

1 COREY W. GLAVE (State Bar No. 164746)  
Attorney at Law  
2 632 S. Gertruda Ave  
Redondo Beach, CA 90277  
3 Phone: (323) 547-0472  
[POAttorney@aol.com](mailto:POAttorney@aol.com)  
4

5 Attorneys for Plaintiffs  
Santa Ana Police Officers Assn  
6 and Gerry Serrano

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

Assigned for All Purposes Judge Lon F. Hurwitz

10 SANTA ANA POLICE OFFICERS )  
11 ASSOCIATION; GERRY SERRANO )

Case 30-2021-01230129-CU-OE-CJC

CIVIL COMPLAINT

12 Plaintiffs,  
13 vs.

- 1. VIOLATION OF GOVERNMENT CODE §3500, ET SEQ.
- 2. VIOLATION OF THE PUBLIC SAFETY OFFICERS PROCEDURAL BILL OF RIGHTS ACT, GOVERNMENT CODE SECTION 3300 ET. SEQ.
- 3. VIOLATION OF FREEDOM OF SPEECH
- 4. VIOLATION OF LABOR CODE §§1102, 1102, 1102.5
- 5. VIOLATION OF PENAL CODE §§832.5-832.8, EVIDENCE CODE §§1043-1046
- 6. RETALIATION UNDER GOVERNMENT CODE §12900, ET SEQ.

14 CITY OF SANTA ANA, a Municipal )  
Corporation; SANTA ANA POLICE )  
15 DEPARTMENT, a public safety )  
department; DAVID VALENTIN, Chief )  
of Police; KRISTIN RIDGE, City )  
16 Manager; SONIA CARVALHO, City )  
Attorney; JASON MOTSICK, Director of )  
17 Human Resources; DOES I-X, inclusive )

18 Defendants.  
19  
20  
21

22 REQUEST FOR JURY TRIAL

23  
24 COMES NOW PLAINTIFFS SANTA ANA POLICE OFFICERS ASSOCIATION  
25 and GERRY SERRANO and allege as follows:

- 26 1. Plaintiff Santa Ana Police Officers Association (SAPOA) is the recognized  
27 employee organization as defined under Government Code §3500, et seq., and/or  
28 Government Code §3501(a). The SAPOA has as one of its primary purposes the

1 representation of sworn and non-sworn employees of the Santa Ana Police Department  
2 in their employment relations with the City of Santa Ana and/or Santa Ana Police  
3 Department. In the sworn ranks the SAPOA represents all sworn officers holding the  
4 ranks of Police Sergeant and below, as well as Correctional Supervisor and below.

5 2. Plaintiff Gerry Serrano has been since 2016, and now is, the President of  
6 the Santa Ana Police Officers Association and the recognized representative of the  
7 Santa Ana Police Officers Association as that term is used in Government Code  
8 §3502.1. He is also a sworn police officer, holding the rank of Police Sergeant with the  
9 Santa Ana Police Department.

10 3. Defendant City of Santa Ana is a Municipal Corporation existing under the  
11 Constitution and the laws of the State of California. The City of Santa Ana is a public  
12 agency as that term is defined in Government Code §3501(c). It is a municipal entity  
13 employing public employees and thus, has a mandatory duty to comply with the  
14 provisions of Government Code §3300, et seq., and Government Code §3500, et seq.

15 4. Defendant Santa Ana Police Department is a department of the City of  
16 Santa Ana and a public safety department, as that terms is used in Government Code  
17 §3309.5. Defendant Santa Ana Police Department is also a public agency, as that term  
18 is used in Government Code §3500, et seq.

19 5. Defendant Kristine Ridge was and is the City Manager for the City of  
20 Santa Ana, and the direct supervisor/appointing authority of the Chief of Police and  
21 Human Resource Director. Ridge is the person responsible for the operations of the  
22 city, including the overall management of the City. Plaintiffs have information and belief  
23 that Ridge participated in, supervised and/or was actively involved in the incidents  
24 giving rise to this action in both her individual and official capacities.

25 6. Defendant David Valentin was and is the appointed Chief of Police for the  
26 City of Santa Ana, Santa Ana Police Department. As such he is charged with the  
27 supervision and management of personnel, including personnel investigations and  
28 discipline of employees of the Santa Ana Police Department. Plaintiffs have information

1 and belief that Valentin participated in, supervised and/or was actively involved in the  
2 incidents giving rise to this action in both his individual and official capacities.

3 7. Sonia Carvalho was and is a private attorney employed by the law firm of  
4 Best Best and Krieger LLP, and is the appointed and/or contracted City Attorney for the  
5 City of Santa Ana. Plaintiffs have information and belief that Carvalho participated in,  
6 supervised and/or was actively involved in the incidents giving rise to this action in both  
7 her individual and official capacities, and that she acted outside the scope of her duties  
8 as an attorney when engaging in acts described below.

9 8. Defendant Jason Motsick was and is the appointed Human Resource  
10 Director for the City of Santa Ana and is charged with the supervision and management  
11 of personnel, including personnel investigations and discipline of employees of the  
12 Santa Ana Police Department. Plaintiffs have information and belief that Motsick  
13 participated in, supervised and/or was actively involved in the incidents giving rise to  
14 this action in both his individual and official capacities.

15 9. At all times herein mentioned, DOES I-X, inclusive, were the agents, servants  
16 and employees of Respondent, City of Santa Ana and/or Santa Ana Police Department,  
17 and in doing the things hereinafter alleged, were acting within the scope of their  
18 authority as such agents, servants and employees with the permission and consent of  
19 Respondents. Claimant will amend the Complaint to allege true names and capacities  
20 of DOES I-X, inclusive when ascertained.

21 **GENERAL FACTS**

22 10. Serrano became President of the SAPOA in 2016 and has served  
23 continuously in the position.

24 11. When seeking appointment as Chief of Police, Defendant Valentin sought  
25 out and received the support of Serrano and the SAPOA. Later, when the SAPOA and  
26 Serrano sought wages and benefits for the SAPOA membership and/or opposed  
27 Valentin on matters of concerns to the Plaintiffs, Valentin's demeanor and working  
28 relationship with Plaintiffs became adversarial.

1           12.    In or about February 2019, the City Council for the City of Santa Ana  
2 passed a resolution adopting a Memorandum of Understanding that provided  
3 significant, and needed salary increases for members of the SAPOA. Two City  
4 Councilpersons and Defendant Valentin opposed the raises. Thereafter, the SAPOA  
5 led a successful recall effort to remove the City Councilperson, causing Valentin to  
6 become concerned with the SAPOA's and Serrano's political influence.

7           13.    Later, when Valentin attempted to obtain approval from the City Council to  
8 create an additional captain position so he could promote one of his allies,  
9 SAPOA/Serrano opposed the creation of the position. The City Council sided with the  
10 SAPOA/Serrano and did not create an additional captain position. Valentin became  
11 emotionally upset and barked at Serrano that he needed to "STAND DOWN." It was  
12 clear Valentin's concern about the SAPOA having more influence with the City Council  
13 than he did was growing.

14           14.    Similarly, Defendant Carvalho began expressing to others that she did not  
15 like Serrano. Thereafter, she would purposely interfere and obstruct items pertaining to  
16 the SAPOA or Serrano.

17           15.    It is believed that Defendants Valentin and Carvalho formed a conspiracy  
18 to attack Serrano and the SAPOA. Defendant Valentin and members of his police  
19 management team have admitted animosity against Serrano as the President of the  
20 Santa Ana Police Officers Association. This animosity has caused Defendant Valentin  
21 and the management team under his guidance to treat members of the SAPOA  
22 adversely if the employee is believed to be associated with or sought the aid of SAPOA  
23 and/or SAPOA President Serrano. Due to this relationship, Defendant Valentin  
24 purposely and intentionally interferes with the SAPOA's ability to represent its  
25 membership and acts contrary to state law. Conversely, Valentin gives special  
26 treatment and turns a blind eye to allegations of misconduct by those he believes will  
27 either give their loyalty to him and/or oppose the SAPOA/Serrano.

1 **SPYING**

2 16. In January, 2020, Defendant Valentin began spying on Plaintiff Serrano  
3 and members of the Santa Ana City Council by redirecting copies of all e-mail  
4 communications sent by Serrano to City Councilmember Solorio, from June 2017  
5 forward, to his office. Defendant Valentin then had the City’s IT department put a tracer  
6 on all of Serrano’s emails so that they would automatically be copied to Defendant  
7 Valentin.

8 **OTHER INTERFERENCE**

9 17. During the last year and continuing to the present, Defendants have  
10 censored membership communications and/or denied the SAPOA the ability to send  
11 membership communications via the City’s e-mail system.

12 18. Defendant Valentin has engaged in action to advocate for a change of  
13 leadership in the SAPOA and has attempted to interfere with SAPOA elections. Said  
14 action includes, but is not limited to, encouraging candidates to run against Serrano for  
15 the position of Association President, and questioning members’ support for Serrano  
16 when they are seeking special assignments and promotions.

17 **COMPLAINTS AGAINST LIEUTENANTS**

18 19. In or about January, 2020, the SAPOA and Serrano were informed of  
19 allegations of misconduct by SAPD Lieutenants/Commanders Jose Gonzalez and  
20 Robert Rodriguez. It was alleged that the two were maliciously spreading rumors  
21 regarding activities of Serrano and the SAPOA. Plaintiffs have information and belief,  
22 and thereon allege, that said actions constitute violations of department policy and  
23 negatively impact the morale of the police department as well as cause division in the  
24 SAPOA. The Plaintiffs met with Defendant Valentin and informed him of the allegations  
25 of misconduct. Valentin appeared dismissive. Since Valentin failed to initiate an  
26 investigation as required by Penal Code §§832.5-832.7, the SAPOA/Serrano reported  
27 the information to Defendant Ridge. Again, no investigation was initiated of the police  
28 commanders nor of Defendant Valentin.



1 with the District Attorney's office.

