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19 || *Joseph Lopeteguy*

20 || SUPERIOR COURT OF THE STATE OF CALIFORNIA  
21 || FOR THE COUNTY OF KERN  
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1	Joseph Lopeteguy,	))	Case No.
2	Plaintiff	)	<b>PLAINTIFF JOSEPH LOPETEGUY'S COMPLAINT FOR:</b>
3	v.	)	<b>1) Violation of Labor Code § 1102.5</b>
4	Kern High School District, Kern High School	)	<b>2) Violation of The Bane Act</b>
5	Board of Trustees, and Does 1 to 25	)	<b>3) Intentional Infliction of Emotional Distress</b>
6	Defendants.	)	<b>4) Negligence</b>
7		)	<b>5) Violation of The Ralph Act</b>
8		)	<b>6) Unlawful Employment Practice</b>
9		)	<b>7) Constructive And Wrongful Termination And Retaliation;</b>
10		)	<b>8) Failure To Prevent Harassment and Retaliation</b>
		)	<b>9) Violation of POBR</b>
		)	<b>*** Demand For Jury Trial ***</b>

11 Plaintiff Joseph Lopeteguy alleges:

**PARTIES**

- 13 1. Plaintiff Joseph Lopeteguy (“plaintiff” or “Lopeteguy”) was at all times
- 14 mentioned in this Complaint employed in Kern County, California.
- 15
- 16 2. Defendant Kern High School District is, and all times mentioned herein was, a
- 17 public entity with its principal place of business in Kern County, California.
- 18
- 19 3. Defendant Kern High School Board of Trustees is, and all times mentioned
- 20 herein was, a public entity with its principal place of business in Kern County, California.
- 21
- 22 4. Defendants Does 1 through 25 are sued under fictitious names pursuant to *Code*
- 23 *of Civil Procedure* § 474. Plaintiff is informed and believes, and on that basis, alleges, that
- 24 each of the defendants sued under fictitious names is in some manner responsible for the
- 25 wrongs and damages alleged below, in so acting was functioning as the agent, servant,
- 26 partner, and employee of the co-defendants, and in taking the actions mentioned below was
- 27 acting within the course and scope of his or her authority as such agent, servant, partner, and
- 28 employee, with the permission and consent of the co-defendants.
5. Defendants Kern High School District, Kern High School Board of Trustees,

1 and Does 1-25 both directly and indirectly employed the plaintiff.

2 6. At all relevant times, all defendants were the agents, representatives, employees,  
3 successors, assigns, parents, subsidiaries, and/or affiliates of each other and at all times  
4 pertinent to these events, were acting within the course and scope of their authority.

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6 **GOVERNMENT CLAIM REQUIREMENT**

7 7. Prior to the filing of this action, the plaintiff timely submitted a claim to the  
8 defendants. The plaintiff has received a rejection of this claim and timely filed this action.  
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11 **FACTS COMMON TO ALL CAUSES OF ACTION**

12 **The Defendants' Police Force**

13 8. *Education Code* § 38000 grants authority to governing boards of school districts  
14 to establish school police departments under the supervision of a school chief of police.

15 9. School police are charged with ensuring the safety of school district personnel  
16 and pupils, and the security of the real and personal property of the school district.  
17

18 10. In 1990, Defendants Kern High School District, Kern High School Board of  
19 Trustees, and Does 1-25 established a police department that was certified by Police Officers  
20 Standards and Training (POST). The defendants' school police department was granted law  
21 enforcement capabilities.

22 11. As a matter of law, the defendants' school police employees are entitled to due  
23 process protections under the Police Officers Bill of Rights (POBOR) codified at  
24 *Government Code* §§ 3300-3311 as well as protections pursuant to *Education Code* § 45133,  
25 without limitation.  
26

27 12. The defendants failed to organize or re-organize their school police department,  
28 as required by law, in a manner designed to insulate school police employees from the undue

1 influence of school administrators, pursuant to *Education Code* §38000 (b). To the contrary,  
2 the defendants continue to ignore California law in this regard as they have done for years.

