

12/08/2020

Sherri R. Carter, Executive Officer / Clerk of Court

By:                     V. Solis                     Deputy

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SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF LOS ANGELES – CENTRAL DISTRICT

AUSTREBERTO GONZALEZ, an individual;

Case No.: 20STCV35594

**SECOND AMENDED COMPLAINT**

Plaintiff,

- (1) FEHA DISABILITY-BASED ASSOCIATIONAL DISCRIMINATION
- (2) FEHA WORK ENVIRONMENT HARASSMENT
- (3) FEHA RETALIATION
- (4) FEHA FAILURE TO PREVENT HARASSMENT, DISCRIMINATION, OR RETALIATION
- (5) UNLAWFUL RETALIATION (LAB. CODE § 1102.5)
- (6) BANE ACT

vs.

COUNTY OF LOS ANGELES, a political subdivision of the State of California; and DOES 1-99, inclusive;

Defendants.

**[JURY FEE DEPOSIT POSTED]**

**COMES NOW THE Plaintiff** AUSTREBERTO GONZALEZ (“Gonzalez” or “Plaintiff”), who heretofore alleges the following facts in support of his Second Amended Complaint for Damages and hereby respectfully demands *a speedy jury trial* on all causes of action stated herein as against

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1 COUNTY OF LOS ANGELES (“COLA”), who along with DOES 1-99, inclusive, is referred to herein  
2 as the “Defendants”.

3 **CASE SYNOPSIS**

4 1. Plaintiff, AUSTREBERTO GONZALEZ (also known as “Gonzalez”), is a Deputy  
5 Sheriff who was assigned to Compton Sheriff’s Station.

6 2. In February 2020, Plaintiff called an anonymous tip line to engage in protected  
7 whistleblowing activity by reporting the criminal activities of a deputy gang at Compton Station which  
8 existed to violate the rights of the public and other Sheriff’s Department employees. The Department  
9 turned over a recording of this anonymous call to the criminal gang, placing Plaintiff in danger. The  
10 Department took zero steps to curtail the deputy gang.

11 3. In March 2020, Plaintiff met with Department investigators and again blew the whistle  
12 on the activities of the criminal deputy gang. Again, the Department took zero steps to curtail the deputy  
13 gang.

14 4. Instead, Plaintiff later learned that the Department had taken several affirmative steps to  
15 assist the leader of the deputy gang known as “The Executions” (herein after referred to as “the gang”),  
16 Jaime Juarez. Jaime Juarez, who had been previously banned from being on patrol due to his  
17 involvement in questionable shootings which led to a Department-identified risk to public safety, was  
18 put back on patrol. Further, Juarez, who had been punitively transferred away from Compton Station  
19 due to his gang activity and racketeering, was transferred back to the Station by the Department. This  
20 created a culture of impunity and violence at the Station which had been shaped and enabled by the  
21 Department.

22 5. Finally, after fearing for his safety, and becoming aware of a violent attack by the gang  
23 on another station deputy, Plaintiff contacted an attorney to represent him in his disputes with the  
24 Department. Plaintiff had no other choice and would have never filed a claim had the Department taken  
25 his multiple instances of whistleblowing seriously and taken any affirmative steps to curtail the criminal  
26 gang activity at Compton Station.

1           6.       On or about August 29, 2020, Sheriff Alex Villanueva stated the following on a television  
2 news program: “When you say they are whistleblowers . . . no. These are people who are suing. And  
3 when they’re suing, one of the process of suing is that you make the allegations as . . . big as possible,  
4 and that’s part of the lawsuit process. When you go to the actual hard facts and prove them, that’s an  
5 entirely different animal.”

6           7.       Plaintiff hereby brings this action to prove the actual hard facts of this case, and to prove  
7 that despite the Sheriff’s claim to the contrary, that Plaintiff is in fact a whistleblower who was retaliated  
8 against for engaging in legally protected conduct by his employer, the Los Angeles County Sheriff’s  
9 Department.

10          8.       On or about August 30, 2020, Sheriff Alex Villanueva conducted a further news  
11 interview with Spectrum News 1 wherein he stated that Plaintiff, AUSTREBERTO GONZALEZ, “was  
12 not a whistleblower,” demonstrating a wrongful animus towards Plaintiff and probative of the fact that  
13 the investigations conducted by his Department with respect to Plaintiff’s allegations were sham  
14 investigations, as the chief executive of the Defendant has stated that Plaintiff did not engage in a  
15 protected activity by complaining about illegal, racketeering activities by the Executioners gang which  
16 were intended, and did, deprive citizens and LASD personnel of their rights.

17                       **ALLEGATIONS COMMON TO ALL CAUSES OF ACTION**

18                               **Jurisdiction and Venue**

19          9.       This Court has jurisdiction of the subject matter of Plaintiff’s claims. Jurisdiction is  
20 proper in this Court because the damages and claims alleged and demanded herein by Plaintiff exceeds  
21 \$25,000, and Plaintiff herein does make a demand and prayer for damages, in excess, of the jurisdictional  
22 limit of this Court.

23          10.       This Court has personal jurisdiction over Defendant COLA in that it was, at all relevant  
24 periods of time covered by this complaint, a political subdivision of the State of California maintaining  
25 hundreds of places of business in the County of Los Angeles.

26          11.       Venue in this Court is proper in that, upon information and belief, Defendants reside in  
27 the County of Los Angeles.  
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1 12. All the harm suffered by Plaintiff took place within this judicial district.

2 **The Plaintiff**

3 13. Plaintiff is, and was, at all relevant periods of time covered by this complaint, a resident  
4 of the City of Whittier, County of Los Angeles.

5 14. Plaintiff was an employee of Defendants, jointly and severally.

6 **The Defendants**

7 15. Defendant COLA is a public entity who maintains a place of business, where it employed  
8 Plaintiff at: 301 S. Willowbrook Avenue, Compton, CA 90220.

9 **Relationship Between the Defendants**

10 16. Plaintiff is informed and believes, and thereupon alleges, that Defendants, and each of  
11 them, were at all times mentioned herein the agents, servants, and employees of each other, or otherwise  
12 were acting with the full knowledge and consent of each other. Plaintiff is further informed and believes,  
13 and upon such basis and belief alleges, that in doing all of the things alleged in this complaint,  
14 Defendants, and each of them, were acting within the scope and authority of their agency, servitude, or  
15 employment, and were acting with the express and/or implied knowledge, permission and consent of  
16 one another. Plaintiff is further informed and believes, and upon such basis and belief alleges, that  
17 Defendants learned of, ratified, and/or approved the wrongful conduct of its agents and/or employees  
18 identified in this Complaint as having engaged in wrongful conduct.

19 17. Plaintiff is informed and believes, and thereupon alleges, that at all relevant times,  
20 Defendants, and each of them, were business entities or individuals who owned, controlled, or managed  
21 the business which has damaged Plaintiff, and are each therefore jointly, severally, and individually  
22 liable to Plaintiff.

23 18. Plaintiff is informed and believes, and thereupon alleges, that at all relevant times,  
24 Defendants, and each of them, were in some fashion, by contract or otherwise, the successor, assignor,  
25 indemnitor, guarantor, or third-party beneficiary of one or more of the remaining Defendants, and at all  
26 relevant times to Plaintiff's claims alleged herein, were acting within that capacity. Plaintiff further  
27 alleges that Defendants, and each of them, assumed the liabilities of the other Defendants, by virtue of  
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1 the fact that each to some degree, wrongfully received and/or wrongfully benefited from the flow of  
2 assets from the other Defendants, to the detriment of Plaintiff. Plaintiff further alleges that by  
3 wrongfully receiving and/or benefiting from Defendants' assets, and in the consummation of such  
4 transactions, a *de facto* merger of the Defendants, and each of them, resulted, such that Defendants, and  
5 each of them, may be treated as one for purposes of this Complaint.

6 19. Plaintiff is informed and believes, and thereupon alleges, that at all relevant times  
7 mentioned herein, Defendants, and each of them, were the partners, agents, servants, employees, joint  
8 venturers, or co-conspirators of each other defendant, and that each defendant was acting within the  
9 course, scope, and authority of such partnership, agency, employment, joint venture, or conspiracy, and  
10 that each defendant, directly or indirectly, authorized, ratified, and approved the acts of the remaining  
11 Defendants, and each of them.

12 **Factual Allegations**

13 20. Plaintiff has been employed by the Los Angeles County Sheriff's Department ("LASD")  
14 as a Deputy Sheriff since November 2007, and has spent the past 5 ½ years as a patrol Deputy at  
15 Compton Station ("CPT").

