffic Section,
33 he would falsify statistics to obtain more grant money, falsify time records, and bill for hours
34 that were not actually worked. Plaintiff complained to Lt. Russo, a supervisory level
35 employee of PPD, that these actions were illegal and Russo told him to “relax” and that the
36 “Commander is okay with it.” Lt. Russo also directed subordinate officers to issue warning
37 “citations” to members of the public in order artificially inflate citation statistics. Moreover, Lt.
38 Russo would also report that double the number of warning citations had been actually
39 issued. This practice, again, was to artificially inflate statistics to make it appear that his
40 leadership resulted in far more proactive police work. Plaintiff nevertheless reported and
41 resisted these illegal behaviors to Lt. Russo and other command staff.

42 In June 2021, Plaintiff was contacted by Sgt. Gomez about alleged inappropriate
43 racial and political comments Lt. Russo made in the workplace. Plaintiff was later
44 interviewed by an investigator on October 18, 2021. The investigator was retired chief, Dan
45 Bressler, who had very specific questions for Plaintiff. Bressler interviewed Plaintiff three
46 different times. According to Bressler, it was further alleged that Lt. Russo had retaliated

1 against several sergeants because they advised him that racial jokes and political
2 comments are inappropriate in workplace, especially for his rank.

3 Plaintiff gave statements against Lt. Russo, confirming that Russo had made
4 inappropriate, racially and politically derogatory comments. Plaintiff also complained of
5 these political and racial comments to supervisory level staff at PPD but Command Staff
6 took no action against Russo.

7 After the investigation into Lt. Russo was completed, there was a recommendation
8 that Lt. Russo receive 160 hours of unpaid leave as discipline, which then-Chief Moody was
9 going to enforce. However, in or around May 2022, Chief Moody rotated out of control and
10 Chief Clawson took over. Then-Chief Clawson, Commander Chute, Commander Grisafe,
11 and then-Commander Goodman liked Lt. Russo and minimized his discipline to 40 hours of
12 unpaid leave instead. Plaintiff is informed and believes that the Interim HR Director who
13 initiated the HR investigation, Alex Soto, was upset at Lt. Russo's reduction in discipline
14 because there appeared to be no legitimate basis for the reduction.

15 On or around September 25, 2021, Lt. Russo came up behind Plaintiff at the scene
16 of an incident and kicked Plaintiff in the leg so hard that it buckled his knee. Lt. Russo
17 nonsensically said he was testing the padding on Plaintiff's pants. In reality, Lt. Russo's
18 action was retaliation for Plaintiff's statements against Russo concerning Russo's racially
19 inappropriate comments in the preceding months. Moreover, Russo's kicking of Plaintiff
20 constituted a battery, a criminal act under Penal Code §242. Plaintiff further complained of
21 this incident to command staff and communicated that he desired prosecution for the
22 offense. Command Staff refused Plaintiff's request, saying they would handle the matter
23 internally. This is another example of the GOBC protecting its own to the detriment of the
24 Plaintiff and other officers, even when the office in question has committed a criminal act.

25 Lt. Russo's battery caused Plaintiff to suffer a tear to his meniscus and chondral
26 patella and further required surgery on his knee. As a result of the pain from the senseless
27 battery, Plaintiff could not run for several weeks. Plaintiff did not file a Worker's
28 Compensation claim at first because he was afraid of the potential retaliation for doing so.
29 However, Lt. Gordon learned of the battery by Lt. Russo and Lt. Gordon caused a Worker's
30 Compensation claim to be filed on Plaintiff's behalf. Plaintiff did so and underwent surgery,
31 physical therapy, and lengthy recovery period – which is still on-going. Plaintiff was off work
32 for more than six months, losing substantial overtime opportunities and pay because of the
33 injury and related recovery period. Plaintiff remains on light duty and is not permitted to work
34 overtime as a result. Plaintiff has lost more than \$60,000 in salary and overtime to-date, in
35 addition to his other economic and non-economic damages.

36 On another occasion, Lt. Russo happened to be in Plaintiff's office when Plaintiff got
37 a call from HR about giving statements in the investigation into Russo. Russo commented
38 about Plaintiff giving statements and the implication was that Plaintiff should claim to know
39 nothing.

40 On or around December 31, 2021, Lt. Russo began harassing and retaliating against
41 Plaintiff and others who gave statements against him. Cpl. Irvin Myles was subjected to
42 retaliation when Russo said he would write-up Myles for not having the hood up on his
43 holster (triple retention holster), even though it is not a violation of PPD policy. Cpl. Myles
44 wrote an email to Human Resources and command staff saying that Russo was engaging in
45 retaliation and was trying to get him (Myles) in trouble for nothing. Russo also tried to get
46 Plaintiff removed from leading the Rose Parade so that he (Russo) could do it himself.

1 Plaintiff told Russo he would not step aside and reported the issue to command staff.
2 Clawson sided with Plaintiff because, in Plaintiff's view, Clawson saw that the retaliation
3 came just days after investigatory interviews and wanted to avoid the further appearance of
4 impropriety. Russo then withheld information related to duties that Plaintiff was supposed to
5 complete before the parade so that Plaintiff would fail. Plaintiff found out the day of the
6 parade about Russo's deception, so he organized an emergency meeting with superiors to
7 address the issues before the failure occurred. Notably, Russo's harassing and retaliatory
8 actions seem to be taken against those employees, like Plaintiff, who are not Caucasian.

9 Plaintiff is a well-respected employee of the PPD with 21 years of outstanding
10 evaluations. Plaintiff does not have a single evaluation with anything negative. Despite this
11 history of outstanding performance, Plaintiff and three other employees are now being
12 painted as problematic employees because they cooperated in the investigations against Lt.
13 Russo.