### 4 The CLETS System Generally

5 13. In connection with its law enforcement responsibilities, the school police  
6 department received access to the California Law Enforcement Telecommunications System  
7 (CLETS) through a user agreement with the Kern County Sheriff's Department and that  
8 Department's agreement with the California Department of Justice.

9  
10 14. CLETS was created pursuant to *Government Code* § 15151 to act as an  
11 "efficient law enforcement communications network... [to] provide all law enforcement and  
12 criminal justice user agencies with the capability of obtaining information directly from  
13 federal and state computerized information files." (CLETS Policies, Practices and  
14 Procedures, Office of the Attorney General, 1.1.1).

15  
16 15. More specifically, CLETS provides law enforcement access to information from  
17 the National Crime Information Center (NCIC), Criminal Offender Record Information  
18 (CORI), Department of Motor Vehicles, and the Criminal Justice Information Services  
19 (CJIS). Information that could be obtained from CLETS, includes but is not limited to: rap  
20 sheets, warrants, arrests, stolen vehicles, registration and driver's license information.

21  
22 16. The highly sensitive and private information provided from a search on the  
23 CLETS system is based on a right to know, need to know basis and reserved for law  
24 enforcement purposes only. According to the California Department of Justice, "Only  
25 authorized law enforcement, criminal justice personnel or their lawfully authorized designees  
26 may use a CLETS terminal. Any information from the CLETS is confidential and for official  
27 use only. Accessing and/or releasing information from CLETS for non-law enforcement  
28 purposes is prohibited, unless otherwise mandated, and is subject to administrative and/or

1 criminal prosecution.” (CLETS Policies, Practices and Procedures, Office of the Attorney  
2 General, 1.6.4).

### 3 4 **The Plaintiff Is Appointed Chief Of Police**

5 17. On or about October 5, 2015, Plaintiff Joseph Lopeteguy was appointed to the  
6 role of Chief of Police for the defendants’ school district.

7 18. The plaintiff was a well-respected police officer with approximately 35 years of  
8 experience:

9 a. The plaintiff began work at the Kern County Sheriff’s Office in 1981  
10 and served as a senior deputy on the Narcotics and Special Operations Team. The plaintiff  
11 was a member of the SWAT team for almost 22 years. He further served as a field training  
12 officer and was an instructor at the police academy.

13 b. After 27 years with the Kern County Sheriff’s Office, the plaintiff was  
14 hired as an officer by the defendants. As an officer at the defendants’ Ridgeview High  
15 School, the plaintiff was named employee of the year.

16 c. The plaintiff was the first officer in the school police department to be  
17 promoted the sergeant. He would later serve as interim-acting police chief and police chief  
18 himself.

### 19 20 21 **The Plaintiff Declines The Defendants’ Demand That He Violate CLETS Policies**

22 19. While serving as police chief for the defendants, the plaintiff received an email  
23 which conveyed a request from KHSD Dirsctore Stan Greene. It requested approval to search  
24 the DMV records of student athletes using his “call sign” as police chief. Mr. Greene was in  
25 charge of the School Support Services Division. Mr. Green demanded the plaintiff use his  
26 law enforcement position to provide him with CLETS information relating to the DMV  
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1 records of student athletes. Among other matters, Mr. Green was seeking to catch residence  
2 discrepancies which would preclude rival school athletes from playing on various sports  
3 teams for those schools.

4 20. The plaintiff refused to allow a CLETS inquiry to be performed for this purpose  
5 as it violated CLETS use rules.

6 21. Subsequent to the plaintiff's refusal to run the illegal CLETS search, the  
7 plaintiff was contacted by Otis Jennings, the defendants' director of pupil personnel. Mr.  
8 Jennings is the plaintiff's listed supervisor.

9 22. Mr. Jennings told the plaintiff that the searching of CLETS databases for non-  
10 law enforcement purposes were the defendants' "past practices," meaning a longstanding and  
11 frequent practice which was well known within the upper supervisory levels of the district  
12 hierarchy. Mr. Jennings threateningly told the plaintiff to let him know if "he had a problem  
13 with that."

14 23. Despite Mr. Jennings' threat, the plaintiff continued to refuse to run an improper  
15 CLETS search in order to attack rival schools' athletic teams.

