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Electronically
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by Superior Court of California, County of San Mateo
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By /s/ Maria Coronel
Deputy Clerk

9
10 **SUPERIOR COURT OF CALIFORNIA**

11 **COUNTY OF SAN MATEO**

12 Carryn Barker, an individual,

13 Plaintiff,

14 vs.

15 San Mateo County, a California municipality;
16 and Does 1 through 50,

17 Defendants.

Case No.: 22-CIV-04691

COMPLAINT FOR DAMAGES

1. **Violation of Government Code § 12940; Hostile Work Environment Based on Sex**
2. **Violation of Government Code § 12940; Discrimination Based on Sex**
3. **Violation of Government Code § 12940; Retaliation**
4. **Violation of Government Code § 12940; Failure to Prevent Harassment**
5. **Violation of Government Code § 12940; Failure to Engage in the Interactive Process**
6. **Violation of Government Code § 12940; Failure to Accommodate**

DEMAND FOR JURY TRIAL

1 **INTRODUCTION**

2 Plaintiff Carryn Barker (“Plaintiff”) hereby brings this complaint against her employers
3 and defendants, San Mateo County (“Defendant SMC”) and Does 1-50 (collectively,
4 “Defendants”).

5 **JURISDICTION AND VENUE**

6 1. Jurisdiction and Venue are proper in this Court because Defendants maintain or
7 maintained offices in and does or did business in California at all times relevant to this action,
8 Defendants employ(ed) Plaintiff in San Mateo County, California, Plaintiff is and was a citizen
9 of California at all relevant times, and the events giving rise to the claims alleged herein occurred
10 in San Mateo County, California.

11 2. The amount in controversy in this matter exceeds the sum of \$25,000, exclusive
12 of interest and costs.

13 **PARTIES**

14 3. Plaintiff is a decorated and accomplished Deputy Sheriff and SWAT team
15 member with over six years of exemplary service working for Defendants on behalf of the
16 people of San Mateo County. She has received several awards for her service, including a Medal
17 of Honor, which is the highest honor awarded within law enforcement. She leads Defendants’
18 sex crimes unit and she has received frequent praise for her work on behalf of victims of sex
19 crimes. Plaintiff is also the only woman on the San Mateo County SWAT team and the only
20 woman detective in her unit. She is a single mother and the primary caretaker for her mother,
21 who suffers from Parkinson’s disease. Plaintiff is a California resident living and working in San
22 Mateo County.

23 4. Defendant San Mateo County is a chartered subdivision of the State of California,
24 a public entity, with the capacity to sue and be sued. Defendant SMC is responsible for the
25 actions, omissions, policies, procedures, practices, and customs of its various agents and
26 agencies, including the San Mateo County Sheriff’s Office (SMCSO), and its agents and
27 employees, and is sued in accord with the California Tort Claims Act, Gov. Code §§ 910 et seq.,
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1 for the acts and omissions of public employees Does 1 through 100, and each of them. At all
2 times relevant to the facts alleged, Defendant SMC were responsible for assuring that the actions,
3 omissions, policies, procedures, practices, and customs of SMCSO and its employees and agents
4 complied with the laws of the State of California. Defendant SMC had at least five employees at
5 all times relevant to this litigation.

6 5. Plaintiff is informed and believes that Does 1 through 50 are corporations,
7 individuals, limited liability partnerships, limited liability companies, general partnerships, sole
8 proprietorships, public entities, or are other business entities or organizations of a nature not
9 currently known to Plaintiff.

10 6. Plaintiff is unaware of the true names of Defendants Does 1 through 50. Plaintiff
11 sues said defendants by said fictitious name, and will amend this complaint when the true names
12 and capacities are ascertained or when such facts pertaining to liability are ascertained, or as
13 permitted by law or by the Court. Plaintiff is informed and believes that each of the fictitiously
14 named Defendants is in some manner responsible for the events and allegations set forth in this
15 complaint.

16 7. Plaintiff is informed and believes, and on thereon alleges, that at all times herein
17 mentioned each Defendant, including all Defendants sued under fictitious names, was the agent,
18 employee, or representative of each of the remaining Defendant, and in doing the things
19 hereinafter alleged, was at times acting within the course and scope of this agency or
20 employment, and at other times, acting in his or her own individual capacity. In the alternative,
21 each of the individually named Defendants, acted in concert and in furtherance of a fraudulent
22 plan and scheme and each actively participated in the wrongful acts alleged in this complaint.

