

**SUMMONS
(CITACION JUDICIAL)**

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

ENDORSED
FILED
ALAMEDA COUNTY

JUN 17 2011

CLERK OF THE SUPERIOR COURT
By Esther Coleman, Deputy

**NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):**

CITY OF OAKLAND, a Public Entity, WILLIAM SUGIYAMA, a Person, and DOES 1-15,

**YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):**

SHEEHAN (SEAN) GILLIS

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **¡AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 o más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

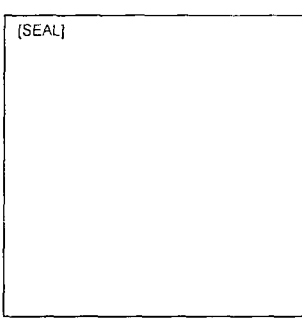
The name and address of the court is:
(El nombre y dirección de la corte es): Superior Court of the State of California
1225 Fallon Street, Oakland CA 94612

CASE NUMBER
(Número del Caso):
R 611581209

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
Philip Horne, Esq., 377 Hermann Street, San Francisco CA 94117, 415-874-9800

DATE: (Fecha) **JUN 17 2011** **PAT S. SWEETEN** Clerk, by **Esther Coleman**, Deputy (Secretario) (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).



NOTICE TO THE PERSON SERVED: You are served

- 1. as an individual defendant.
- 2. as the person sued under the fictitious name of (specify):
- 3. on behalf of (specify):
 - under: CCP 416.10 (corporation) CCP 416.60 (minor)
 - CCP 416.20 (defunct corporation) CCP 416.70 (conservatee)
 - CCP 416.40 (association or partnership) CCP 416.90 (authorized person)
 - other (specify):
- 4. by personal delivery on (date):

1 PHILIP HORNE, ESQ. 173183
Attorney At Law
377 Hermann Street
2 San Francisco, CA 94117
Voice: 415-VPH-9800
3 Email/Facs: vikinglawyer1@gmail.com

4 ATTORNEY FOR PLAINTIFF-EMPLOYEE
SHEEHAN (SEAN) GILLIS, EMT-P, OFD

ENDORSED
FILED
ALAMEDA COUNTY
JUN 17 2011
CLERK OF THE SUPERIOR COURT
By Esther Coleman, Deputy

6 SUPERIOR COURT OF THE STATE OF CALIFORNIA
7 COUNTY OF SAN FRANCISCO

9 SHEEHAN (SEAN) GILLIS,

10 Plaintiff,

11 vs.

12 CITY OF OAKLAND, a Public Entity,
WILLIAM SUGIYAMA, a Person, and
13 DOES 1-15,

14 Defendants.

) Case:
)
) VERIFIED
) COMPLAINT FOR DAMAGES
) AND INJUNCTIVE RELIEF FOR
) WHISTLEBLOWER RETALIATION AND
) FAIR EMPLOYMENT VIOLATIONS
) AS FOLLOWS:

RG11581209

- 15 1. WHISTLEBLOWER RETALIATION
(Labor Code § 1102.5 et seq.)
- 16 2. WRONGFUL RETALIATION
(Common Law)
- 17 3. FAIR EMPLOYMENT VIOLATIONS
(FEHA Gov't Code § 12900 et seq.)
- 18 4. INVASION OF PRIVACY
(Cal. Const. Art. I § 1, Civ. Code 3294
et seq., 3333 et seq.),
- 19 5. INTENTIONAL INFLICTION OF
EMOTIONAL DISTRESS
(Common Law)

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Complaint For Damages and Injunctive Relief for
Whistleblower Retaliation and Fair Employment Violations

I.

COMMON COUNT

A. PARTIES

1. PLAINTIFF. Plaintiff Sheehan Gillis is an adult person, a resident of Oakland, and employed as a paramedic (EMT-P) with Respondent City of Oakland.
2. SHEEHAN GILLIS. Sheehan Gillis is a paramedic, a teacher, and a supervisor at the Fire Department Emergency Medical Services (EMS) Division of the City of Oakland (hereinafter OFD) and is the Shop Steward and Vice President of Local 21 International Professional and Technical Engineers (IFPTE). Gillis is an active member of his community (for example, Gillis participates in “National Night Out” every year), helped build the Black Community Garden in his former neighborhood at Peralta Street and 36th Avenue, and helps raise money for charitable organizations like Random Acts. Gillis grew up poor, in a trailer in Alaska, with a mother who only knew poverty and worked in a women’s domestic violence shelter, identifies with other disadvantaged people, and volunteers to help traditionally-disadvantaged people, including “at risk” youth and people of color, so that they can also hope to climb out of poverty and oppression.
3. AT RISK YOUTH. Starting on or about early 2006, Gillis volunteered (without pay) to teach classes at traditionally black, public Merritt College. Gillis taught historically-disadvantaged people—including “at risk” youth, people of color and/or ethnic minority ancestry, women, and gays and lesbians—skills that could lead to a better life. Merritt College was so happy with Gillis’ work, Merritt offered Gillis a paid job as Instructor, and later, Program Director (2009). OFD allows emergency medical service employees

1 to work during OFD-off hours. Merritt College wants an active-duty OFD Program
2 Director in order to ensure Merritt students receive “real world” training and experience.

3 4. DEFENDANTS. Defendant William Sugiyama, an adult person, is employed as an OFD
4 EMS Division Manager (managing agent) for Defendant City of Oakland.

5 5. DOES. Defendants Does 1-15 are entities whose identity and capacity is unknown to
6 plaintiff. Plaintiff will name said with specificity when such identity and capacity are
7 known to plaintiff.

8 6. AGENCY. Defendants are agents and/or employees each of the other and acted within
9 the scope of that agency and employment.

10 7. VICARIOUS LIABILITY (CACI 3701). Defendants Sugiyama and DOES 1-15 are
11 supervising employees and managing agents of Defendant City of Oakland. The
12 misconduct stated herein was committed in the course and scope of said agency and
13 employment except where otherwise stated. Furthermore, Defendant City of Oakland
14 planned, participated in, approved, failed to report or investigate, and condoned and
15 ratified the misconduct. Defendant City of Oakland is vicariously liable for the
16 misconduct.
17

18 8. CONSPIRACY (CACI 3600). Defendants are co-conspirators each with the other and
19 planned to commit the within misconduct, agreed with co-conspirators, and intended that
20 the misconduct be committed.

21 9. JURISDICTION. This court is the proper court because the injury and damage occurred
22 in its jurisdictional area.
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1 B. WORK ENVIRONMENT

2 10. CULTURE. OFD maintains a culture of racism, sexism, and homophobia and nepotism
3 and cronyism. PBS described that culture in its television program regarding OFD titled
4 Test of Courage (2000):

5 “Recruitment, training, and leadership have helped to honor and preserve [certain]
6 lineages that [allegedly] favor bigger, stronger firefighters.”

7 In other words, OFD acknowledges it uses stereotypes, nepotism, and cronyism disguised
8 as genetic science (eugenics) in recruiting, selection, and promotion. Since no one
9 making these decisions has a degree in genetic science and no genetic tests were
10 performed, the decisions are based on stereotypes. Many of the same managers quoted in
11 Test of Courage resisting racial integration in the beginning of the 21st Century, are in
12 charge today (for example, Interim Chief Hoffman).

13 11. CODE OF SILENCE. OFD maintains a code of silence which discourages any
14 investigation and reporting of OFD negligence, intentional misconduct, and racism,
15 sexism, and homophobia. OFD even fails and refuses to abide by state and county laws
16 that require field supervision of paramedics. Alameda County Emergency Medical
17 Service Authority Administrative Manual Policy #2270 (a true copy is attached as
18 Exhibit One and is incorporated herein by this reference).

19 12. EXCESSIVE USE OF FORCE (EUOF). OFD trains personnel to “cooperate” with law
20 enforcement and to ignore evidence of police excessive use of force. OFD ignores
21 evidence that personnel participated in police excessive use of force.

22 13. OSCAR GRANT. The above racist culture, poor training, lack of field oversight, and
23 code of silence affected OFD’s response to the Oscar Grant emergency (911) call on
24 January 1st, 2009.

1 14. "KILL THE MESSENGER." When Gillis sought an investigation of the possibility of
2 mistake or misconduct by OFD in the death of Oscar Grant, OFD refused to investigate
3 and, instead, targeted Gillis for harassment, told Gillis he was "on the firing list" and
4 otherwise threatened and verbally harassed Gillis, falsely accused Gillis of crime and
5 fraud, forced Gillis to quit a separate position with Merritt College, wrote a letter of
6 resignation for Gillis to sign and tried to force him to sign it without reading it, first
7 moved Gillis' office to a small trailer on a remote parking lot, then removed all office
8 access, work vehicle and mailbox, issued a bad faith letter of reprimand against Gillis and
9 otherwise wrongfully evaluated and disciplined Gillis, wrongfully publicized discipline
10 throughout the department via Outlook calendar, wrongfully accessed Gillis' Kaiser
11 medical records and otherwise violated Gillis' right to privacy, eliminated Gillis' lunch
12 break, began weekly verbal and monthly written reviews, discriminated against Gillis'
13 medical conditions and disabilities, interfered with Gillis' attendance at meetings,
14 attempted to entrap Gillis, threatened to audit Gillis, attempted to interfere and interfered
15 with Gillis' exercise of his right to attorney, demoted, suspended, and otherwise harassed,
16 discriminated, and retaliated against Gillis.

17
18 C. OSCAR GRANT

19 15. Oscar Grant died on January 1st, 2009 after first responder OFD failed to apply basic
20 wound treatment to Grant.

21 16. Grant had been shot at pointblank range. The bullet created an entry and exit wound.

22 The paramedic applied an air-proof bandage (semi-occlusive dressing) only to the entry
23 wound and left the exit wound exposed to air. Grant died from his wounds 5 ½ hours
24 later.
25

1 17. In the days after January 1st, 2009, word of OFD's misconduct against Grant spread
2 within and throughout the EMS Division.

3 18. Health and Safety Code (HSC) § 1798.200, et seq., defines a "Threat to Public Safety" as
4 including gross negligence, incompetence, and patient mistreatment. HSC § 1798.200
5 further provides for the mandatory reporting of any "Threat to Public Safety" by licensed
6 professionals and any supervising personnel. HSC § provides that the failure to report
7 and/or investigate AND any attempt to interfere or actual interference with any reporting or
8 investigation of a "Threat to Public Safety" is itself a "Threat to Public Safety" that must
9 be investigated and reported. A true copy of HSC § 1798.200 appears on the last page of
10 Exhibit Two and is incorporated herein by this reference.

11
12 19. OFD written policy and procedure mandates reporting and investigating any "Threat to
13 Public Safety" (OFD's term is "Unusual Occurrence"):

14 It is the policy of the OFD Department to report any unusual circumstances that
15 occur at the scene of an EMS Response. In these cases, the notification shall be
16 done relative to the severity of the incident.[] All involved parties shall complete
17 a Form #538-8 [Unusual Occurrence Report].[] A copy of all unusual
18 occurrences related 538's [sic] will go to EMS for information/investigation.

19 OFD Policy and Procedure #800-08 (effective September 24th, 2006) (attached as
20 Exhibit Two and incorporated herein by this reference).