16 24. Two days later, the defendants' secretarial staff illegally conducted the athletic  
17 CLETS database searches, in conformance with Stan Greene's request that had Otis  
18 Jennings' stated support.  
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**The Plaintiff, As Chief Of Police, Initiates An Investigation  
Into The School Administration's Improper Use Of The CLETS Database,  
Finds Extensive Illegal Use Of The System By Senior Administrators**

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3       25.     After learning that illegal CLETS searches were being performed for the  
4 school's administration, the plaintiff directed Officers Jerald Wyatt and Gilbert Valdez to  
5 conduct an investigation into CLETS database misuse by the defendants.

6       26.     The plaintiff's investigation determined that senior school administrators had  
7 conducted thousands of illegal searches of the CLETS database. Internally, these illegal  
8 searches were often listed under the umbrella category of being for "purposes of the district."  
9

10       27.     During the investigation it became clear that the misuse of the CLETS database  
11 by senior school administrators was extensive. School officials were improperly using the  
12 database to run inquiries on employees, job applicants, students, parents, and athletic  
13 competitors, among others.

14           a.     For example, the defendants' School Support Services Division, which  
15 determines athletic eligibility of students, deployed so-called "Rambo squads." Rambos  
16 would go to the residences of targeted student athletes, scan for license plate numbers and  
17 then direct civilian secretarial staff to run the plate numbers through the CLETS system to  
18 see if the students actually lived in the jurisdiction of the school where they played.  
19

20       28.     Again, the CLETS database contains confidential information. It is reserved  
21 exclusively for law enforcement purposes on a right to know and need to know basis. The  
22 defendants had conducted thousands of illegal searches.

23       29.     The plaintiff determined that the investigation needed to be turned over to the  
24 Kern County Sheriff's Office and he directed it to that law enforcement agency.  
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**The Defendants Retaliated Against The Plaintiff For Being Unwilling To Violate  
The Rules Regulating CLETS And For Reporting The School District  
To Law Enforcement**

30. The defendants retaliated against the plaintiff and harassed him when he refused to conduct their improper CLETS inquiries; investigated the improper and illegal, “past practice” of senior school administrators; and reported the matter to the Kern County Sheriff’s Office for further investigation.

31. Such actions by the defendants included, without limitation:

- a. Harassment;
  - b. Hostile work environment;
  - c. Retaliation;
  - d. Physically following the plaintiff and otherwise subjecting him to an unwarranted investigation;
  - e. Intimidation;
  - f. Surveillance of the plaintiff by his own police force;
  - g. Illegal audio recording of conversations without the plaintiff’s consent;
- and
- h. Forced into a fabricated administrative leave of absence.

**FIRST CAUSE OF ACTION  
(Violation of *Labor Code* § 1102.5 Against All Defendants)**

32. The allegations in this Complaint are re-alleged and incorporated herein by reference.

33. As set forth above, the receipt of information from the CLETS database is highly restricted. *Government Code* § 15153 provides that it “shall be used exclusively for the official business” of various public entities. *Government Code* § 15160 authorizes the

1 Attorney General to publish “policies, practices and procedures” governing the CLETS  
2 system. The Attorney General has published such rules. Further, numerous statutes restrict  
3 the transmittal, receipt, and disclosure of CLETS information.

4 34. *Labor Code* § 1102.5(a) states:

5 An employer, or any person acting on behalf of the employer, shall  
6 not make, adopt, or enforce any rule, regulation, or policy  
7 preventing an employee from disclosing information to a  
8 government or law enforcement agency, to a person with authority  
9 over the employee, or to another employee who has authority to  
10 investigate, discover, or correct the violation or noncompliance, or  
11 from providing information to, or testifying before, any public  
12 body conducting an investigation, hearing, or inquiry, if the  
13 employee has reasonable cause to believe that the information  
14 discloses a violation of state or federal statute, or a violation of or  
15 noncompliance with a local, state, or federal rule or regulation,  
16 regardless of whether disclosing the information is part of the  
17 employee's job duties.