23 **EXHAUSTION OF ADMINISTRATIVE REMEDIES UNDER FEHA**

24 8. Each Defendant is an employer as that term is defined under 2 Cal. Code Regs. §
25 11008(d)(1), subjecting it to the terms and obligations of the Fair Employment and Housing Act
26 (“FEHA”), codified at California Government Code, section 12960 *et seq.* Plaintiff has met all of
27 the jurisdictional requirements for proceeding with her claims under the FEHA by: (a) timely
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1 filing administrative complaints with the Department of Fair Employment and Housing
2 (“DFEH”), and receiving a Notice of Case Closure and a Right to Sue letter (“Right To Sue
3 Letter”) dated November 8, 2022.

4 **FACTS COMMON TO ALL CAUSES OF ACTION**

5 **Plaintiff is a Six-Year Employee with an Excellent Record at SMCSO**

6 9. Plaintiff began her employment at Defendants in 2016. Plaintiff is the only
7 woman detective in her unit at SMCSO and the only woman on SMCSO’s SWAT team. Plaintiff
8 oversees the investigation of all of San Mateo County’s sex crimes cases. Plaintiff loves her
9 work as a detective and takes great pride in helping crime victims obtain justice.

10 10. Plaintiff has consistently and exclusively received high performance evaluations
11 at Defendants, with one lieutenant referring to Plaintiff as a “rockstar”. Plaintiff has also received
12 numerous professional accolades, including the Medal of Honor, which is the highest honor
13 given in law enforcement and is given for extreme bravery, courage, and devotion to duty.
14 Plaintiff later received the Universal Emergency Medical Services Delivery Award for her
15 heroism in going beyond the call of duty to save a life, as well as commendations from the San
16 Mateo County Board for her outstanding commitment and service to the people of San Mateo
17 County. Plaintiff has achieved this professional success while being the sole caretaker for her
18 two-year-old son and her mother, who has Parkinson’s disease.

19 **San Mateo County Sherriff’s Department is Rife with Sex Harassment and Discrimination**
20 **and Many of its Worst Offenders Have Been Promoted to Positions of Power**

21 11. SMCSO is a boys’ club where sexism and corruption exist throughout the
22 organization. High ranking men who work at SMCSO openly engage in sexist behavior at work
23 with encouragement from other senior men at SMCSO, none of whom face any meaningful
24 repercussion.

25 12. SMCSO’s boys’ club not only covers up the bad behavior of its harassers and
26 assailants, but it also elevates them to even higher positions of authority. On information and
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1 belief, bad actors who have been promoted at SMCSO after engaging in sexual misconduct
2 include without limitation:

- 3 a. High ranking officers at SMCSO, including Deputy Sheriff Association President
4 D.J. Wozniak, SMCSO Captain Frank Dal Porto, and Deputy Sherriff Nino Costa,
5 exchanging pornographic videos and images over their SMCSO email accounts that
6 depicted violent fantasies such as rape and had titles like “rah rah rah stick it in her
7 a**”. The behavior became so pervasive that SMCSO’s technology department
8 circulated an email instructing high-ranking officials at SMCSO to stop storing or
9 sharing pornographic videos on SMCSO’s servers.
- 10 b. Assistant Sheriff Edward A. Wood sexually harassed a 911 operator by repeatedly
11 touching her without her consent, forcing her to sit next to him for hours at a time for
12 no professional reason, and telling her that she could only address him by smiling,
13 calling him “sir”, and asking what she “could do for him”. Wood received a
14 promotion to Assistant Sherriff and the 911 operator was forced to resign to protect
15 herself from further abuse and retaliation.
- 16 c. Larry Schumaker, nicknamed “Captain Stalker”, stalked, harassed, and intimidated a
17 woman lieutenant at SMCSO who rejected his sexual advances. Despite initially
18 being demoted as a result of the substantiated allegations, Schumaker was quickly re-
19 promoted to and allowed to supervise the entire detective’s bureau, including being
20 involved in the handling of internal sexual harassment claims. SMCSO even selected
21 Schumaker to attend the highly prestigious four-month LAPD Leadership Academy,
22 leading a former SMCSO Deputy Sherriff to say “this shows you can’t keep a good
23 man down”.
- 24 d. Sherriff Carlos Bolanos, who was questioned and detained by the FBI during a raid of
25 an underage sex trafficking hub. Bolanos later claimed to believe the brothel—a
26 single-family home in a residential neighborhood with no public advertising—was a
27 legitimate massage parlor. Days after Bolanos’s arrest, San Mateo County District
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1 Attorney Steve Wagstaffe emailed Bolanos to tell him the incident was a “non-story”,
2 and it would be “irrelevant by tomorrow”.

- 3 e. Marcos Dowdy, who was demoted from sergeant to officer following substantiated
4 sexual harassment claims. Dowdy was ultimately promoted to the even-higher
5 position of lieutenant and then allowed to retire gracefully and with benefits after
6 SMCSO received yet another substantiated sexual harassment claim against Dowdy.