2 25. As part of the April, 2020, efforts to wrongfully bring a criminal case  
3 against Serrano, Defendants used department resources, including the Internal Affairs  
4 unit, to draft memoranda with adverse comments about Serrano. Serrano was never  
5 informed by Defendants of the internal investigation or memoranda, and Defendants  
6 failed to allow Serrano to review the adverse comments. It is further believed, to the  
7 extent that Defendants have initiated an Internal Affairs investigation, the investigation  
8 was not completed within one year of notice of the allegations of misconduct nor has  
9 Plaintiff Serrano been notified of any proposed discipline or outcome of the  
10 investigation during that one year period. Defendants intentionally concealed the  
11 information regarding this investigation and the related memoranda from Plaintiffs.

#### 12 **CULICHI TOWN COVER-UP**

13 26. On August, 2020, on-duty SAPD officers responded to a call for service at  
14 the Culichi Town Restaurant. The call involved allegations that off-duty SAPD officers  
15 had sexually battered two underage girls that were at the restaurant. The officers  
16 response was caught on body worn cameras and the victim's family produced a video  
17 of the incident that showed off-duty police sergeant Oscar Lizardi as being present and  
18 possibly involved in the incident. A Police Commander reported the incident to then IA  
19 Commander, and now Deputy Chief, Robert Rodriguez. Rodriguez is believed to be a  
20 close friend of Lizard. He denied the Commander's request for the incident to be  
21 investigated.

22 27. On or about September 2, 2020, a request for public records was made  
23 for information related to the call including the Incident Detail Report, copy of the 911  
24 emergency calls and/or non-emergency line calls, and police dispatch radio traffic audio  
25 files related to the incident (Incident No. 200805316). Defendant Valentin, on  
26 September 24, 2020, denied, in total, the PRA request in order to cover up the  
27 misconduct of his IA Commander and one of his closest allies (Lizardi) asserting that  
28 the records could not be released because they involved juveniles. This demonstrated

1 that Valentin was aware of the incident and that it involved allegations of criminal  
2 conduct towards juveniles by off-duty SAPD officers.

3 28. SAPOA/Serrano complained to Defendants about Valentin's and  
4 Rodriguez's attempts to cover up alleged criminal conduct by officers who supported  
5 Defendant Valentin pointing out that this conduct amounted to conspiring to commit a  
6 criminal act. It is believed that it wasn't until June, 2021, after multiple complaints and  
7 requests for investigations by the SAPOA, that Defendants initiated an investigation of  
8 two of the three responding officers. The third responding officer was given a special  
9 assignment on Lizardi's specialized team. In July, 2021, the Department initiated an  
10 Internal Affairs investigation of one of the off-duty officers, but not Lizardi, who was the  
11 ranking officer amongst the off duty personnel involved in the incident.

12 29. On information and belief, Plaintiffs allege that Defendants have refused  
13 to initiate an investigation of Deputy Chief Rodriguez and/or Defendant Valentin.

#### 14 **PENSION ISSUE**

15 30. In October, 2020, the Defendants inquired of CalPERS as to the propriety  
16 of including a premium pay, called "Confidential" received by Serrano while on paid  
17 release time to serve as the SAPOA President in the calculation of his pension. It is  
18 believed that the City had never inquired about this issue with any prior SAPOA  
19 President. When it appeared that there might be a question regarding the inclusion of  
20 the premium in the calculation of Serrano's pension, the City and SAPOA reached an  
21 agreement acceptable to CalPERS. However, because Serrano continued to carry out  
22 his duty to represent the Association and its members, activity that is clearly protected  
23 under the law, Defendants failed and refused to take the necessary steps to resolve the  
24 issue.

#### 25 **FPPC COMPLAINT**

26 31. In November, 2020, Sonia Carvalho, believed to be acting on her own  
27 personal vendetta and without City Council approval sent a request to the California Fair  
28 Political Practices Commission seeking a finding that Serrano, as the SAPOA



1 President, engaged in a conflict of interest by negotiating a side letter agreement  
2 related to the pension issue. As the City Council was scheduled to approve the  
3 resolution of the pension issue, Carvalho made multiple inquiries to the FPPC for an  
4 opinion letter finding Serrano was engaging in an unethical conflict of interest.  
5 Ultimately, the FPPC found that Serrano did not engage in any conflict of interest nor  
6 did his actions give rise to an unethical conflict of interest. It is believed that Carvalho  
7 was acting on her own and with the sole purpose of personally interfering with the  
8 SAPOA/Serrano and/or with intent to harm Serrano.

9 **FEMALE DISCRIMINATION COMPLAINTS**

10 32. In or about November, 2020, SAPOA/Serrano informed Defendant Ridge  
11 that there was ongoing discrimination against female employees in the Department.  
12 Plaintiffs described an incident involving female officers' attendance at a conference  
13 regarding leadership issues for women in law enforcement and the Chief's behavior  
14 towards those female employees. Defendant Ridge did not open an investigation into  
15 the matter until months later when it was statutorily too late to take disciplinary action  
16 against Defendant Valentin or his subordinates.

17 33. After Plaintiffs informed Defendant Ridge of the discrimination and  
18 harassment of the female officers, Defendant Valentin ordered a "preliminary  
19 assessment" in order to cover up his and his staff's misconduct. The Human Resource  
20 representative that appeared with him when he confronted the female officers  
21 conducted the investigation. The female officers were ordered to appear for  
22 interrogations. They were not provided any information as to the nature of the  
23 investigation. When they appeared for interrogation, the HR Representative read from a  
24 transcript, indicated that she was going to prepare a report that only went to Valentin,  
25 and then questioned the females about the female's actions and did not have any  
26 preset questions about Chief Valentin's, DC Esparza's or other police commander's  
27 actions.

28 34. On information and belief, it is alleged the Valentin lied to Defendant

1 Ridge and Defendant Motsick claiming that he had initiated an investigation of the  
2 discrimination when, in fact, he initiated an investigation of the female officers in order  
3 to silence them.

4 35. The Defendants did not hire an investigator to look into these issues of  
5 harassment and discrimination until April, 2021.

6 36. On or about May 3, 2021, Plaintiffs filed a Notice of Claim against the City  
7 of Santa Ana, Santa Ana Police Department, Defendant Valentin, and Deputy Chief  
8 Enriquez Esparaza related to the unlawful discrimination, harassment and investigation  
9 of the female officers.

10 37. Defendant has summarily dismissed the complaints from the  
11 SAPOA/Serrano regarding the discrimination against female officers as just part of  
12 Serrano's desire to fix his pension issue.

#### 13 **JAIL MANAGEMENT COMPLAINT**

14 38. On December 2, 2020, the SAPOA/Serrano sent an email to Defendant  
15 Ridge and Defendant Valentin requesting an investigation of misconduct by jail  
16 management/supervision wherein it was alleged that serious misconduct was being  
17 covered up and/or not addressed, and that supervisors were being directed to falsify  
18 reports and/or official documents.

#### 19 **DISCLOSURE OF CONFIDENTIAL RECORDS**

20 39. On or about February 25, 2021, a purported reporter with the Voice of OC  
21 (an online nonprofit media source) sent to Sonia Carvalho, the City Attorney for the City  
22 of Santa Ana and Santa Ana Police Department, a Public Records Act (PRA) request  
23 seeking, a spreadsheet or breakdown of how many employees at the Santa Ana Police  
24 Department have been put on paid administrative leave between 01/01/2016 and  
25 2/25/2021. The PRA request included a request for Ms. Carvalho to provide the  
26 reasons for the employees being put on paid administrative leave and a breakdown of  
27 total costs to the City of Santa Ana incurred by paid administrative leave for Santa Ana  
28 Police Department employees between 01/01/2016 and /25/2021.

1           40.    On or about March 26, 2021, without prior notice to the involved  
2 employees or the SAPOA and/or without complying with Penal Code §§832.5-832.8  
3 and/or Evidence Code §1043-1046, the City Attorney's office, the City of Santa Ana,  
4 under the supervision of Defendant Ridge and/or the Santa Ana Police Department,  
5 under the supervision of Defendant Valentin, intentionally and purposely produced  
6 confidential records from the involved officers' personnel files. It is believed that this  
7 disclosure included data that identified the individual officers involved which is a clear  
8 violation of Penal Code §832.7(d).

9           41.    Defendants Carvalho, Valentin, Ridge, City of Santa Ana and/or the Santa  
10 Ana Police Department are aware that peace officer personnel records are confidential  
11 and exempt from disclosure.

12           42.    On or about April 21, 2021, Deputy Chief of Police Eric Paulson, on behalf  
13 of Defendant Valentin, conceded in a letter to the Voice of OC that confidential peace  
14 officer personnel had been produced to the Voice of OC, including, but not limited to  
15 the names of the officers in connection with administrative investigations. Deputy Chief  
16 Paulson requested that the confidential records be returned. Plaintiffs are informed and  
17 believe, and thereupon allege that after the Voice of OC refused to return the  
18 confidential records, Defendants failed to take any action to force the Voice of OC to  
19 return the documents.

20           43.    On or about April 27, 2021, Defendants started notifying certain of the  
21 impacted officers of the unlawful actions by Defendants. The Notification did not advise  
22 the impacted employees of what specific information had been released and did not  
23 notify them of any rights they may have. The notices also did not indicate if the  
24 Defendants would be taking further action to enforce the employees' rights.

25           44.    Also on or about April 27, 2021, Deputy Chief Paulson informed the Santa  
26 Ana Police Officers Association of the Defendants' unlawful disclosure of the  
27 confidential peace officer information of members of the Santa Ana Police Officers  
28 Association. The notification of Defendants' unlawful action did not identify to the POA

1 the names of the impacted members/officers, but simply stated that the effected  
2 employees had been notified. As it turned out, when Deputy Chief Paulson claimed, on  
3 behalf and presumably at the directions of Defendants, that all affected employees had  
4 been notified, the statement was not true and appears to have been an intentional  
5 misrepresentation by Defendants to conceal the fact that the notifications to the  
6 effected employees had just begun.

7 45. The Santa Ana Police Officers Association filed a written complaint with  
8 the Defendant City Manager Kristine Ridge, and Human Resource Director Jason  
9 Motsick requesting that the matter be immediately investigated. Plaintiffs are informed  
10 and believe, and thereupon allege that even though the Defendants were required to  
11 investigate this matter, as a “citizen complaint” pursuant to Penal Code §§832.5-832.7,  
12 Defendants did not investigate nor discipline those city employees responsible for the  
13 violations of law.