16 21. Plaintiff is a decorated Marine Corps combat veteran who was also decorated with a  
17 Meritorious Conduct Silver Medal at the 2018 LASD Valor Awards for, along with his partner, saving  
18 the life of a 4 year old boy who had been shot in the head.

19 22. Plaintiff is also the parent of a medically fragile daughter, Caitlyne Gonzalez, born in  
20 2005. Caitlyne is severely diabetic and requires regular shots of insulin and glucose testing  
21 approximately 10 times a day. Plaintiff has a court-ordered visitation schedule, and on those days, he is  
22 responsible for caring for Caitlyne. Plaintiff is Caitlyne's medical caregiver, as he injects her with  
23 insulin and performs regular blood glucose level testing. Plaintiff is certified in diabetic education by  
24 the Children's Hospital of Orange County. If Caitlyne had to stay at Plaintiff's home without him  
25 present to medically attend to her, the child could possibly die due to neglect. Caring for Caitlyne was  
26 a full-time job for the other parent who was caring of her. Caitlyne also suffers from Celiac disease  
27 which is a serious autoimmune disease resulting in the inability to ingest gluten without damage to the  
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1 small intestine. This is a chronic condition for which there is no cure. As a result of her autoimmune  
2 disease, Caitlynne has severe dietary restrictions that must be complied with. Caitlynne’s parents  
3 prepare most of her food at home to ensure the absence of gluten and the absence of cross-contamination  
4 during meal preparation. She is under the ongoing care of an endocrinologist to manage both her  
5 diabetes and Celiac.

6 23. CPT has been permeated by a violent Deputy gang which calls itself “The Executioners.”  
7 The Executioners operate at CPT with impunity, its members use violence against other Deputies and  
8 members of the public in order to increase their standing within the criminal organization. The  
9 Executioners recruit members at CPT based upon the prospect’s use of violence against suspects or other  
10 Deputies. Nearly all the CPT Deputies who have been involved in high-profile shootings and out-of-  
11 policy beatings at CPT in recent years have been “inked” members of The Executioners. “Inking”  
12 symbolizes the violent acts each newly made member of The Executioners committed to obtain entry  
13 into the gang. The Executioners receive a matching tattoo indicating membership in the organization,  
14 the tattoo consisting of a skull with Nazi imagery, holding an AK-47, a gun most commonly utilized by  
15 gang members and terrorists, and not any law enforcement agency. Members become inked as  
16 “Executioners” after *executing* members of the public, or otherwise committing acts of violence in  
17 furtherance of the gang. Deputies involved in fatal shootings at CPT have immediately been inked, with  
18 the organization even having “inking parties” to celebrate Executioner member-involved shootings as  
19 well as the induction of new members. Of approximately 100 patrol Deputies at CPT, an estimated 20  
20 are inked members of The Executioners, with another 20 being considered “prospects” or are otherwise  
21 close associates of the gang. The gang members communicate exclusively through WhatsApp, an  
22 encrypted messaging app on their phones, a technique used by criminals such as drug traffickers and  
23 terrorists. The Executioners do not allow African American or female members.

24 24. The Executioners, led by inked “shotcaller” Deputy Jaime Juarez, have paralyzed CPT  
25 through their use of violence against Deputies, and threats of illegal “work slowdowns,” by which  
26 Executioners members, and associates at CPT, will purposefully cease some or all of their law  
27 enforcement duties, while continuing to be paid, in order to impose their will upon CPT by force. One  
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1 such work slowdown occurred in 2019, when shot caller Juarez confronted Acting CPT Captain Larry  
2 Waldie. Juarez informed Waldie that he, and by extension The Executioners gang that he presided over,  
3 was demanding that the Training and Scheduling Deputy, Wanda Valiente, be replaced with an inked  
4 member of The Executioners Deputy Anthony Bautista. The Training and Scheduling Deputy position  
5 was enormously desirable to the gang, as that position would be able to dole out preferred shifts to inked  
6 gang members, as well as provide them with any days off that they would desire... all to the extreme  
7 prejudice of non-gang members who would be disparately and negatively impacted by the most desirable  
8 schedules being funneled exclusively to the gang. Lt. Waldie immediately put his foot down and advised  
9 Juarez that he would not be intimidated into carrying out his duties based upon the desires of The  
10 Executioners. In retaliation, Juarez, The Executioners, and their associates at CPT implemented the  
11 threatened work slowdown, wreaking havoc at CPT and resulting in enormous losses to County  
12 taxpayers and these individuals who participated in the slowdown received their full public salaries for  
13 doing little or no work. Lt. Waldie, after notifying his superior, Captain Michael Thatcher instigated  
14 the punitive transfer of gang leader Juarez to Industry Station, but Lt. Waldie was later overruled, and  
15 Juarez was allowed to return to his gang home base at CPT. Plaintiff is informed and believes, and  
16 thereupon alleges, that the allegations in this paragraph were part and parcel of continuing violations by  
17 the tortfeasors identified herein, and are therefore not time-barred pursuant to the continuing violations  
18 doctrine.

19 25. In 2016, Plaintiff attempted to get scheduled to have certain days off so that he could  
20 provide medical care to his daughter, Caitlynne, on those dates – something Plaintiff had successfully  
21 done in the past. At this time, Juarez was the Training and Scheduling Deputy, who operated the Station  
22 scheduling in a manner to benefit his gang, The Executioner. Plaintiff was refused these days off by  
23 Juarez because Plaintiff is *a non-member of the gang*. Plaintiff had no other option at this point but to  
24 go out on CFRA/FMLA leave, as his superiors with whom he discussed his situation with, refused to,  
25 or otherwise lacked the ability to confront Juarez, as he was the leader of the Station gang and rarely  
26 subject to meaningful supervision or control by his superiors due to his gang ties. Plaintiff is informed  
27 and believes, and thereupon alleges, that the allegations in this paragraph were part and parcel of  
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1 continuing violations by the tortfeasors identified herein, and are therefore not time-barred pursuant to  
2 the continuing violations doctrine.

3         26. At this time, gang shotcaller Juarez, as the Training and Scheduling Deputy, *changed*  
4 Plaintiff's schedule to the "early morning shift," to accommodate an Executioners gang member, all of  
5 whom received preferential scheduling consideration over non-gang members or associates. Plaintiff  
6 was one of those non-gang members who experienced an adverse employment action as a result of his  
7 refusal to cooperate with the gang. Plaintiff protested this new change made by shot caller Juarez, as  
8 the new workdays would make it impossible for him to comply with his existing visitation order to  
9 provide medical care for Caitlynne on certain days of the month. Juarez refused to reconsider the  
10 schedule change, as Juarez was giving the preferred schedule to Deputy Jesus Sandoval, *an inked*  
11 *Executioner*. This change of schedule meant that Plaintiff would have different days off, and therefore  
12 could no longer provide care to his diabetic daughter on dates previously ordered by Court. Juarez  
13 taunted Plaintiff when being informed of Caitlynne's medical needs: "it's not going to happen . . . you  
14 either take the new shift and schedule I'm giving you or take your FMLA". It was then that Plaintiff  
15 informed Juarez that if forced to, he would take CFRA/FMLA leave in order to care for his severely ill  
16 daughter. Plaintiff protested to his supervisor, Sgt. Lopez, then the Scheduling and Training Sgt at CPT,  
17 but Lopez refused to consider the basis for Plaintiff's objection and informed him that he would support  
18 Juarez's erroneous decision. Plaintiff is informed and believes, and thereupon alleges, that the  
19 allegations in this paragraph were part and parcel of continuing violations by the tortfeasors identified  
20 herein, and are therefore not time-barred pursuant to the continuing violations doctrine.

21         27. Plaintiff then took 6-8 weeks off as PTO, constituting his CFRA/FMLA leave. Plaintiff  
22 would not have been forced to burn PTO if he had been allowed a reasonable accommodation in  
23 scheduling to care for his ill daughter on days that had been predetermined by court order. Plaintiff was  
24 denied this benefit of employment due to scheduling preference for Executioners gang members at CPT.  
25 Plaintiff is informed and believes, and thereupon alleges, that the allegations in this paragraph were part  
26 and parcel of continuing violations by the tortfeasors identified herein, and are therefore not time-barred  
27 pursuant to the continuing violations doctrine.



1           28.     The Executioners also had a pattern and practice of showing preference to prospective  
2 members as soon as they were assigned to CPT while discriminating against non Executioners gang  
3 members. Once identified as prospects to become inked members, newly assigned CPT Deputies were  
4 allowed to partner up with inked members right away, when all other newly minted patrol Deputies were  
5 required to work by themselves for long periods of time. Further, prospects are allowed to skip  
6 assignment, or have their assignments shortened, to the non-preferred traffic or Compton Town Center  
7 mall substation detail. Plaintiff, as an example, was assigned to traffic duty for a period of 12-14 months,  
8 in retaliation for not being interested in becoming a gang prospect.

