

ORIGINAL

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MAY 11 2022

CLERK OF THE SUPERIOR COURT
BY: A. ANDERSEN, DEPUTY CLERK

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11 SUPERIOR COURT FOR THE STATE OF CALIFORNIA

12

13 COUNTY OF SHASTA

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15 JOHN PATRICK KROPHOLLER,

16 CASE NO.: 199716

17

Plaintiff,

18 vs.

19 COMPLAINT FOR DAMAGES

20

21 COUNTY OF SHASTA, a government entity;
22 SHASTA COUNTY SHERIFF'S
23 DEPARTMENT, a government entity; and
24 DOES 1 through 100, inclusive,

25

1. Violation of California Labor Code § 1102.5
2. Violation of FEHA (Gov't Code § 12940(h))

Defendants.

DEMAND FOR JURY TRIAL

26

27 COMES NOW Plaintiff, JOHN PATRICK KROPHOLLER, and hereby demands a trial by
28 jury, and based on information and belief complains and alleges as follows:

THE PARTIES

29

1. At all times relevant hereto, Plaintiff JOHN PATRICK KROPHOLLER

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31 ("Kropholler" or "Plaintiff") was a sworn sheriff with the Shasta County Sheriff's Department
32 ("SCSD" or "Department") and was a competent adult.

33

34 2. Plaintiff is informed and believes and thereon alleges that, at all times relevant
35 hereto, Defendant COUNTY OF SHASTA ("County" or "Defendant") was a public entity
36 violating laws within the State of California in the County of Shasta. At all times pertinent hereto,

1 Defendant County owned, controlled, and operated the law enforcement agency known as the
2 Shasta County Sheriff's Department.

3 3. Plaintiff is informed and believes and thereupon alleges that Defendants DOES 1
4 through 100, inclusive, and each of them, at all times relevant hereto, were individuals or public,
5 business, and/or other entities whose form is unknown committing torts in and/or engaged in
6 purposeful economic activity within the County of Shasta, State of California.

7 4. The true names and capacities of Defendants DOES 1 through 100, and each of
8 them, whether individual, corporate, associate or otherwise, are unknown to Plaintiff at this time,
9 therefore Plaintiff sues said Defendants by such fictitious names. Plaintiff will file DOE
10 amendments, and/or ask leave of court to amend this complaint to assert the true names and
11 capacities of these Defendants when they have been ascertained. Plaintiff is informed and believes,
12 and upon such information and belief alleges, that each Defendant herein designated as a DOE was
13 and is in some manner, negligently, wrongfully, or otherwise, responsible and liable to Plaintiff for
14 the injuries and damages hereinafter alleged, and that Plaintiff's damages as herein alleged were
15 proximately caused by their conduct.

16 5. Plaintiff is informed and believes, and thereon alleges, that at all times material
17 herein the Defendants, and each of them, were the agents, servants, or employees, or ostensible
18 agents, servants, and employees of each other Defendant, and as such, were acting within the
19 course and scope of said agency and employment or ostensible agency and employment, except on
20 those occasions when Defendants were acting as principals, in which case, said Defendants; and
21 each of them, were negligent in the selection, hiring, and use of the other Defendants.

22 6. At all times mentioned herein, each of the Defendants was the co-tortfeasor of each
23 of the other Defendants in doing the things hereinafter alleged.

24 7. Plaintiff is further informed and believes that at all times relevant hereto,
25 Defendants, and each of them, acted in concert and in furtherance of the interests of each other
26 Defendant. The conduct of each Defendant combined and cooperated with the conduct of each of
27 the remaining Defendants so as to cause the herein described incidents and the resulting injuries
28 and damages to Plaintiff.

VENUE AND JURISDICTION

8. At all relevant times hereto, Plaintiff was residing in the County of Shasta, State of California.

9. At all relevant times hereto, the Defendants, and each of them, were residents of the County of Shasta, State of California.

10. The wrongful conduct alleged against the Defendants, and each of them, occurred in the County of Shasta, State of California. At all relevant times hereto, the conduct at issue was part of a continuous and ongoing pattern of behavior.