14 46. On or about April 28, 2021, a number of affected officers and the Santa  
15 Ana Police Officers Association, which has a legal right to represent its members in any  
16 and all matters related to their employment with the Santa Ana Police Department,  
17 requested copies of any and all communications regarding PRA #21-289, including all  
18 e-mails between representatives of the City, Police Department and/or Voice of OC and  
19 also requested copies of all records that were produced to the Voice of OC and a list of  
20 the impacted officers. Defendants, as part of an ongoing plan and scheme to  
21 undermine and interfere with the POA’s ability to represent its members, denied the  
22 POA’s request for copies of the produced records and list of names of impacted  
23 employees. Defendants refused to provide copies of the unlawfully released information  
24 and/or the list of names of the impacted employees.

25 47. Also on April 28, 2021, Defendants Motsick, Valentin, Ridge and Carvalho  
26 issued a letter wherein they indicated that City was terminating the SAPOA’s long  
27 standing ability to send emails to communications to all SAPOA members through the  
28 City’s email system.

1 48. On or about May 3, 2021, Plaintiffs filed a Notice of Claim against  
2 Defendants City of Santa Ana, Santa Ana Police Department and Defendant Valentin  
3 regarding their unlawful disclosure of confidential peace officer records.

4 49. Defendant Ridge and Carvalho have summarily dismissed the complaints  
5 from the SAPOA/Serrano regarding the unlawful disclosure of records as just part of  
6 Serrano's desire to fix his pension issue.

7 **FALSE INFORMATION TO CITY COUNCIL MEMBER**

8 50. On or about May 12, 2021, the SAPOA/Serrano learned that Santa Ana  
9 City Councilmember Penalosa had complained to Defendant Valentin that officers from  
10 Valentin's special unit (MET), which is supervised by Sgt. Lizardi, had shined the patrol  
11 vehicle's ally lights at him while he was driving on multiple occasions. It was further  
12 learned that Defendant Valentin tried to falsely blame the SAPOA and Serrano for the  
13 officers' alleged actions.

14 **COMPLAINT AGAINST VALENTIN**

15 51. On or about May 13, 2021, the SAPOA/Serrano filed a complaint on  
16 behalf of the members of the SAPOA against Defendant Valentin and his police  
17 management similar to that made in November, 2020. SAPOA raised issues regarding  
18 unaddressed gender discrimination; unaddressed cover-up of the Culichi Town incident;  
19 allegations that Valentin committed perjury in at least one deposition; the inclusion of  
20 false information in official personnel records; Jail Managers covering up alleged  
21 misconduct by employees and/or falsifying records/reports related to the misconduct;  
22 interference in a criminal investigation where a former City Council person was initially  
23 listed as the suspect until the officer was directed to change his report; and interference  
24 with Association activities and/or representation of members.

25 52. In response to the May 13, 2021, complaint, Defendants either failed to  
26 initiate an investigation, as required by Penal Code §§832.5-832.7 and/or failed to  
27 report to the complainant the outcome of the investigation(s).

28 53. Defendant Ridge and Carvalho have summarily dismissed the complaints from

1 the SAPOA/Serrano as just part of Serrano’s desire to fix his pension issue.

2 **CITY MANAGER DISCIPLINARY ACTION**

3 54. In order to try to silence the SAPOA/Serrano, on or about May 18, 2021,  
4 Defendant Ridge issued a disciplinary document entitled “Employee Conduct Warning  
5 Letter” to Serrano for acts he undertook as the “advocate and leader of the SAPOA”  
6 which Defendant Ridge argued violated the City Charter and police department policies.  
7 Under the provisions of Government Code §3300, et seq., this document constituted a  
8 written reprimand and punitive actions as that term is used under Government Code  
9 §§3303 and 3304.

10 55. Under the City Charter Defendant Ridge does not have the ability to  
11 discipline a police sergeant as she is not the appointing authority for the police  
12 department. Therefore, Ridge’s actions were outside her official capacity and  
13 demonstrated that she was acting in excess of her authority in order to discriminate,  
14 harass and retaliate against Serrano and the SAPOA.

15 56. The May 18, 2021, Employee Conduct Warning Letter specifically initiated  
16 punitive action against Serrano, as the President of the SAPOA, for communicating (via  
17 text and e-mail) to elected officials raising issues with the management of the Police  
18 Department. The Warning Letter also directed Serrano, as the President of the SAPOA  
19 not to communicate regarding police management issues with the Santa Ana City  
20 Council.

21 57. Serrano, on May 20, 2021, invoked his rights under POBRA and  
22 requested all documentation supporting Defendant Ridge’s allegations of misconduct,  
23 and all complaints giving rise to the punitive action. Serrano also invoked his right to an  
24 administrative appeal under Government Code §3304. Defendants have failed and  
25 refused to provide Serrano any documents supporting the allegations contained in  
26 Ridge’s letter and have refused to afford him any administrative appeal of the punitive  
27 action imposed against him.

28 **INVESTIGATION OF SERRANO**



1 appeared with legal counsel. After arriving Serrano was informed that Defendants  
2 Motsick and Carvalho were conducting “fact-finding” regarding allegations they had  
3 been made aware of by a third party. The allegation was that Defendant Ridge had  
4 sexually harassed Serrano. Being caught off guard, Serrano, on advice of counsel, did  
5 not make any statement. It was clear at that point that the City was not protecting  
6 Serrano from retaliation by the other Defendants.

7 62. Even though Serrano had not filed a complaint against Defendant Ridge,  
8 Defendants feared that Serrano had disclosed or might disclose information of unlawful  
9 activities by Defendant Ridge.

10 63. As discussed below, it was later learned that approximately a month  
11 earlier Ridge “self-reported” the harassment allegations to Defendant Carvalho and her  
12 subordinate Defendant Motsick. In a letter to the City Council Ridge was careful in her  
13 assertion, making allegations that Serrano had been untruthful and interfered in  
14 investigations, but not specifically denying allegations that she sexual harassed  
15 Serrano. In that same letter to the City Council Ridge violated state law by disclosing  
16 closed session communications with the Council as well as disclosing confidential  
17 personnel information about a peace officer to wit, Serrano.

18 64. Ridge’s disclosures to the City Council reveal that Carvahlo and Motsick  
19 were not simply conducting a fact finding investigation, but were investigating Ridge’s  
20 allegations against Serrano who should have been afforded his rights under the Peace  
21 Officers Procedural Bill of Rights.

22 65. On July 7, 2021, Defendant Ridge, fearing the Serrano would report her  
23 unlawful activities, directed Serrano to refrain from sending any e-mail communications  
24 to her. In essence, Defendant Ridge gave direct orders to the President of the SAPOA  
25 not to contact elected officials or herself with any issues or complaint.

26 66. On July 9, 2021, Plaintiff filed a Notice of Claim (Gov’t Code §910, 910.4)  
27 with Defendants.

28 67. On or about July 16, 2021, the City of Santa Ana hired the law firm of



1 Barboza & Associates to assist Motsick in conducting a personnel investigation into  
2 Serrano's possible allegations of harassment even though Serrano had not made any  
3 such allegations. However, when Plaintiffs tried to determine who retained Barboza,  
4 and whether she was working independently or as an agent/attorney for the City, she  
5 refused to answer. Plaintiffs made the same inquiry of Defendant Motsick on July 21st,  
6 but never received a response.

7 68. It was later confirmed that Barboza and Associates was hired to provide  
8 legal advice to the City regarding the investigations thus creating an attorney-client  
9 relationship and a duty of Barboza and Associates to find in a manner to protect their  
10 clients. The City specifically prohibited the firm to render any determination about  
11 unlawful discrimination, harassment, violation of public policy or any other violations of  
12 law or statute. Therefore, there was no reason for Serrano to participate in  
13 investigations that could not result in a legal determination.

14 69. On or about July 19, 2021, Defendant Ridge, trying to minimize her  
15 misconduct and redirect attention from the allegations of misconduct against her, sent a  
16 letter to the Mayor and City Council falsely claiming that all complaints and tort claims  
17 coming from the SAPOA and its members were singularly focused on Serrano's  
18 pension issues. In the letter to the Mayor and City Council Ridge revealed confidential  
19 personnel file information of Serrano in violation of state law. Ridge also tried to defame  
20 Serrano in order to diminish his credibility if he was to come forward with allegations of  
21 sexual harassment.

22 70. It became clear that Ridge's letter dated July 19, 2021, was meant to  
23 tarnish Serrano and the SAPOA and to be produced to mass audiences. In fact, on  
24 August 3, 2021, the Voice of OC contacted Serrano and advised him that it had been  
25 given copies of the letter and the disciplinary letter which outline allegations against him  
26 by the City Manager and City Attorney. According to the records they were provided the  
27 Voice of OC indicated that both Kristine Ridge and Sonia Carvalho claimed Serrano  
28 had caused harm to the city through his pursuit of higher compensation including filing

1 unsubstantiated legal claims, threats to ‘burn the place down’ and ‘make disclosures  
2 that will hurt people” and asking elected officials to put pressure on the city manager.  
3 Ridge and Carvahlo conspired to release confidential communications to the media in  
4 violation of Penal Code §§832.5- 832.8 and/or Evidence Code §§1043-1046 and/or the  
5 Brown Act.

6 71. Two days later, even though Ridge had ordered Serrano not to have  
7 contact with her, she attempted to contact Serrano on his personal phone. Serrano  
8 knew better and did not take the call.

9 72. On July 29, 2021, the City rejected the Government Tort Claim filed  
10 related to the above issues. The City chose not to try to resolve the matter or conduct  
11 investigations prior to issuing the rejection. It appears that the Defendants are intent on  
12 forcing the parties to litigate the City’s liability. The use of Ms. Barboza’s services is just  
13 to obtain statements in an effort to defend the anticipated lawsuit.

14 73. The City is believed to have closed its “sexual harassment investigation”  
15 of Defendant Ridge without conducting a single interview and without questioning  
16 Defendant Ridge regarding her alleged illegal and/or harassing conduct.

17 **SAPOA ASSISTS MEMBERS IN FILING COMPLAINTS**

18 74. On July 20, 2021, the SAPOA supported the filing of a citizen complaint  
19 by one of the Association’s members against Defendant Valentin alleging retaliation  
20 and creating a hostile working environment for the member that was known to support  
21 the SAPOA/Serrano. The Defendants assigned the investigation to an outside  
22 investigator, but failed to notify the complainant of the outcome of the investigation.