7 13. Plaintiff, like the other women employees at SMCSO, knew about Defendants’
8 sexist culture and its protection of harassers.

9 **Defendants Continually Subjected Plaintiff to Gender Discrimination and a Hostile Work**
10 **Environment Based on Plaintiff’s Sex**

11 14. In 2018, Plaintiff joined the San Mateo County SWAT team, reporting directly to
12 Sergeant Andre Moniot. Throughout their working relationship, Moniot has made various
13 inappropriate comments to or about Plaintiff, including:

- 14 a. “I bet I’ll be the first on the team to f**k you”;
15 b. “I bet [Plaintiff] looks good naked”;
16 c. “I hope [another woman candidate for the SWAT team] makes the team so I can
17 watch you two scissor”;
18 d. Staring at Plaintiff body while wearing eyeglasses, and saying “damn, these aren’t x-
19 ray glasses”.

20 15. Moniot made these comments in front of multiple other employees of Defendants,
21 including supervisors at SMCSO. Rather than attempt to stop Moniot from engaging in sexual
22 harassment, SMCSO employees encouraged Moniot’s harassment of Plaintiff, including by
23 making jokes about Moniot’s behavior such as asking Plaintiff “what’s Moniot’s comment of the
24 day” and “what did Moniot say to you this time”. Plaintiff has asked that Defendants cease
25 making sexist and demeaning comments, but Defendants continue to subject Plaintiff to sexist
26 and demeaning comments.

1 16. In 2019, after enduring months of sexual harassment from Moniot, Plaintiff and
2 another officer approached a supervisor at Defendants to report Moniot’s sexual harassment of
3 Plaintiff. Plaintiff’s supervisor then notified the head of Defendants’ SWAT team, who
4 addressed the SWAT team, including Moniot, and told them team that “if anything weird was
5 going on with the team, it needs to stop.” Defendants did not specifically reference sexual
6 harassment or mistreatment of Plaintiff. Defendants did not take any further action to protect
7 Plaintiff. Moniot and Defendants did not cease their harassment of Plaintiff.

8 17. In Summer 2021, Moniot’s sexual harassment of Plaintiff escalated to Moniot
9 sexually assaulting Plaintiff in front of their colleagues during a gathering of the SWAT team.
10 After Moniot made a rude comment to Plaintiff, Plaintiff responded by expressing that she did
11 not appreciate the comment. Moniot then grabbed Plaintiff, wrestled her to the ground, and
12 pinned her to the floor in front of their colleagues. During this encounter, Moniot grabbed
13 Plaintiff’s buttocks and stuck his hand in Plaintiff’s groin area. Multiple members of the SWAT
14 team witnessed this behavior and at least one member of the SWAT team submitted a written
15 statement confirming that Moniot touched Plaintiff inappropriately. Nobody intervened to
16 protect Plaintiff and Moniot was never punished.

17 18. In December 2021, Lieutenant Jacob Trickett, Detective Sergeant Donnie Burnett,
18 and Detective Sergeant Jeffrey Carr began working in Plaintiff’s department as Plaintiff’s direct
19 supervisors. Carr was already widely known to be sexist and to have left his previous position
20 due to his harassing behavior towards a woman employee of Defendants. Before Carr’s transfer
21 to Plaintiff’s department, Carr harassed a second woman employee so severely that she was
22 forced to resign from SMCSO. Carr’s sexist behavior towards Plaintiff and other women
23 includes without limitation:

- 24 a. Refusing to hire a highly qualified woman applicant for a detective position because
- 25 Carr did not want another woman in his unit;
- 26 b. Criticizing women correctional officers at SMCSO, and Plaintiff, because Carr did
- 27 not like that they wore their hair down or painted their nails;

- 1 c. Treating women at SMCSO in a rude and condescending manner that he did not
- 2 employ when communicating with men;
- 3 d. Mocking and humiliating Plaintiff on a radio call with all of Plaintiff's colleagues
- 4 when Plaintiff suggested a safer course of action for a dangerous planned takedown
- 5 of a suspect;
- 6 e. Providing additional benefits and perks to men while refusing to extend those same
- 7 perks and benefits to women, including buying dinner for every man at SMCSO one
- 8 evening, including the suspects who were in detention, but refusing to buy dinner for
- 9 the one woman assisting the investigation; and
- 10 f. Avidly supporting the promotion or elevation of other known sex harassers at
- 11 SMCSO.