11. This Court is the proper court because the wrongful acts that are the subject of this action occurred here, at least one Defendant now resides in its jurisdictional area, and injury to person or damage to personal property occurred in its jurisdictional area.

12. Plaintiff has complied with and/or exhausted any applicable claims statutes and/or administrative and/or internal remedies and/or grievance procedures, and/or is excused from complying therewith. Plaintiff has complied with the claim presentation requirement of California Government Code § 945.4 and § 912.4. Plaintiff filed a government claim with the City of Shasta and the LAPD on or about February 23, 2022, which was denied on or about April 5, 2022. Plaintiff filed a complaint with the Department of Fair Employment and Housing (“DFEH”) and the Equal Employment Opportunity Commission and was issued the last right to sue notice on or about February 17, 2022.

GENERAL ALLEGATIONS

13. At all times relevant to this claim, Plaintiff was a Captain employed by the Shasta County Sheriff's Department ('Department'). Plaintiff was qualified for the position he held by reason of his education and training.

14. Prior to the events leading up to this action, Plaintiff was third in command and oversaw all of Patrol Division, Investigations Division, the Narcotics Task Force, and any specialty unit involving enforcement. Plaintiff would meet daily with the Sheriff and Undersheriff.

15. In December 2019, Plaintiff was subject to Undersheriff Eric Magrini's illegal actions involving the application process for the County Executive Officer position. Undersheriff

1 Magrini wanted Plaintiff to run the Record of Arrest and Prosecutions (RAP) sheet of applicant
2 Matt Pontes so he could provide it to Angela Davis (Personnel Director) who was also running for
3 the County Executive Officer. Plaintiff advised that this was a misdemeanor as it was the
4 unauthorized use of law enforcement systems and told Eric Magrini that he could not do so.
5 Following his refusal to participate in this illegality, Plaintiff observed Eric Magrini then go on to
6 the system California Law Enforcement Telecommunications System ("CLETs") and run the RAP
7 sheet of Matt Pontes himself.

8 16. In February 2020, Sergeant Gonzalez shot and killed a suspect. Sheriff Magrini (no
9 longer Undersheriff) wanted to have Sgt. Gonzalez prosecuted. Plaintiff was assigned by the
10 Undersheriff Jason Barnhart to conduct a review of the investigation. Plaintiff found several errors
11 of the Police Department's investigation and presented it to the Undersheriff and produced a
12 summary of findings revealing exculpatory information which was presented to the DA's office.
13 Thereafter, Sheriff Magrini then contacted Plaintiff and ordered Plaintiff to pull the report back.
14 Plaintiff refused to pull the report back. This was another crime that Sheriff Magrini was
15 demanding from Plaintiff that he obstruct justice and conceal exculpatory information which would
16 have likely resulted in a wrongful criminal prosecution of Sergeant Gonzalez. Plaintiff again
17 refused to participate in this crime. Eventually Sergeant Gonzalez was not charged with any
18 wrongdoing.

19 17. Plaintiff immediately was marginalized. He was left out of daily meetings with the
20 Sheriff and the Undersheriff. Subordinates were coming to Plaintiff and advising Plaintiff that the
21 Sheriff and the Undersheriff were giving them direct orders ignoring the chain of command and
22 leaving Plaintiff out of most meetings.

23 18. Following Plaintiff's complaints, in continued retaliation, Sheriff Magrini would
24 also continually make fun of Plaintiff's German heritage. In fact, on or about June of 2020, Sheriff
25 Magrini sent Plaintiff a photo of Plaintiff with a Hitler moustache and circulated it to command
26 staff and also sent it to the Redding Chief of Police. Sheriff Magrini told multiple people that he
27 planned to post the photo in front of the ID Crime lab and South County Patrol Station and advised
28

1 that by doing so, he was hoping that BLM would burn the station down so that they could build a
2 new one.

3 19. In December 2020, Plaintiff was called in by Sheriff Eric Magrini with the new
4 Undersheriff Barnhart and they advised Plaintiff that they wanted him to retire because of his age
5 as he was too old since Plaintiff had just turned 49. They immediately transferred Plaintiff to
6 Services Division. The position at Services Division was largely an administrative position which
7 was seen by most to be form of punishment. Plaintiff went from being third in command to
8 supervising only 2 sworn officers. Plaintiff complained that they could not do so because of his
9 age, to which the Sheriff then claimed he was just moving a lot of people around.