9           29.     Juarez eventually returned to CPT from his IDT transfer. This is believed to be an act of  
10 gratitude shown by then Captain Thatcher to Juarez for assistance Juarez had previously directed his  
11 gang and gang associates to provide to Thatcher.

12           30.     In August or September 2017, there was a meeting with various Captains at the Division  
13 level, and Thatcher was reprimanded for the arrest statistics being low at CPT. Thatcher reacted by  
14 implementing an illegal arrest quota framework at CPT, in violation of California law (see Veh. Code  
15 § 41602). Thatcher sought the assistance of Juarez and the gang, resulting in CPT arrest statistics  
16 increasing by an approximate 300% within a month. This was the result of gang members and their  
17 associates being directed by Juarez to begin arresting individuals for misdemeanor matters that would  
18 have previously not resulted in an arrest, or not resulted in a citation at all. Deputy Iliana Vargas,  
19 Juarez's girlfriend, was sometimes partnered up with Plaintiff during this period. During this period of  
20 time, Vargas would begin to make very unusual misdemeanor arrests, usually arresting an individual  
21 and then immediately releasing them in the field for no other purpose but to juke the arrest statistics as  
22 a favor from the gang to Thatcher. Plaintiff is informed and believes, and thereupon alleges, that the  
23 allegations in this paragraph were part and parcel of continuing violations by the tortfeasors identified  
24 herein, and are therefore not time-barred pursuant to the continuing violations doctrine.

25           31.     Gang shot-caller Jaime Juarez identified the illegal arrest quota as being seven (7) arrests,  
26 per Deputy, per month in a conversation with Deputy Thomas Banuelos at Compton Station.

1           32.     Several weeks later, Lt. John Wargo held a briefing and informed all Deputies that their  
2 stats were low compared to other stations in the Division. Plaintiff was present when Wargo told all the  
3 Deputies present at the briefing that it was their job to arrest people, “so go do your job.” After this  
4 meeting, Deputies with low arrest numbers were retaliated against and punished by having to work  
5 undesirable details such as working the front desk, traffic detail, or the Compton Town Center mall  
6 substation. Plaintiff is informed and believes, and thereupon alleges, that the allegations in this  
7 paragraph were part and parcel of continuing violations by the tortfeasors identified herein, and are  
8 therefore not time-barred pursuant to the continuing violations doctrine.

9           33.     Days after the Wargo briefing where the Deputies were illegally ordered to meet arrest  
10 quotas or face punishment, Plaintiff along with Deputies Jonathan Alcala and Gabriel Guzman  
11 complained about the illegality of the quota order to the Acting Watch Commander, Sgt. Andy Leos, as  
12 the unlawful idea to punish Deputies with low arrest stats originated from Juarez and Leos. When  
13 confronted by the Deputies and asked if undesirable assignments were being improperly used as  
14 punishment for not meeting illegal arrest quotas, Leos admitted, “yes, you should have known that by  
15 now.” Leos further stated that if someone had a problem with the new quota program, that they were  
16 welcome to come to his office so that Leos could show them their “low stats.” Leos raised his voice to  
17 Plaintiff and Deputies Alcala and Guzman and told them to “do your job, I’m trying to save your career.”  
18 Alcala protested and said he was doing his job, to service calls for assistance from the public. As a result  
19 of this interaction, Plaintiff, Alcala, and Guzman were all reprimanded as punishment for protesting the  
20 illegal quota program and were demoted and immediately put on a rotation to traffic duty. Alcala had  
21 been slated to be promoted to the Special Assignments Office (“SAO”) at CPT, but after he protested to  
22 Leos, Leos informed the Sergeant commanding SAO to refuse the transfer to Alcala. Plaintiff is  
23 informed and believes, and thereupon alleges, that the allegations in this paragraph were part and parcel  
24 of continuing violations by the tortfeasors identified herein, and are therefore not time-barred pursuant  
25 to the continuing violations doctrine.

26           34.     Due to this illegal arrest quota regime, average arrests per Deputy immediately went from  
27 approximately 2.5 arrests per month to approximately 7 arrests per month. This resulted in the violation  
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1 of the civil rights of hundreds of residents of the CPT patrol area for no other reason but to insulate  
2 Thatcher from criticism from his Division. Finally, Thatcher called a meeting with the patrol Deputies  
3 and told them he was pleased with the results and new, artificially inflated arrest figures. Plaintiff is  
4 informed and believes, and thereupon alleges, that the allegations in this paragraph were part and parcel  
5 of continuing violations by the tortfeasors identified herein, and are therefore not time-barred pursuant  
6 to the continuing violations doctrine.

7 35. On October 25, 2019, Plaintiff was recognized for his long and diligent service by being  
8 promoted to a Field Training Officer (“FTO”). Plaintiff received 5% FTO pay increase. Plaintiff’s first  
9 trainee was Deputy David Battles. Master FTO Saul Romero commended Plaintiff for doing a good job  
10 of timely turning in his training Daily Observation Reports. On February 13, 2020, the month after  
11 Plaintiff completed his training of Battles, MFTO Romero told Plaintiff to report to the LASD Patrol  
12 School so that Plaintiff could have the first opportunity to pick his next trainee. Battles was an ideal  
13 patrol candidate and had excelled in, and completed, all but his final training phase. At this time, he  
14 was failed out of training by inked Executioners member Deputy Edwin Barajas. Plaintiff believes that  
15 Battles was retaliated against because of his association with Plaintiff.

16 36. Thereafter, Gang member Deputy Eugene Contreras had returned to CPT after a  
17 temporary assignment to the Internal Affairs Bureau (“IAB”). Upon his return, he became extremely  
18 aggressive, bullying behavior towards other Deputies with the intent of raising his standing within the  
19 gang. Contreras is presently on the list to promote to Sergeant at CPT.

20 37. In February 2020, Contreras, now an FTO, threatened fellow FTO Deputy Thomas  
21 Banuelos with violence. This led to an altercation in which Contreras assaulted Banuelos on-duty. This  
22 assault was intended to further the reputation of the gang at CPT.

23 38. On February 8, 2020, Banuelos texted Plaintiff, who was another fellow FTO, and  
24 informed him of Contreras’ violent conduct. Plaintiff was familiar with this aggressive behavior of  
25 Contreras, who Plaintiff knew to be an inked gang member. A few days later, Plaintiff fulfilled his  
26 obligation to report this violent incident anonymously to IAB. As Plaintiff would later learn, there was  
27 nothing confidential about this report, as The Executioners gang had infiltrated IAB and would later  
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1 obtain a recording of his voice making the “anonymous” phone call to IAB. Within two days of the  
2 anonymous call, inked gang members of The Executioners already knew it was Plaintiff who made the  
3 call. While at a Patrol School training, Plaintiff was mortified when Deputy Alcala informed him that  
4 “[The Executioners] are saying that it was you who called IA, and they can’t wait to get their hands on  
5 the voice print of the call.” Plaintiff immediately realized that as Contreras had previously worked at  
6 IAB, that a former co-worker at IAB had illegally warned Contreras of the complaint. This put Plaintiff  
7 at severe risk of violent reprisal by the gang, so Plaintiff took several days off from work out of fear of  
8 reprisals.

9         39. After returning to work, Plaintiff was still struggling to process all this information.  
10 Plaintiff confided in his Operations Lieutenant, Lt. Ruiz, that he was the one who had called IAB  
11 regarding Contreras, and that Plaintiff wanted to remain anonymous to the extent possible. Plaintiff  
12 found himself in a worst-case scenario, as the entire CPT Station knew it was him who had reported an  
13 inked member of The Executioners to IAB. Plaintiff knew that reprisal by the gang was inevitable as a  
14 result of the leak of his identity to The Executioners. Plaintiff requested a week off from work due to  
15 his well-founded fear of violent attack by the gang. During this week off, Deputy Alcala text messaged  
16 Plaintiff a photo of graffiti in a very visible place in the Station which read: “ART IS A RAT”. This  
17 confirmed that IAB had been penetrated and compromised by the criminal organization, and that his  
18 identity had been leaked despite LASD Department policies which purported to protect the identity of  
19 anonymous whistleblowers. This has the practical effect of calling the integrity of the entire IAB and  
20 anonymous reporting program into question.