21 20. THREAT TO PUBLIC SAFETY COMPLAINT. Between January 1st and 6th, 2009,
22 Gillis, in his capacity as paramedics trainer and supervisor, reviewed the written OFD
23 Patient Care Report for Grant, concluded "[i]t was an atypical trauma," "Unusual
24 Occurrence," and evidenced a "Threat to Public Safety" under OFD P&P #800-08 and
25 HSC § 1798.200 with a potential racial motivation, contacted OFD Medical Director Dr.
Howard Michaels, requested authorization for an investigation, and received said
authorization.

1 21. THREAT TO PUBLIC SAFETY COMPLAINT. On or about January 6th, 2009, Gillis
2 contacted EMS Division Manager Nina Morris, notified her of the above actions, and
3 requested permission to contact the Alameda County Sheriff's Office Coroner's Bureau
4 and request the Pathologist Autopsy Protocol for Grant. Attached as Exhibit Three and
5 incorporated herein by this reference is a true copy of his email request. Morris approved
6 the contact in the neutral writing, "I have no problem with you doing this." Attached as
7 Exhibit Four and incorporated herein by this reference is a true copy of her email
8 response.

9 22. Gillis used the secured (confidential) fax line to make his request to the Sheriff's Office.

10 23. On or about January 8th, 2009, Morris stopped Gillis' investigation with an email that
11 started:

12 **"CONFIDENTIAL!!!! DO NOT DISCUSS THE CONTENTS OF THIS**
13 **EMAIL!!!!"**

14 Said email directed Gillis to cease his investigation and to refer the investigation to Dr.
15 Michaels. Attached as Exhibit Five and incorporated herein by this reference is a true
16 copy of Morris' email.

17 24. Morris then put pressure on Dr. Michaels to scuttle the investigation. Dr. Michaels
18 resisted the pressure, continued the investigation, and ordered an investigatory meeting
19 (call review) with the first responding paramedic.

20 25. Morris ignored Dr. Michaels' order, and on or about January 10th, 2009, Morris interfered
21 with his investigation by destroying Grant's OFD medical records—including the paper
22 file and the "undeletable"¹ computer archive of part of the paper file (the Patient Care
23 Report).

24
25 ¹ Policy and procedure requires the archive be undeletable. Practice does not follow policy or procedure.

1 26. The call review never occurred. The investigation remains open.

2 27. In failing to comply with Dr. Michael's order, in destroying evidence, and in otherwise
3 not participating in the "Unusual Occurrence" and "Threat to Public Safety"
4 investigation, Morris was motivated by racial animus; Morris intended to discriminate
5 against Grant in the provision of emergency services on account of Grant's color, race,
6 and national origin.

7
8 D. OTHER WHISTLEBLOWING

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10 28. THREAT TO PUBLIC SAFETY COMPLAINT. HSC §1798.200 et seq., further
11 provides that narcotic irregularities constitute a Threat to Public Safety. During summer
12 2009, Gillis received reports of missing narcotics from field personnel. The offending
13 paramedic is a white male. Per policy and procedure, Gillis contacted Dr. Michaels and
14 requested and received authorization to perform an "Unusual Occurrence" investigation.
15 Gillis investigated and made written finding to the Morris and Fire Chief Bates. Instead
16 of completing the process by reporting to the City Attorney (the last step), Morris falsely
17 represented that the report had been filed with the City Attorney and warned Gillis, "The
18 City Attorney does not like your reports." Gillis raised the non-follow-up several times
19 with Morris, her successor, and otherwise. In failing to participate in the "Unusual
20 Occurrence" and "Threat to Public Safety" investigation, Morris was motivated by racial
21 animus; Morris intended to discriminate in favor of the offending paramedic on account
22 of color, race, national origin, and ethnicity.

23 29. OTHER. Gillis otherwise reported unlawful behavior and dangerous conditions at
24 OFD—including, but not limited to, by making an OSHA complaint regarding OFD
25 personnel exposed to asbestos.

E. CAMPAIGN OF HARASSMENT AND DISCRIMINATION

1
2 30. INTENT TO RETALIATE. Instead of investigating the “Unusual Occurrences” and
3 “Threats to Public Safety,” Morris, and William S. Sugiyama—OFD’s Morris-chosen
4 successor, launched a retaliatory campaign of harassment and disparate treatment against
5 Gillis and Dr. Michaels as follows.

6 31. DR. MICHAELS FORCED OUT. Dr. Michaels stopped receiving regular paychecks
7 (Morris worked in Oakland’s Payroll Department before OFD). Dr. Michaels—
8 supported by Gillis--fought for a call review and for his paychecks from about February
9 2009 until Dr. Michaels finally left about September 2010. At the time of his leaving,
10 OFD owed Dr. Michaels over six (6) months’ wages.

11 32. “UNOFFICIAL OFFICIAL” LETTER OF CAUTION. Morris and Sugiyama jointly
12 issued a “Letter of Caution” to Gillis by which they demanded that Gillis stop his work
13 with Merritt College. Sugiyama knew his use of disciplinary process in OFD to achieve
14 ends in an Alameda County program was improper. Sugiyama deliberately called his
15 demand a “Letter of Caution” because City of Oakland Local 21 Memorandum of
16 Understanding (MOU) and related administrative rules and regulations allegedly provide
17 that a “Letter of Caution” is a low-level process for which an employee is not allowed
18 representation. Sugiyama insisted his “Letter of Caution” be issued to Gillis during off
19 hours for Sugiyama and Gillis. *Put another way, Sugiyama purported to make his*
20 *actions “un-official official” and enforceable against Gillis but not reviewable against*
21 *Sugiyama.*

22
23 33. SLANDER AND LIBEL—FALSE ACCUSATION OF EMBEZZLEMENT AGAINST
24 EMPLOYEE. On or about August 27th, 2009, Sugiyama purposely and intentionally
25

1 falsely claimed Gillis accepted \$12,000.00 from a City contractor. Strangely, Sugiyama
2 created the false allegation against Gillis about the same time Sugiyama disclosed
3 Sugiyama's own prior misconduct—the Alameda County SUVs-for-penalties matter²—to
4 Gillis.

5 34. HARASSMENT—SINGLE MOM. When Gillis refused to quit Merritt College,
6 Sugiyama yelled (in front of the Battalion Chiefs), “You have a problem with authority!
7 You need to dig back to your childhood!”

8 35. HARASSMENT AND DISPARATE TREATMENT—NIXONIAN HIT LIST.

9 Sugiyama told Gillis he maintains a “hit list” of employees to “get rid of,” that Gillis is
10 “already on [that] firing list,” and that Sugiyama “like[s] to play dirty.”

11 36. DEMOTION AND PRIVATIZATION. On or about September 2009, Sugiyama
12 demoted Gillis from Advanced Life Support Coordinator to Paramedic Trainer—a
13 position Sugiyama intended to privatize. On or about October 21st, 2010, Sugiyama
14 contacted for-profit National College of Technical Instruction, Inc., (NCTI) and
15 suggested NCTI would soon become OFD's Paramedic Trainer. Attached as Exhibit Six
16 and incorporated herein by this reference is a true copy of Sugiyama's October 21st, 2009
17 email.
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22 ² According to Sugiyama, Alameda County Emergency Medical Services executives accepted luxury SUVs in lieu
23 of penalties ambulance provider American Medical Response, Inc. (hereinafter AMR) (parent of National College of
24 Technical Instruction, Inc. [hereinafter NCTI]) owed the County for late ambulance services. Sugiyama and his
25 supervisor, Michael King left Alameda County at the time the self-dealing was exposed by John Vonhoff.

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37. HARASSMENT—“DICTATOR” THREAT. On or about September 2009, paradoxically, Sugiyama threatened Gillis that, if Gillis failed to do what Sugiyama demanded, “I will become an “autocratic dictator that you will not like.”
38. DISPARATE IMPACT OF PRIVATIZATION. OFD ran a joint venture with Merritt College—a historically-black, public college that serves “at risk youth” and people of color. Sugiyama replaced Merritt College with NCTI—a historically-white, private, for-profit, Colorado-based college. That replacement has a disparate impact on people of color in education and employment because OFD requires prospective employees to have fire department experience and prefers OFD experience and, after the replacement, only NCTI students have OFD experience.
39. HARASSMENT—SATURDAY BULLY SESSION. On or about February 20th, 2010, Sugiyama forced Gillis to endure an over-two-hour-on-Saturday-off-hours (7:30 p.m. to 10:00 p.m.) verbal confrontation which included name calling (“Poor Sean. Wah! Wah!” “Narcissistic!” “Extreem Hubris!”) and repeated threats of termination.
40. DELIBERATELY OVER-WORKING—IMPOSITION OF 24/7 SHIFT. On or about February 26th, 2010, Sugiyama imposed “24/7 on call” status on Gillis (for call back and return to work), an immediate-update requirement for Gillis’ calendar, and 24/7 open-access to the calendar. Said 24/7 status is an effort to manufacture violations to use against Gillis and imposed to harass and discriminate and retaliate against Gillis.
41. BIKE MEDIC. On or about May 12th, 2010, Sugiyama verbally reprimanded Gillis when third parties failed to show for a meeting (Bike Medic) when the failure was caused by Sugiyama (failed to approve notice after request from an administrative assistant).

1 42. CAREER FIRST—POOR PERFORMANCE APPRAISAL. On or about May 13th 2010,
2 Sugiyama issued a substandard Performance Appraisal (PA) of Gillis. It is remarkably
3 different from all past PAs (“meets expectations” or “exceeds expectations”) and indicia
4 of disparate treatment.

5 43. PARROT COMMENT. On or about May 17th, 2010, Sugiyama threatened Gillis, “Your
6 job is on the line.” When Gillis responded, “I know,” Sugiyama retorted, “If I wanted a
7 parrot, I would have bought one.” On the same day, Sugiyama admonished Gillis for a
8 lieutenant’s wait for narcotics exchange when the wait was caused by Sugiyama’s
9 requirement that all exchanges occur on the same day.

10 44. ACCESSING KAISER RECORDS. On or about May 21st, 2010, Sugiyama informed
11 Gillis and others that Sugiyama uses his wife, who is employed by Kaiser, to obtain the
12 Kaiser medical records of third parties. Sugiyama implied he accessed whatever records
13 he wanted.

14 45. “I’M A D***.” On or about May 26th, 2010, Sugiyama said, “I may be a dick, but . . .”
15 and asked staff at a meeting to identify personnel who they believed did not “have the
16 core values” necessary to be part of OFD. Later, Sugiyama told a co-worker, “Gillis will
17 be moved and fired if he can’t hack it” in front of other co-workers.

18 46. HOSTILE WORK ENVIRONMENT—THE BLOOD INCIDENT. On or about June 9th,
19 2010, an OFD paramedic was sprayed in the face with blood. When the paramedic
20 complained about OFD’s handling of the matter, Sugiyama responded publicly, “He is
21 unhappy with life and having daddy issues.”

22 47. HARASSMENT—FALSE ACCUSATION OF THEFT OF BIKE LIGHT. On or about
23 June 18th, 2010, Sugiyama threatened to fire Gillis when Sugiyama could not locate a
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1 bike light, "We are going to see the Chief!" The light had not been delivered from the
2 supplier.