10 20. In April – June 2021, Plaintiff and his attorneys filed letters to the attorney general's
11 office and the County detailing the various complaints made by Plaintiff and various illegalities
12 and improprieties Sheriff Magrini was involved in including Sheriff Magrini's misappropriation of
13 grant funds.

14 21. Sheriff Margini and Undersheriff Barnhart would then refuse to respond to emails
15 and stop meeting with Claimant. Like before, Sheriff Margini and Undersheriff Barnhart would
16 ignore chain of command and would issue assignments directly to Plaintiff's subordinates, advising
17 them not to meet with Claimant. In June of 2021, a vote of no confidence was filed by the Union.

18 22. In July 21, 2021, Sheriff Magrini and Undersheriff Barnhart in further retaliation
19 and discrimination placed Plaintiff on Administrative Leave. Thirty days later Plaintiff was advised
20 of the charges which included: 1) allegedly failing to give proper notice for going on vacation, 2)
21 allegedly placing a Sergeant in charge of records, and 3) allegedly failing to notify them of an
22 employee harassment complaint. An inquiry against Plaintiff was initiated and Plaintiff was
23 investigated facing potential discipline. Plaintiff suffered the stress of potential discipline until
24 November 2021, when Plaintiff was advised by the new Sheriff Michael Johnson that Plaintiff was
25 cleared of all wrongdoing but no write up documenting the conclusion of the investigation was
26 being prepared because he was advised by the County Counsel not to do so.

27 23. Plaintiff returned to work in November 2021. He soon realized that Undersheriff
28 Barnhart was still harboring discriminatory/retaliatory animus against Claimant. Undersheriff

1 Barnhart refused to speak with Claimant. Undersheriff Barnhart continued to ignore chain of
2 command, and issue orders to Plaintiff subordinates and encourage them to go behind Plaintiff's
3 back. Subordinates would avoid coming around Plaintiff's office because of the tension with
4 Barnhart. These retaliatory/discriminatory actions continued. Plaintiff reported the adverse
5 treatment to new Sheriff Michael Johnson who essentially advised Plaintiff that he couldn't do
6 anything about it right now before an election. Plaintiff was now blackballed from moving up any
7 higher than the Captain rank and was being prevented from performing his duties effectively.
8 Plaintiff was originally planning on retiring at the age of 55, but Plaintiff could no longer handle
9 the hostile working environment that had been created. On January 10, 2022, Plaintiff advised the
10 County that he would retire on February 1, 2022.

11 24. On January 25, 2022, the county tried to have Plaintiff sign a document waiving his
12 rights to any civil lawsuit, as part of a workers compensation proposal to settle his workers'
13 compensation claim. Plaintiff refused to sign it. On Plaintiff's last day the Sheriff advised the
14 Undersheriff not to be present for Plaintiff's last day given the toxic environment which had been
15 created. Plaintiff was then constructively terminated on February 1, 2022.

16 25. Plaintiff's career has been materially and adversely affected, and irreparably harmed
17 and damaged by the conduct of the Defendants. Plaintiff spoke out against what he reasonably
18 believed to be violations of state and federal law. Plaintiff reported such conduct to people above
19 him in the chain of command. As a direct and proximate consequence of reporting such
20 misconduct—which constituted a protected activity under state and federal law—Defendants, and
21 each of them, retaliated against, discriminated against, Plaintiff and subjected Plaintiff to adverse
22 employment actions.

23 26. Plaintiff has suffered both general and special damages in the past and present and
24 will continue to suffer such damages in the future for an unknown period of time. Plaintiff has also
25 suffered and continues to suffer losses in earnings and other employment benefits, as well as past
26 and future non-economic injury. The constructive termination will adversely affect his income and
27 his pension and other benefits. Moreover, it has adversely affected his personal health and well
28 being, including medical expenses that are anticipated into the future and may force an early

1 retirement.

2 27. Plaintiff has also suffered extensive general damages in the form of anxiety,
3 anguish, and mental suffering. Plaintiff's damages are continuing and in an amount not yet
4 determined, but in excess of \$25,000.