21         40. Plaintiff went back to Lt. Ruiz, as he was afraid that he would be violently assaulted by  
22 the gang, as they had assaulted Banuelos. Plaintiff took a week off; he spoke with CPT Captain LaTonya  
23 Clark and again memorialized his fear of violent reprisal by the gang. Clark told Plaintiff that two  
24 investigators wanted to talk to him regarding his anonymous IAB complaint. Plaintiff agreed, as his  
25 protected identity had already been compromised. Clark told Plaintiff that the investigators were not  
26 from IAB, but rather part of a special detail from the Office of the Executive.

1           41.     The next day, the two investigators arrived at the Station, unannounced, and informed  
2 the front desk that they were there to speak with Plaintiff. Again, this was a worst-case scenario, as their  
3 presence became known to the entire station, and especially inked gang member Deputy Bautista, who  
4 was serving as the Watch Deputy that day, and informed Plaintiff’s partner, Deputy Adrian Garcia, that  
5 “two IA investigators are here to talk to Gonzalez, so get over here.”

6           42.     At this first meeting, Plaintiff Gonzalez told the investigators everything he knew about  
7 the Contreras assault. He did, however, reiterate the fact that he wanted to remain anonymous, and that  
8 he did not want his name associated with the anonymous call due to the threat of violent retaliation from  
9 inked Deputies at this station. The investigators told Plaintiff that they may want to meet him again, but  
10 Plaintiff protested and told the investigators that any future meetings would have to be done away from  
11 CPT Station, out of fear of retaliation. Plaintiff became aware that Lt. Ruiz had forwarded the photo of  
12 the threatening graffiti identifying Plaintiff to the investigators.

13           43.     In late February 2020, after returning from his week off from work, Plaintiff was  
14 approached by Scheduling Sergeant Frank Barragan, and was taken upstairs to the Conference Room.  
15 Barragan reprimanded Plaintiff for taking intermittent CFRA/FMLA 3-5 days per month to care for his  
16 ill daughter, Caitlynne. Barragan informed Plaintiff that he was being demoted from his FTO position.  
17 Plaintiff protested, asserting his rights under the law. Barragan replied to Plaintiff that, “it would be a  
18 disservice to your trainee if you are taking FMLA days off.” This was inaccurate because when Plaintiff  
19 was training Battles, Plaintiff did not take a single day off for medical leave. Plaintiff had taken several  
20 unscheduled days off during this period to care for Caitlynne, and these days had been approved. This  
21 had not resulted in any meaningful disruption in his training of Battles, nor would such leave interfere  
22 with the training of any future Deputy under Plaintiff’s supervision. Further, it was common practice  
23 for other FTOs at CPT to miss 1-2 days of work a week, or even taken an entire week off while a trainee  
24 has been assigned to them. It was clear that the retaliatory conduct of Plaintiff’s demotion was for his  
25 having taken protected medical leave, but more importantly, because of his protected whistleblower  
26 activities against the Station gang-in-residence. Plaintiff suffered a 5% reduction in pay as a result of  
27 this retaliatory demotion meaning that he will not have any trainees assigned to him.

1           44.     At this meeting where Sgt. Barragan reprimanded Plaintiff for taking protected leave,  
2 Plaintiff was given an ultimatum. Barragan informed Plaintiff that, “there are two ways to do this, you  
3 can voluntarily not take trainees and the other way is we start documenting.” Plaintiff understood this  
4 to be a threat by which if Plaintiff did not acquiesce to the demotion from his FTO position, that Sgt.  
5 Barragan and others would begin the process of “documenting” Plaintiff for discipline and inevitable  
6 demotion and/or termination. Resultantly, Plaintiff signed a memo that Sgt. Barragan had prepared prior  
7 to the meeting which stated that Plaintiff voluntarily was relinquishing his FTO position due to his need  
8 to take protected leave to care for his daughter. Plaintiff had no choice in signing this document, as he  
9 had been effectively ordered by his direct superior to sign the document or lose his job. On or about  
10 this time, Sgt. Barragan authorized the hiring of “temporary” FTOs, and the “temporary” FTO position  
11 was offered to Juarez and other members, or prospects, of The Executioners. Plaintiff believes that  
12 Juarez exercised the power of the gang to control who would be eligible for an FTO position, and to  
13 retaliate against Plaintiff as a result of his IAB complaint against the gang.

14           45.     As of now, no other Deputy at CPT will partner with Plaintiff due to his being targeted  
15 for retaliation by The Executioners. Further, the inked Deputy in dispatch, Bautista, began a pattern and  
16 practice of slamming Plaintiff with excessive calls compared to other Deputies on the same shift.  
17 Plaintiff complained to his supervisor, Lt. Ruiz about the excessive calls for service. Lt. Ruiz’s response  
18 was “I can forward this as a POE (policy of equality) violation to “the Intake” (the intake of complaints  
19 handled by IAB). Plaintiff did not see this as a viable option given that IAB had already leaked the  
20 voice print from his whistleblower call and he requested Lt. Ruiz not make that referral. Lt. Ruiz  
21 expressed frustration and asked Plaintiff to leave his office, even though Lt. Ruiz had previously assured  
22 Plaintiff that if he ever felt retaliated against, to please come and ask Lt. Ruiz for assistance.

23           46.     Plaintiff met with the investigators a second time, this time at the Long Beach Police  
24 Department. Plaintiff asked the investigators if he put his name on the complaint, how long would it  
25 take for Contreras to learn his identity. The investigators assured Plaintiff that it would be months until  
26 Contreras would learn his identity. Prior to this meeting, Plaintiff had asked Captain Clark if he could  
27 be transferred to another Station. Captain Clark offered Plaintiff an immediate or “overnight” transfer  
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1 to East LA Station, but Plaintiff declined due to the fact that this would cement his identity as the  
2 whistleblower to the gang. Plaintiff instead requested a standard transfer to Pico Rivera Station (a  
3 separate Division), the opportunity for which was coming up in several months. In the end, Plaintiff  
4 was denied this transfer.

5 47. On March 26, 2020, Plaintiff was assigned to a “Memorial Detail”, by which Deputies  
6 stand guard for one-hour shifts at a location where a police officer has been slain. Plaintiff was assigned  
7 to stand guard until 3:00PM, which was the time that his shift was due to end. Resultantly, Plaintiff did  
8 not finish his shift until one hour after his scheduled end time: at 4:00PM. Plaintiff went to his  
9 Operations Lieutenant, Lt. Ruiz and Lt. Nicole Palomino, the Watch Commander. Both Lieutenants  
10 denied Plaintiff’s legitimate request for overtime, claiming that such overtime was required to be  
11 preauthorized. This was not common practice, as CPT Deputies are regularly paid overtime in situations  
12 where they are legitimately held over past the end of their shift.

13 48. From Mid-March to Early April 2020, the Scheduling Sergeant, Sgt. Barragan called  
14 Plaintiff and informed him that Contreras would be coming to the same day shift as Plaintiff. This  
15 obviously belied the fact that Plaintiff’s identity as the whistleblower was known to Barragan, Contreras,  
16 and others at CPT. Barragan requested that Plaintiff switch to the “early morning” graveyard shift, and  
17 that Plaintiff would be given whatever days he wanted off. Plaintiff refused, informing Barragan that it  
18 would not allow him to care for his medically fragile daughter, Caitlyne. Barragan queried Plaintiff:  
19 “do you have a problem with [Contreras] working the same shift as you?” Plaintiff realized that he  
20 would not be allowed to mind his own business, and that he would not be able to avoid interactions with  
21 Executioners gang members while a Deputy at CPT.

22 49. Two weeks later, Lt. Ruiz informed Plaintiff that he could be removed from Patrol and  
23 go on loan to the CPT Detective Bureau (“DB”) and be tasked with filing cases on behalf of the Station  
24 at the Compton Courthouse. Plaintiff was not requesting to be reassigned but it became clear that  
25 Contreras was switching to dayshift regardless and there was no way to stop that. This is another way  
26 in which the Executioners are accommodated. Realizing that Plaintiff’s only options were to be  
27 involuntarily transferred to DB or to be punitively placed on the early morning shift that would not allow  
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1 him to care for his daughter, he accepted the reassignment to DB so he could preserve his schedule of  
2 work hours and days off. Importantly, Sgt. Barragan never offered the option of PM shift, as PMs is  
3 heavily staffed by inked deputies. Plaintiff also saw this as an opportunity to distance himself from The  
4 Executioners at CPT and so he accepted the assignment. However, The Executioners' presence was felt  
5 in the new assignment as Deputy Bautista was also on loan to DB. The pencil holder, mouse, and mouse  
6 pad at Deputy Bautista's desk displayed the Executioners tattoo logo. Deputy Bautista's computer  
7 screen saver was a taunting picture/message. The picture showed a black and white police vehicle with  
8 the Sheriff's Dept. logo on it, surrounded by with what appears to be detained gang members posing for  
9 a picture. The caption on the picture was "Some people worked Compton; others just claimed they  
10 did!!!" This message was purposefully displayed in an area that Plaintiff dropped off case tracking  
11 sheets for the detectives at each of their desks each day and Plaintiff believes it was intended as a  
12 warning/reminder to all personnel at the station of the Executioners' presence and span of control.