12 19. After their arrival in Plaintiff's department, Trickett, Carr, and Burnett quickly
13 went to work creating an even more sexist work environment for Plaintiff at SMCSO. They
14 started a sexist campaign to attempt to force Plaintiff, the only woman in their unit, to resign or
15 transfer to another department. Trickett, Carr, and Burnett's discriminatory and harassing
16 conduct towards Plaintiff included:

- 17 a. Overwhelming Plaintiff with large volumes of work and insisting that Plaintiff
- 18 complete the work in unreasonably short timeframes, then telling her to "suck it up"
- 19 when she asked for additional support for the sex crimes unit.
- 20 b. Subjecting Plaintiff to higher standards and more scrutiny than her man colleagues,
- 21 including reprimanding Plaintiff for being unable to complete the unreasonable
- 22 workload assigned to her.
- 23 c. Telling Plaintiff that she could not handle being in the investigations unit and should
- 24 transfer to another department.
- 25 d. Falsely accusing Plaintiff of time fraud and forcing Plaintiff to send daily text
- 26 messages to Carr and Burnett saying when she would be leaving and arriving to work.
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1 e. Refusing to allow Plaintiff to flex her hours despite allowing all of Plaintiff's
2 coworkers, who are men, to flex their hours. Carr, Trickett, and Burnett knew that
3 Plaintiff needed to flex her hours to care for her two-year-old son and disabled
4 mother. They nevertheless refused to allow Plaintiff even slight scheduling
5 accommodations. Carr, Burnett, and Trickett allowed other detectives to flex their
6 hours without any comment, including one detective who regularly left work during
7 the middle of the day to work out. In fact, Carr, Trickett, and Burnett flexed their own
8 hours to care for their children or address personal matters such as renovating their
9 homes.

10 f. Interfering with Plaintiff's ability to use her FMLA leave. Following Carr's refusal to
11 allow Plaintiff to flex her hours, Plaintiff obtained part-time FMLA leave to care for
12 her mother on around September 9, 2022. Later that day, Carr walked up to Plaintiff
13 in the open-floor Detective's Bureau and loudly stated that he knew Plaintiff applied
14 for FMLA leave but he wasn't sure if Plaintiff's request was "functional for the unit".
15 A few days later, Carr, Trickett, and Burnett falsely informed Plaintiff that her FMLA
16 paperwork was not filled out properly. Carr, Trickett, and Burnett also began writing
17 up Plaintiff and Plaintiff's significant other for petty concerns a few days after
18 Plaintiff applied for FMLA leave.

19 **SMCSO Forced Plaintiff to Participate in a Retaliatory Internal Affairs Investigation and**
20 **Then Refused to Protect Her from Retaliation**

21 20. Defendants' employees, including Plaintiff's supervisors, knew and joked about
22 Moniot's sexual harassment of Plaintiff for years. However, in August 2022, someone at
23 SMCSO leaked to media information about Sherriff Bolanos's misconduct in a high-profile case.
24 Many of the commanding officers suspected that Moniot leaked this information to the media
25 and began searching for pretext to punish Moniot and set an example for other officers who did
26 not conform.

1 21. On about August 23, 2022, Lieutenant Sebring informed Plaintiff that there was
2 an Internal Affairs (“IA”) investigation regarding Moniot’s behavior. Plaintiff did not want to
3 participate in the investigation due to fear of retaliation, but Sebring told Plaintiff she would be
4 formally reprimanded if she did not cooperate with the investigation. Plaintiff then provided a
5 statement about the incident.

6 22. A few days after Plaintiff indicated that she did not want to discuss Moniot’s
7 behavior, IA forced Plaintiff to attend a second interview. Plaintiff witnessed the retaliation that
8 other women at SMCSO experienced when they complained about sexual harassment and she
9 did not want to face the backlash she knew would occur if the IA investigation continued,
10 especially given her position as the only woman on the SWAT team. IA nevertheless interviewed
11 three other deputies about the incidents between Plaintiff and Moniot. Those three witnesses
12 confirmed to Defendants that Plaintiff was subjected to sexual harassment and discrimination.

13 23. IA required Plaintiff to participate in a third interview regarding Moniot on
14 September 1, 2022. The investigator forced Plaintiff to answer questions about Moniot’s
15 repeated sexual harassment of her. The investigator then informed Plaintiff that multiple SWAT
16 team members saw Moniot sexually assault Plaintiff in August 2021 while Plaintiff and Moniot
17 were wrestling and interrogated Plaintiff on the circumstances surrounding the sexual assault.
18 Plaintiff required frequent breaks during the interrogation as she was deeply distressed by the
19 questions about Moniot’s sexual harassment and sexual assault of her. During this interview,
20 Plaintiff expressed concern over the fact that she needed to take a weeklong overnight training
21 trip with Moniot for the SWAT team in late September 2022. IA responded that they would
22 attempt to work quickly as it could be “uncomfortable” for Plaintiff to work with Moniot.
23 Plaintiff was so distressed from this interview experience that she had to go to the emergency
24 room that evening for a stress migraine that caused her to lose vision.