5 28. The conduct of Defendants, and each of them, was a violation of Plaintiff's rights
6 under both state and federal law, including but not limited to the Public Safety Officer's Procedural
7 Bill of Rights Act (CAL. GOV'T C. §§ 3300, *et seq.*), the Fair Employment and Housing Act, Gov't
8 Code § 12940 *et seq.*, and California Labor Code § 1102.5. Therefore, Defendants, and each of
9 them, are liable under FEHA and Labor Code § 1102.5, and are liable for retaliation in violation of
10 public policy as identified in *Tamency v. Atlantic Richfield Co.* (1980) 27 Cal.3d 167 and its
11 progeny. The wrongful conduct of Defendants, and each of them, is continuing and ongoing as of
12 the present date.

13 **FIRST CAUSE OF ACTION**

14 **BY PLAINTIFF AGAINST ALL DEFENDANTS**

15 **VIOLATION OF CALIFORNIA LABOR CODE SECTION 1102.5**

16 29. Plaintiff re-alleges and incorporates by reference each and every allegation
17 contained in paragraphs 1-28 of this complaint as though fully set forth herein again.

18 30. At all times herein mentioned, California Labor Code section 1102.5 was in full
19 force and effect and was binding on the Defendants, and each of them.

20 31. Defendants, and each of them, made, adopted, and/or enforced rules, regulations,
21 and/or policies designed to prevent employees from disclosing information to a government or law
22 enforcement agency, which Plaintiff had reasonable cause to believe disclosed violations of state or
23 federal statutes, or state or federal rules and regulations, as identified herein.

24 32. All of the complaints mentioned above were made by Plaintiff to the Shasta County
25 Sheriff's Department, a law enforcement agency within the meaning of California Labor Code
26 section 1102.5, and Plaintiff had reasonable cause to believe that the allegations disclosed
27 violations of state or federal statutes, or state or federal rules and regulations, as identified herein.

1 33. Defendants, and each of them, retaliated against Plaintiff for disclosing information
2 to the Shasta Police Department and/or refusing to engage in the illegal activity, which the Plaintiff
3 had reasonable cause to believe disclosed violations of state or federal statutes, or violations or
4 noncompliance with state or federal rules or regulations, as identified herein.

5 34. As a direct, foreseeable and proximate result of reporting such misconduct, Plaintiff
6 was subject to adverse employment action.

7 35. A motivating factor for the Defendants to engage in the foregoing adverse
8 employment actions against Plaintiff was to retaliate for the Plaintiff's refusal to allow for illegal
9 activity to occur and engaging in the protected activities of disclosing information to the County of
10 Shasta and the Shasta County Sheriff's Department, which the Plaintiff had reasonable cause to
11 believe disclosed violations of state or federal statutes, or violations or noncompliance with state or
12 federal rules or regulations, as identified herein.

13 36. Defendants, and each of them, allowed, permitted, condoned, ratified, and/or
14 enabled the retaliation and/or other wrongful conduct as described herein.

15 37. As a legal result of the above-described conduct of Defendants, and each of them,
16 Plaintiff has sustained and will continue to sustain physical, mental, and emotional injuries, pain,
17 distress, suffering, anguish, fright, nervousness, grief, anxiety, worry, shame, mortification, injured
18 feelings, mental suffering, shock, humiliation, and indignity, as well as other unpleasant physical,
19 mental, and emotional reactions, damages to good name, reputation, standing in the community,
20 and other non-economic damages.

21 38. As a further legal result of the above-described conduct of Defendants, and each of
22 them, Plaintiff was required, and/or in the future may be required, to engage the services of health
23 care providers, and incurred expenses for medicines, health care appliances, modalities, and/or
24 other related expenses in a sum to be ascertained according to proof.

25 39. As a further legal result of the above-described conduct of Defendants, and each of
26 them, Plaintiff was harmed causing the Plaintiff to sustain damages for loss of income, wages,
27 earnings, and earning capacity, and other economic damages, in an amount to be ascertained
28 according to proof. Plaintiff claims such amount as damages together with prejudgment interest

1 pursuant to California Civil Code section 3287 and/or any other provision of law providing for
2 prejudgment interest.