23 75. On or about August 19, 2021, the SAPOA supported the filing of a citizen  
24 complaint by one of the Association’s members against Sgt. Oscar Lizardi for  
25 allegations of engaging in intimidation and threats against a member who Lizardi  
26 believed supported the SAPOA’s vote of no confidence against Defendant Valentin.  
27 The Defendants assigned the investigation to an outside investigator, but failed to notify  
28 the complainant of the outcome of the investigation.

1 76. On or about August 19, 2021, the SAPOA supported the filing of a citizen  
2 complaint by one of the Association members against Sgt. Oscar Lizardi for allegation  
3 of witness intimidation related to an internal affairs investigation that Defendant Valentin  
4 ordered against a supporter of the SAPOA/Serrano. The Defendants assigned the  
5 investigation to an outside investigator, but failed to notify the complainant of the  
6 outcome of the investigation.

7 **VOTE OF NO CONFIDENCE**

8 77. On July 8, 2021, Plaintiffs notified Defendant Ridge and Motsick that the  
9 Board of Directors had unanimously voted to send out a Vote of No Confidence ballot  
10 regarding Defendant Valentin.

11 78. In August, 2021, the SAPOA Board of Directors issued a Memorandum  
12 regarding the Vote and raised a number of issues for the membership to consider.

13 79. On or about August 25, 2021, Charles Goldwasser, who serves as  
14 General Counsel to the Santa Ana Police Officers Association, wrote Defendant  
15 Valentin and Defendant Ridge regarding on-duty harassment and verbal pressure  
16 against SAPOA members by Sergeant Lizardi. The conduct interfered with these  
17 officers' ability to perform their duties. The Santa Ana Police Officers' Association  
18 requested that the City of Santa Ana issue a reminder about this type of on-duty  
19 conduct taking place at the Police Department. Plaintiff Serrano, as the President of the  
20 SAPOA, followed-up Mr. Goldwasser's communication with an email to Defendant  
21 Motsick acknowledging that his members were reporting their working conditions were  
22 becoming unbearable and reminding the City that an unchecked hostile work  
23 environment, especially where the employees are armed, could result in a bad  
24 situations occurring.

25 80. On August 26, 2021, during a time the SAPOA was considering a "Vote of  
26 No Confidence" in Defendant Valentin, Valentin in coordination with Defendants  
27 Carvalho, Ridge and Motsick, tried to silence SAPOA President Gerry Serrano by  
28 placing him on administrative leave and restricting his access to, and use of, the

1 City/Police Department e-mail system. In order to place Serrano on administrative  
2 leave, Defendant Valentin, or his underlings, specifically ordered Commander Sorenson  
3 to leave the Notice of Administrative Leave/Fitness for Duty Exam at Serrano's  
4 residence where it was found by his son.

5 81. The order to undergo the Fitness for Duty Exam specifically references  
6 Mr. Serrano's August 26, 2021, 5:05 a.m., email to Defendant Motsick as the sole basis  
7 for the exam. Therefore, because Mr. Serrano decided that it was necessary, as the  
8 SAPOA President, to reaffirm the seriousness of the issues, Defendants ordered  
9 Serrano to undergo a Fitness for Duty Examination.

10 82. Serrano, via counsel, objected to the Fitness for Duty Examination as  
11 being unlawful. He invoked his rights under Government Code §3300, et seq., including  
12 Government Code §3305 and/or Government Code §3306.5 (requesting copies of  
13 and/or access to any and all documents being used or have been used to determine  
14 that officer's qualifications for employment, promotion, additional compensation, or  
15 termination or other disciplinary action).

16 83. In response to Plaintiff's assertion of rights and request for materials  
17 Defendants intentionally falsified a letter to Serrano's attorney by including claims that  
18 Serrano had not been ordered to sign any releases. Defendants denied the request for  
19 materials.

20 84. It was subsequently discovered that Defendants did not comply with their  
21 own policy regarding Fitness for Duty and/or Fitness for Duty Examinations.

22 85. Police Commander Sorrenson was ordered not to retrieve department  
23 issued equipment from Mr. Serrano at the SAPOA office, but instead to order him to  
24 report to the police station. The applicable Memorandum of Understanding specifically  
25 states: "The Association and the City of Santa Ana agree that the Association's  
26 representative will not be required to carry out any peace officer's duties during such  
27 time that the Association's representative is on such full-time release from duty. The  
28 Association's representative will be required to comply with the Rules and Regulations

1 of the Santa Ana Police Department as they apply to off-duty employees, except such  
2 representative ill not be required to report for duty for any purpose. Defendants  
3 breached of the MOU by ordering Mr. Serrano to appear for a FFDE and to report to the  
4 police station.

5 86. Moreover, the Police Department Fitness for Duty policy indicates that its  
6 purpose and scope is directly related to the exercise of peace officers powers, but the  
7 MOU releases Mr. Serrano from any such exercise. Furthermore, the Fitness for Duty  
8 policy governs on-duty conduct, not off-duty.

9 87. Plaintiff initiated a grievance, but that matter was futile as it was to be  
10 heard by the City Manager that had ordered Serrano not to have contact with her.  
11 Defendants then had Defendant Motsick conduct the grievance hearing even though he  
12 was the one that initiated the FFDE by claiming Serrano's e-mail was threatening.

13 88. On September 1, 2021, the SAPOA disclosed the results of the Vote of  
14 No Confidence. More than a majority of the members that voted indicated that they had  
15 no confidence in the Chief of Police. That same day Defendant Valentin responded to  
16 the membership vote by targeting Serrano. Defendant Valentin falsely attributed the  
17 SAPOA's actions as Serrano's personal pension dispute and not about the facts giving  
18 rise to the Vote. Defendant Valentin accused Serrano of making false and frivolous  
19 claims, and engaging in crimes and corruption when Defendant Valentin knew these  
20 allegations against Serrano were false.

21 89. With the grievance over the FFDE pending and unresolved, Defendants  
22 *ordered* Serrano to appear for the exam and undergo hours of questioning by the  
23 contract doctor. The Defendants did not pay Serrano for his time at the FFDE  
24 examination.

25 90. On September 14, 2021, Serrano was found to be fit for duty and  
26 removed from administrative leave. After Serrano was found to be fit for duty Defendant  
27 Motsick finally held a grievance meeting and later summarily rejected the grievance.  
28 Finally, even though Plaintiffs raised issues of retaliation and hostile environment

1 Defendants have not even attempted to investigate these claims. Therefore, Plaintiffs  
2 have exhausted all administrative remedies related to the FFDE.

3 91. Additionally, even though Serrano had been removed from Administrative  
4 Leave, the locker assigned to him by the Police Department was secured so Serrano  
5 could not access it. It was visible to any person that walked into the locker room that the  
6 locker was still being secured by the Department.

7 92. Plaintiffs request a jury trial on all non-mandamus relief.

8 93. Plaintiff has no plain, speedy or adequate remedy under the law.  
9 Pursuant to Government Code Section 3309.5, Plaintiff need not pursue any  
10 administrative remedy in order to address this problem; thus, Plaintiff is excused from  
11 or has exhausted his administrative remedies. This court is given initial jurisdiction over  
12 this matter pursuant to Government Code §3309.5.

13 94. To the extent facts, incidents and/or issues described above were learned  
14 and/or occurred after Plaintiffs' filed their Government Tort Claim, Plaintiffs only seek  
15 mandamus and/or injunctive relief to cure the violations and prevent future violations of  
16 a similar nature. Once Plaintiffs has processed and/or the Defendants rejected any  
17 such supplemental claim, Plaintiffs will amend this Complaint accordingly.

### 18 **VENUE AND JURISDICTION**

19 95. Venue is proper in the Superior Court of the State of California, for the County of  
20 Orange in that the underlying acts, omissions, injuries and related facts and  
21 circumstances giving rise to the present action occurred in the City of Santa Ana,  
22 County of Orange, California. This Court has jurisdiction over the present matter  
23 because, as delineated within this complaint, the nature of the claims and amount in  
24 controversy meet the requirements of jurisdiction in the Superior Court. This Court is  
25 empowered with initial jurisdiction to entertain suits brought pursuant to California  
26 Government Code §3300, et seq., and for traditional mandamus action.

### 27 **FIRST CAUSE OF ACTION**

28 Against All Defendants

1 Violation of Government Code §3500, et seq.

2 96. Plaintiffs Santa Ana Police Officers Association and Gerry Serrano for a  
3 First Cause of Action against all Defendants for violations of Government Code §3500,  
4 et seq., re-allege paragraphs 1-95, above, and further allege as follows:

5 97. Government Code §3502 provides, in pertinent part, public employees shall  
6 have the right to form, join, and participate in the activities of employee organizations of  
7 their own choosing for the purpose of representation on all matters of employer-  
8 employee relations.

9 98. Government Code §3502.1 provides that “No public employee shall be  
10 subject to punitive action or denied promotion, or threatened with any such treatment,  
11 for the exercise of lawful action as an elected, appointed, or recognized representative  
12 of any employee bargaining unit.”

13 99. Government Code §3503 provides, in pertinent part, that “Recognized  
14 employee organizations shall have the right to represent their members in their  
15 employment relations with public agencies.”

16 100. Government Code §3504 provides, in pertinent part, that the scope of  
17 representation shall include all matters relating to employment conditions and  
18 employer-employee relations, including, but not limited to, wages, hours, and other  
19 terms and conditions of employment.

20 101. Government Code §3506 provides that “Public agencies and employee  
21 organizations shall not interfere with, intimidate, restrain, coerce or discriminate against  
22 public employees because of their exercise of their rights under Section 3502.”

23 102. Government Code §3506.5 provides, in pertinent part, that a public agency  
24 shall not do any of the following: (a) Impose or threaten to impose reprisals on  
25 employees, to discriminate or threaten to discriminate against employees, or otherwise  
26 to interfere with, restrain, or coerce employees because of their exercise of rights  
27 guaranteed by this chapter; (b) deny to employee organizations the rights guaranteed to  
28 them by this chapter; (d) dominate or interfere with the formation or administration of

1 any employee organization, contribute financial or other support to any employee  
2 organization, or in any way encourage employees to join any organization in preference  
3 to another.