3 48. HOSTILE WORK ENVIRONMENT—"I WIN WHEN YOU LOSE." On or about
4 August 10th, 2010, Sugiyama threatened Gillis, "If you make a mistake over at Training
5 Division, I will fire you. Either way, I win; if you are successful, I win; if you fail, I fire
6 you and get someone else."

7 49. INTERFERENCE WITH PERFORMANCE—OFFICE MOVE ('BACK TO THE
8 TRAILER PARK'). On or about September 22nd, 2010, Sugiyama barred Gillis from
9 using his OFD office in Jack London Square and moved Gillis to a trailer parked on a
10 remote lot. Sugiyama did so knowing that Gillis was raised in a trailer and would
11 experience distress from same. The removal was committed in order to create
12 performance issues and harass and discriminate and retaliate against Gillis.

13 50. INTERFERENCE WITH PERFORMANCE—CAR REMOVAL. On the same day,
14 Sugiyama blocked Gillis from continuing to use City vehicles. This action makes it
15 impossible for Gillis to attend union lunch meetings. Sugiyama blocked access in order
16 to create performance issues and harass and discriminate and retaliate against Gillis.

17 51. DISPARATE TREATMENT—PUNISHMENT FOR VOLUNTEERING. On or about
18 September 27th, 2010, Sugiyama disciplined Gillis for failing to meet Gillis' self-imposed
19 target date for moving OFD storage and for another personnel's failure to transition by
20 that person's goal date. The moving was a voluntary assignment performed on the
21 weekend and during off hours and completed within days of the target; the transitioning
22 failure is that of a third party and not the fault of Gillis (the person was out of town at a
23 conference). The discipline was done to discriminate and retaliate against Gillis.
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1 52. DISPARATE TREATMENT—BOSS WRITES EMPLOYEE’S “LETTER OF
2 RESIGNATION.” On or about October 4th, 2010, Sugiyama drafted a letter of
3 resignation for Gillis to sign. Sugiyama insisted Gillis sign the same without reading it.
4 When Gillis refused, Sugiyama billed Gillis \$659.95 for personnel texting on company
5 equipment even though OFD has a practice of allowing such personal texting and only
6 one other employee has been required to pay for personal texting, Deputy Chief James
7 Williams, and that employee was given unlimited, interest-free time to pay. Sugiyama
8 warned Gillis not to report Sugiyama, “The union won’t do anything to protect you.”
9 Sugiyama’s misconduct, in drafting a letter of resignation for Gillis to sign, violates the
10 MOU. It is extra-MOU discipline. Sugiyama’s misconduct, in retaliating against Gillis
11 for refusing to sign the letter and threatening him about the union, violates the MOU.
12 OFD refuses to investigate Gillis’ complaints regarding same. Sugiyama’s misconduct
13 was committed in order to harass and discriminate and retaliate against Gillis.
14

15 53. HARASSMENT—JOB LISTINGS (OCTOBER 4TH, 2010). On or about October 4th,
16 2010, Sugiyama gave Gillis a stack of job listings and told Gillis, “You would be perfect
17 for this” as he showed Gillis each listing. The listings included Alameda County
18 positions similar to or above Gillis’ current position. Obviously, if Sugiyama had any
19 genuine performance issues with Gillis, Sugiyama would not be so recommending Gillis.
20 Sugiyama’s misconduct was committed in order to harass and discriminate and retaliate
21 against Gillis.

22 54. INTERFERENCE WITH PERFORMANCE—MAIL BOX REMOVAL. On or about the
23 same October 2010, Sugiyama removed Gillis’ mailbox. The mailbox removal was done
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1 to make it impossible for Gillis to be successful, to ‘set him up’ for further ‘violations’
2 and in order to discriminate and retaliate against Gillis.

3 55. MEDICAL CONDITION DISCRIMINATION. On or about October 6th, 2010,

4 Sugiyama threatened to discipline Gillis for taking a sick day.

5 56. BASELINE PERFORMANCE LETTER (BPL) OF OCTOBER 15TH, 2010. On or about

6 October 15th, 2010, Sugiyama issued a Baseline Performance Letter (BPL) which

7 provides: 1) “Performance Area No. 1[:] Use of Time[:] [O]n 9/27/2010, you missed
8 numerous self imposed [sic] deadlines” [referring to voluntary move target date], 2)

9 “Performance Area No. 2[:] Accountability [:] [O]n 9/27/2010, you missed numerous
10 self imposed [sic] deadlines” [again referring to voluntary move target date], and 3) “The

11 work environment for your direct reports [sic—referring to people] is extremely

12 disorganized.” By this BPL, Sugiyama is complaining over and over again about

13 finishing the voluntary move a couple of days late and a shared space being disorganized.

14 Sugiyama does not suggest that any disarray is Gillis’, Gillis responded that any disarray

15 was caused by others, Sugiyama did not investigate Gillis’ response or criticize the

16 sharing employees, and Sugiyama purposely created any disorganization by moving

17 Gillis’ office. Said BPL was not issued in good faith, but rather, in order to harass and

18 discriminate and retaliate against Gillis.

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20 57. REPRIMAND (OCTOBER 15TH, 2010). The same day Sugiyama issued the BPL,

21 Sugiyama issued a Reprimand to Gillis. The Reprimand is based on the same voluntary

22 move target date, “disarray” in the shared office, “failing to lead . . . the Training

23 Division” while Gillis was *in Texas* for a professional conference, and leaving equipment

24 at a secured Department location, but the ‘wrong’ one according to Sugiyama. The
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1 Reprimand violates Gillis' Due Process and Equal Protection Rights, because it is un-
2 Constitutionally vague and ambiguous and because OFD has no policy or practice of
3 reprimanding employees for such alleged misconduct and was issued in order to harass
4 and discriminate and retaliate against Gillis.

5 58. DISPARATE TREATMENT--30-DAY FORMAL AND WEEKLY "ONE-ON-ONE"
6 REVIEWS FOR GILLIS ONLY. On or about November 2010, Sugiyama imposed 30-
7 day formal and weekly one-on-one performance reviews for Gillis only. Said are nothing
8 more than hour-long-rants and bullying sessions, and Sugiyama repeatedly and over
9 objection, schedules them on Gillis' vacation or off days. The imposition was committed
10 to discriminate and retaliate against Gillis.

11 59. INTERFERENCE WITH PERFORMANCE—OFFICE REMOVAL (NOVEMBER 3RD,
12 2010). On or about November 3rd, 2010, Sugiyama ordered Gillis to vacate his office and
13 convert it into a storage closet. Gillis has no office today. OFD does not need a storage
14 closet so badly; Gillis has photographs of empty OFD storage garages. The order was
15 done to create performance of duty issues and in order to harass and discriminate and
16 retaliate against Gillis.

17 60. HARASSMENT—INTERFERENCE WITH MEETING; "DEFECT LIST"
18 (NOVEMBER 10TH 2010). On or about November 10th, 2010, Sugiyama made Gillis
19 late to a meeting between Gillis and the Fire Chief and City Attorney by telling him that a
20 meeting scheduled for the same day would "only take ten (10) minutes" and then keeping
21 Gillis for over thirty (30) minutes—all while knowing the Chief and City Attorney were
22 waiting for Gillis. At the meeting, Sugiyama asked Gillis to sign a 'list of Gillis'
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1 deficiencies.’ These actions were done to harass and discriminate and retaliate against
2 Gillis.

3 61. DISPARATE TREATMENT—ENTRAPING (DECEMBER 7TH, 2010). On or about
4 December 7th, 2010, Sugiyama asked Gillis to give employees illegal uniform re-
5 imbursement by padding their time cards. Sugiyama warned Gillis non-compliance
6 would “cause the part-time program to collapse.” This attempt to cause Gillis to commit
7 acts of embezzlement was done to harass and discriminate and retaliate against Gillis.

8 62. FALSE ACCUSATION OF FRAUD (DECEMBER 21ST, 2010). On or about December
9 21st, 2010, Sugiyama warned Gillis that Gillis “de-frauded’ the state by changing the
10 name of a training class. Sugiyama repeated the accusation to Gillis and Gillis’ co-
11 workers. The name change was caused by others; there was no fraud. The false
12 accusation was made in order to harass and discriminate and retaliate against Gillis.
13

14 63. HARASSMENT—AUDIT THREAT (JANUARY 12TH, 2011). On or about January
15 12th, 2011 in a staff meeting, Sugiyama threatened to “bring the County in” to audit
16 Gillis’ training records, because “the classes from Spring won’t pass the audit.” Gillis
17 asked why OFD would request an audit only to fail, Sugiyama responded, “We’ve got
18 nothing to hide.” The threat was made in order to harass and discriminate and retaliate
19 against Gillis.

20 64. HARASSMENT—FURTHER PUNISHMENT FOR VOLUNTEERING (JANUARY
21 14TH, 2011). On or about January 14th, 2011 (30-day review), Sugiyama yelled
22 frequently at Gillis in front of others during an hour review of Gillis. The subject of the
23 review was the missed storage move target date and certification deadline miss that was
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1 not the fault of Gillis. The other workers were forced to stop Sugiyama. Said review was
2 done to harass and discriminate and retaliate against Gillis.

3 65. HARASSMENT—ANSWER SHEETS. On January 18th, 2011, Gillis was severely
4 admonished for using left-over copies of answer sheets and not making fresh copies. The
5 answer sheets had not changed. The admonishing email contains large block letters and
6 concludes, “You are failing in almost every aspect of your administration duties for your
7 EMS training division.” At the same time Gillis is being “raked over the coals” for not
8 wasting copies, Sugiyama “looked the other way” when Juliet Henshaw failed to show
9 for two classes Sugiyama assigned her to teach (30 students). Said admonishment was
10 done in order to harass and discriminate and retaliate against Gillis.

11 66. SUGIYAMA CREATES TARDINESS (JANUARY 19TH, 2011). On or about January
12 19th, 2011, Sugiyama changed a staff meeting without changing the Outlook calendar.
13 Sugiyama told other staff about the change. When Gillis showed at the Outlook-
14 calendar-time, Sugiyama admonished Gillis. The intentionally-created ‘violation’ was
15 done in order to harass and discriminate and retaliate against Gillis.
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17 67. HARASSMENT--“DEFCON” (JANUARY 20TH, 2011). On or about January 20th, 2011,
18 Sugiyama threatened to “increase the level of contact to” Gillis because Gillis re-filled
19 Bike Medic bags with supplies. Sugiyama yelled, “You have selective hearing,” “This is
20 going on record,” “You have no clue,” “You create a level of animosity with your co-
21 workers,” “You don’t have to make a 9,000 page book of policy,” “I get half-assed
22 stories,” and “You’ve never functioned as an EMS Coordinator,” “You will continue to
23 take hits,” I’m going to call you aggressively,” “You put your ears on, but you don’t
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1 listen,” “You are on DEFCON” [going to nuclear war], and more. Sugiyama’s threats
2 were made to harass and discriminate and retaliate against Gillis.