13 50. Most recently, on a phone call with Plaintiff, Deputy Alcalá informed Plaintiff that a few  
14 months before, Deputy Sergio Jimenez had informed Alcalá that he had been approached by a member  
15 of the Special Enforcement Bureau ("SEB") at CPT who claimed that he had a copy of the recording of  
16 Plaintiff's call to IAB. The SEB Deputy told Jimenez, "[Plaintiff] is saying all kinds of things and name-  
17 dropping, do you want to hear it?" Deputy Alcalá told Plaintiff that Jimenez had told the SEB Deputy  
18 that he was not interested in hearing the recording and told Alcalá that he did not want to be involved in  
19 these events.

20 51. Further, an associate of the gang, Deputy Brian Avalos, was, as a result of his relationship  
21 with the gang, promoted to Watch Deputy: a position that Plaintiff had tested for, and by seniority rules  
22 should have gone to Plaintiff. Instead, the position was given to Avalos due to the fact that he had had  
23 a restraining order issued against him that prohibited him from carrying a firearm on-duty, and the Watch  
24 Deputy position allowed him to collect his salary while not carrying a gun and not going out on patrol.  
25 Plaintiff was 100% entitled to this position, as the only deputy with more seniority than him who  
26 qualified for the position was Deputy Mike Miller, who declined the position. According to LASD  
27 policy and COLA Civil Service rules, the Watch Deputy position promotion should have gone to  
28



1 Plaintiff. Instead LASD allowed the gang to fill it with one of its associates in derogation of Plaintiff's  
2 rights. Not only was Avalos less-qualified for the Watch Deputy position, he was by definition not  
3 qualified, in that he was prohibited from carrying a firearm on duty.

4 52. The aforementioned unlawful acts were undertaken by LASD employees in derogation  
5 of the rights of Plaintiff.

6 53. Plaintiff has been subject to harassment, discrimination, retaliation, and disparate  
7 treatment as a result of his protected status(es).

8 54. These acts constitute violations of the California Fair Employment and Housing Act and  
9 the California Labor Code, including, but not limited to, Labor Code §§ 98.6 & 1102.5. Further, these  
10 acts violate the LASD Manual of Policies and Procedures. Plaintiff has been damaged in an amount to  
11 be determined at time of trial. Plaintiff has experienced economic and non-economic damages in an  
12 amount set forth in this claim form. Plaintiff's damages are ongoing and include, but are not limited to,  
13 the salary differential between his present position and the position that he would have been promoted  
14 to were it not for the illegal interference of LASD in violation of the County Charter and Civil Service  
15 Rule 25.

16 55. On or about August 20, 2020, a dead rat was left as a warning at the home of Plaintiff's  
17 close friend and colleague, Deputy Thomas Banuelos. Plaintiff is informed and believes, and thereupon  
18 alleges that the dead rat was left as a message for Plaintiff and Banuelos, who had both blown the whistle  
19 on illegal acts by the Executioners gang, the message being that both Plaintiff and Banuelos were "rats"  
20 and ran the risk of being murdered by the gang just as the "scape rat" had been killed. Such, Plaintiff  
21 was put in reasonable apprehension of harm by employee-agents of the Los Angeles Sheriff's  
22 Department, to with the Executioners gang, in violation and abrogation of his rights, and that this act  
23 was undertaken in furtherance of the gang's racketeering activities. Plaintiff is informed and believes,  
24 and thereupon alleges that the threat communicated to both Plaintiff and Deputy Banuelos was that they  
25 should be in fear of their lives, to wit: that they should be in fear of being murdered by the Executioners  
26 gang or persons acting on their behalf.

1 56. Plaintiff is informed and believes that the Executioners gang communicated this death  
2 threat to Deputy Thomas Banuelos with the intent that he conveys the threat to his close friend,  
3 confident, and colleague, the Plaintiff.

4 57. On or about August 30, 2020, Sheriff Alex Villanueva conducted a news interview with  
5 Spectrum News 1 wherein he stated that Plaintiff “when you say these are whistleblowers: no . . .”.  
6 demonstrating a wrongful animus towards Plaintiff and probative of the fact that the investigations  
7 conducted by his Department with respect to Plaintiff’s allegations were sham investigations, as the  
8 chief executive of the Defendant has stated that Plaintiff did not engage in a protected activity by  
9 complaining about illegal, racketeering activities by the Executioners gang which were intended, and  
10 did, deprive citizens and LASD personnel of their rights.

11 58. It would be a bald-faced lie for Defendant to claim in this lawsuit that they took Plaintiff’s  
12 whistleblowing claims seriously, and investigated them meaningfully, when the Sheriff has gone on TV  
13 to state that Plaintiff did not engage in any protected whistleblowing activity.

14 **No Claims Arising from Privileged Conduct**

15 59. In the avoidance of doubt, Plaintiff does not herein allege any claim for damages as  
16 against Defendants for any privileged action, such as the conducting of an investigation by a public  
17 entity. Plaintiff, however, reserves the right to claim all damages arising out of *consequences or actions*  
18 resulting from, or occasioned by, such a privileged investigation by a public entity.

19 60. Plaintiff expressly excludes from this Complaint any privileged act by any Defendant to  
20 this action that would otherwise result in a Special Motion to Strike pursuant to Code Civ. Proc.  
21 § 425.16.

22 61. Plaintiff is not any seeking damages for the Sheriff’s statement to the news media that  
23 Plaintiff was not a whistleblower.

24 **Applicable Provisions of the County Charter and Civil Service Rules**

25 62. Los Angeles Civil Service Rule 25 states that: “*No person in the classified service or*  
26 *seeking admission thereto shall be appointed, reduced or removed, or in any way favored or*  
27 *discriminated against in employment or opportunity for employment because of race, color, religion,*  
28

1 *sex, physical handicap, medical condition, marital status, age, national origin or citizenship, ancestry,*  
2 *political opinions or affiliations, organizational membership or affiliation, or other non-merit factors,*  
3 *any of which are not substantially related to successful performance of the duties of the position. "Non-*  
4 *merit factors" are those factors that relate exclusively to a personal or social characteristic or trait and*  
5 *are not substantially related to successful performance of the duties of the position. Any person who*  
6 *appeals alleging discrimination based on a non-merit factor must name the specific non-merit factor(s)*  
7 *on which discrimination is alleged to be based. No hearing shall be granted, nor evidence heard relative*  
8 *to discrimination based on unspecified non-merit factors. "*

9         63. Section 30 of the Los Angeles County Charter states the following: *"The purpose of this*  
10 *article is to establish a Civil Service System for the classified service which shall provide County*  
11 *government with a productive, efficient, stable, and representative work force by: (1) Recruiting,*  
12 *selecting, and advancing employees on the basis of their relative ability, knowledge, and skills relevant*  
13 *to the work to be performed. (2) Retaining employees on the basis of the adequacy of their performance,*  
14 *correcting inadequate performance, and separating employees whose inadequate performance cannot*  
15 *be corrected."*

16         64. Further, Plaintiff protested and opposed violations of the following rules and regulations,  
17 to wit, one or more of the following provisions of the Los Angeles County Sheriff's Department Manual  
18 of Policies and Procedures: (1) 3-01/000.10 - Professional Conduct; (2) 3-01/010.50 - Manner of  
19 Exercising Authority; (3) 3-01/020.30 - Responsibility for Subordinate Supervisors; (4) 3-01/020.35 -  
20 Organizational Control; (5) 3-01/020.60 - Responsibility for Subordinates; (6) 3-01/020.70 -  
21 Responsibility for Conduct of Subordinates; (7) 3-01/030.05 - General Behavior; (8) 3-01/030.06 -  
22 Disorderly Conduct; (9) 3-01/030.07 - Immoral Conduct; (10) 3-01/030.10 - Obedience to Laws,  
23 Regulations, and Orders; (11) 3-01/030.15 - Conduct Toward Others; (12) 3-01/030.23 - Workplace  
24 Violence; (13) 3-01/030.26 - Violation of Workplace Violence Policy; (14) 3-01/030.27 – Retaliation;  
25 (15) 3-01/030.28 - Reporting of Workplace Violence and/or Retaliation; (16) 3-01/030.29 - Supervisor  
26 Responsibilities; (17) 3-01/030.73 – Hazing; (18) 3-01/040.95 - Confidential Information; (19) 3-  
27 01/050.83 - Employee Groups which Violate Rights of Other Employees or Members of the Public; (20)

1 3-01/075.00 - Personal Relationships Between Department Members; (21) 3-02/010.17 - Swapping of  
2 RDO/Shifts; (22) 3-02/040.20 - Kin Care; (23) 3-02/050.05 - Employees' Safety Responsibilities; (24)  
3 3-02/050.10 - Supervisors' Safety Responsibilities; (25) 3-02/050.15 - Managers' Safety  
4 Responsibilities; (26) 3-10/040.00 - Prohibited Force.