25 24. Despite aggressively forcing Plaintiff to participate in its investigation and
26 multiple witnesses confirming Moniot’s harassment of Plaintiff, Defendants took no efforts to
27 separate Plaintiff from Moniot. When Plaintiff asked about the status of the investigation, the
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1 investigator told Plaintiff that Plaintiff should not ask questions. Plaintiff had to take leave from
2 the SWAT team on September 6, 2022 in order to avoid working with her assailant. To date,
3 Moniot remains Plaintiff’s direct supervisor on the SWAT team and on information and belief
4 Moniot has faced no corrective action from Defendants.

5 **Defendants Retaliated Against Plaintiff Following Her Protected Complaints About**
6 **Discrimination and Harassment**

7 25. Plaintiff first complained about Carr’s discriminatory and harassing conduct on
8 around September 1, 2022 to Lieutenant Myers. Myers promised Plaintiff that he would speak to
9 Trickett so that Carr would modify his behavior. Carr only escalated his misogynistic treatment
10 of Plaintiff following this Plaintiff’s conversation with Myers. On September 7, 2022, Carr told
11 Plaintiff she could not handle being in the unit and that he believed she was committing time
12 fraud.

13 26. On September 8, 2022, Plaintiff informed the Director of Human Resources at
14 SMCSO that she wanted to initiate a formal complaint for gender-based discrimination and
15 harassment due to Carr, Burnett, and Trickett’s behavior. The Director told Plaintiff she would
16 start the investigative process. On September 9, 2022, Plaintiff learned that her assigned HR
17 caseworker was Katy Roberts, a personal friend of Trickett’s. Plaintiff reiterated to Roberts that
18 she was being harassed and discriminated against based on her gender as well as being retaliated
19 against for her protected complaints and her requesting accommodation and/or FMLA leave to
20 care for her disabled mother. Roberts ignored all of Plaintiff’s complaints except those related to
21 FMLA.

22 27. On September 14, 2022, Plaintiff contacted Roberts to reiterate that she was still
23 being sexually harassed. Roberts responded by telling Plaintiff that her harassers were willing to
24 work with her and she should just “stick it out”.

25 28. Less than one week later, on around September 20, 2022, Carr, Burnett, and
26 Trickett pulled Plaintiff into Trickett’s office. Carr wrote up Plaintiff for failing to notify him
27 that she was taking time off on September 2, 2022. Plaintiff did not take time off on September
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1 2nd, but instead left at 3pm after working a ten-hour shift and receiving pre-approval from Carr
2 to leave at 3pm. Plaintiff reminded Carr that other officers were not required to inform the
3 supervisors of every time they left work but received no response from Carr, Burnett, or Trickett.
4 Carr, Burnett, and Trickett then insisted she needed a set, consistent schedule and told her to
5 change or withdraw her request for FMLA leave or accommodation to care for her disabled
6 mother.

7 29. Directly after this conversation with Carr, Burnett, and Trickett, Plaintiff called
8 Roberts and informed her that she continued to face harassment and discrimination. Plaintiff also
9 informed Roberts that she was now facing retaliation from Carr, Burnett, and Trickett due to her
10 previous complaints. Plaintiff told Roberts that she was suffering substantial emotional distress
11 as a result of the discrimination, harassment, and retaliation and that Carr, Burnett, and Trickett's
12 actions were preventing Plaintiff from getting her work done. Roberts told Plaintiff that she
13 would get back to her about the FMLA papers, but Roberts once again avoided addressing any of
14 Plaintiff's other claims.

15 30. On September 21, 2022, Plaintiff followed up with Roberts. Roberts replied that
16 she was "working on it" and did not further elaborate. Realizing that Roberts would not help her,
17 Plaintiff reached out to Lieutenant Allen, who works in another department at SMCSO. Allen
18 told Plaintiff he would help her make a formal complaint and would tell Trickett to get Carr and
19 Burnett to stop harassing Plaintiff.

20 31. Hours after Allen spoke to Trickett, Carr and Burnett wrote up Plaintiff's
21 significant other for a petty offense. Trickett then emailed Plaintiff that the solution to Plaintiff's
22 complaints was for Plaintiff and her harassers to have a private meeting where they could voice
23 their concerns with each other.