3 68. HARASSMENT—BUDGET BLAME (JANUARY 25TH, 2011). On or about January
4 25th, 2011, Sugiyama warned Gillis that, if OFD is over-budget, Gillis will be blamed
5 because he purchased completion certificates (standard procedure) for CPR class
6 graduates. Blaming Gillis for city budget problems was not in good faith and was done
7 in order to harass and discriminate and retaliate against Gillis.

8 69. LETTER OF INTENT (FEBRUARY 3RD, 2011). On or about February 3rd, 2011, OFD
9 issued a Notice of Intent (LOI) in which OFD requested a 3-day suspension of Gillis for:
10 1) Receiving the May 2010 Performance Evaluation, and 2) Receiving the October 15th,
11 2010 Baseline Performance Letter. No further conduct or any continuing violation is
12 stated. The LOI violates the policies and practices of OFD because it contain a statement
13 of conduct upon which a suspension may be based and the same alleged violations cannot
14 support successive discipline (reprimand and suspension). **This letter is at least the**
15 **fourth time Sugiyama used the September 2010 voluntary-storage-move matter as a**
16 **basis for discipline.** The LOI was issued to harass and discriminate and retaliate against
17 Gillis.
18

19 70. HOSTILE WORK ENVIRONMENT—“WOE IS ME!” On or about February 14th,
20 2011, Sugiyama held a “Performance Review” meeting with Gillis. Though Sugiyama
21 prepared a Baseline Performance Letter (BPL) for the meeting, Sugiyama did not provide
22 the letter to Gillis or Gillis’ Union Representative before the meeting. The letter was not
23 discussed in the meeting. Instead, in the presence of OFD Personnel Officer Steve
24 Danziger, and Union Representative Vickie Carson, Sugiyama exclaimed, “Woe is me! I
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1 need more employees!” to Gillis. Sugiyama’s misconduct was committed in order to
2 harass and discriminate and retaliate against Gillis.

3 71. FEBRUARY 14TH, 2011 BASELINE PERFORMANCE LETTER (BPL). On or about
4 February 14th, 2011, Sugiyama issued a BPL for Gillis which states: 1) “[O]n 9/27/2010,
5 you missed numerous self-imposed [sic] deadlines” (above-described voluntary-move
6 matter), 2) “[You have] an established pattern of personal illness” (above-described;
7 Gillis is well within MOU sick days and provides doctor’s notes when requested), 3)
8 “You were 35 minutes late to [a] staff meeting” (above-described Outlook matter), 4)
9 “[Repeat 1]”, 5) “You transmitted [an] email regarding a box found [in Gillis’ locker]”
10 (Gillis reported that someone placed a box in his locker and requested Sugiyama
11 investigate, attached to the box was a hand-written note, and Sugiyama failed and refused
12 to investigate), 5) “I . . . found the [shared] office to be in a state of disarray” (above-
13 described shared space), and 6) “[You] purchas[ed] ASHI Class Cards” (completion
14 certificates described above). Much, of what is supposed to be good faith constructive
15 criticism, is rude, in large font, bold, and underlined. Said BPL was made to harass and
16 discriminate and retaliate against Gillis.

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18 72. HARASSMENT—‘NO ONE LIKES YOU SEAN’ (FEBRUARY 20TH, 2011). On or
19 about February 20th, 2011 in front of other personnel, Sugiyama criticized Sean, “We
20 need to talk offline about the viability of the training program. No one wants to attend
21 *your* training.” The statement was made to humiliate and degrade Gillis in order to
22 harass and discriminate and retaliate against Gillis.

23 73. RIGHT TO AN ATTORNEY . . . EXCEPT. On or about March 8th, 2011, Sugiyama,
24 acting through the Personnel Office of OFD, *in writing* informed Gillis OFD scheduled a
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1 personnel mediation between Gillis and Sugiyama to “resolve all issues” on or about
2 March 11th, 2011, and that Gillis and Sugiyama have the right to bring an attorney to the
3 mediation. When Gillis notified OFD he would appear with an attorney, Sugiyama
4 cancelled the mediation. From on or about March 8th to 24th, 2011, Sugiyama refused to
5 reschedule the mediation. On or about March 24th, 2011, Sugiyama informed Gillis that
6 OFD: a) Will re-schedule the mediation if Gillis waives his right to be represented at the
7 mediation, and b) Is more likely to grant Sugiyama’s February 3rd Skelly Hearing request
8 (to suspend Gillis for three days) if Gillis refuses to waive his rights.

9 74. UNLAWFUL COERCION AGAINST EXERCISE OF RIGHT TO ATTORNEY. On or
10 about March 24th, 2011, Sugiyama informed Gillis that OFD: a) Will re-schedule the
11 above personnel mediation only if Gillis waives his right to be represented at the
12 mediation, and b) Is more likely to grant Sugiyama’s February 3rd Skelly Hearing request
13 (to suspend Gillis for three days) if Gillis refuses to waive his rights.

14 75. BASELINE PERFORMANCE LETTER (BPL) OF MARCH 24TH, 2011. On or about
15 March 24th, 2011, Sugiyama issued a BPL to Gillis for: 1) Missing deadlines (but fails to
16 identify any missed deadlines), 2) Mis-management of time (but fails to identify any
17 specific acts or omissions except use of allowed sick leave), 3) Using an ASHI policy for
18 storing coursework (Sugiyama expressly approved using ASHI and identified same as
19 “best practices”), and 4) Finding files in a storage cabinet (recycled from February 14th,
20 2011 BPL). Sugiyama failed to include “corrective action” other than ‘identify
21 deficiencies and correct them.’ Said BPL was issued to harass and discriminate and
22 retaliate against Gillis.
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1 76. SUSPENSION (MARCH 30TH, 2011). On or about March 30th, 2011, OFD suspended
2 Gillis as Sugiyama promised it would if Gillis refused to waive his right to an attorney.
3 The stated basis was the missed move date of September 2011; no person has ever been
4 suspended for volunteering. The suspension was ordered to harass and discriminate and
5 retaliate against Gillis.

6 77. DISPARATE TREATMENT—THREATS FOR PERSONNEL QUESTIONS. On or
7 about April 11th, 2011, Gillis and his attorney filed an Appeal of Discipline (Suspension)
8 with the Civil Service Board and gave notice to his union that he chose to file the appeal
9 instead of grieving the suspension. The union responded by letter that it would not
10 represent Gillis. Gillis made said decision based on the union's failure to respond to
11 Gillis' requests for grievance of the discrimination, retaliation, harassment, and
12 suspension. Gillis asked OFD Personnel Officer Steve Danziger if the union's letter
13 meant that it would no longer represent Gillis in performance review meetings and, if so,
14 if Gillis could use his attorney (at Gillis' expense) for such meetings. Danziger
15 responded, "No," and, in writing, threatened to fire Gillis if he failed to show for any
16 meetings.
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18 78. Defendants otherwise harassed and discriminated and retaliated against Gillis including,
19 but not limited to, the following post-April 11th, 2011 misconduct: 1) Threatening Gillis
20 for recording meetings after providing him with a recording pen (Lifscribe) and ordering
21 Gillis to use it for meetings, and 2) Issuing a bad faith annual appraisal.

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1 F. RACIST, SEXIST, HOMOPHOBIC, AND RETALIATORY WORK
2 ENVIRONMENT

3 79. CULTURE WITHIN OFD—RACIST, SEXIST, AND HOMOPHOBIC. OFD maintains
4 a hostile work environment in which bullying and racist, homophobic, and sexist
5 statements are tolerated and even committed by supervisors. OFD promotes those who
6 will assimilate and retaliates against those who challenge that culture.

7 80. RACISM. Other examples of racism include:

- 8 - OFD fails and refuses to recruit people of color for prospective employment.
9 OFD exclusively uses recruitment techniques known to produce white,
10 heterosexual male applicant pools—like community CPR classes.
11 - OFD fails and refuses to hire and promote people of color.
12 - On or about August 2010, OFD hired Dan Gerard—a white male and the 20+
13 year friend of Sugiyama over Carolina Green—a better qualified, bilingual
14 applicant. OFD did not follow its policies and practices of using a hiring
15 committee and allowed Sugiyama to unilaterally make the hiring decision.
16 - On or about March 2011, OFD refused to consider Moises Montoya, a
17 college-degreed, trilingual (E, Sp, F) Latino administrative worker from the
18 Public Works Department for a position as dispatcher (diploma required,
19 *multilingual* preferred). OFD did not even interview Montoya. Upon receipt
20 of Montoya’s application, OFD re-listed the job “No *Spanish* language
21 requirement.” The statement seems intended to discourage further Latino
22 applicants.
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- 1 - All but black employees are compensated for uniform purchases by
- 2 unlawfully “padding” time cards (adding the exact number of hours needed to
- 3 cover submitted uniform receipts).
- 4 - All but black employees (and Gillis) are paid unlawful comp time.
- 5 - OFD condones Sugiyama’s use of racist slurs like “just off the reservation”
- 6 (used to describe unsatisfactory employees).
- 7 - OFD and Sugiyama condone racist slurs like “Flips” (used to describe
- 8 Phillippino employees) made by other employees.
- 9 - OFD fails and refuses to engage in sensitivity training or other programs to
- 10 treat the problem of racism.

11 81. SEXISM. Other examples of sexism include:

- 12 - OFD fails and refuses to recruit women for prospective employment. OFD
- 13 exclusively uses recruitment techniques known to produce white, heterosexual
- 14 male applicant pools—like community CPR classes.
- 15 - OFD refuses to hire and promote women. Less than 15% of the fire fighters
- 16 are female.
- 17 - OFD uses and defends the use of “hazing” to train employees.
- 18 - OFD tolerates instances of male firefighters inviting women (including
- 19 prostitutes) to fire stations for the purpose of engaging in sexual relations. For
- 20 example, on or about 2003, a male firefighter from Station 5, while he was
- 21 driving an OFD fire truck, attempted to pick up an alleged prostitute and bring
- 22 her back to Station 5. The fire fighter was interrupted, not disciplined, and
- 23 continues to work for OFD.
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- 1 - On or about September 2009, a firefighter brought a woman to Station 13, and
2 according to the woman, sexually assaulted her. OFD largely failed and
3 refused to investigate the woman's rape allegation and, ultimately, only
4 demoted the firefighter. Sugiyama made inappropriate comments about the
5 alleged rape at recorded staff meetings.
- 6 - OFD fails and refuses to engage in sensitivity training or other programs to
7 treat the problem of sexism.

8 82. HOMOPHOBIA. Other examples of homophobia include:

- 9 - OFD refuses to recruit openly gay men and women. There is not a single
10 openly gay employee.
- 11 - OFD uses and defends the use of "hazing" to train employees.
- 12 - OFD tolerates instances of male firefighters bringing female prostitutes to
13 stations for the purpose of engaging in sexual relations.
- 14 - The handling of the above alleged sexual assault.
- 15 - OFD fails and refuses to engage in sensitivity training or other programs to
16 treat the problem of homophobia.
- 17 - OFD condones Sugiyama's use of homophobic jokes like (regarding
18 maternity leave for a woman in a homosexual relationship), "What are they . .
19 . sharing a baby?!" and claim that un-married persons "can't understand what
20 team work is."
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22 83. MEASURE Y NON-COMPLIANCE. Measure Y is a tax fund created by voters to pay
23 for "at risk youth" mentoring. Measure Y requires OFD to create and maintain an "at
24 risk youth" mentoring program. OFD collects \$4,000,000.00 annually from the Measure
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1 Y fund, but OFD fails to create or maintain a single “at risk youth” mentoring program at
2 of fifteen (15) fire stations. The failure to comply with Measure Y has a disparate impact
3 on people of color. Gillis advocates for “at risk youth” mentoring—including his work
4 with Merritt College.