5 **Exhaustion of Administrative Remedies**

6 65. Plaintiff presented a Tort Claim to COLA on June 23, 2020. COLA notified Plaintiff that  
7 his Tort Claim was being investigated by way of letter dated June 30, 2020. COLA did not act on the  
8 claim within 45 days after the claim had been presented, and the claim is therefore deemed to have been  
9 rejected by COLA on the 45<sup>th</sup> day pursuant to Gov. Code § 912.4. As no notice of rejection was  
10 transmitted to Plaintiff in accordance with Gov. Code § 913, this action is being brought within two  
11 years from the accrual of the subject causes of action pursuant to Gov. Code § 945.6(a)(2).

12 66. A Right-to-Sue Letter was timely obtained from the Department of Fair Employment and  
13 Housing on September 15, 2020 on behalf of Plaintiff.

14 **Continuing Violations Doctrine**

15 67. Plaintiff is informed and believes, and thereupon alleges, that the allegations in the  
16 foregoing paragraphs were part and parcel of continuing violations by the tortfeasors identified herein,  
17 and are therefore not time-barred pursuant to the continuing violations doctrine.

18 68. Plaintiff is informed and believes, and thereupon alleges that these events relate to  
19 unlawful acts by Defendant and its employee-agents, and that there existed a unity of decision-making  
20 between Plaintiff's supervisors and Executioners gang shotcaller Jaime Juarez which had the actual  
21 effect of violating the rights of Plaintiff and other similarly situated employees of Defendant. Plaintiff  
22 is further informed and believes, and thereupon alleges that each and every one of the adverse  
23 employment actions alleged herein were imposed by, dictated by, or ratified by a unified group of  
24 decision makers with a common interest in furthering the interests of the Executioners gang at the  
25 expense of Deputies who were not members of the gang, including Plaintiff. This discrete, identifiable,  
26 and unified decision-making structure included, but was not limited to: Chief Eliezer Vera, Commander  
27 Michael Thatcher, Captain Ta Tonya Clark, Sgt. Andy Leos, and Deputy Jaime Juarez. This decision-

1 making group may also have included Undersheriff Timothy Murakami and Sheriff Alex Villanueva.  
2 Former Acting Captain of Compton Station, Lt. Larry Waldie, was also retaliated against by the same  
3 decision-making apparatus involving the same set of facts and transactions, and was denied the  
4 opportunity to promote to the permanent Captain of Compton Station due to his opposition to the  
5 racketeering activities of the Executioners gang.

6 69. Plaintiff is informed and believes, and thereupon alleges that each of the acts that are  
7 alleged herein constitute a single continuing violation which culminated in a recent threat on or about  
8 August 20, 2020 to murder Plaintiff and/or Plaintiff's close friend and colleague, Deputy Thomas  
9 Banuelos, as a result of the events that Plaintiff engaged in protected whistleblowing activities with  
10 respect to.

11 **Defendant's Sham Investigation as Demonstrative of Actual Malice**

12 70. Defendant engaged in one or more investigations of Plaintiff's allegations as set forth  
13 herein and as relayed to investigators for Internal Affairs and his superiors. However, the investigations  
14 constituted a purposeful avoidance of truth, inaction, and failure to investigate which was a product of  
15 a deliberate decision not to acquire knowledge of facts that would confirm Plaintiff's allegations,  
16 particularly with respect to the racketeering activities of the Executioners gang which were intended to,  
17 and actually did, violate the rights of members of the public and other Department employees.

18 71. The failure to meaningfully investigate Plaintiff's complaints establishes pretext, because  
19 an inadequate investigation is evidence of pretext. The lack of a rigorous investigation by Defendant is  
20 evidence suggesting that Defendant did not value the discovery of the truth so much as a way to clean  
21 up the mess that was uncovered when Plaintiff made his complaints.

22 72. Further, the failure to react promptly to Plaintiff's complaint, or to reprimand the  
23 wrongdoers strongly, is evidence relevant to determine whether the employer took sufficient remedial  
24 action. Defendant's failure to timely interview the material witnesses is evidence of inadequate remedial  
25 action, as Defendant made little or no attempt to investigate Plaintiff's version of events.

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1 **FIRST CAUSE OF ACTION**

2 **FEHA DISABILITY-BASED ASSOCIATIONAL DISCRIMINATION**

3 **(Gov. Code §§ 12926(o), 12940(a))**

4 **(Against All Defendants)**

5 73. Plaintiff realleges, and incorporates herein by their reference, each and every allegation  
6 contained in the foregoing Paragraphs, inclusive, as though fully set forth herein. Further, all allegations  
7 set forth in this cause of action are pled upon information and belief, unless otherwise stated.

8 74. Defendants were employers.

9 75. Plaintiff was an employee of Defendants.

10 76. Plaintiff is the father of a disabled daughter who has diabetes.

11 77. His disabled daughter's diabetes was costly to Defendants because Plaintiff had to  
12 arrange his schedule and days off to provide medical care to his daughter, resulting in scheduling  
13 conflicts for other deputies and the expenditure of additional taxpayer funds as a result of the scheduling  
14 conflicts.

15 78. As a direct and wrongful result of his disabled daughter's medical condition(s),  
16 Defendants subjected Plaintiff to one or more of the following adverse employment actions as a result:  
17 (1) asked impermissible non-job-related questions; (2) demoted; (3) denied any employment benefit or  
18 privilege; (4) denied family care or medical leave (CFRA); (5) denied hire or promotion; (6) denied or  
19 forced to transfer; (7) denied work opportunities or assignments; (8) reprimanded; and/or (9) being  
20 subjected to a threat of being murdered for being a witness to illegal acts and protesting same.

21 79. Plaintiff's association with his disabled daughter was a substantial motivating reason for  
22 Defendants to subject Plaintiff to one or more of these adverse employment actions.

23 80. Plaintiff was harmed. The harm was part of a continuing violation of Plaintiff's rights  
24 under the FEHA which extended into the applicable statutory period permitting the bringing of this  
25 cause of action.

1 81. Defendants' conduct was a substantial factor in causing Plaintiff's harm.

2 82. Plaintiff was present enough at work while taking medical leave to serve as a Field  
3 Training Officer ("FTO"), as other similarly situated training officers had taken more leave than Plaintiff  
4 and maintained their Field Training Officer status.

5 83. Plaintiff is informed and believes that the gang labelling him a "rat" in public graffiti in  
6 the workplace, as well as the communicated death threat involving the dead rat, was also the result of  
7 Plaintiff having previously complained about violations of the FEHA by Defendant.

8 **SECOND CAUSE OF ACTION**

9 **FEHA WORK ENVIRONMENT HARASSMENT**

10 **(Gov. Code §§ 12923, 12926(o))**

11 **(Against All Defendants)**

12 84. Plaintiff realleges, and incorporates herein by their reference, each and every allegation  
13 contained in the foregoing Paragraphs, inclusive, as though fully set forth herein. Further, all allegations  
14 set forth in this cause of action are pled upon information and belief, unless otherwise stated.

15 85. Plaintiff was an employee of Defendants.

16 86. Plaintiff was subjected to unwanted harassing conduct because of one or more of the  
17 following protected statuses applicable to them: (1) association with a member of a protected class; or  
18 (2) taking family care or medical leave (CFRA).

19 87. Plaintiff's association with his disabled daughter was a substantial motivating reason for  
20 Defendants to subject Plaintiff to one or more of these adverse employment actions.

21 88. The harassing conduct was severe or pervasive and based upon the following protected  
22 status(es): (1) association with a member of a protected class; or (2) taking family care or medical leave  
23 (CFRA).

