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6 Attorneys for Plaintiff
7 DEAN NYLAND

8
9 **UNITED STATES DISTRICT COURT**
10 **EASTERN DISTRICT OF CALIFORNIA**

11
12 DEAN NYLAND,

13
14 Plaintiff,

15 v.

16 YOLO COUNTY, YOLO COUNTY
17 SHERIFF’S OFFICE, and DOES 1 through
20, inclusive,

18 Defendants.

Case No.:

**COMPLAINT FOR EMPLOYMENT
RETALIATION AND DISCRIMINATION**

****JURY TRIAL DEMANDED****

19
20 COMES NOW PLAINTIFF, DEAN NYLAND, who alleges as follows:

21 **JURISDICTION AND VENUE**

22 1. This Court has jurisdiction over the claims for relief under 42 U.S.C. § 2000e
23 pursuant to 28 U.S.C. sections 1331 and 1334(a)(3), and this Court has supplemental jurisdiction
24 for the remaining claims pursuant to 28 U.S.C. § 1367. Venue is proper in this Court because,
25 among other matters, the actions giving rise to the claims occurred in this District.

26 **PARTIES**

27 2. Defendant YOLO COUNTY (hereinafter referred to as the “County”) is a county
28 within the State of California. At all relevant times herein the County was the Plaintiffs’ employer

1 and an employer of more than 100 individuals. Plaintiff worked for Defendant Yolo County
2 Sheriff's Office ("Sheriff's Office") from August 28, 2006 until his termination on September 3,
3 2020. The Sheriff's Office has more than 250 employees.

4 3. Plaintiff DEAN NYLAND (hereinafter referred to as "Nyland") is a resident of the
5 Eastern District. Nyland was a Sergeant at the time of his termination. He was terminated in
6 retaliation for opposing sexual harassment and discrimination in the Sheriff's Office and exposing
7 efforts made by Captain Hernan Oviedo ("Oviedo") to cover up the harassment and discrimination.
8 In addition, Defendants terminated Nyland because of his age, replacing him with a younger, less
9 qualified employee.

10 4. Nyland is informed and believes, and thereon alleges, that at all times mentioned
11 herein, Defendants were the agents and co-conspirators of the other defendants, and each of them,
12 and, in doing all the things herein alleged, were acting, in part, within the course and scope of such
13 agency and conspiracy and with the permission and consent of their co-defendants.

14 5. Nyland is ignorant of the true names and capacities of defendants sued herein as Does
15 1 through 20, inclusive, and therefore sues these defendants by such fictitious names. Nyland will
16 amend his Complaint to allege their true names and capacities when ascertained.

17 **FACTUAL BACKGROUND**

18 6. This suit arises out of the actions taken without cause or legal justification by current
19 Yolo County officials, and its senior management, including Sheriff Tom Lopez and Captain Oviedo
20 based on discrimination, retaliation, hostility and contempt for Plaintiff Nyland based on Nyland's
21 protected activity and age. These Defendants, acting in concert, used their positions as government
22 officials and senior management in an effort to punish Plaintiff for his protected activity and for his
23 protected class. These individuals took adverse actions against Plaintiff, including discipline,
24 harassment, and ultimately terminating him. As a direct consequence of Defendants' wrongful
25 conduct, Plaintiff has suffered damages as set forth below.

26 7. Nyland has been in law enforcement for over 14 years. Defendants hired Nyland in
27 2006 and within a very short period of time after completing our Field Training Operations ("FTO")
28 program, Nyland was promoted to a Training Officer. In the 5 years that he was a detective, Nyland

1 received numerous commendations from outside agencies, including the District Attorney’s Office
2 and from The Sheriff’s Office including Deputy of the Year in 2013.