5 84. DISCRIMINATORY RECRUITMENT. OFD holds “Community CPR Classes” for the
6 purpose of recruiting students for EMT training and, ultimately, for employment.

7 Attendees at such classes are overwhelmingly white males and do not reflect the
8 demographics of Oakland, and OFD fails and refuses to take steps to recruit people of
9 color, women, and gays and lesbians.

10 85. RETALIATION. The misconduct regarding Oscar Grant is generally known throughout
11 the EMS Division and the entire management of OFD. No one, except Gillis, “broke the
12 silence,” because OFD maintains a pattern and practice of retaliating against complainers.
13 For example, on or about May 6th, 2010, Sugiyama held a meeting in which he discussed
14 his plan to “get rid of” Employee Tim Doe (Sugiyama referred to as a “stupid dick” and
15 “ha[ving] just made the biggest mistake of his career” and about to have “a giant lens
16 turned on him”) because Tim Doe successfully grieved a “needs improvement”
17 Performance Appraisal. Sugiyama then raised 15 other employees from “needs
18 improvement” to “fully effective,” to dilute Tim Does’ success.
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G. FURTHER COMPLAINTS

86. Gillis otherwise complained about the harassment, discrimination and retaliation—
including by not limited to, the following:

- FIRE CHIEF COMPLAINT (OCTOBER 7th, 2010). On or about October 7th, 2010, Gillis filed a complaint with OFD Chief Simon regarding: 1) Racist employment practices as evidenced by the rejection of more-qualified, bilingual, Latina paramedic applicant Carolina Green in favor of a 20+-year friend of Sugiyama, and 2) Harassment and discrimination against Gillis.
- PERSONNEL COMPLAINT (FEBRUARY 17TH, 2011). On or about February 17th, 2011, Gillis filed an Opposition to Letter of Intent in which Gillis opposed the request for suspension and exposed the harassment, discrimination, and retaliation set forth herein. The Opposition was filed with the Personnel Office of OFD and read to all attendees at the Skelly Hearing— including managing officers of OFD.
- UNION GRIEVANCE REQUEST (FEBRUARY 17TH, 2011). On or about February 17th, 2011, Gillis requested his union grieve the harassment, discrimination, and retaliation set forth in the Opposition to Letter of Intent. The Union failed and refused to so grieve.
- EOPD AND UNION COMPLAINT (FEBRUARY 26TH, 2011). On or about February 26th, 2011, Gillis filed complaints with both the Equal Opportunity Programs Division of the City of Oakland and Local 21 in which Gillis opposed the request for suspension and exposed the above harassment,

1 discrimination, and retaliation. EOPD first indicated Gillis' advocacy for
2 Oscar Grant did not constitute a protected complaint of racial discrimination.
3 The Union failed and refused to grieve.

- 4 - CITY ATTORNEY COMPLAINT AND CLAIM COMPLAINT (MARCH
5 15TH, 2011). On or about March 15th, 2011, Gillis filed a Claim with the City
6 related to the misappropriation of the Merritt College program and related
7 issues (including harassment). On or about March 24th, 2011, the City
8 Attorney refused to investigate and issued a right to sue entitled "Denial of
9 Claim Against City."
- 10 - KAISER COMPLAINT (MARCH 20TH, 2011). Sugiyama uses his wife to
11 access private medical records of Kaiser patients (Sugiyama's spouse works
12 for Kaiser). Sugiyama discusses those records in employee meetings. Gillis
13 believes Sugiyama accesses OFD personnel's medical records. Gillis
14 requested the HIPAA log for his records. When Kaiser refused to provide
15 same, Gillis filed a complaint with Kaiser and the California Department of
16 Managed Care.
- 17 - CITY ATTORNEY COMPLAINT (MARCH 28TH, 2011). On or about
18 March 28th, 2011, Gillis filed a complaint with the City Attorney regarding the
19 "quid pro quo" and un-Constitutional coercion by Sugiyama and OFD and
20 provided a chronology detailing the harassment, discrimination, and
21 retaliation herein. The City Attorney failed and refused to investigate.
- 22 - UNION COMPLAINT (MARCH 28TH, 2011). On or about March 28th, 2011,
23 Gillis filed a complaint with his union's executive director (Bob Muscat,
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1 Local 21, IFPTE) regarding the failure of IFPTE to grieve the harassment,
2 discrimination, and retaliation. The complaint included a complete
3 chronology. IFPTE refuses to respond to the complaint.

4 - UNION COMPLAINT (MARCH 31ST, 2011). On or about March 31st, 2011,
5 Gillis confirmed what appeared to be an agreement by Union Representative
6 Vickie Carson to grieve the suspension, provided an updated chronology, and,
7 again, requested the union grieve the harassment, discrimination, and
8 retaliation. Carson never responded, took no steps to grieve the suspension,
9 and continues to fail and refuse to grieve the harassment (and hostile work
10 environment) and discrimination and retaliation. Gillis was forced to pay an
11 attorney to research, draft, and file an Appeal of Discipline (Suspension). The
12 City Attorney and EEO were cc'd. The City Attorney failed and refused and
13 continues to fail and refuse to investigate.

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15 - FIRE CHIEF COMPLAINT (APRIL 3RD, 2011). On or about April 3rd, 2011,
16 Gillis filed a Complaint with Interim Chief Mark Hoffman in which Gillis
17 provided a complete chronology. The Chief failed and refused and continues
18 to fail and refuse to respond.

19 - FIRE CHIEF COMPLAINT (APRIL 4TH, 2011). On or about April 4th, 2011,
20 Gillis filed an Amended Complaint with Interim Chief Hoffman in which
21 Gillis provided an updated complete chronology. The Chief failed and
22 refused and continues to fail and refuse to respond.

23 - CITY ATTORNEY COMPLAINT (APRIL 6TH, 2011). On or about April
24 6th, 2011, Gillis filed a Complaint with the City Attorney to the effect that
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1 Sugiyama was deliberately over-working Gillis (365/24/7 “on call” status and
2 6 full days) and scheduling Gillis in such a way that he could not attend Union
3 meetings or prepare the Appeal of Suspension with his attorney. Gillis
4 informed the City Attorney that Sugiyama told Gillis in Summer 2009 that
5 Sugiyama would “overwork disfavored employees until they quit.” The City
6 Attorney failed and refused and continues to fail and refuse to respond.

- 7 - PERSONNEL COMPLAINT (APRIL 8TH, 2011). On or about April 8th,
8 2011, Gillis filed a Response to Baseline Performance Letter (BPL) of March
9 24th, 2011 in which Gillis fully detailed the issues with the BPL set forth
10 above.
11 - OTHERWISE. Gillis otherwise complained, verbally and in writing, about
12 harassment, discrimination, and retaliation against Gillis, patients, and co-
13 workers to his union, the City of Oakland, and OFD.
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16 H. ONGOING AND CONTINUING VIOLATION

17 87. ONGOING VIOLATION. Sugiyama and City of Oakland otherwise maintained a hostile
18 work environment and harassed and discriminated and retaliated against Gillis and
19 continue to do so.

20 88. CONTINUING VIOLATION. The individual misconduct stated above involves
21 successive conduct which is similar and related to conduct that occurred earlier, the
22 conduct is reasonably frequent, and the conduct has not yet become permanent.

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I. EXHAUSTION

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2 89. EXHAUSTION. Plaintiff exhausted his administrative remedies by filing an
3 Administrative Complaint (Claim) against Defendant City for applicable claims (attached
4 as Exhibit Seven and incorporated herein by this reference) and by filing a Department of
5 Fair Employment and Housing (DFEH) Administrative Complaint against Defendant
6 City and Supervisor Sugiyama (attached as Exhibit Eight and incorporated herein by this
7 reference [redacted to include only one of two identical attachments]). Defendant City
8 did not respond to the Claim. DFEH issued a right to sue (included in attachment).
9 Plaintiff served the DFEH complaint and right to sue on defendants within the sixty (60)
10 day service period. Plaintiff is not required to exhaust any grievance process, because
11 Plaintiff's union, Local 21 IFPTE breached its duty of fair representation by arbitrarily,
12 discriminatorily, and in bad faith failing and refusing to represent plaintiff—including,
13 but not limited to, failing and refusing to return contacts (telephone calls, emails, letters,
14 personal), failing and refusing to act on verbal and written requests to grieve the within
15 misconduct, and, in writing, refusing to represent plaintiff.
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17 90. NOTE: The Civil Service Board is considering the suspension and plaintiff is exhausting
18 internal processes for his May 2011 annual review. Plaintiff does not seek damages for
19 the suspension or said review by this action at the time of filing.
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I.

FIRST CAUSE OF ACTION

WHISTLEBLOWER RETALIATION (Labor Code 1102.5 et seq., *modified* MB 2400A.11)

Alleged Against Defendants City of Oakland, and Does 1-15

91. Gillis incorporates the Common Count as if fully set forth herein.

92. At all times, Gillis had reasonable cause to believe and, in fact, believed the information contained in the above THREAT TO PUBLIC SAFETY COMPLAINT sections, other complaints set forth above, and other complaints disclose a violation of state and federal statutes and a violation and noncompliance with state and federal rules and regulations under Labor Code § 1102.5. Gillis is an employee of a government agency, and Gillis' complaints were made to his employer under Labor Code § 1102.5(e). Defendant City of Oakland's retaliatory campaign of harassment constitutes a rule, regulation, and policy preventing an employee making such complaints (Labor Code § 1102.5(a)), retaliation against an employee for disclosing information to a government and/or law enforcement agency (Labor Code § 1102.5(b)), and retaliation for refusing to participate in the activity that would result in a violation of state or federal statute and a violation and noncompliance with a state and federal rule and regulation (Labor Code § 1102.5(c)).

93. OFD refused to investigate Gillis' complaints and, instead, targeted Gillis for harassment, told Gillis he was "on the firing list" and otherwise threatened and verbally harassed Gillis, falsely accused Gillis of crime and fraud, forced Gillis to quit a separate position with Merritt College, wrote a letter of resignation for Gillis to sign and tried to force him to sign it without reading it, first moved Gillis' office to a small trailer on a remote

1 parking lot, then removed all office access, work vehicle and mailbox, issued a bad faith
2 letter of reprimand against Gillis and otherwise wrongfully evaluated and disciplined
3 Gillis, wrongly publicized discipline throughout the department via Outlook calendar,
4 wrongfully accessed Gillis' Kaiser medical records and otherwise violated Gillis' right to
5 privacy, eliminated Gillis' lunch break, began weekly verbal and monthly written
6 reviews, discriminated against Gillis' medical conditions and disabilities, interfered with
7 Gillis' attendance at meetings, attempted to entrap Gillis, threatened to audit Gillis,
8 attempted to interfere and interfered with Gillis' exercise of his right to attorney,
9 demoted, suspended, and otherwise harassed, discriminated, and retaliated against Gillis.