4 103. Defendants, and each of them, in undertaking the acts and/or omissions  
5 listed above, violated the above provisions of the Meyers-Milias-Brown Act (MMBA),  
6 including, but not limited to interfering with, intimidating, restraining, coercing and/or  
7 discriminating against the SAPOA, Gerry Serrano and/or other public employees who  
8 are members of the SAPOA because of their exercise of their rights under this Act.

9 104. Defendants, and each of them, have engaged in acts and/or omissions, as  
10 alleged above, wherein they have 1) subjected Serrano to punitive actions and/or  
11 threatened him with said actions; 2) imposed or threatened to impose reprisals on  
12 Serrano, 3) discriminated or threatened to discriminated against him; 3) otherwise  
13 interfered with, restrained, or coerced Serrano because of his exercise of rights  
14 guaranteed by the MMBA, and/or for the exercise of lawful action as an elected,  
15 appointed, or recognized representative of any employee bargaining unit..

16 105. The duty to obey the laws set forth in Government Code §3500, et seq., is  
17 a ministerial duty and is not discretionary. By acting, and failing to act, as set forth  
18 above, defendants have violated a ministerial duty. Moreover, the acts and/or omissions  
19 of defendants, set forth above, demonstrate that defendants' failure to comply with  
20 Government Code §3500, et seq., was illegal as a matter of law under Government  
21 Code section 1222, which makes a public officer's "willful omission to perform any duty  
22 enjoined by law" a misdemeanor.

23 106. Each and every act listed above, individually or jointly, constitutes a  
24 violation of Government Code §3500, et seq., and therefore this court should render  
25 appropriate injunctive or other extraordinary relief to remedy the violation and to prevent  
26 future violations of a like or similar nature, including, but not limited to, the granting of a  
27 temporary restraining order, a preliminary injunction and a permanent injunction, or, in  
28 the alternative, a Writ of Mandate prohibiting the Santa Ana Police Department from



1 taking any punitive action against any public safety officer member of the SAPOA.

2 Plaintiffs specifically seek a “make whole” remedy.

3 107. The above articulated violations were proximately caused by City’s  
4 deliberate indifference to its employee’s violations of the Meyer-Milias Brown Act, and  
5 the failure to train and control its officers and representatives on the provisions of these  
6 Acts. The violations set forth above were proximity caused by the customs, practices,  
7 policies and decisions of the defendants.

8 108. Unless this court issues a preliminary and permanent injunction enjoining  
9 and restraining defendants, and each of them, and their agents, employees and  
10 servants, from ordering, requiring, commanding, or taking any other action that will  
11 result in violations of Plaintiffs’ rights, Plaintiffs will suffer irreparable harm in that its/his  
12 rights, as afforded by Government Code §3500, et seq., will be violated without any  
13 remedy being afforded.

14 109. Plaintiffs have attempted, without success, to exhaust any and all  
15 administrative remedies afforded to them to deal with these issues, but such efforts are  
16 futile as the named defendants are the ones that make the final decisions via any  
17 complaints, grievances or other administrative actions.

18 110. Plaintiff requests this court to award damages and attorney fees pursuant  
19 C.C.P. §1090 and 1095.

20 111. In bringing this action, Petitioners have sought enforcement of an important  
21 right affecting the public interest which will result in the conferring of a significant benefit  
22 upon a large class of persons, to wit, public employees, thereby entitling Petitioners to  
23 an award of attorneys' fees pursuant to Code of Civil Procedure §1021.5.

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

27 **SECOND CAUSE OF ACTION**

28 Against All Defendants

1 Violation of Government Code §3300, et seq.

2 113. Plaintiffs Santa Ana Police Officers Association and Gerry Serrano for a  
3 Second Cause of Action against all Defendants for violations of Government Code  
4 §3300, et seq., relief re-alleges paragraphs 1-112, above, and further allege as follows:

5 114. Government Code §3301 provides, in pertinent part, that “The Legislature  
6 hereby finds and declares that the rights and protections provided to peace officers  
7 under this chapter constitute a matter of statewide concern. The Legislature further  
8 finds and declares that effective law enforcement depends upon the maintenance of  
9 stable employer-employee relations, between public safety employees and their  
10 employers. In order to assure that stable relations are continued throughout the state  
11 and to further assure that effective services are provided to all people of the state, it is  
12 necessary that this chapter be applicable to all public safety officers, as defined in this  
13 section, wherever situated within the State of California.”

14 115. Government Code §3302 provides, in pertinent part, that except as  
15 otherwise provided by law, or whenever on duty or in uniform, no public safety officer  
16 shall be prohibited from engaging, or be coerced or required to engage, in political  
17 activity.

18 116. Government Code §3303 provides, in pertinent part, that when any public  
19 safety officer is under investigation and subjected to interrogation by his or her  
20 commanding officer, or any other member of the employing public safety department,  
21 that could lead to punitive action, the interrogation shall be conducted under the  
22 following conditions. For the purpose of this chapter, punitive action means any action  
23 that may lead to dismissal, demotion, suspension, reduction in salary, written  
24 reprimand, or transfer for purposes of punishment.

25 (a) The interrogation shall be conducted at a reasonable hour, preferably  
26 at a time when the public safety officer is on duty, or during the normal  
27 working hours for the public safety officer, unless the seriousness of the  
28 investigation requires otherwise. If the interrogation does occur during off-

1 duty time of the public safety officer being interrogated, the public safety  
2 officer shall be compensated for any off-duty time in accordance with  
3 regular department procedures, and the public safety officer shall not be  
4 released from employment for any work missed.

5 (b) The public safety officer under investigation shall be informed prior to  
6 the interrogation of the rank, name, and command of the officer in charge  
7 of the interrogation, the interrogating officers, and all other persons to be  
8 present during the interrogation. All questions directed to the public safety  
9 officer under interrogation shall be asked by and through no more than  
10 two interrogators at one time.

11 (c) The public safety officer under investigation shall be informed of the  
12 nature of the investigation prior to any interrogation.

13 (e) The employer shall not cause the public safety officer under  
14 interrogation to be subjected to visits by the press or news media without  
15 his or her express consent nor shall his or her home address or  
16 photograph be given to the press or news media without his or her  
17 express consent.

18 (g) The complete interrogation of a public safety officer may be recorded.  
19 If a tape recording is made of the interrogation, the public safety officer  
20 shall have access to the tape if any further proceedings are contemplated  
21 or prior to any further interrogation at a subsequent time. The public safety  
22 officer shall be entitled to a transcribed copy of any notes made by a  
23 stenographer or to any reports or complaints made by investigators or  
24 other persons, except those which are deemed by the investigating  
25 agency to be confidential. No notes or reports that are deemed to be  
26 confidential may be entered in the officer's personnel file. The public  
27 safety officer being interrogated shall have the right to bring his or her own  
28 recording device and record any and all aspects of the interrogation.

1           117. Government Code §3304(a) provides that “No public safety officer shall be  
2 subjected to punitive action, or denied promotion, or be threatened with any such  
3 treatment, because of the lawful exercise of the rights granted under this chapter, or the  
4 exercise of any rights under any existing administrative grievance procedure.

5           118. Government Code §3304(b) provides, in pertinent part, “No punitive action,  
6 nor denial of promotion on grounds other than merit, shall be undertaken by any public  
7 agency against any public safety officer who has successfully completed the  
8 probationary period that may be required by his or her employing agency without  
9 providing the public safety officer with an opportunity for administrative appeal.”

10           119. Government Code §3304(d) (1) reads “Except as provided in this  
11 subdivision and subdivision (g), no punitive action, nor denial of promotion on grounds  
12 other than merit, shall be undertaken for any act, omission, or other allegation of  
13 misconduct if the investigation of the allegation is not completed within one year of the  
14 public agency’s discovery by a person authorized to initiate an investigation of the  
15 allegation of an act, omission, or other misconduct. This one-year limitation period shall  
16 apply only if the act, omission, or other misconduct occurred on or after January 1,  
17 1998. In the event that the public agency determines that discipline may be taken, it  
18 shall complete its investigation and notify the public safety officer of its proposed  
19 discipline by a Letter of Intent or Notice of Adverse Action articulating the discipline that  
20 year, except as provided in paragraph (2). The public agency shall not be required to  
21 impose the discipline within that one-year period.”

22           120. Government Code §3305 provides that no public safety officer shall have  
23 any comment adverse to his interest entered in his personnel file, or any other file used  
24 for any personnel purposes by his employer, without the public safety officer having first  
25 read and signed the instrument containing the adverse comment indicating he is aware  
26 of such comment, except that such entry may be made if after reading such instrument  
27 the public safety officer refuses to sign it. Should a public safety officer refuse to sign,  
28 that fact shall be noted on that document, and signed or initialed by such officer.

1           121. Government Code §3306 reads “A public safety officer shall have 30 days  
2 within which to file a written response to any adverse comment entered in his personnel  
3 file. Such written response shall be attached to, and shall accompany, the adverse  
4 comment.”

5           122. Government Code §3306.5. provides, in pertinent part, that (a) Every  
6 employer shall, at reasonable times and at reasonable intervals, upon the request of a  
7 public safety officer, during usual business hours, with no loss of compensation to the  
8 officer, permit that officer to inspect personnel files that are used or have been used to  
9 determine that officer’s qualifications for employment, promotion, additional  
10 compensation, or termination or other disciplinary action; (b) Each employer shall keep  
11 each public safety officer’s personnel file or a true and correct copy thereof , and shall  
12 make the file or copy thereof available within a reasonable period of time after a request  
13 therefor by the officer.”

14           123. Government Code §3309 provides that “No public safety officer shall have  
15 his locker, or other space for storage that may be assigned to him searched except in  
16 his presence, or with his consent, or unless a valid search warrant has been obtained or  
17 where he has been notified that a search will be conducted. This section shall apply  
18 only to lockers or other space for storage that are owned or leased by the employing  
19 agency.

20           124. Government Code §3309.5(a) provides “It shall be unlawful for any public  
21 safety department to deny or refuse to any public safety officer the rights and  
22 protections guaranteed to him or her by this chapter.”