24 32. On September 22, 2022, Plaintiff contacted Allen about Trickett's solution and
25 asked to proceed with filing a formal complaint. Allen agreed to help her and initiated a phone
26 call between himself, Plaintiff, and Roberts. Allen told Roberts that he was initiating an internal
27 investigation. Roberts replied that she was trying to handle the situation on the lowest possible
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1 level and that the FMLA issues were already resolved so there was nothing to further discuss.
2 Plaintiff replied that HR was not doing its job as Plaintiff had already made four complaints and
3 was still working with her harassers who continued to harass her nearly every day. Allen and
4 Roberts offered Plaintiff the opportunity to transfer units. Plaintiff replied by stating that she
5 loved her job and did not want to be punished by having to leave because of her harasser's
6 conduct. Plaintiff did, however, request to have minimal contact with Carr, Trickett, and Burnett
7 and asked to not be required to meet privately with Carr, Trickett, and Burnett.

8 33. On September 23, 2022, Trickett, Carr, and Burnett once again pulled Plaintiff
9 into Trickett's office to discuss her need to take care of her disabled mother. Plaintiff asked why
10 this issue required all three supervisors and she stated that she very rarely saw the three
11 supervisors together to have routine meetings with any of the other detectives. Trickett, Carr, and
12 Burnett did not deny that their behavior was atypical.

13 34. Plaintiff completed a formal written complaint on October 3, 2022. To date,
14 Burnett, Carr, and Trickett are still Plaintiff's supervisors and she is still forced to work with
15 them on a near-daily basis. Trickett learned of Plaintiff's complaint on around October 26, 2022
16 and he has since escalated his retaliation against Plaintiff, including by glaring at her throughout
17 the day to attempt to intimidate her.

18 35. On about November 3, 2022, Plaintiff learned that Moniot was not going to be
19 placed on administrative leave for his sexual assault or harassment of Plaintiff despite other
20 officers corroborating Moniot's illegal behavior. Defendants continue to require Plaintiff to
21 report to Moniot.

22 **Plaintiff Has Suffered Substantial Emotional Distress as a Result of Defendants' Egregious**
23 **Conduct**

24 36. Plaintiff has suffered substantial emotional distress as a result of Defendants'
25 egregious conduct, including anxiety, stress, stress-induced migraines, depression, crying spells,
26 irritability, and difficulty sleeping. Plaintiff's emotional distress became so severe that she
27 needed to begin seeing a therapist whom she continues to see to this day. At one point,
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1 Defendants' conduct distressed Plaintiff so much that she had to go to the emergency room
2 because she had a migraine so intense she nearly went blind. The doctor informed her the
3 incident was very likely due to her work-related stress.

4 **FIRST CAUSE OF ACTION**

5 **VIOLATION OF GOVERNMENT CODE § 12940;**

6 **HOSTILE WORK ENVIRONMENT HARASSMENT BASED ON SEX**

7 **(Against All Defendants)**

8 37. Plaintiff incorporates all of the foregoing paragraphs of this complaint as
9 if fully alleged herein.

10 38. At all times herein mentioned, the Fair Employment and Housing Act ("FEHA"),
11 Government Code §§ 12940 *et seq.*, was in full force and effect and was binding on Defendants.

12 39. These statutes provide that it is an unlawful employment practice for an employer
13 to harass an employee because of the employee's sex. Cal. Gov't Code § 12900 *et seq.*

14 40. Within the time provided by law, Plaintiff filed a complaint with the Department
15 of Fair Employment and Housing ("DFEH"), in full compliance with these sections, and
16 received a right to-sue letter on November 8, 2022.

17 41. As set forth more fully above, Plaintiff's supervisors and managing agents of
18 Defendants, among others, created a hostile work environment based on sex around Plaintiff.

19 42. As a direct, legal, and proximate result of Defendants' conduct, as alleged above,
20 Plaintiff endured emotional distress and loss of wages, pursuant to which Plaintiff is entitled to
21 general and special damages according to proof.

22 43. As a further direct, legal and proximate result of Defendants' conduct, Plaintiff
23 was caused to and did employ the services of counsel to prosecute this action, and is accordingly
24 entitled to an award of attorneys' fees according to proof.

25 44. Wherefore, Plaintiff has been damaged as set forth above and requests relief as
26 hereafter provided.

1 **SECOND CAUSE OF ACTION**

2 **VIOLATION OF GOVERNMENT CODE § 12940;**

3 **DISCRIMINATION BASED ON SEX**

4 **(Against All Defendants)**

5 45. Plaintiff incorporates all of the foregoing paragraphs of this complaint as if fully
6 alleged herein.

7 46. At all times herein mentioned, the Fair Employment and Housing Act (“FEHA”),
8 Gov’t Code §§ 12940, et seq., was in full force and effect and was binding on Defendants.

9 47. These statutes provide that it is an unlawful employment practice for an employer
10 to harass an employee because of the employee’s sex. Cal. Gov’t Code § 12900 et seq.