10 94. The misconduct of defendants was a substantial factor in causing harm to Gillis.

11 95. Gillis prays relief as set forth below.
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II.

SECOND CAUSE OF ACTION

WRONGFUL RETALIATION (Common Law, *modified* CACI 2430, MB 2400A.11[3][b])

Alleged Against Defendants Sugiyama, City of Oakland, and Does 1-15

96. Plaintiff incorporates the Common Count as if fully set forth herein.

97. OFD retaliated against plaintiff, as set forth in Paragraph 92 above, for making the reports stated in the THREAT TO PUBLIC SAFETY COMPLAINT sections and other complaints set forth above and otherwise opposing racist, sexist, and homophobic, and fraudulent and unlawful policies and practices at OFD in violation of the public policy of the State of California as evidenced by the constitution, state and local law, stated policy and procedure of the City (including administrative rules), the MOU, and social norms.

Garcia v. Rockwell International Corp. (1986) 187 Cal. App. 3d 1556, MB (herein MB denotes Matthew Bender Jury Instructions) 2400A.11[3][g] et seq.

98. The misconduct of defendants was a substantial factor in causing harm to Gillis.

99. Gillis prays relief as set forth below.

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III.

THIRD CAUSE OF ACTION

FAIR EMPLOYMENT VIOLATION (FEHA)

(Government Code § 12900 et seq., CACI 2500 et seq.)

Alleged Against Defendants Sugiyama, City of Oakland, and Does 1-15 as Set Forth Below

100. Gillis incorporates the Common Count as if fully set forth herein.

101. As set forth, Gillis made complaints of OFD misconduct against black patients and racially discriminatory employment practices.

102. At OFD, Gillis associated with black people. Gillis' complaints caused defendants to further associate Gillis with black people.

A. HARASSMENT (HOSTILE WORK ENVIRONMENT)

103. COUNT ONE--HOSTILE WORK ENVIRONMENT; CONDUCT DIRECTED AT PLAINTIFF (Government Code § 12940(j) et seq., CACI 2521A, 2522A)—*Alleged Against Defendant Sugiyama, City of Oakland, and Does 1-15*: Defendants subjected Gillis to un-wanted harassing conduct as set forth as a result of these associations and on account of racial animus against black people (color, race, national origin, ethnicity), the harassing conduct was severe and pervasive, a reasonable black person would consider the work environment to be hostile and abusive. Gillis' supervisors committed the misconduct and/or knew about the misconduct and failed to take immediate and appropriate corrective action.

104. COUNT TWO—HOSTILE WORK ENVIRONMENT; CONDUCT DIRECTED
AT OTHERS (Government Code § 12940(j) et seq., CACI 2521B, 2522B)—*Alleged Against Defendants Sugiyama, City of Oakland, and Does 1-15*: As set forth above, Gillis personally witnessed harassing conduct that took place in his immediate work environment against people of color (color, race, national origin, ethnicity), women, gays and lesbians, people with medical conditions and disabilities, and unmarried persons, the harassing conduct was severe and pervasive, a reasonable person would consider the work environment to be hostile and abusive. Gillis’ supervisors committed the misconduct and/or knew about the misconduct and failed to take immediate and appropriate corrective action.

B. DISCRIMINATION

105. COUNT THREE—DISCRIMINATION (DISPARATE TREATMENT) (Government Code § 12940(a) et seq., CACI 2500)—*Alleged Against Defendants City of Oakland and DOES 1-15*: Defendants discriminated against Gillis in compensation and in terms, conditions, and privileges of employment as set forth above on account of race, medical condition and disability (anxiety), and marital status.

106. COUNT FOUR—DISCRIMINATION (DISPARATE IMPACT) (Government Code § 12940(a) et seq., CACI 2502)—*Alleged Against Defendants City of Oakland and DOES 1-15*: Defendants discriminated against Gillis in compensation and in terms, conditions, and privileges of employment as set forth above on account of race, medical condition and disability (anxiety), and marital status.

C. RETALIATION

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2 107. COUNT FIVE—RETALIATION (Government Code § 12940(h) et seq., CACI
3 2505)--*Alleged Against Defendants Sugiyama, City of Oakland, and DOES 1-15:*
4 Defendants discriminated against Gillis AND engaged in misconduct that, taken as a
5 whole, materially and adversely affected the terms and conditions of Gillis' employment.
6 Gillis' complaints, including complaints of harassment by Sugiyama, were motivating
7 reasons for defendants' decision to discriminate against Gillis and engage in the
8 misconduct.

9 108. The misconduct of defendants was a substantial factor in causing harm to Gillis.

10 109. Gillis prays relief as set forth below.
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IV.

FOURTH CAUSE OF ACTION

INVASION OF PRIVACY

(Cal. Const. Art. I § 1, CACI 1800)

Alleged Against Defendants Sugiyama, City of Oakland, and Does 1-15

110. Gillis incorporates the Common Count as if fully set forth herein.

111. By secretly recording Gillis, accessing and disclosing Gillis' Kaiser medical records, broadcasting personnel matters on OFD's division-wide Outlook calendar, and otherwise, defendants intentionally intruded upon Gillis' reasonable expectation of privacy at work and in his employment and medical records. Those intrusions are highly offensive to a reasonable person as evidenced by prohibitions against the misconduct and social norms. Said misconduct was committed with malice, fraud, and oppression as set forth above.

112. The misconduct of defendants was a substantial factor in causing Gillis to suffer severe emotional distress, damage to reputation, and other harm.

113. Gillis prays relief as set forth below.

V.

FIFTH CAUSE OF ACTION

INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

Alleged Against Defendants Sugiyama, City of Oakland, and Does 1-15

114. Plaintiff incorporates the Common Count as if fully set forth herein.

115. Defendants targeted Gillis for harassment, told Gillis he was “on the firing list” and otherwise threatened and verbally harassed Gillis, falsely accused Gillis of crime and fraud, forced Gillis to quit a separate position with Merritt College, wrote a letter of resignation for Gillis to sign and tried to force him to sign it without reading it, first moved Gillis’ office to a small trailer on a remote parking lot, then removed all office access, work vehicle and mailbox, issued a bad faith letter of reprimand against Gillis and otherwise wrongfully evaluated and disciplined Gillis, wrongfully publicized discipline throughout the department via Outlook calendar, wrongfully accessed Gillis’ Kaiser medical records and otherwise violated Gillis’ right to privacy, eliminated Gillis’ lunch break, began weekly verbal and monthly written reviews, discriminated against Gillis’ medical conditions and disabilities, interfered with Gillis’ attendance at meetings, attempted to entrap Gillis, threatened to audit Gillis, attempted to interfere and interfered with Gillis’ exercise of his right to attorney, demoted, suspended, and otherwise harassed, discriminated, and retaliated against Gillis.

116. COUNT ONE—HOSTILE WORK ENVIRONMENT (Government Code § 12940(j) et seq., CACI 2521A & 2521B et seq.): The unlawful misconduct of Sugiyama, in harassing Gillis in violation of Government Code § 12940(j) et seq., constitutes

1 intentional infliction of emotional distress. Fisher v. San Pedro Peninsula Hospital
2 ([1989] 214 Cal. App. 3d 590, 618).

3 117. COUNT TWO—INTENTIONAL TORT (Civil Code § 3294, CACI 1600 et seq.,
4 3941 et seq.): Defendants actions were willful and intentional and committed in knowing
5 and conscious disregard of the health and safety of plaintiff and the likelihood that same
6 would cause Plaintiff to suffer severe emotional distress. Evidence of the willful and
7 intentional nature of the acts includes, but is not limited to, the fact that the misconduct is
8 proscribed by law, defendants were aware of said law, defendants were aware that the
9 misconduct violated the law, defendants were aware that the misconduct would cause or
10 be likely to cause plaintiff to suffer severe emotional distress, and defendants committed
11 the misconduct in spite of said knowledge. Said misconduct is oppressive, fraudulent,
12 and malicious as set forth above.

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14 118. The misconduct of defendants was a substantial factor in causing Gillis to suffer
15 severe emotional distress.

16 119. Gillis prays relief as set forth below.
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DAMAGES

All Defendants for All Damages Except Where Otherwise Stated Below

Plaintiff prays:

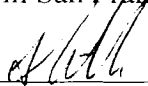
1. For injunctive relief, enjoining defendants from failing to:
 - Allow Gillis to return to his work at Merritt College,
 - Return Gillis' pre-complaint office, mailbox, lunch break, and car access, and
 - Prevent further acts of harassment, discrimination, and retaliation;
2. For general damages for past, present, and future pain, suffering, and inconvenience AND damage to reputation;
3. For special damages for past, present, and future diagnosis, treatment, and prescription;
4. For special damages for past, present, and future lost wages, benefits, and retirement—including that suffered with respect to OFD employment, the Merritt College directorship, and otherwise;
5. For punitive and exemplary damages (except Defendant City);
6. For pre-judgment interest;
7. For costs of suit (including attorney's fees pursuant to Labor Code § 1102.5 et seq., Government Code § 12900 et seq., Code of Civil Procedure § 1021.5 et seq., and otherwise); and
8. For such other and further damages as this court deems appropriate.

June 16th, 2011


/s/Philip Horne, Esq.
PHILIP HORNE, ESQ.
ATTORNEY FOR PLAINTIFF GILLIS, EMT-P

VERIFICATION

I, Sheehan (Sean) Gillis EMT-P, reviewed the foregoing Complaint for Damages and Injunctive Relief for Whistleblower Retaliation and Fair Employment Violations. The allegations within the complaint are true. I make this declaration under penalty of perjury under the laws of the State of California in San Francisco this June 16th, 2011.



Sheehan (Sean) Gillis, EMT-P

Exhibit 1

Gillis v. City of Oakland RG-11-
Verified Complaint for Damages and Injunctive Relief for
Whistleblower Retaliation and Fair Employment Violations

QUALITY IMPROVEMENT RESPONSIBILITIES - ALS PROVIDER AGENCIES

1. Prospective
 - 1.1 Participation on committees as specified by the EMS Agency.
 - 1.2 Education
 - 1.2.1 Orientation to EMS system
 - 1.2.2 Continuing Education
 - 1.2.3 Participate in certification courses and the training of prehospital care providers.
 - 1.2.4 Offer educational programs based on problem identification and trend analysis.
 - 1.2.5 Establish procedure for informing all field personnel of system changes
 - 1.3 Evaluation - Develop criteria for evaluation of individual paramedics to include, but not limited to:
 - 1.3.1 PCR review/Tape review or other documentation as available
 - 1.3.2 Ride-along
 - 1.3.3 Evaluation of new employees
 - 1.3.4 Routine
 - 1.3.5 Problem-oriented
 - 1.3.6 Design standardized corrective action plans for individual paramedic deficiencies
 - 1.4 Certification/Accreditation - establish procedures, Based on Alameda County policies, regarding:
 - 1.4.1 Initial certification/accreditation
 - 1.4.2 Recertification/Continuing Accreditation
 - 1.4.3 BTLS or PHTLS certification
 - 1.4.4 ACLS certification
 - 1.4.5 PALS or PEPP
 - 1.4.6 Preceptor authorization
 - 1.4.7 Other training as specified by the EMS Agency.
2. Concurrent Activities
 - 2.1 Ride-along - Establish a procedure for evaluation of paramedics utilizing performance standards through direct observation
 - 2.2 Provide availability of Field Supervisors and/or Quality Improvement Liaison personnel for consultation/assistance.
 - 2.3 Provide patient information to the base hospital to facilitate obtaining patient follow-up information from receiving hospitals.