3 8. In early 2015, Nyland was in his fifth year as a detective. Oviedo was Nyland’s
4 immediate supervisor. Nyland developed serious concerns about Oviedo because Oviedo admitted
5 to driving his county vehicle while intoxicated, he made inappropriate comments regarding female
6 employees and told Deputies about confidential conversations between Oviedo and former Sheriff
7 Prieto. Nyland informed Oviedo he felt this conduct was inappropriate and asked him to stop.

8 9. Oviedo responded by threatening to shoot Nyland in the head because he answered
9 questions from Sheriff Prieto regarding a murder investigation. Oviedo told Plaintiff to never discuss
10 the case with Sheriff Prieto because Oviedo believed Prieto was furnishing Public Defender Tracie
11 Olson information about the case due to the two being romantically involved.

12 10. The Yolo County Grand Jury in 2014 concluded that there was a wide-spread fear of
13 intimidation retaliation within the Sheriff’s Office under Sheriff Prieto. This culture has not changed
14 and has continued since Sheriff Prieto’s departure.

15 11. On October 19, 2015, Nyland promoted to Sergeant and was assigned to Field
16 Operations.

17 12. In 2017, Nyland was informed by an officer that Field Training Officer Charles Hoyt
18 (“Hoyt”) had been in a sexual relationship with a Records Clerk, which included the two having sex
19 in a patrol vehicle at work. At some point during the relationship, Nyland learned that Hoyt had
20 threatened the Clerk to keep her mouth shut about the relationship. Officers, including those in
21 management told Nyland that the administration was aware of this information, but did not care and
22 would not take any corrective action.

23 13. Per Defendant’s Zero Tolerance Policy, Nyland reported the allegations of sexual
24 harassment. Rather than hire an unbiased investigator, Oviedo assigned himself to investigate and
25 dismissed the allegations.

26 14. In 2018, a young female Deputy disclosed to Nyland she had been sexually harassed
27 by Hoyt and other members of Hoyt’s patrol team. Seeing a pattern of sexual harassment by Hoyt,
28 Nyland reported the sexual harassment and inappropriate behavior by Sergeant Hoyt to the

1 Defendants' administration. An Internal Affairs ("IA") investigation was thereafter initiated.

2 15. A well-respected deputy approached Nyland's office, pale white and visibly upset
3 and told Nyland that Hoyt had asked him to lie to the IA investigator about Hoyt's treatment of
4 female officers. The Deputy expressed his fears of retaliation. Nyland advised the Deputy to
5 memorialize the incident and provide a copy of the memorandum the next day. The Deputy arrived
6 at work but was pulled away by Oviedo on his way to providing Nyland with the memorandum. The
7 Deputy informed Nyland that in that meeting with Oviedo, he was interviewed about the female
8 Deputy's sexual harassment complaint. The complaint was eventually dismissed, with Oviedo
9 telling the female deputy she was unable prove harassment because he believed there were times
10 she participated in the conduct.

11 16. As a result of Nyland's participation in the Deputy's sexual harassment complaint,
12 Nyland was retaliated against by Oviedo and the Department's leadership, including being denied
13 any further advancement and career-enhancing assignments within Defendant. He was passed up
14 for the promotion to Detective Sergeant on three separate occasions to other less qualified Sergeants.

15 17. Given his experience, Nyland applied for a Boat Sergeant as he is a certified scuba
16 diver and had years of experience with boats. However, he was passed up for the Boat Sergeant by
17 a Sergeant with less experience and never owned a boat.

18 18. On approximately January 4, 2020, Nyland was sent to the graveyard shift in
19 retaliation for his protected acts. The transfer caused Nyland to lose over 60 hours of sick leave and
20 caused further emotional distress. Nyland immediately complained of the retaliatory efforts to the
21 Undersheriff.