18 35. *Labor Code* § 1102.5(b) states:

19 An employer, or any person acting on behalf of the employer, shall  
20 not retaliate against an employee for disclosing information, or  
21 because the employer believes that the employee disclosed or may  
22 disclose information, to a government or law enforcement agency,  
23 to a person with authority over the employee or another employee  
24 who has the authority to investigate, discover, or correct the  
25 violation or noncompliance, or for providing information to, or  
26 testifying before, any public body conducting an investigation,  
27 hearing, or inquiry, if the employee has reasonable cause to believe  
28 that the information discloses a violation of state or federal statute,  
or a violation of or noncompliance with a local, state, or federal  
rule or regulation, regardless of whether disclosing the information  
is part of the employee's job duties.

36. As set forth above, the plaintiff engaged in multiple instances of such protected  
activity – including disclosing information related to the defendants’ violations of statutes,  
regulations, rules, and policies governing the transmittal, receipt, and viewing of CLETS  
information – and the defendants made, adopt, or enforced written or unwritten rules,  
regulations, or policies preventing the plaintiff from disclosing such information related to  
the defendants’ violations.

1        37.     As set forth above, the defendants retaliated against the plaintiff for disclosing  
2 such information.

3        38.     *Labor Code* § 1102.5(c) states:

4             An employer, or any person acting on behalf of the employer, shall  
5 not retaliate against an employee for refusing to participate in an  
6 activity that would result in a violation of state or federal statute, or  
7 a violation of or noncompliance with a local, state, or federal rule  
8 or regulation.

9        39.     Section 1102.5(c) prohibits employers from retaliating against an employee who  
10 refuses to participate in the employer’s illegal schemes, such as improper use of the CLETS  
11 system. As set forth above, the defendants retaliated against the plaintiff for refusing to  
12 participate in the improper activity.

13        40.     *Labor Code* § 1104 states that for actions brought under section 1102.5(b), “the  
14 employer is responsible for the acts of his managers, officers, agents, and employees.” Here,  
15 the defendants’ employees undertook improper retaliatory actions in contravention of section  
16 1102.5(b).

17        41.     *Labor Code* § 1105 allows an injured employee to recover for damages suffered  
18 due to violations of section 1102.5, without limitation.

19        42.     By engaging in the aforementioned activities, the plaintiff engaged in activities  
20 protected by this statute. As a direct result of the plaintiff’s complaints and disclosures, the  
21 defendants took the aforementioned adverse and retaliatory actions against the plaintiff.

22 Defendants’ retaliatory actions included, without limitation: threats, ostracism, denied  
23 employment opportunities, denied official information, undue scrutiny of work performance,  
24 denial of continued employment, and denial of a retaliation free work environment. Absent  
25 the plaintiff’s engagement in protected activity, the defendants’ would not have taken such  
26 actions. In engaging in such misconduct, the defendants violated the rights of the plaintiff.  
27

28        43.     As a proximate result of the defendants’ misconduct, the plaintiff has sustained

1 and continues to sustain substantial losses of earnings and earning capacity and other  
2 employment benefits, in an amount to be determined at trial.

3 44. As a proximate result of the defendants' misconduct, the plaintiff has suffered  
4 and continues to suffer humiliation, emotional distress, and mental and physical pain and  
5 anguish, as well as damage to his reputation in the community in an amount to be determined  
6 at trial.

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9 **SECOND CAUSE OF ACTION**  
**(Violation of The Bane Act, *Civil Code* § 52.1)**

10 45. The allegations in this Complaint are re-alleged and incorporated herein by  
11 reference.

12 46. *Civil Code* § 52.1(b) states:

13  
14 Any individual whose exercise or enjoyment of rights secured by  
15 the Constitution or laws of the United States, or of rights secured  
16 by the Constitution or laws of this state, has been interfered with,  
17 or attempted to be interfered with... may institute and prosecute in  
18 his or her own name and on his or her own behalf a civil action for  
19 damages, including, but not limited to, damages under Section 52,  
20 injunctive relief, and other appropriate equitable relief to protect  
21 the peaceable exercise or enjoyment of the right or rights  
22 secured....

23 47. The plaintiff exercised his constitutional rights, including the right to free  
24 speech, by disclosing and investigating the improper use of the CLETS database. Therefore,  
25 the plaintiff is protected by *Civil Code* § 52.1 from interference or attempted interference  
26 with the exercise of these rights.