24 89. A reasonable person in Plaintiff's circumstances would have considered the work  
25 environment to be hostile or abusive, including the death threats made to the subject of Plaintiff's  
26 whistleblowing complaints, Deputy Thomas Banuelos, which Plaintiff understood to be a death threat  
27 inclusive of him and his family as he was also labeled as a "rat" by the gang. Plaintiff is informed and  
28

1 believes that the gang labelling him a “rat” was also the result of his having previously complained about  
2 violations of the FEHA by Defendant.

3 90. Being labeled as a “rat” by the gang, along with the threat of being murdered, each  
4 constituted a single incident that a reasonable jury could conclude constituted severe harassment within  
5 the meaning of FEHA, and taken as a whole, meet the definition of harassment.

6 91. Plaintiff considered the work environment to be hostile or abusive.

7 92. Either: (1) a supervisor engaged in the conduct; or (2) Defendants, or its supervisors or  
8 agents knew, or should have known, of the conduct and failed to take immediate and appropriate  
9 corrective action.

10 93. Plaintiff was harmed. The harm was part of a continuing violation of Plaintiff’s rights  
11 under the FEHA which extended into the applicable statutory period permitting the bringing of this  
12 cause of action.

13 94. Plaintiff is informed and believes that the gang labelling him a “rat” in public graffiti in  
14 the workplace, as well as the communicated death threat involving the dead rat, was also the result of  
15 Plaintiff having previously complained about violations of the FEHA by Defendant.

16 95. The conduct was a substantial factor in causing Plaintiff’s harm.

17 96. The harassment created a hostile, offensive, oppressive, and intimidating work  
18 environment and deprived Plaintiff of his statutory right to work in a place free of discrimination because  
19 the harassing conduct severely offended, humiliated, distressed, and intruded upon Plaintiff, so as to  
20 disrupt Plaintiff’s emotional tranquility in his workplace and otherwise interfered with and undermine  
21 Plaintiff’s personal sense of well-being.

22 //



1 **THIRD CAUSE OF ACTION**

2 **FEHA RETALIATION**

3 **(GOV. CODE § 12940(h))**

4 **(Against All Defendants)**

5 97. Plaintiff realleges, and incorporates herein by their reference, each and every allegation  
6 contained in the foregoing Paragraphs, inclusive, as though fully set forth herein. Further, all allegations  
7 set forth in this cause of action are pled upon information and belief, unless otherwise stated.

8 98. Plaintiff was retaliated against after, and because of, his engaging in a protected activity,  
9 or protected activities, under the FEHA by: (1) opposing any practice forbidden under the FEHA; and/or  
10 (2) having filed a complaint, testified, or assisted in any proceeding under the FEHA.

11 99. Plaintiff engaged in one or more of the following protective activities: (1) participated as  
12 a witness in a discrimination or harassment complaint; (2) reported or resisted any form of discrimination  
13 or harassment; and/or (3) requested or used leave under the California Family Rights Act or FMLA.

14 100. As a witness to Defendant's sexual and racial discrimination by not allowing females and  
15 African Americans to join The Executioners. Defendants participated in aiding and abetting this activity  
16 by acquiescing to The Executioners' conduct and allowing it to continue.

17 101. Furthermore, Plaintiff was retaliated against for his association and advocacy of his ill  
18 daughter, for whom Plaintiff provided necessary medical attention to. Plaintiff's ill daughter, and the  
19 fact that Plaintiff provided this necessary medical attention for, was weaponized against Plaintiff to force  
20 him to take a demotion or stay with the same people, members of The Executioners, who severely  
21 harassed and threatened.

22 102. Defendant subjected Plaintiff to the following adverse employment actions as a result of  
23 these aforementioned protected activities under the FEHA: (1) asked impermissible non-job-related  
24 questions; (2) demoted; (3) denied any employment benefit or privilege; (4) denied family care or  
25 medical leave (CFRA); (5) denied hire or promotion; (6) denied or forced to transfer; (7) denied work  
26 opportunities or assignments; (8) reprimanded; and/or (9) being subjected to a threat of being murdered  
27 for being a witness to illegal acts and protesting same.

1 103. Plaintiff's protected activities were a substantial motivating reason for Defendants'  
2 conduct.

3 104. Plaintiff was harmed. The harm was part of a continuing violation of Plaintiff's rights  
4 under the FEHA which extended into the applicable statutory period permitting the bringing of this  
5 cause of action.

6 105. Defendants' decision to subject Plaintiff to these adverse employment actions was a  
7 substantial factor in causing them harm.

8 106. Plaintiff is informed and believes that the gang labelling him a "rat" in public graffiti in  
9 the workplace, as well as the communicated death threat involving the dead rat, was also the result of  
10 Plaintiff having previously complained about violations of the FEHA by Defendant.

11 **FOURTH CAUSE OF ACTION**

12 **FEHA FAILURE TO PREVENT HARASSMENT, DISCRIMINATION, OR RETALIATION**

13 **(GOV. CODE § 12940(h))**

14 **(Against All Defendants)**

15 107. Plaintiff realleges, and incorporates herein by their reference, each and every allegation  
16 contained in the foregoing Paragraphs, inclusive, as though fully set forth herein. Further, all allegations  
17 set forth in this cause of action are pled upon information and belief, unless otherwise stated.

18 108. Plaintiff was an employee of Defendants.

19 109. Plaintiff was subjected to harassment, discrimination, or retaliation in the course of  
20 employment.

21 110. Defendants failed to take all reasonable steps to prevent the harassment, discrimination,  
22 or retaliation.

23 111. Plaintiff was harmed. The harm was part of a continuing violation of Plaintiff's rights  
24 under the FEHA which extended into the applicable statutory period permitting the bringing of this  
25 cause of action.

26 112. Defendants failure to take all reasonable steps to prevent the harassment, discrimination,  
27 or retaliation was a substantial factor in causing Plaintiff's harm.

1 **FIFTH CAUSE OF ACTION**  
2 **UNLAWFUL RETALIATION**  
3 **(Lab. Code § 1102.5)**  
4 **(Against All Defendants)**

5 113. Plaintiff realleges, and incorporates herein by their reference, each and every allegation  
6 contained in the foregoing Paragraphs, inclusive, as though fully set forth herein. Further, all allegations  
7 set forth in this cause of action are pled upon information and belief, unless otherwise stated.

8 114. Lab. Code § 1102.5(b) provides, in pertinent part, “[a]n employer, or any person acting  
9 on behalf of the employer, shall not retaliate against an employee for disclosing information, or because  
10 the employer believes that the employee disclosed or may disclose information, to a government or law  
11 enforcement agency, to a person with authority over the employee or another employee who has the  
12 authority to investigate, discover, or correct the violation or noncompliance, . . . if the employee has  
13 reasonable cause to believe that the information discloses a violation of state or federal statute, or a  
14 violation of or noncompliance with a local, state, or federal rule or regulation, regardless of whether  
15 disclosing the information is part of the employee's job duties.” This statute reflects the broad public  
16 policy interest in encouraging workplace whistleblowers to report unlawful acts without fearing  
17 retaliation.

18 115. Defendants were employers for purposes of California law.

19 116. Plaintiff was an employee of Defendants, performing work on behalf of Defendants.  
20 Defendants subjected Plaintiff to the following adverse employment actions: (1) asked impermissible  
21 non-job-related questions; (2) demoted; (3) denied any employment benefit or privilege; (4) denied  
22 family care or medical leave (CFRA); (5) denied hire or promotion; (6) denied or forced to transfer;  
23 (7) denied work opportunities or assignments; (8) reprimanded; and/or (9) being subjected to a threat  
24 of being murdered for being a witness to illegal acts and protesting same.

25 117. Plaintiff was forced to transfer due to harassment, discrimination, and retaliation by  
26 Defendants, including, but not limited to the racketeering practices of the Executioners gang. This  
27  
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1 forced transfer was also out of safety concerns due to the death threat against Plaintiff, believed to have  
2 been communicated by the Executioners gang.