QUALITY IMPROVEMENT RESPONSIBILITIES - ALS PROVIDER AGENCIES

3. Retrospective Analysis

3.1 Develop a process for retrospective analysis of field care, utilizing PCRs and audio tape (if applicable), to include but not limited to:

3.1.1 High-risk

3.1.2 High-volume

3.1.3 Problem-oriented calls

3.1.4 Any call requested to be reviewed by EMS or other appropriate agency.

3.1.5 Specific audit topics established through the Quality Council.

3.2 Develop performance standards for evaluating the quality of care delivered by field personnel through retrospective analysis.

3.3 Participate in the Incident Review Process according to policy #2300.

3.4 Comply with reporting and other quality improvement requirements as specified by the EMS Agency.

3.5 Participate in prehospital research and efficacy studies requested by the EMS Agency and/or the Quality Improvement Committee.

4. Reporting/Feedback

4.1 Develop a process for identifying trends in the quality of field care.

4.1.1 report as specified by the EMS Agency.

4.1.2 Design and participate in educational offering based on problem identification and trend analysis.

4.1.3 make approved changes in internal policies and procedures based on trend analysis.

Exhibit 2

Gillis v. City of Oakland RG-11-
Verified Complaint for Damages and Injunctive Relief for
Whistleblower Retaliation and Fair Employment Violations

UNUSUAL OCCURRENCES (#2300)

1. SUBMISSION OF UNUSUAL OCCURRENCE NOTIFICATION

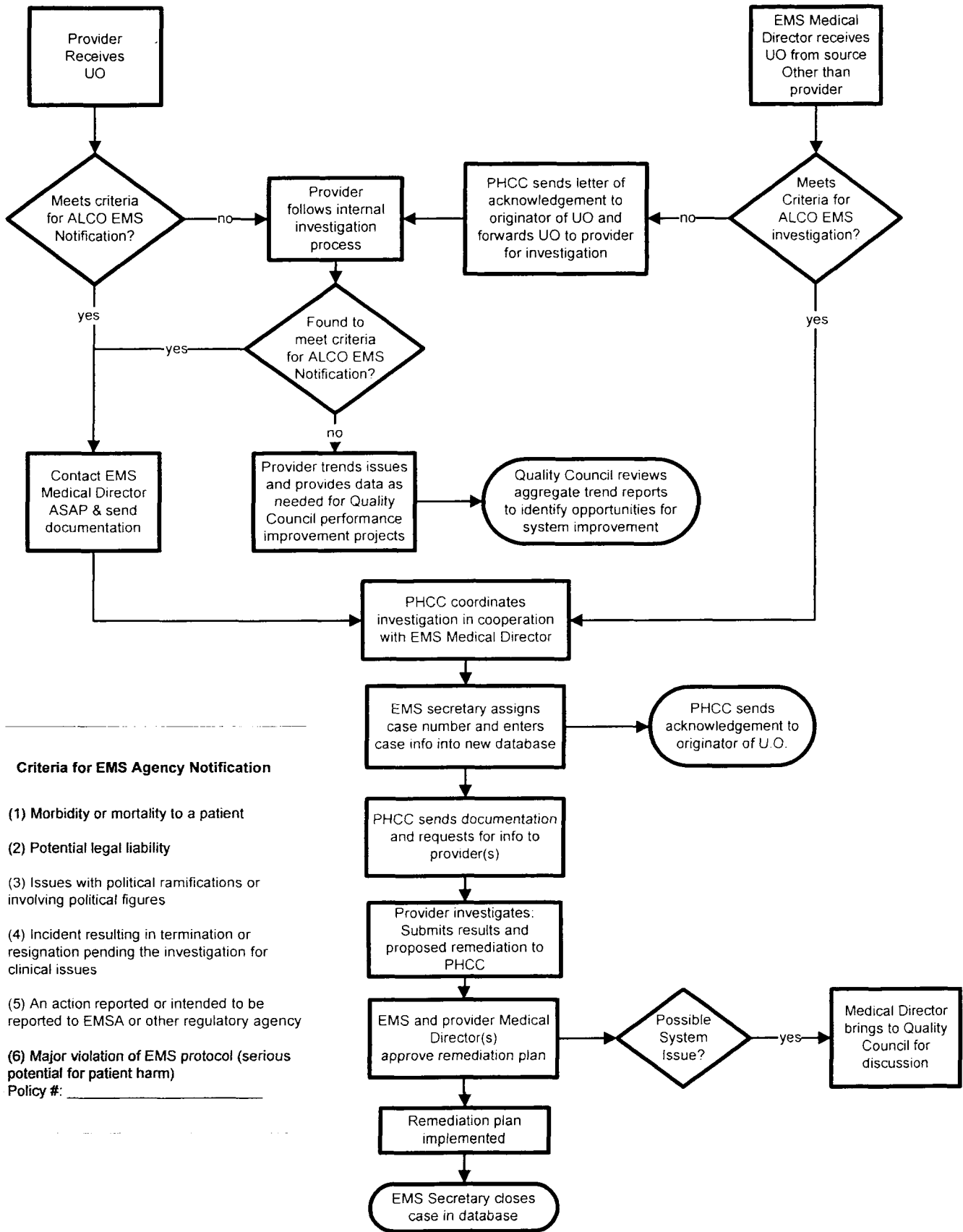
- 1.1 Any agency or individual may submit an unusual occurrence form. Only one form needs to be submitted for a given incident. The criteria for EMS Agency notification is as follows:
 - 1.1.1 Morbidity or mortality to a patient.
 - 1.1.2 Potential legal liability.
 - 1.1.3 Issue with political ramifications or involving political figures.
 - 1.1.4 Incident resulting in termination or resignation pending the investigation for clinical issues.
 - 1.1.5 An action reported or intended to be reported to EMSA or other regulatory agency.
 - 1.1.6 Major violation of EMS protocol (serious potential for patient harm).
- 1.2 Submit the form to the EMS Agency via mail, fax, e-mail, or by hand. If fax or e-mail is used, place "CONFIDENTIAL" in subject section.
- 1.3 Submit a copy to your EMS Coordinator and/or Quality Coordinator, if required by the internal policies of your organization.
- 1.4 **A Confidentiality Notice should be placed on all confidential faxes and e-mails.**

Faxes/E-mail may contain confidential information. Do not read this e-mail if you are not the intended recipient. This fax or e-mail transmission, (and any documents, files or previous e-mail messages attached to it) may contain confidential information that is legally privileged or is made confidential by statute. If you are not the intended recipient, or a person responsible for delivering it to the intended recipient, you are hereby notified that any disclosure, copying, distribution or use of any of the information contained in or attached to this transmission is STRICTLY PROHIBITED. If you have received this transmission in error, please immediately notify us by phone (*insert name and phone #*) or e-mail, and destroy the original transmission and its attachments without reading or saving in any manner.

2. INVESTIGATION AND FOLLOW-UP

- 2.1 EMS is responsible for coordinating the investigation and follow-up on all cases that meet the criteria in 1.1, above. Whenever possible, QI investigations will be assigned to and conducted by QI personnel of the involved agencies.
- 2.2 Further evaluation and documentation may be required including interviews with involved parties.
- 2.3 EMS will acknowledge all unusual occurrence report received and ensure the appropriate resolution of each event.
- 2.4 Unusual occurrence reports that do not meet the criteria in 1.1, above, will be referred to the appropriate provider for investigation and follow-up. Providers will trend issues identified and provide data as needed for EMS system performance improvement projects.

UNUSUAL OCCURRENCES (#2300)



Criteria for EMS Agency Notification

- (1) Morbidity or mortality to a patient
 - (2) Potential legal liability
 - (3) Issues with political ramifications or involving political figures
 - (4) Incident resulting in termination or resignation pending the investigation for clinical issues
 - (5) An action reported or intended to be reported to EMSA or other regulatory agency
 - (6) Major violation of EMS protocol (serious potential for patient harm)
- Policy #: _____

UNUSUAL OCCURRENCES (#2300)

Alameda County EMS Unusual Occurrence Form

All of the following information must be documented on this form

This form may be completed electronically - 'tab' through the fields.

The form can be sent as an e-mail attachment: 'file'>>'send to'>>'mail recipient as attachment'

Submit this form to: _____ PCR attached

Date of Occurrence: _____ Time: _____ Patient ID: _____

Location: _____ Unit #: _____ CMED/Agency Incident #: _____

Form completed by: Name: _____ Title: _____ Agency: _____

Other(s) involved (include name, title and agency)

Witness(es): (persons familiar with incident include; name, title, department, relationship)

Nature of Occurrence

1. Check all appropriate boxes

2. Attach PCR or other appropriate documentation

- Morbidity or mortality to a patient
- Potential legal liability
- Issues with political ramifications or involving political figures
- Incident resulting in termination or resignation pending the investigation for clinical issues
- An action reported or intended to be reported to EMSA or other regulatory agency
- Major violation of EMS protocol (serious potential for patient harm) Policy #: _____

Could this event cause a community reaction or represent a threat to public health and safety?* Yes No
If yes, contact Dr. Pointer ASAP at (510) 618-2022 or james.pointer@acgov.org.

Date contacted: _____ Time: _____

Others notified: (Name, agency, title)

Specific issue (be brief): _____

Details of Occurrence: (provide facts, observations, and direct statements)

Immediate efforts to resolve this issue:

None

TREND REPORT INFORMATION:

- Patient maltreatment
- Treatment Error/ Omission
- Medication error
- Documentation Omission/ Error
- Other: affecting patient care
- Other: not affecting patient care - specify:
- Citizen Concern

UNUSUAL OCCURRENCES (#2300)

***Threat to Public Safety as defined by Health and Safety Code 1798.200**

Any of the following actions shall be considered evidence of a threat to public health and safety and may result in the denial, suspension or revocation of a certificate or license issued under this division or in the placement on probation of a certificate or license holder under this division.