14 Since giving statements against Russo and other GOBC members, Plaintiff's pay
15 raises have been withheld, he was denied a take home car for several months (a negotiated
16 item for Lieutenants) while other newly promoted male white Lieutenants were issued
17 vehicles, he has been denied a flex schedule (another negotiated item for Lieutenant), he is
18 the only lieutenant who has had his work credit card taken from him, he is the only
19 lieutenant without an assigned parking spot, and he is the only Lieutenant in the PPD who
20 works at a cubicle rather than having an office. To be clear, Plaintiff previously had an office,
21 but the day after he made a rebuttal to a bogus negative evaluation, Plaintiff was moved to a
22 cubicle. Plaintiff was also refused the accrual of 88 hours of vacation time while he was on
23 medical leave, while similarly situated officers on medical leave as a result of work-related
24 injuries are allowed to accrue leave. The retaliatory acts are numerous and obvious.

25 Plaintiff has also been threatened with concocted and baseless internal affairs
26 investigations by Commander Grisafe if Plaintiff were to cooperate in any future HR
27 investigations of GOBC members.

28 For himself, Lt. Russo has retaliated against Plaintiff by forcing him to buy equipment
out of his own pocket when the same equipment is provided free of charge to other officers.
Russo has also changed Plaintiff's assignments at the last minute, withheld information from
Plaintiff to make him appear incompetent, and ordered Plaintiff to take actions against other
minority officers that were unwarranted or unsupported. Russo did this with the support of
the GOBC, including then-Chief Clawson.

In February 2023, Plaintiff returned to work following his recovery from Lt. Russo's
battery against him. Rather than assigning Plaintiff to a field assignment or to command a
unit, which would be typical for a lieutenant of Plaintiff's caliber and experience, Deputy
Chief Chute ordered Plaintiff to work as a dispatcher, a civilian position – not even as a
supervisor in Dispatch. Plaintiff asked Chute if there had ever been a time when a lieutenant
was assigned to dispatch as a dispatcher. Chute responded, "no." Chute also told Plaintiff
that he (Plaintiff) may also have to work a night shift – a less desirable shift. Plaintiff
challenged the assignment to Chute, saying that there are two other lieutenants on light duty
who are permitted to work in their normal assignments. Normally, if a lieutenant is on light
duty and there are no sworn positions available, that lieutenant would be permitted to
remain on paid leave. Plaintiff, however, was not afforded this benefit and was instead
humiliated by being placed in a civilian position with no supervisory duties. The act of
assigning Plaintiff to dispatch is a violation of Government Code § 3303(j) which states, "No

1 public safety officer shall be loaned or temporarily reassigned to a location or duty
2 assignment if a sworn member of his or her department would not normally be sent to that
3 location or would not normally be given that duty assignment under similar circumstances.”

4 Plaintiff was scheduled to return to duty (in February 2023) at the same time as
5 another lieutenant who had also been on leave – Lt. Mario Ortiz. Ortiz was initially assigned
6 to the Detective Division upon his return, but after Plaintiff complained of being assigned to
7 Dispatch, Deputy Chief Chute placed Plaintiff in the Detective Division and allowed Ortiz to
8 remain off-work at full pay. Ortiz was not assigned to Dispatch, nor was it even a
9 consideration by Chute to do so.

10 While Plaintiff was assigned to the Detective Division, Commander Grisafe promptly
11 gave Plaintiff a “poor” performance evaluation. The poor performance evaluation was
12 entirely false and unsupportable, and was clearly designed to further harass, discriminate,
13 and retaliate against Plaintiff. Plaintiff immediately submitted a rebuttal to the evaluation
14 detailing the false and unsupported facts included by Commander Grisafe. The very next
15 work day after submitting the rebuttal, Plaintiff was moved to the position of a grant writer
16 and placed in a cubicle. The position of grant writer is also a civilian position and constitutes
17 a further violation of Government Code § 3303(j). In the grant writer position, Plaintiff is
18 required to have his work approved by a civilian employee in the Finance Department.
19 Plaintiff has written many grant applications for PPD in the past and had never been
20 required to get the approval of a civilian employee.

21 Further, upon Plaintiff’s return to work from extended medical leave, the City did not
22 enter into or offer to engage in a good faith interactive process meeting to ensure that
23 Plaintiff could perform all of the essential functions of the position to which he was returning.

24 Plaintiff was supposed to receive a salary increase in March 2023, but the raise was
25 denied because Plaintiff remains on probation. To be clear, Plaintiff’s probation was
26 extended by Commander Grisafe for the purpose of humiliating Plaintiff and denying him his
27 salary increase.

28 In addition to the civilian assignment, Plaintiff’s supervisor, Commander Grisafe,
gave Plaintiff a performance evaluation that failed to contain any of the excellent work
Plaintiff had done prior to going out on injury/medical leave and, instead, used Plaintiff’s
medical leave as a basis to extend Plaintiff’s probationary period and deny him a pay raise.
These are actions that have not been taken against other lieutenants similarly situated.

As a result of all of the harassment, discrimination, and retaliation, Plaintiff’s physical
and mental health have suffered. The stress and anxiety of the situation have caused
sleeplessness, increased blood pressure, and metabolic issues. Prior to the events
described herein, Plaintiff was in excellent health.

1 VERIFICATION

2 I, **Alan Romero**, am the **Attorney** in the above-entitled complaint. I have read the
3 foregoing complaint and know the contents thereof. The matters alleged are based
4 on information and belief, which I believe to be true.

5 On June 7, 2023, I declare under penalty of perjury under the laws of the State of
6 California that the foregoing is true and correct.

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Pasadena, CA