3 118. Defendants subjected Plaintiff to the foregoing adverse employment actions in retaliation  
4 for engaging in protected activities, including, but not limited to protesting or opposing violations of the  
5 following LASD Manual of Policies and Procedures policies: (1) 3-01/000.10 - Professional Conduct;  
6 (2) 3-01/010.50 - Manner of Exercising Authority; (3) 3-01/020.30 - Responsibility for Subordinate  
7 Supervisors; (4) 3-01/020.35 - Organizational Control; (5) 3-01/020.60 - Responsibility for  
8 Subordinates; (6) 3-01/020.70 - Responsibility for Conduct of Subordinates; (7) 3-01/030.05 - General  
9 Behavior; (8) 3-01/030.06 - Disorderly Conduct; (9) 3-01/030.07 - Immoral Conduct; (10) 3-01/030.10  
10 - Obedience to Laws, Regulations, and Orders; (11) 3-01/030.15 - Conduct Toward Others; (12) 3-  
11 01/030.23 - Workplace Violence; (13) 3-01/030.26 - Violation of Workplace Violence Policy; (14) 3-  
12 01/030.27 – Retaliation; (15) 3-01/030.28 - Reporting of Workplace Violence and/or Retaliation; (16)  
13 3-01/030.29 - Supervisor Responsibilities; (17) 3-01/030.73 – Hazing; (18) 3-01/040.95 - Confidential  
14 Information; (19) 3-01/050.83 - Employee Groups which Violate Rights of Other Employees or  
15 Members of the Public; (20) 3-01/075.00 - Personal Relationships Between Department Members; (21)  
16 3-02/010.17 - Swapping of RDO/Shifts; (22) 3-02/040.20 - Kin Care; (23) 3-02/050.05 - Employees'  
17 Safety Responsibilities; (24) 3-02/050.10 - Supervisors' Safety Responsibilities; (25) 3-02/050.15 -  
18 Managers' Safety Responsibilities; (26) 3-10/040.00 - Prohibited Force.

19 119. Further, Defendants subjected Plaintiff to the foregoing adverse employment actions in  
20 retaliation for engaging in protected activities, including, but not limited to protesting or opposing  
21 violations of one or more of the following state or federal statutes, or a violation of or noncompliance  
22 with one or more of the following local, state, or federal rule or regulation: (1) 18 U.S.C. §§ 1961-1968  
23 – Racketeering; (2) 18 U.S.C. § 241 – Conspiracy Against Rights; (3) Pen. Code § 240 – Assault; (4)  
24 Pen. Code § 243d – Aggravated Battery; (5) Pen. Code § 245 – Assault with a Deadly Weapon; (6) Pen.  
25 Code § 136.1 – Dissuading a Witness; (7) Los Angeles County Police of Equity, Policies, Procedures  
26 and Guidelines § 910 on cooperation with administrative investigations; (8) Los Angeles County Board  
27 of Supervisors Policy Manual 9.020 on employee accountability; (9) Los Angeles County Board of  
28

1 Supervisors Policy Manual 9.010 on Equal Employment Opportunity and Non-Discrimination; (10) Los  
2 Angeles County Civil Service Rule 25 on merit system employment; (11) Los Angeles County Code  
3 5.08 on equal employment opportunity; (12) Los Angeles County Code 5.10 on the policy of diversity;  
4 (13) the California Fair Employment and Housing Act; or (14) the California Family Rights Act.

5 120. Pursuant to Labor Code § 1102.5, Defendants are also liable for a civil penalty not  
6 exceeding ten thousand dollars (\$10,000) for each violation of this section.

7 121. All allegations made pursuant to this cause of action were continuing violations that  
8 transpired over a period of time to include the applicable period covered by the timely government claim  
9 made by Plaintiff as against Defendants.

10 122. Plaintiff was present enough at work while taking medical leave to serve as a Field  
11 Training Officer (“FTO”), as other similarly situated training officers had taken more leave than Plaintiff  
12 and maintained their Field Training Officer status.

13 123. Furthermore, Plaintiff suffered severe mental anguish due to Defendant’s continuance  
14 adverse and oppressive harassment.

15 **SIXTH CAUSE OF ACTION**

16 **BANE ACT**

17 **(Civ. Code § 52.1)**

18 **(Against All Defendants)**

19 124. Plaintiff realleges, and incorporates herein by their reference, each and every allegation  
20 contained in the foregoing Paragraphs, inclusive, as though fully set forth herein. Further, all allegations  
21 set forth in this cause of action are pled upon information and belief, unless otherwise stated.

22 125. Agent-employees of Defendant communicated a threat to murder Plaintiff, evidenced by  
23 the mutilated rat and having identified Plaintiff in graffiti as a “rat,” communicating that Plaintiff would  
24 suffer the same fate as the rat: being killed. Plaintiff took this threat seriously and is in fear of his safety  
25 and the safety of his family.

26 126. Defendants or their agents made threats of violence against Plaintiff, causing Plaintiff to  
27 reasonably believe that if he exercised his right to engage in protected whistleblowing activities or  
28

1 protest the aforementioned violations of the FEHA, Defendants or their agents would commit violence  
2 against Plaintiff or his property, and that Defendants or their agents had the apparent ability to carry out  
3 the threats.

4 127. Plaintiff is informed and believes that the gang labelling him a “rat” in public graffiti in  
5 the workplace, as well as the communicated death threat involving the dead rat, was also the result of  
6 Plaintiff having previously complained about violations of the FEHA by Defendant.

7 128. Plaintiff was harmed.

8 129. Defendants or their agents’ conduct was a substantial factor in causing Plaintiff’s harm.

9 130. All allegations made pursuant to this cause of action were continuing violations that  
10 transpired over a period of time to include the applicable period covered by the timely government claim  
11 made by Plaintiff as against Defendants.

12 //

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff prays for judgment as against Defendants as follows, for:

- 1) Compensatory damages in an amount according to proof at time of trial.
- 2) Past economic losses in an amount according to proof at time of trial.
- 3) Future economic loses in an amount according to proof at time of trial.
- 4) Past non-economic damages in an amount according to proof at time of trial.
- 5) Future non-economic damages in an amount according to proof at time of trial.
- 6) Attorney’s fees and costs pursuant to all applicable statutes or legal principles, including, but not limited to: the California Fair Employment and Housing Act, Code Civ. Proc. § 1021.5 in the event that this case is deemed to have resulted in a significant benefit to the general public or a large class of persons, and/or Lab. Code § 1102.5.
- 7) Civil penalties, as and if permitted by statute.
- 8) Costs of suit incurred.
- 9) Such other and further relief as the Court may deem proper.

**ROMERO LAW, APC**

**Dated: December 8, 2020**

\_\_\_\_\_  
 /s/  
**Alan Romero (SBN 249000)**  
**Trevis Niemeyer (SBN 313394)**  
**Attorneys for Plaintiff**  
**AUSTREBERTO GONZALEZ**

DEMAND FOR JURY TRIAL

Plaintiff hereby makes demand for Jury Trial and has timely posted the jury fee deposit.

**ROMERO LAW, APC**

Dated: December 8, 2020

/s/

**Alan Romero (SBN 249000)  
Trevis Niemeyer (SBN 313394)  
Attorneys for Plaintiff  
AUSTREBERTO GONZALEZ**



1 **PROOF OF SERVICE**

2 **STATE OF CALIFORNIA, COUNTY OF LOS ANGELES:**

3 I am a resident of the United States and employed in the County of Los Angeles, State of  
4 California, over the age of 18 and not a party to the within action or proceedings; my business address  
5 is 80 S. Lake Avenue, Suite 880, Pasadena, CA 91101. On December 8, 2020, I served the following  
6 document(s) described as: **SECOND AMENDED COMPLAINT** on the interested parties and/or  
through their attorneys of record by depositing the original or true copy thereof as designated below, at  
Pasadena, California, addressed to the following as follows:

7  
8  
9 **(SEE SERVICE LIST ATTACHED)**

- 10  
11  
12  **HAND DELIVERY/PERSONAL SERVICE (C.C.P. §§1011, et seq.):** I caused said  
13 document(s) to be personally served on the addressee listed above.
- 14  **MAIL (C.C.P. §1013(a)):** I caused said document(s) to be deposited in the United States Mail  
15 in a sealed envelope with postage fully prepaid at Pasadena, California, following the ordinary  
16 practice at my place of business of collection and processing mail.
- 17  **FACSIMILE (C.C.P. §§1012.5, et seq.):** I caused said document(s) to be transmitted to the  
18 party or parties listed above at the facsimile number listed above.
- 19  **EXPRESS MAIL (C.C.P. §§1013(c)(d), et seq.):** I caused said document(s) to be deposited  
20 with an express service carrier in a sealed envelope designed by the carrier as an express mail  
envelope, with fees and postage prepaid.
- 21  **ELECTRONIC MAIL (C.C.P §§1010.6(a)(6)):** I caused said document(s) to be mailed  
22 electronically to the party or parties listed above at the email address listed above.
- 23  **(STATE)** I declare under penalty of perjury under the laws of the State of California that the  
24 above is true and correct.

25 Executed on December 8, 2020, at Pasadena, California.

26 

27 Jennifer Sandoval

1 SERVICE LIST  
2 *AUSTREBERTO GONZALEZ v. COUNTY OF LOS ANGELES*  
3 LASC Case No. 20STCV35594

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**Attorneys for Defendant**  
COUNTY OF LOS ANGELES