23           125. Government Code §3309.5 further provides, in pertinent part, “(d) (1) In  
24 any case where the superior court finds that a public safety department has violated  
25 any of the provisions of this chapter, the court shall render appropriate injunctive or  
26 other extraordinary relief to remedy the violation and to prevent future violations of a like  
27 r similar nature, including, but not limited to, the granting of a temporary restraining  
28 order, preliminary injunction, or permanent injunction prohibiting the public safety

1 department from taking any punitive action against the public safety officer” and “(e) In  
2 addition to the extraordinary relief afforded by this chapter, upon a finding by a superior  
3 court that a public safety department, its employees, agents, or assigns, with respect to  
4 acts taken within the scope of employment, maliciously violated any provision of this  
5 chapter with the intent to injure the public safety officer, the public safety department  
6 shall, for each and every violation, be liable for a civil penalty not to exceed twenty-five  
7 thousand dollars (\$25,000) to be awarded to the public safety officer whose right or  
8 protection was denied and for reasonable attorney’s fees as may be determined by the  
9 court. If the court so finds, and there is sufficient evidence to establish actual damages  
10 suffered by the officer whose right or protection was denied, the public safety  
11 department shall also be liable for the amount of the actual damages.”

12         126. As described above, Plaintiff Gerry Serrano was the subject of numerous  
13 investigations that could result in punitive action. One investigation was conducted by  
14 Defendants Carvalho and Motsick after Defendant Ridge complained that Serrano was  
15 making false statements about her. Serrano was not told, prior to his interview, that  
16 Carvalho would be present, was not informed of the nature of the investigation prior to  
17 arriving, was not told, nor afforded the opportunity to record the interview.

18         127. In other administrative investigations conducted under the orders of  
19 Defendant Valentin, Serrano was not compensated for his time in the interrogations.

20         128. Defendant Ridge issued punitive action against Serrano and when he  
21 sought an administrative appeal and the documents purportedly supporting the punitive  
22 action, both requests were denied.

23         129. Defendant Valentin has placed or caused to be placed in Serrano’s  
24 personnel file and/or files used for personnel purposes adverse comments without  
25 affording Serrano the ability to review the documents containing the adverse comments.

26         130. Defendant Valentin has ordered administrative investigations to be  
27 conducted well in excess of the one year statute of limitations, and has not provided  
28 notice of the investigations or the outcome of the investigations to Serrano.

1           131. Serrano has requested to review documents used for personnel purposes  
2 but has been denied the opportunity to do so.

3           132. Serrano has information and believe that his department issued locker  
4 and/or other space for storage (including his department issued email storage system)  
5 has been searched outside of his presence and/or without his knowledge/consent or  
6 valid search warrant.

7           133. Serrano, while acting as the President of the SAPOA, and while off-duty  
8 and out of uniform has been prohibited from engaging in political activity.

9           134. Serrano has been threatened with punitive action because of the lawful  
10 exercise of the rights granted by Government Code §3300, et seq., and/or exercising  
11 rights under existing administrative grievance procedures.

12           135. The duty to obey the laws set forth in Government Code §3300, et seq., is  
13 a ministerial duty and is not discretionary. By acting, and failing to act, as set forth  
14 above, defendants have violated a ministerial duty. Moreover, the acts and/or omissions  
15 of defendants, set forth above, demonstrate that defendants' failure to comply with  
16 Government Code §3300, et seq., was illegal as a matter of law under Government  
17 Code section 1222, which makes a public officer's "willful omission to perform any duty  
18 enjoined by law" a misdemeanor.

19           136. Each and every act listed above, individually or jointly, constitutes a  
20 violation of Government Code §3300, et seq., and therefore this court should render all  
21 available and proper relief under Government Code §3309.5 to remedy the violations  
22 and to prevent future violations of a like or similar nature. Plaintiffs specifically seek a  
23 "make whole" remedy.

24           137. For those acts identified in the already filed Government Tort Claim,  
25 Plaintiffs further seek all relief afforded under Government Code §3309.5(e).

26           138. The above articulated violations were proximately caused by City's  
27 indifference to its employee's violations of the Public Safety Officers Procedural Bill of  
28 Rights Act, and the failure to train and control its officers and representatives on the

1 provisions of this Act. The violations set forth above were proximately caused by the  
2 customs, practices, policies and decisions of the defendants.

3 139. Unless this court issues a preliminary and permanent injunction enjoining  
4 and restraining defendants, and each of them, and their agents, employees and  
5 servants, from ordering, requiring, commanding, or taking any other action that will  
6 result in violations of Plaintiffs' rights, Plaintiffs will suffer irreparable harm in that its/his  
7 rights, as afforded by Government Code §3300, et seq., will be violated without any  
8 remedy being afforded.

9 140. Plaintiffs have attempted, without success, to exhaust any and all  
10 administrative remedies afforded to them to deal with these issues, but such efforts are  
11 futile as the named defendants are the ones that make the final decisions via any  
12 complaints, grievances or other administrative actions. Moreover, pursuant to  
13 Government Code §3309.5, Plaintiffs are not required to exhaust administrative  
14 remedies.

15 141. Plaintiff requests this court to award damages and attorney fees pursuant  
16 to C.C.P. §1090 and 1095.

17 142. In bringing this action, Petitioners have sought enforcement of an important  
18 right affecting the public interest which will result in the conferring of a significant benefit  
19 upon a large class of persons, to wit, public employees, thereby entitling Petitioners to  
20 an award of attorneys' fees pursuant to Code of Civil Procedure §1021.5.

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

24 **THIRD CAUSE OF ACTION**

25 **Against All Defendants**

26 **Violation of Constitutional Right to Freedom of Speech**

27 144. Plaintiffs Santa Ana Police Officers Association and Gerry Serrano for a  
28 Third Cause of Action against all Defendants for violations of Plaintiffs' right to freedom



1 of speech and writing, freedom to instruct their representative, freedom to petition  
2 government for redress of grievances, and to consult for the common good, re-allege  
3 paragraphs 1-143, above, and further allege as follows:

4 145. While the U.S. Constitution grants citizens protections for free speech  
5 under the First Amendment to the U.S. Constitution, which are enforced via 42 USC  
6 §1983, the California Constitution also protects this right. Article I, Section 2 of the  
7 California Constitution states that “[e]very person may freely speak, write and publish  
8 his or her sentiments on all subjects, being responsible for the abuse of this right. . . .”  
9 Article I, Section 3 of the California Constitution states “[T]he people have the right to  
10 instruct their representatives, petition government for redress of grievances, and  
11 assemble freely to consult for the common good.

12 146. Defendants, and each of them, have engaged in acts and/or omissions to  
13 violate Plaintiffs right to freedom to speak, write and publish their sentiments, and/or  
14 their ability to petition government for redress of grievances, assemble and to consult  
15 for the common good.

16 147. The duty to obey the laws set forth in state and federal laws is a ministerial  
17 duty and is not discretionary. By acting, and failing to act, as set forth above,  
18 defendants have violated a ministerial duty. Moreover, the acts and/or omissions of  
19 defendants, set forth above, demonstrate that defendants' failure to comply with the  
20 California Constitution wherein it enjoins certain acts; therefore, defendants actions  
21 were illegal as a matter of law under Government Code section 1222, which makes a  
22 public officer's "willful omission to perform any duty enjoined by law" a misdemeanor.

23 148. Each and every act listed above, individually or jointly, constitutes a  
24 violation of Plaintiffs' speech rights and/or the California Constitution and therefore this  
25 court should render all available and proper relief to remedy the violations and to  
26 prevent future violations of a like or similar nature. Plaintiffs specifically seek a “make  
27 whole” remedy.

28 149. For those acts identified in the already filed Government Tort Claim,

1 Plaintiffs further seek all available monetary damages and statutory penalties. For those  
2 acts not yet included in a filed and/or acted upon Government Tort Claim, Plaintiffs  
3 seek injunctive and/or mandamus remedies.

4 150. The above articulated violations were proximately caused by City's  
5 deliberate indifference to its employees' violations law, and the failure to train and  
6 control its officers and representatives on the provisions of law referenced above. The  
7 violations set forth above were proximity caused by the customs, practices, policies and  
8 decisions of the defendants.

9 151. Unless this court issues a preliminary and permanent injunction enjoining  
10 and restraining defendants, and each of them, and their agents, employees and  
11 servants, from ordering, requiring, commanding, or taking any other action that will  
12 result in violations of Plaintiffs' rights, Plaintiffs will suffer irreparable harm in that its/his  
13 rights will be violated without any remedy being afforded.

14 152. Plaintiffs have attempted, without success, to exhaust any and all  
15 administrative remedies afforded to them to deal with these issues, but such efforts are  
16 futile as the named defendants are the ones that make the final decisions via any  
17 complaints, grievances or other administrative actions.

18 153. Plaintiffs request this court to award damages and attorney fees as  
19 provided by law, including pursuant to C.C.P. §1090 and 1095.

20 154. In bringing this action, Petitioners have sought enforcement of an important  
21 right affecting the public interest which will result in the conferring of a significant benefit  
22 upon a large class of persons, to wit, public employees, thereby entitling Petitioners to  
23 an award of attorneys' fees pursuant to Code of Civil Procedure §1021.5.

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

27 **FOURTH CAUSE OF ACTION**

28 Against All Defendants

Violation of Labor Code §1101-1102.5

156. Plaintiffs Santa Ana Police Officers Association and Gerry Serrano for a Fourth Cause of Action against all Defendants for violation of provisions of the Labor Code re-alleges paragraphs 1-95, above, and further allege as follows:

157. Labor Code section 1101 provides, in pertinent part, that no employer shall make, adopt, or enforce any rule, regulation, or policy: (a) Forbidding or preventing employees from engaging or participating in politics...(b) Controlling or directing, or tending to control or direct the political activities or affiliations of employees.

158. Labor Code §1102 provides “No employer shall coerce or influence or attempt to coerce or influence his employees through or by means of threat of discharge or loss of employment to adopt or follow or refrain from adopting or following any particular course or line of political action or political activity.