27 48. The defendants interfered and/or attempted to interfere with the plaintiff's  
28 constitutional and statutory rights, including but not limited to, the right to be free from  
unlawful retaliation and the right to exercise his free speech without being targeted for  
retaliation by a party threatening or committing violent acts against him or his property  
interests.

1           49.     The plaintiff reasonably believed that if he exercised or continued to exercise  
2           these rights, the defendants would commit violence against him and/or his property interests  
3           in order to prevent him from exercising his rights or to retaliate against him for having  
4           exercised such rights.

5           50.     As a direct result of investigating and disclosing the improper use of the  
6           CLETS database, the defendants engaged in retaliatory acts described herein, including,  
7           without limitation, threats of violence, ostracism, denied employment opportunities, denied  
8           official information, undue scrutiny of work performance, denial of continued employment,  
9           and denial of a retaliation free work environment. Absent plaintiff's exercise of his  
10          constitutional rights, the defendants would not have taken such actions.

11          51.     The defendants attempted to interfere with and intentionally did interfere with  
12          the plaintiff's civil rights by threats, intimidation, and coercion.

13          52.     Without limitation, the defendants attempted to and intentionally did threaten,  
14          abuse, harass, and retaliate against the plaintiff, themselves and by proxy, in response to the  
15          plaintiff's proper investigation into the district-wide abuse of the CLETS system, especially  
16          by senior administrative staff.

17          53.     The plaintiff's conduct was protected by, the United States and California  
18          Constitutions, and the laws of this state, including without limitation, the First, Fifth, and  
19          Fourteenth Amendments to the United States Constitution.

20          54.     The defendants' attempts to interfere with and intentionally interfering with the  
21          plaintiff's civil rights was a substantial factor in causing the plaintiff harm.

22          55.     As a proximate result of the defendants' improper conduct, the plaintiff has  
23          sustained and continues to sustain substantial losses of earnings and earning capacity and  
24          other employment benefits, in an amount to be determined at trial.

25          56.     As a proximate result of the defendants' improper conduct, the plaintiff has

1 suffered and continues to suffer humiliation, emotional distress, and mental and physical pain  
2 and anguish, in an amount to be determined at trial.

3 57. The plaintiff has incurred legal expenses and attorney's fees related to the  
4 defendants' improper conduct and is entitled to be awarded those sums in an amount to be  
5 determined reasonable.

6 58. The plaintiff is further entitled to be awarded a civil penalty of three times his  
7 actual damages in a sum to be determined by the jury.

8 59. The plaintiff is further entitled to injunctive relief precluding the defendant from  
9 continuing to violate his rights.  
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12 **THIRD CAUSE OF ACTION**  
13 **(Intentional Infliction Of Emotional Distress Against All Defendants)**

14 60. The allegations in this Complaint are re-alleged and incorporated herein by  
15 reference.

16 61. The defendants' conduct, set forth above, including, without limitation:  
17 threatening, abusing, harassing, and retaliating against the plaintiff and permitting,  
18 authorizing, and encouraging the plaintiff to be subjected to threats, abuse, harassment, and  
19 retaliation in response to the plaintiff's proper investigation into the district-wide abuse of the  
20 CLETS system, especially by senior administrative staff.

21 62. The defendants further ratified the abuse, harassment, and retaliation against the  
22 plaintiff refusing to take any reasonable steps necessary to prevent the abuse, harassment,  
23 and retaliation despite being on notice of it. To the contrary, the defendants caused the  
24 plaintiff to be subject to a fabricated criminal investigation in retaliation for the plaintiff  
25 investigating the CLETS system abuse, especially by senior administrators.  
26

27 63. The defendants' conduct was extreme and outrageous in that it went beyond all  
28 possible bounds of decency such that a reasonable person would regard the conduct as

1 || intolerable in a civilized community. |

2 56. The defendants intended to cause the plaintiff emotional distress, including as  
3 part of their strategy to prevent him from continuing with his investigation of the CLETS  
4 system.