1. Fraud in the procurement of any certificate or license under this division
2. **Gross negligence**
3. Repeated negligent acts
4. **Incompetence**
5. The commission of any fraudulent, dishonest or corrupt act related to the qualification, functions and duties of pre hospital personnel
6. Conviction of any crime which is substantially related to qualification, functions and duties of pre hospital personnel
7. **Violating or attempting to violate directly or indirectly any provision of this division**
8. Violating or attempting to violate federal or state statute or regulation which regulates narcotics, dangerous drugs or controlled substances
9. Addiction to the excessive use of or the misuse of alcohol beverages, narcotics, dangerous drugs or controlled substances
10. Functioning outside the supervision of medical control in the field care system operating at the local level, except as authorized by any other license or certification
11. Demonstration of irrational behavior or occurrence of a physical disability to the extent that a reasonable and prudent person would have reasonable cause to believe that the ability to perform the duties normally expected may be impaired
12. **Patient Maltreatment:** verbal or physical occurrence identified which harm, insult, neglect or abuse the patient.
13. **Controlled Substance:** Loss/ broken narcotic vials / defective /Incorrect counts

Exhibit 3

Gillis v. City of Oakland RG-11-
Verified Complaint for Damages and Injunctive Relief for
Whistleblower Retaliation and Fair Employment Violations

-----Original Message-----
From: Gillis, Sheehan
To: Morris, Nina
Sent: Tue Jan 06 14:46:17 2009
Subject: Call Review

Hi Nina,

To be consistent with your request to be informed of communications we have with outside agencies I would like to request your approval for the following request for information.

I conducted a PCR review of the New Years Day BART shooting. It was an atypical trauma and so I involved Dr. Michaels. I have faxed him a copy of the PCR and at his recommendation I would like to request a copy of the Pathologist Autopsy Protocol from the Alameda Coroners Office.

I will wait for your approval prior to sending this request.

If you have any comments or questions feel free to contact me any time.

Sean Gillis, EMT-P

EMS Coordinator

Oakland Fire Department - EMS Division

47 Clay St. Oakland CA. 94607

Phone: 510-238-6957

Fax: 510-238-6732

Exhibit 4

Gillis v. City of Oakland RG-11-
Verified Complaint for Damages and Injunctive Relief for
Whistleblower Retaliation and Fair Employment Violations

Gillis, Sheehan

From: Morris, Nina
Sent: Tuesday, January 06, 2009 2:49 PM
To: Gillis, Sheehan
Subject: Re: Call Review

Follow Up Flag: Follow up
Flag Status: Red

Fine. Please draft your request for review. You will be the point of contact. I have no problems with you doing this.

Nina Morris
Fire Personnel Operations Specialist
Office of the Fire Chief
Contracts, Grants and Special Projects Unit/ Acting Division Manager EMS
(510) 238-4055 office
(510) 755-5783 cell

-----Original Message-----

From: Gillis, Sheehan
To: Morris, Nina
Sent: Tue Jan 06 14:46:17 2009
Subject: Call Review

Hi Nina,

To be consistent with your request to be informed of communications we have with outside agencies I would like to request your approval for the following request for information.

I conducted a PCR review of the New Years Day BART shooting. It was an atypical trauma and so I involved Dr. Michaels. I have faxed him a copy of the PCR and at his recommendation I would like to request a copy of the Pathologist Autopsy Protocol from the Alameda Coroners Office.

I will wait for your approval prior to sending this request.

If you have any comments or questions feel free to contact me any time.

Sean Gillis, EMT-P

EMS Coordinator

Oakland Fire Department - EMS Division

47 Clay St. Oakland CA. 94607

Phone: 510-238-6957

Fax: 510-238-6732

Exhibit 5

Gillis v. City of Oakland RG-11-
Verified Complaint for Damages and Injunctive Relief for
Whistleblower Retaliation and Fair Employment Violations

Gillis, Sheehan

From: Morris, Nina
Sent: Thursday, January 08, 2009 3:02 PM
To: Gillis, Sheehan
Subject: BART Incident
Importance: High

CONFIDENTIAL!!!! DO NOT DISCUSS THE CONTENTS OF THIS EMAIL!!!!

Sheehan,

Thank you for responding to my question about the review of the reports related to the BART shooting. I wanted to be certain that my directive is clear to you.

To confirm our conversation:

- 1) You will immediately refer the review to Dr. Michaels. It will be his call as to the quality of care that was provided and what action is necessary if any. Please let him know that I will look for his response as soon as possible. I prefer to have it no later than January 15.
- 2) There will be no action to provide additional training or reprimand the paramedic until the report from Dr. Michaels is received. Any action taken must be pre-approved by me in writing. Therefore, you will document your recommendation and I will either approve or we will discuss.

If you have any questions or need clarification, please feel free to contact me.

Regards,

Nina Morris

Fire Personnel Operations Specialist

Office of the Fire Chief

Contracts, Grants and Special Projects Unit/

Acting Division Manager

EMS

Office: (510) 238-4055

Cell: (510) 755-5783

6/6/2011

Exhibit 6

Gillis v. City of Oakland RG-11-
Verified Complaint for Damages and Injunctive Relief for
Whistleblower Retaliation and Fair Employment Violations

Sugiyama, William

From: Sugiyama, William
Sent: Wednesday, October 21, 2009 7:10 PM
To: Reed, Jennifer
Cc: Sugiyama, William; Taigman, Mike
Subject: Merit Badge Classes
Importance: High
Jennifer

I hope this e-mail finds you well. Briefly this is what I would like to do.

- I would love to run an EMT – I program, but it is NOT feasible right now due to a current situation involving Merritt College. This is something that is way before my tenure. Merritt College is currently utilizing my classroom four nights a week and I need my classroom during the hours of the five day work week. Until I can resolve this issue the EMT – I night program out of my location needs to be put on hold.
- What I need from NCTI is as follows:
 - Working in conjunction with the OFD Training Division create a quarterly schedule that would provide BLS, ACLS, PALS/PEEP, PHTLS/ITLS (Both two day and one day refreshers), Paramedic Refresher Courses, and anything else we can work in. The scheduling of these classes will be difficult due to OFD training conflicts etc. The point is to benefit our personnel (AMR/OFD) and give us the flexibility to charge outsiders (RN's) to generate income. Not an easy task.
 - For this to work NCTI would have to provide the following:
 - Some (honestly probably more than some) equipment – ALS Manikins etc...we can discuss this and create a list
 - Provide instructors for courses – hold the liability for them and we will pay for them from the gross revenue we generate
 - Manage or provide clerical support for registration, CE's and cards
 - Ideally have a Program Director that I can communicate with for this satellite location – but Mike has already stated that this would be a no go, but we can develop a process to work around this issue.
 - Here is the difficult one – I must be able to have full control over any personnel that enter into this Division and say whether they can or cannot instruct here. We will discuss it, but my Chief will not allow me to not have control of any facet of an OFD Operation.

Let me know your thoughts and concerns.

Thank you for assisting us with this endeavor.

Sincerely,

Bill Sugiyama, MA, RN, NREMT -P
EMS Fire Division Manager
Oakland Fire Department
47 Clay Street, Oakland CA 94607
(510) 238-3736 Office
(510) 316-3263 Cell
(510) 238-6732 Fax
wsugiyama@oaklandnet.com

4/14/2011

Exhibit 7

Gillis v. City of Oakland RG-11-
Verified Complaint for Damages and Injunctive Relief for
Whistleblower Retaliation and Fair Employment Violations

CLAIM AGAINST THE CITY OF OAKLAND

Please return the completed form to the Office of the City Clerk, One Frank H. Ogawa Plaza, 2nd Floor, Oakland, CA 94612. Additional sheets may be attached as necessary. Enclose a postage paid envelope if you require a filing receipt.

RECEIVED
CITY CLERK
OAKLAND
11 APR 22 AM 9:56

1) CLAIMANT'S NAME: Sheehan (Sean) Gillis
2) ADDRESS: 6525 Buena Ventura Ave. / Oakland CA 94605
HOME #: 510.610.1449 DRIVER'S LICENSE: D5399638
WORK #: 510.238.5236 SOCIAL SECURITY #: 524 31 6780
CELL #: Same as above COVERED BY MEDICARE? N IF YES, MEDICARE #: _____
DATE OF BIRTH: 02/07/76 OCCUPATION: EMS Coordinator, Fire Dept.
AUTO INSURANCE NAME AND POLICY #: _____ City of Oakland
(if applicable)

3) IF AMOUNT CLAIMED IS LESS THAN \$10,000, AMOUNT OF CLAIM: \$ _____
(Attach copies of expenses substantiating the basis of computation for the amount being claimed)

IF AMOUNT CLAIMED EXCEEDS \$10,000, WOULD THE CLAIM BE A LIMITED CIVIL CASE (Less than \$25,000)?
Yes _____ No X Unsure _____

4) ADDRESS TO WHICH NOTICES ARE TO BE SENT, IF DIFFERENT FROM LINES 1 & 2:

NAME: Philip Horne, Esq.
ADDRESS: 377 Hermann St. City: San Francisco State: CA Zip: 94117
PHONE: 415.874.9800

5) DATE OF INCIDENT: Ongoing TIME OF INCIDENT: Employment
SPECIFIC LOCATION OF INCIDENT* (Address): Dept. of Fire

6) DESCRIBE THE INCIDENT INCLUDING YOUR REASON FOR BELIEVING THE CITY IS LIABLE FOR YOUR DAMAGES: Described in Attachment.

7) DESCRIBE ALL DAMAGES WHICH YOU BELIEVE YOU HAVE INCURRED AS A RESULT OF THE INCIDENT: Described in Attachment at Prayer.

8) NAME(S) OF PUBLIC EMPLOYEE(S) CAUSING THE DAMAGES YOU ARE CLAIMING: William Sugiyama

9) WERE PARAMEDICS CALLED? N

10) IF YOU WENT TO A DOCTOR, LIST HIS NAME, ADDRESS & TELEPHONE NUMBER:
WALTER P. ACUNA MD 3801 HOWE ST OAKLAND CA 94611 (510) 752-1191

Date of 1st Visit: 10/5/2010 Is there a police report on file? N

X Sheh.
Signature of Claimant or Representative

X Apr. 22, 2011
Date

****Complete the diagram on the back of this form showing the location of the incident****
Any person who, with the intent to defraud, presents any false or fraudulent claim may be punished by imprisonment or fine or both.
Claims must be filed within 6 months of the incident. See Government Code §§ 900 et seq.* (Revised 10/26/10)

Exhibit 8

Gillis v. City of Oakland RG-11-
Verified Complaint for Damages and Injunctive Relief for
Whistleblower Retaliation and Fair Employment Violations

**DEPARTMENT OF FAIR EMPLOYMENT & HOUSING**

1515 Clay Street | Suite 701 | Oakland | CA 94612-1499
(510) 622-2941 | (800) 884-1684 | Videophone for the DEAF (916) 226-5285
www.dfeh.ca.gov | contact.center@dfeh.ca.gov

PHYLLIS W. CHENG Director

May 3, 2011

Philip Horne
Attorney

377 Hermann St
San Francisco, CA 94117

RE: E201011M1472-00-prc
GILLIS/OAKLAND, CITY OF FIRE DEPT

Dear Philip Horne:

NOTICE TO COMPLAINANT'S ATTORNEY

Enclosed is a copy of your client's complaint of discrimination filed with the Department of Fair Employment and Housing (DFEH) pursuant to the California Fair Employment and Housing Act, Government Code section 12900 et seq. Also enclosed is a copy of your client's Notice of Case Closure, which constitutes your client's right-to-sue notice. These are the service documents for this complaint. Pursuant to Government Code section 12962, DFEH will not serve these documents on the employer.

Please refer to the enclosed Notice of Case Closure for information regarding filing a private lawsuit in the State of California.

Sincerely,

Selena Wong
Regional Administrator

Enclosure: Complaint of Discrimination
Notice of Case Closure