11 48. Within the time provided by law, Plaintiff filed a complaint with the Department
12 of Fair Employment and Housing (“DFEH”), in full compliance with these sections, and
13 received a right to-sue letter on November 8, 2022.

14 49. As set forth more fully above, Plaintiff’s supervisors and managing agents of
15 Defendants, among others, created a hostile work environment based on sex around Plaintiff.

16 50. As a direct, legal, and proximate result of Defendants’ conduct, as alleged above,
17 Plaintiff endured emotional distress, loss of wages and benefits, pursuant to which Plaintiff is
18 entitled to general and special damages according to proof.

19 51. As a further direct, legal and proximate result of Defendants’ conduct, Plaintiff
20 was caused to and did employ the services of counsel to prosecute this action, and is accordingly
21 entitled to an award of attorneys' fees according to proof.

22 52. Wherefore, Plaintiff has been damaged as set forth above and requests relief as
23 hereafter provided.

24 **THIRD CAUSE OF ACTION**

25 **VIOLATION OF GOVERNMENT CODE § 12940; RETALIATION**

26 **(Against All Defendants)**

1 53. Plaintiff incorporates all of the preceding paragraphs of this complaint as if fully
2 alleged herein.

3 54. At all times herein mentioned, the FEHA, Government Code §§ 12940 *et seq.*,
4 was in full force and effect and was binding on Defendants.

5 55. These statutes provided that it is an unlawful employment practice for an
6 employer to retaliate against an employee because that employee complains about sex
7 discrimination or harassment in the workplace. Cal. Gov't Code § 12940 *et seq.*

8 56. Within the time provided by law, Plaintiff filed a complaint with the Department
9 of Fair Employment and Housing, in full compliance with these sections, and received a right-to-
10 sue letter on November 8, 2022.

11 57. As set forth more fully above, Plaintiff engaged in multiple protected activities,
12 including without limitation: objecting to Defendants' gender-based discrimination; objecting to
13 Defendants' gender-based harassment; and objecting to Defendants' illegal FMLA interference
14 and retaliation. As a result of Plaintiff engaging in a protected activity, Defendants retaliated
15 against Plaintiff by refusing to allow Plaintiff to use flex hours despite permitting the rest of the
16 department to use flex hours, intimidating Plaintiff including with frequent meetings with the
17 entire leadership team in which the leadership team told Plaintiff that she couldn't handle her job
18 and should consider switching departments, fabricating reasons to discipline Plaintiff, fabricating
19 reasons to discipline Plaintiff's partner, subjecting Plaintiff to heightened scrutiny, attempting to
20 overload Plaintiff with work, and behaving in a hostile manner towards Plaintiff.

21 58. The unlawful conduct alleged above was engaged in by the officers, directors,
22 supervisors and/or managing agents of Defendant SMC who were acting at all times relevant to
23 this Complaint within the scope and course of their employment. Defendant SMC and/or Does 1-
24 25, and each of them, are therefore liable for the conduct of said agents and employees pursuant
25 to Government Code section 12926(d).

1 engage Plaintiff in a good faith interactive process, Defendants discriminated and retaliated
2 against Plaintiff.

3 83. Within the time provided by law, Plaintiff filed a complaint with the Department
4 of Fair Employment and Housing, in full compliance with these sections, and received a right-to-
5 sue letter on November 8, 2022.

6 84. As a direct, legal, and proximate result of Defendants' conduct, as alleged above,
7 Plaintiff endured emotional distress, loss of wages and benefits, pursuant to which Plaintiff is
8 entitled to general and special damages according to proof.

9 85. As a further direct, legal and proximate result of Defendants' conduct, Plaintiff
10 was caused to and did employ the services of counsel to prosecute this action, and is accordingly
11 entitled to an award of attorneys' fees according to proof.

12 86. Wherefore, Plaintiff has been damaged as set forth above and requests relief as
13 hereafter provided.

14 **PRAYER FOR RELIEF**

15 Wherefore, Plaintiff prays for relief and judgment against Defendants as follows:

16 1. For general damages according to proof, on each cause of action for which such
17 damages are available;

18 2. For compensatory damages, according to proof on each cause of action for which
19 such damages are available;

20 3. That Plaintiff be awarded all available statutory remedies;

21 4. For equitable relief to the extent available under law;

22 5. For special damages, including with limitation punitive damages, according to
23 proof on each cause of action for which such damages are available and against any defendants
24 against which such damages are available;

25 6. For pre and post judgment interest to the extent applicable by law;



Civil Rights Department

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

November 8, 2022

RE: Notice of Filing of Discrimination Complaint

CRD Matter Number: 202211-18825408

Right to Sue: Barker / San Mateo County, a California municipality

To All Respondent(s):