5 64. The defendants further acted with reckless disregard of the probability that the  
6 plaintiff would suffer emotional distress.

7 65. The defendants' conduct was a substantial factor in causing the plaintiff's  
8 severe emotional distress.

9 66. As a proximate result of the defendants' improper conduct, the plaintiff has  
10 sustained and continues to sustain substantial losses of earnings and earning capacity and  
11 other employment benefits, in an amount to be determined at trial.

12 67. As a proximate result of the defendants' improper conduct, the plaintiff has  
13 suffered and continues to suffer humiliation, emotional distress, and mental and physical pain  
14 and anguish, in an amount to be determined at trial.

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18 **FOURTH CAUSE OF ACTION**  
19 **(Negligence Against All Defendants)**

20 68. The allegations in this Complaint are re-alleged and incorporated herein by  
21 reference.

22 69. As an employee of the defendants, and due to the special relationship between  
23 the defendants and the plaintiff, the plaintiff was owed a duty of due care by the defendants  
24 to ensure that the plaintiff was not exposed to foreseeable harms.

25 70. The defendants knew, or should have known, that the plaintiff was being  
26 subjected to harassment and retaliation, and that, by failing to exercise due care to prevent  
27 this harassing and retaliatory course of conduct could and would cause the plaintiff to suffer  
28 severe emotional distress.





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**SEVENTH CAUSE OF ACTION**  
**(Constructive And Wrongful Termination and Retaliation Against All Defendants)**

88. The allegations in this Complaint are re-alleged and incorporated herein by reference.

89. At all times during his employment with the defendants, the plaintiff performed his duties with the utmost diligence and competence.

90. Plaintiff is informed and believes and thereon alleges that the defendants' decisions to harass and intimidate him, as alleged herein, was motivated by the plaintiff's decision to secure the CLETS database and his disclosure of the prior violations.

91. The plaintiff is further informed and believes and thereon alleges that any other reasons proffered by the defendants were and are pretextual in nature.

92. The defendants intentionally created the aforementioned harassment and intimidation, thereby creating working conditions so intolerable that the plaintiff has suffered health issues related to stress. The defendant intentionally created these working conditions that will make it impossible for the plaintiff to return to his position as Chief of Police.

93. By reason of the aforementioned conduct and circumstances, Defendants, and each of them, violated the fundamental public policies of the State of California which mandate that employees be free from unlawful harassment and retaliation. As a further result of the conduct of Defendants, and each of them, Plaintiff has been deprived of his right to a work environment free from harassment and retaliation.

94. Furthermore, at all times mentioned herein, *Government Code* § 12940(h) was in full force and effect and binding on the defendants. This statute requires the defendants to "to discharge, expel, or otherwise discriminate against any person because the person has opposed any practices forbidden under this part...." Under *Government Code* § 12948, such "unlawful practice" includes when an entity seeks "to deny or to aid, incite, or conspire in the denial of the rights created by Section 51, 51.5, 51.7, 54, 54.1, or 54.2 of the *Civil Code*."



1 || employees, intentionally created and knowingly permitted working conditions to exist that  
2 || were so intolerable that a reasonable person in the plaintiff's position would feel the  
3 || emotional and physical toll of the fellow employees' conduct.

4 104. As a result of the defendants' unlawful acts, the plaintiff is entitled to damages  
5 as set forth herein.

6 105. The defendants' conduct was a substantial and motivating factor in causing the  
7 plaintiff harm.

8 106. As a proximate result of the defendants' improper conduct, the plaintiff has  
9 sustained and continues to sustain substantial losses of earnings and earning capacity and  
10 other employment benefits, in an amount to be determined at trial.

11 107. As a proximate result of the defendants' improper conduct, the plaintiff has  
12 suffered and continues to suffer humiliation, emotional distress, and mental and physical pain  
13 and anguish, in an amount to be determined at trial.

14 108. The plaintiff has incurred legal expenses and attorney's fees related to the  
15 defendants' improper conduct and is entitled to be awarded those sums in an amount to be  
16 determined reasonable.