3 40. As a further legal result of the above-described conduct of Defendants, and each of
4 them, Plaintiff suffered incidental, consequential, and/or special damages, in an amount according
5 to proof.

6 41. As a further legal result of the above-described conduct of Defendants, and each of
7 them, Plaintiff has and will continue to incur attorneys' fees and costs in an amount according to
8 proof.

9 42. Finally, as a direct and proximate result of the aforesaid unlawful acts of
10 Defendants, and each of them, Plaintiff suffered stress-related health consequences. Plaintiff
11 claims general damages for such health problems in an amount to be proven at time of trial.

SECOND CAUSE OF ACTION

BY PLAINTIFF AGAINST ALL DEFENDANTS

VIOLATION OF FEHA (GOV'T CODE SECTION 12940(H))

15 43. Plaintiff re-alleges and incorporates by reference each and every allegation
16 contained in paragraphs 1-42 of this complaint as though fully set forth herein.

17 44. At all times herein mentioned, the California Fair Employment and Housing Act
18 was in full force and effect and was binding on Defendants, and each of them.

19 45. Defendants, and each of them, violated FEHA (GOV'T CODE § 12940(h)) by
20 discriminating against Plaintiff based on his age. In December 2020, Plaintiff was called in by
21 Sheriff Eric Magrini with the new Undersheriff Barnhart and they advised Plaintiff that they
22 wanted him to retire because of his age as he was too old since Plaintiff had just turned 49. They
23 immediately transferred Plaintiff to Services Division. The position at Services Division was
24 largely an administrative position which was seen by most to be a form of punishment. Plaintiff
25 went from being third in command to supervising only 2 sworn officers. Plaintiff complained that
26 they could not do so because of his age, to which the Sheriff then claimed he was just moving a lot
27 of people around. Thereafter, the discriminatory actions again Plaintiff continued leading
28 ultimately to his constructive termination.

1 46. Defendants, and each of them, engaged in conduct that, taken as a whole, materially
2 and adversely affected the terms and conditions of Plaintiff's employment, as described herein.
3 Plaintiff's age was a motivating reason for the decision of Defendants, and each of them, to engage
4 in adverse employment actions against him.

5 47. As a result of these adverse employment actions taken against her, Plaintiff was
6 harmed.

7 48. The conduct of Defendants, and each of them, was a substantial factor in causing
8 Plaintiff's harm.

9

10 **PRAYER FOR RELIEF**

11 WHEREFORE, Plaintiff seeks judgment against all Defendants, and each of them, on all
12 Causes of Action for:

13 1. Physical, mental, and emotional injuries, pain, distress, suffering, anguish, fright,
14 nervousness, grief, anxiety, worry, shame, mortification, injured feelings, shock, humiliation and
15 indignity, as well as other unpleasant physical, mental, and emotional reactions, damages to
16 reputation, and other non-economic damages, in a sum to be ascertained according to proof;

17 2. Health care, services, supplies, medicines, health care appliances, modalities, and
18 other related expenses in a sum to be ascertained according to proof;

19 3. Loss of wages, income, earnings, earning capacity, support, domestic services,
20 benefits, and other economic damages in a sum to be ascertained according to proof;

21 4. Other actual, consequential, and/or incidental damages in a sum to be ascertained
22 according to proof;

23 5. Attorney fees and costs of suit pursuant to statute;

24 6. Costs of suit herein incurred;

25 7. Pre-judgment interest; and

1 8. Such other and further relief as the Court may deem just and proper.
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3

4 Dated: May 10, 2022

5 McNICHOLAS & McNICHOLAS, LLP

6 By: 

7 Matthew S. McNicholas
8 Abel Nair
9 Attorneys for Plaintiff
10 JOHN PATRICK KROPHOLLER

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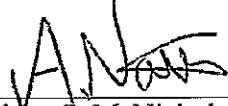
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DEMAND FOR JURY TRIAL

Plaintiff hereby demands a jury trial.

Dated: May 10, 2022

McNICHOLAS & McNICHOLAS, LLP

By: 

Matthew S. McNicholas

Abel Nair

Attorneys for Plaintiff

JOHN PATRICK KROPHOLLER