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

This matter may qualify for CRD's Small Employer Family Leave Mediation Pilot Program. Under this program, established under Government Code section 12945.21, a small employer with 5 -19 employees, charged with violation of the California Family Rights Act, Government Code section 12945.2, has the right to participate in CRD's free mediation program. Under this program both the employee requesting an immediate right to sue and the employer charged with the violation may request that all parties participate in CRD's free mediation program. The employee is required to contact the Department's Dispute Resolution Division prior to filing a civil action and must also indicate whether they are requesting mediation. The employee is prohibited from filing a civil action unless the Department does not initiate mediation within the time period specified in section 12945.21, subdivision (b) (4), or until the mediation is complete or is unsuccessful. The employee's statute of limitations to file a civil action, including for all related claims not arising under section 12945.2, is tolled from the date the employee contacts the Department regarding the intent to pursue legal action until the mediation is complete or is unsuccessful. You may contact CRD's Small Employer Family Leave Mediation Pilot Program by emailing DRDOnlineRequests@dfeh.ca.gov and include the CRD matter number indicated on the Right to Sue notice.

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

No response to CRD is requested or required.

Sincerely,



Civil Rights Department

KEVIN KISH, DIRECTOR

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November 8, 2022

Carryn Barker

RE: **Notice of Case Closure and Right to Sue**

CRD Matter Number: 202211-18825408

Right to Sue: Barker / San Mateo County, a California municipality

Dear Carryn Barker:

This letter informs you that the above-referenced complaint filed with the Civil Rights Department (CRD) has been closed effective November 8, 2022 because an immediate Right to Sue notice was requested.

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

This matter may qualify for CRD's Small Employer Family Leave Mediation Pilot Program. Under this program, established under Government Code section 12945.21, a small employer with 5 -19 employees, charged with violation of the California Family Rights Act, Government Code section 12945.2, has the right to participate in CRD's free mediation program. Under this program both the employee requesting an immediate right to sue and the employer charged with the violation may request that all parties participate in CRD's free mediation program. The employee is required to contact the Department's Dispute Resolution Division prior to filing a civil action and must also indicate whether they are requesting mediation. The employee is prohibited from filing a civil action unless the Department does not initiate mediation within the time period specified in section 12945.21, subdivision (b) (4), or until the mediation is complete or is unsuccessful. The employee's statute of limitations to file a civil action, including for all related claims not arising under section 12945.2, is tolled from the date the employee contacts the Department regarding the intent to pursue legal action until the mediation is complete or is unsuccessful. Contact CRD's Small Employer Family Leave Mediation Pilot Program by emailing DRDOnlineRequests@dfeh.ca.gov and include the CRD matter number indicated on the Right to Sue notice.



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

Sincerely,

Civil Rights Department

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

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

7 Carryn Barker

CRD No. 202211-18825408

8 Complainant,

9 vs.

10 San Mateo County, a California municipality

11 ,

12 Respondents

13 **1. Respondent San Mateo County, a California municipality** is an **employer** subject to suit
14 under the California Fair Employment and Housing Act (FEHA) (Gov. Code, § 12900 et seq.).

15 **2. Complainant Carryn Barker**, resides in the City of , State of .

16 **3. Complainant alleges that on or about November 8, 2022**, respondent took the
17 following adverse actions:

18 **Complainant was harassed** because of complainant's sex/gender, gender identity or
19 expression, marital status, other, sexual harassment- hostile environment, family care or
20 medical leave (cfra).

21 **Complainant was discriminated against** because of complainant's sex/gender, gender
22 identity or expression, disability (physical or mental), marital status, sexual harassment-
23 hostile environment, sexual harassment- quid pro quo, association with a member of a
24 protected class, family care or medical leave (cfra) and as a result of the discrimination was
25 denied hire or promotion, reprimanded, demoted, asked impermissible non-job-related
26 questions, denied any employment benefit or privilege, denied reasonable accommodation
27 for a disability, other, denied work opportunities or assignments.

28 **Complainant experienced retaliation** because complainant reported or resisted any form
of discrimination or harassment, requested or used a disability-related accommodation,

-1-

Complaint – CRD No. 202211-18825408

Date Filed: November 8, 2022

1 participated as a witness in a discrimination or harassment complaint, requested or used
2 family care or medical leave (cfra) and as a result was denied hire or promotion,
3 reprimanded, demoted, asked impermissible non-job-related questions, denied any
4 employment benefit or privilege, denied reasonable accommodation for a disability, other,
5 denied work opportunities or assignments, denied or forced to transfer, denied family care or
6 medical leave (cfra).

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Additional Complaint Details: See attached

1 VERIFICATION

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

5 On November 8, 2022, I declare under penalty of perjury under the laws of the State
6 of California that the foregoing is true and correct.

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Manhattan Beach, California