159. Labor Code §1102.5 provides that (a) An employer, or any person acting on behalf of the employer, shall not make, adopt, or enforce any rule, regulation, or policy preventing an employee from disclosing information to a government or law enforcement agency, to a person with authority over the employee, or to another employee who has authority to investigate, discover, or correct the violation or noncompliance, or from providing information to, or testifying before, any public body conducting an investigation, hearing, or inquiry, if the employee has reasonable cause to believe that the information discloses a violation of state or federal statute, or a violation of or noncompliance with a local, state, or federal rule or regulation, regardless of whether disclosing the information is part of the employee’s job duties. (b) An employer, or any person acting on behalf of the employer, shall not retaliate against an employee for disclosing information, or because the employer believes that the employee disclosed or may disclose information, to a government or law enforcement agency, to a person with authority over the employee or another employee who has the authority to investigate, discover, or correct the violation or noncompliance, or for providing information to, or testifying before, any public body conducting an

1 investigation, hearing, or inquiry, if the employee has reasonable cause to believe that  
2 the information discloses a violation of state or federal statute, or a violation of or  
3 noncompliance with a local, state, or federal rule or regulation, regardless of whether  
4 disclosing the information is part of the employee's job duties.

5 160. Sections 1101 and 1102 protect "the fundamental right of employees in  
6 general to engage in political activity without interference by employers." (*Gay Law*  
7 *Students Assn.*, 24 Cal.3d at 487 (quoting *Fort v. Civil Service Commission* (1964) 61  
8 Cal.2d 331, 335).)

9 161. As shown by the facts pled above, Defendants, and each of them, have  
10 engaged in acts and/or omissions that violated Labor Code §§1101 and/or 1102 to the  
11 detriment of Plaintiff Serrano, Plaintiff SAPOA, and those members of the SAPOA that  
12 support the SAPOA's actions.

13 162. Defendants, and each of them, have engaged in retaliation against both  
14 Plaintiffs for disclosing information, or because the employer believed that the  
15 employee disclosed or may disclose information, to a government or law enforcement  
16 agency, to a person with authority over the employee or another employee who has the  
17 authority to investigate, discover, or correct the violation or noncompliance, or for  
18 providing information to, or testifying before, any public body conducting an  
19 investigation, hearing, or inquiry, wherein the employee had reasonable cause to  
20 believe that the information disclosed a violation of state or federal statute, or a violation  
21 of or noncompliance with a local, state, or federal rule or regulation.

22 163. As a proximate result of Defendants willful, knowing and intentional  
23 violations of the Labor Code sections referenced above, Plaintiff Serrano has suffered  
24 and continues to suffer substantial losses in earnings and/or other employment  
25 benefits. As a legal result of the conduct of Defendants, and each of them, Plaintiff has  
26 suffered and will continue to suffer distress, suffering, anguish, fright, nervousness,  
27 grief, anxiety, worry, shame, mortification, injured feelings, shock, humiliation and  
28 indignity, as well as other unpleasant reactions, damages to reputation, and other non-

1 economic damages, in a sum to be ascertained according to proof. Said damages are  
2 of the type that any person would suffer as result of the illegal and wrongful conduct of  
3 Defendants; Plaintiff does not claim that he has suffered any psychiatric illness as a  
4 result of the conduct of Defendants. Plaintiff Serrano further seeks to recover all wages  
5 and benefits that Plaintiff would have earned if not discriminated against, retaliated  
6 against, or unlawfully harmed in amount to be proven at trial.

7 164. Plaintiff SAPOA has incurred damages in the form of attorney fees, costs  
8 and nominal damages because of Defendants' violations of the Labor Code section  
9 cited above.

10 165. The duty to obey the Labor Code sections set forth above is a ministerial  
11 duty and is not discretionary. By acting, and failing to act, as set forth above,  
12 defendants have violated a ministerial duty. Moreover, the acts and/or omissions of  
13 defendants, set forth above, demonstrate that defendants' failure to comply with the  
14 California Constitution wherein it enjoins certain acts; therefore, defendants actions  
15 were illegal as a matter of law under Government Code section 1222, which makes a  
16 public officer's "willful omission to perform any duty enjoined by law" a misdemeanor.

17 166. The acts listed above, individually or jointly, constitute a violation of  
18 Plaintiffs' rights under the Labor Code and therefore this court should render all  
19 available and proper relief to remedy the violations and to prevent future violations of a  
20 like or similar nature. Plaintiffs specifically seek a "make whole" remedy.

21 167. For those acts identified in the already filed Government Tort Claim,  
22 Plaintiffs seek all available monetary damages and statutory penalties. For those acts  
23 not yet included in a filed and/or acted upon Government Tort Claim, Plaintiffs seek  
24 injunctive and/or mandamus remedies. Plaintiffs are in the process of satisfying the  
25 Government Tort Claim requirement for those acts or omissions that were learned of  
26 and/or took place after the initial Tort Claim was filed and rejected; upon completion of  
27 that process, Plaintiffs will seek leave to amend the complaint to seek damages and/or  
28 civil penalties for the additional acts that recently occurred or were learned of.

1 168. The above articulated violations were proximately caused by City's  
2 deliberate indifference to its employees' violations law, and the failure to train and  
3 control its officers and representatives on the provisions of law referenced above. The  
4 violations set forth above were proximity caused by the customs, practices, policies and  
5 decisions of the defendants.

6 169. Unless this court issues a preliminary and permanent injunction enjoining  
7 and restraining defendants, and each of them, and their agents, employees and  
8 servants, from ordering, requiring, commanding, or taking any other action that will  
9 result in violations of Plaintiffs' rights, Plaintiffs will suffer irreparable harm in that its/his  
10 rights will be violated without any remedy being afforded.

11 170. Plaintiffs have attempted, without success, to exhaust any and all  
12 administrative remedies afforded to them to deal with these issues, but such efforts are  
13 futile as the named defendants are the ones that make the final decisions via any  
14 complaints, grievances or other administrative actions.

15 171. Plaintiff requests this court to award damages and attorney fees as  
16 provided by law, including pursuant to C.C.P. §1090 and 1095.

17 172. In bringing this action, Plaintiffs have sought enforcement of an important  
18 right affecting the public interest which will result in the conferring of a significant benefit  
19 upon a large class of persons, to wit, public employees, thereby entitling Petitioners to  
20 an award of attorneys' fees pursuant to Code of Civil Procedure §1021 .5.

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

24 **FIFTH CAUSE OF ACTION**

25 Against City, Police Department, Valentin, Ridge and Carvalho

26 Violation of Penal Code §§832.5-832.8/Evidence Code §1043-1046

27 174. Plaintiffs Santa Ana Police Officers Association and Gerry Serrano for a  
28 Fifth Cause of Action against all Defendants for violations of Penal Code §§832.5-832.8

1 and/or Evidence Code §§1043-1046 re-alleges paragraphs 1-95, above, and further  
2 allege as follows:

3 175. Penal Code 832.5(a) (1) provides “Each department or agency in this state  
4 that employs peace officers shall establish a procedure to investigate complaints by  
5 members of the public against the personnel of these departments or agencies, and  
6 shall make a written description of the procedure available to the public.”

7 176. Penal Code §832.7(f) (1) mandates that “The department or agency shall provide  
8 written notification to the complaining party of the disposition of the complaint within 30  
9 days of the disposition.”

10 177. The City of Santa Ana and Santa Ana Police Department have established  
11 and published procedures for receiving and investigating complaints. The established  
12 procedures state that complaints will be investigated and the party submitting the  
13 complaint will be notified of the results by mail.

14 178. The procedure for addressing citizen complaints that the department has  
15 established and published obligated the department to conduct an investigation into the  
16 allegations of the complaint that was sufficient to allow a decision-maker make one of  
17 four possible findings, and the procedure obligated the Chief of Police to make one of  
18 those findings with respect to each allegation of misconduct. Defendants did not comply  
19 with these obligations and Plaintiffs are entitled to a writ of mandate compelling  
20 defendants to perform their ministerial duty to satisfy the obligations imposed by the  
21 department’s published procedure. (See *Galzinski v. Somers*, (2016) 2 Cal.App.5<sup>th</sup>  
22 1164).

23 179. Plaintiffs filed complaints and requests for investigations and Defendants  
24 failed to either investigate the allegations of misconduct (which were also violations of  
25 state law and possible misdemeanor offenses) and/or refused to notify Plaintiff SAPOA  
26 of the outcome of the investigation.

27 180. Defendants had a ministerial duty to investigate the SAPOA’s and/or  
28 Serrano’s citizen’s complaint and to render a finding on that complaint in compliance

1 with the complaint procedure the department established and made public pursuant to  
2 subdivision (a)(1) of Penal Code section 832.5. (See *Gregory v. State Bd. of Control*  
3 (1999) 73 Cal.App.4th 584 (“[a] public entity has a ministerial duty to comply with its  
4 own rules and regulations where they are valid and unambiguous); *Pozar v. Department*  
5 *of Transportation* (1983) 145 Cal.App.3d 269 (a writ of mandate may be issued to  
6 compel a public agency to follow its own internal procedures.).

7 181. A writ of mandate may be issued by any court to any inferior tribunal,  
8 corporation, board, or person, to compel the performance of an act which the law  
9 specially enjoins, as a duty resulting from an office, trust, or station.” (Code Civ. Proc., §  
10 1085, subd. (a).) Indeed, “[t]he writ must be issued in all cases where there is not a  
11 plain, speedy, and adequate remedy, in the ordinary course of law upon the verified  
12 petition of the party beneficially interested.” (Id. , § 1086.) In essence, “[m]andamus lies  
13 to compel the performance of a clear, present, and ministerial duty where the petitioner  
14 has a beneficial right to performance of that duty.” (*Carrancho v. California Air*  
15 *Resources Board* (2003) 111 Cal.App.4th 1255 1265) “A duty is ministerial when it is  
16 the doing of a thing unqualifiedly required.” (*Redwood Coast Watersheds Alliance v.*  
17 *State Bd. of Forestry & Fire Protection* (1999) 70 Cal.App.4th 962, 970).

18 182. Plaintiffs seek a writ of mandate commanding Defendants to investigate  
19 Plaintiff’s complaint regarding the release of the confidential information and to inform  
20 Plaintiff of the outcome of that investigation. Plaintiff further seeks an order of the court  
21 mandating that Defendants, and each of them, fully investigate any and all complaints  
22 made to the City of Santa Ana/Santa Ana Police Department regarding the misconduct  
23 of police department employees/officials.

24 183. Furthermore, Penal Code §832.5-832.8 requires Defendants to maintain as  
25 confidential peace officer personnel files/information. The only manner in which the  
26 information can be released to third parties is through compliance with Evidence Code  
27 §§1043-1046.