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20 **NINTH CAUSE OF ACTION**  
21 **(Violation of Public Safety Officers Bill Of Rights,**  
22 ***Government Code § 3300, et seq. Against All Defendants*)**

23 109. The allegations in this Complaint are re-alleged and incorporated herein by  
24 reference.

25 110. In 1976, the California Legislature, recognized a "statewide concern" that  
26 employers were jeopardizing "effective law enforcement" by retaliating against police  
27 officers engaged in investigations of wrongdoing. In response, the Legislature passed the  
28 Public Safety Officers Bill of Rights ("POBOR").

111. *Government Code § 3303* precludes an employing public safety department

1 from conducting an interrogation of a police officer “that could lead to punitive action”  
2 unless various procedural steps have been taken. Such steps include:

3 a. “The public safety officer under investigation shall be informed prior to  
4 the interrogation of the rank, name, and command of the officer in charge of the  
5 interrogation, the interrogating officers, and all other persons to be present during the  
6 interrogation. All questions directed to the public safety officer under interrogation shall be  
7 asked by and through no more than two interrogators at one time.” (*Government Code* §  
8 3303(b).)

9  
10 b. The police officer under investigation “shall be informed of the nature of  
11 the investigation prior to any interrogation.” (*Government Code* § 3303(c).)

12 c. “The public safety officer under interrogation shall not be subjected to  
13 offensive language or threatened with punitive action....” (*Government Code* § 3303(d).)

14 112. The defendants violated these protections of POBOR, among others.

15 113. *Government Code* § 3309.5 provides that a police officer whose rights and  
16 protections have been violated and denied under POBOR may file an action in the superior  
17 court. Accordingly, the plaintiff hereby alleges that the defendants violated and denied the  
18 plaintiff’s rights and protections under POBOR.

19 114. As a proximate result of the defendants’ violation of POBOR, the plaintiff has  
20 sustained and continues to sustain substantial losses of earnings and earning capacity and  
21 other employment benefits, in an amount to be determined at trial.

22 115. As a proximate result of the defendants’ violation of POBOR, the plaintiff has  
23 suffered and continues to suffer humiliation, emotional distress, and mental and physical pain  
24 and anguish, in an amount to be determined at trial.

25 116. The plaintiff is further entitled to a civil penalty of \$25,000 for each such  
26 violation.  
27  
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1 117. The plaintiff has incurred legal expenses and attorney's fees related to the  
2 violations and denials of POBOR and is entitled to be awarded those sums in an amount to be  
3 determined reasonable.

4 118. The plaintiff is further entitled to injunctive relief precluding the defendant from  
5 continuing to violate his rights.

6  
7 WHEREFORE, the plaintiff prays for judgment against the defendants as follows:

- 8  
9 1. For general and special damages, according to proof;  
10 2. For pre-judgment interest and post-judgment interest on all damages award;  
11 3. For reasonable attorney's fees;  
12 4. For civil penalties;  
13 5. For injunctive relief;  
14 6. For costs of suit incurred; and  
15 7. For such other and further relief as the court may deem just and proper.  
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18 DATED: March \_\_\_, 2017

CARPENTER, ZUCKERMAN & ROWLEY

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By: \_\_\_\_\_

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Nicholas C. Rowley  
Attorneys for Plaintiff

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DATED: March \_\_\_\_, 2017

SWANSON O'DELL, APC

By: \_\_\_\_\_  
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Seth N. O'Dell  
Attorneys for Plaintiff

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DATED: March \_\_\_, 2017

YOUNG & NICHOLS

By: \_\_\_\_\_  
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Brandon Holladay  
Attorneys for Plaintiff

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**DEMAND FOR JURY TRIAL**

The plaintiff hereby demands a trial by jury on all causes of action.

DATED: March \_\_\_\_, 2017

CARPENTER, ZUCKERMAN & ROWLEY

By: \_\_\_\_\_  
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Nicholas C. Rowley  
Attorneys for Plaintiff

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DATED: March \_\_\_\_, 2017

SWANSON O'DELL, APC

By: \_\_\_\_\_  
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Seth N. O'Dell  
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DATED: March \_\_\_\_, 2017

YOUNG & NICHOLS

By: \_\_\_\_\_  
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Brandon Holladay  
Attorneys for Plaintiff

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