28 184. Plaintiff Serrano was issued punitive action by Defendant Ridge, and then



1 Defendant Ridge and/or Carvalho released copies of the punitive action to elected  
2 Council members and media sources without complying with the legal requirements set  
3 forth above.

4 185. The duty to obey the laws set forth in Penal Code § §832.5-832.8 and/or  
5 Evidence Code §§1043-1046, is a ministerial duty and is not discretionary. By acting,  
6 and failing to act, as set forth above, defendants have violated a ministerial duty.  
7 Moreover, the acts and/or omissions of defendants, set forth above, demonstrate that  
8 defendants' failure to comply with Penal Code §§832.5-832.8 and/or Evidence Code  
9 §1043-1046 was illegal as a matter of law under Government Code section 1222, which  
10 makes a public officer's "willful omission to perform any duty enjoined by law" a  
11 misdemeanor.

12 186. As a result of Defendants' unlawful action, Plaintiff Serrano has suffered  
13 and will continue to suffer distress, suffering, anguish, fright, nervousness, grief,  
14 anxiety, worry, shame, mortification, injured feelings, shock, humiliation and indignity,  
15 damages to reputation, and other non-economic damages, in a sum to be ascertained  
16 according to proof. Said damages are of the type that any person would suffer as result  
17 of the illegal and wrongful conduct of Defendants; Plaintiff does not claim that he has  
18 suffered any psychiatric illness as a result of the conduct of Defendants.

19 187. Plaintiffs have no plain, speedy or adequate remedy under the law.  
20 Plaintiffs have attempted to exhaust all administrative remedies to redress the violation  
21 of their rights.

22 188. Plaintiffs request this court to award ancillary damages pursuant to C.C.P.  
23 §1090 and 1095.

24 189. The actions of defendants, and each of them, were arbitrary and capricious  
25 and, therefore, Plaintiffs are entitled to recover attorneys' fees pursuant to Government  
26 Code §800.

27 190. The success of Plaintiffs in this action will result in the enforcement of an  
28 important right affecting the public interest in that a significant benefit will be conferred

1 on a large class of persons, that is, public employees, and the necessity and financial  
2 burden of private enforcement of said benefit are such as to make appropriate the  
3 award of attorney fees pursuant to California Code of Civil Procedure §1021.5.

4 **SIXTH CAUSE OF ACTION**

5 (Violation of FEHA (Government Code § 12900, et seq.))

6 Retaliation for Engaging in Protected Activity

7 (Against City of Santa Ana/Santa Ana Police Department)

8 191. The allegations set forth in paragraphs 1 through 190 are re-alleged and  
9 incorporated herein by reference.

10 192. Plaintiffs filed complaints with the City of Santa Ana, via Defendant Ridge  
11 and/or Motsick regarding allegations of gender discrimination and/or harassment.  
12 Furthermore, Defendants Ridge, Motsick and Carvalho believed that Plaintiffs had or  
13 would file complaints against Ridge for allegations of sexual harassment. In retaliations  
14 for Plaintiffs filing complaints, and/or the fear that additional complaints would be made,  
15 defendants engaged in actions such as issuing punitive action, causing Plaintiff Serrano  
16 to be subject to improper investigations, placed on administrative leave, and/or to  
17 implement other adverse employment action against Plaintiff Serrano.

18 193. Plaintiffs complained to Defendants about the inappropriate actions  
19 (discrimination, harassment and/or retaliation), but nothing was done and the retaliation  
20 continued unabated. On the basis of the above, Plaintiffs believe and allege that  
21 Defendants retaliated against them for their complaints of gender discrimination, sexual  
22 harassment, and/or retaliation.

23 194. Plaintiffs reporting of unlawful actions were motivating factors in  
24 Defendants' decision not to implement adverse employment actions against Plaintiff  
25 Serrano.

26 195. Defendants' conduct, as alleged, violated the Fair Employment and  
27 Housing Act, Government Code section 12900, et seq., and Defendants committed  
28 unlawful employment practices.

1           196. As a proximate result of Defendants' willful, knowing, and intentional  
2 discrimination/harassment/retaliation against Plaintiff, Plaintiff has sustained and  
3 continues to sustain damages, humiliation, distress, pain and anguish, all to his  
4 damage in a sum according to proof.

5           197. Plaintiffs have incurred and continues to incur legal expenses and  
6 attorneys' fees. Pursuant to Government Code section 12965(b), plaintiffs are entitled  
7 to recover reasonable attorneys' fees and costs (including expert costs) in an amount  
8 according to proof.

9           198. Plaintiffs further request that the Court render appropriate injunctive or  
10 other extraordinary relief to remedy these violations and to prevent future violations of a  
11 like or similar nature, including, but not limited to, the granting of a permanent injunction  
12 requiring the Defendants, upon receiving notification of conduct which may violate the  
13 California Department of Fair Employment and Housing regulations or California  
14 whistleblower statutes, to promptly conduct a fair and thorough investigation into the  
15 allegations and not allow retaliatory actions to be taken against the employees.

16           199. Plaintiff requests this court to award ancillary damages pursuant to C.C.P.  
17 §1090 and 1095.

18           200. The actions of defendants, and each of them, were arbitrary and capricious  
19 and, therefore, Plaintiff is entitled to recover attorneys' fees pursuant to Government  
20 Code §800.

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

26           202. Plaintiff obtained a Right to Sue letter from the DFEH, and served the  
27 same on defendants via the City Clerk's office.

28           **WHEREFORE**, Plaintiff prays for judgment against Defendants and each of them

1 as follows:

2 FIRST CAUSE OF ACTION

3 1. Any and all appropriate injunctive or other extraordinary relief afforded under  
4 Government Code §3500, et seq., to remedy the violation and to prevent future  
5 violations of a like or similar nature, including, but not limited to, the granting of a  
6 temporary restraining order, preliminary injunction, or permanent injunction prohibiting  
7 Defendants, and each of them, and their agents, representatives, employees, servants  
8 and/or investigators from violating Government Code §3500, et seq.

9 2. For those matters already identified in Plaintiffs' Government Tort Claims,  
10 any and all damages and/or civil penalties afforded under the law.

11 SECOND CAUSE OF ACTION

12 3. Any and all appropriate injunctive or other extraordinary relief afforded under  
13 Government Code §3309.5(d) to remedy the violation and to prevent future violations of  
14 a like or similar nature.

15 4. For those matters already identified in Plaintiffs' Government Tort Claims, any  
16 and all damages and/or civil penalties afforded under the law.

17 THIRD CAUSE OF ACTION

18 5. Any and all appropriate injunctive or other extraordinary relief afforded under  
19 the law to remedy the violation and to prevent future violations of a like or similar  
20 nature.

21 6. For those matters already identified in Plaintiffs' Government Tort Claims, any  
22 and all damages and/or civil penalties afforded under the law.

23 FOURTH CAUSE OF ACTION

24 7. Any and all appropriate injunctive or other extraordinary relief afforded under  
25 the law to remedy the violation and to prevent future violations of a like or similar  
26 nature.

27 8. For those matters already identified in Plaintiffs' Government Tort Claims, any  
28 and all damages and/or civil penalties afforded under the law.

1 FIFTH CAUSE OF ACTION

2 9. A declaration of the Court that the Defendants violated Penal Code §832.5-  
3 832.7 and/or Evidence Code §§1043-1046 and that Plaintiffs are entitled to the full  
4 relief afforded under Penal Code §832.5-832.7 and/or Evidence Code §§1043-1046.

5 10. Any and all appropriate injunctive or other extraordinary relief afforded under  
6 the law to remedy the violation and to prevent future violations of a like or similar  
7 nature.

8 11. For those matters already identified in Plaintiffs' Government Tort Claims,  
9 any and all damages and/or civil penalties afforded under the law.

10 SIXTH CAUSE OF ACTION

11 12. Any and all appropriate injunctive or other extraordinary relief afforded under  
12 the law to remedy the violation and to prevent future violations of a like or similar  
13 nature.

14 13. For those matters already identified in Plaintiffs' Government Tort Claims,  
15 any and all damages and/or civil penalties afforded under the law.

16 ALL CAUSES OF ACTION

17 14. An award ancillary damages pursuant to C.C.P. §1090 and 1095.

18 15. For all matters covered by Plaintiffs' Government Tort Claim(s), all damages  
19 which the Plaintiffs have sustained as a result of Defendants' conduct, including general  
20 damages for pain, suffering, distress, and special damages for lost compensation,  
21 including back, front pay, job benefits that he would have received but for the  
22 discriminatory practices of Defendants, damages for anguish, fright, nervousness, grief,  
23 anxiety, worry, shame, mortification, injured feelings, shock, humiliation and indignity,  
24 as well as other unpleasant physical, mental, and emotional reactions ordinarily to be  
25 expected, damages to reputation, and other non-economic damages, to the extent  
26 permitted by law and in a sum to be ascertained according to proof;

27 16. For all matters covered by Plaintiffs' Government Tort Claim(s), other actual,  
28 consequential, and/or incidental damages, and/or statutory penalties in a sum to be

- 1 ascertained according to proof;
- 2 17. Attorneys' fees pursuant to Government Code §800.
- 3 18. Attorney fees pursuant to California Code of Civil Procedure §1021.5
- 4 19. Attorney fees as provided by any other law and/or statutes
- 5 20. That Defendants takes nothing by virtue of this action;
- 6 21. For cost of suit and attorney's fees incurred herein; and
- 7 22. For such other and further relief as the Court may deem just and proper/
- 8

9 DATED: November \_\_\_\_, 2021

COREY W. GLAVE, ATTORNEY AT LAW

10 By: \_\_\_\_\_  
11 Corey W. Glave  
12 Attorneys for Plaintiffs

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

1 **VERIFICATION**

2 The undersigned declares as follows:

3  
4 I am the attorney of record for all plaintiffs in this action. I am verifying this  
5 Complaint on the basis that all named plaintiffs are absent from the county where I  
6 have my office. I have read the foregoing COMPLAINT, and know the contents thereof.

7 The contents are true, except as to the matters which are therein stated on information  
8 or belief, and as to those matters I believe them to be true and Plaintiffs are acting in  
9 good faith in bringing forward such allegations.

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

12 /S/ Corey Glave

13 \_\_\_\_\_  
14 COREY GLAVE