22 19. On or about January 14, 2020, Nyland met with Sheriff Tom Lopez ("Lopez")
23 regarding the retaliation and discrimination that Plaintiff was experiencing. During the meeting,
24 Nyland released information to the new Sheriff regarding the two IA investigations that had been
25 brought against Hoyt. In the meeting, Nyland also provided the Sheriff with new information that
26 Oviedo previously failed to disclose and/or locate about the sexual harassment in the department.
27 Nyland requested Lopez to investigate with the investigation conducted by an outside agency to
28 avoid any conflict of interest. Thereafter, Nyland met with Deputy County Council, Ronald

1 Martinez (“Martinez”) and provided a statement regarding the sexual harassment and the retaliation.

2 20. In the beginning of February 2020, Nyland filed a formal complaint with the Sheriff’s
3 Office regarding the retaliation, pursuant to Defendant’s policies. Nyland also submitted the
4 complaint to the County Administrator who acknowledged receipt, but never responded with a
5 disposition of findings from any investigation.

6 21. A month later, Nyland again met with Deputy County Counsel Martinez, who
7 admitted that the Hoyt investigations were poorly conducted but had since been resolved. Nyland
8 later learned Hoyt had been forced to resign.

9 22. The Defendants’ retaliation intensified. Nyland was continuously shunned by the
10 entire administration, he was disciplined for pretextual reasons and in June 2020, Nyland was
11 served with a “Notice of Internal Investigation” and was told that he was being accused of
12 dishonesty. This was done to attempt to discredit Nyland to camouflage the discrimination and
13 retaliation.

14 23. The following day, Plaintiff was placed on administrative leave, was stripped of his
15 badge, gun, and Department ID. Nyland was told that he no longer had any peace officer status and
16 was confined to his residence Monday through Friday from 8am to 5pm and was allowed one hour
17 for lunch at noon. In the presence of others, Plaintiff was escorted out of the building.

18 24. Following the investigation, Plaintiff was offered 3 months’ severance pay to resign
19 from his position with Defendant. However, Plaintiff declined the severance as he wanted to keep
20 his job.

21 25. In retaliation for his opposition and participation in IA investigations against high
22 ranking Sergeants, Defendants terminated Plaintiff on or about September 3, 2020, Plaintiff was
23 terminated from employment with the Yolo County Sheriff’s Office.

24 26. Nyland filed a Department of Fair Employment and Housing complaint and received
25 a Right to Sue on August 13, 2020. He then filed a complaint with the Equal Employment
26 Opportunity Commission (“EEOC”) and received a Right to Sue on October 8, 2020.

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FIRST CLAIM

Retaliation Under 42 U.S.C 2000e and California Government Code § 12940

27. Nyland incorporates by reference paragraphs 1 through 26 as though set forth fully herein.

28. Nyland opposed Defendants' sexual harassment practices retaliation as described above. He engaged in the protected activity of reporting sexual harassment, discrimination and retaliation.

29. As a result, Nyland was subjected to adverse actions as a result of opposing and reporting alleged sexual harassing, discriminatory and retaliatory practices by the County including discipline, denial of career enhancing assignments, hostile work environment, and ultimately termination.

30. As a result of the aforementioned conduct alleged herein, Nyland has suffered, and continues to suffer, humiliation, anxiety, mental anguish, emotional distress, lost wages and benefits and loss of earning capacity.

31. Nyland has no adequate remedy at law for violations alleged herein, which continues up to the present. Therefore, in addition to monetary damages, Plaintiff requests the Court to grant equitable relief, including preliminary and permanent injunctions.

32. The acts and omissions of Defendants as described above were done in retaliation to Plaintiff making complaints in violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C § 2000-e, et seq., as amended and the Fair Employment and Housing Act.

SECOND CLAIM

Discrimination Based on Age under

Cal. Gov't Code § 12920, et seq.

33. Plaintiff incorporates by reference paragraphs 1 through 32 as though set forth fully herein.

34. Defendants engaged in a course of disparate conduct against Nyland because of his age culminating in his termination, was denied the promotion to Detective Sergeant on three separate occasions and other career-enhancing assignments. Other younger and less qualified employees

1 were selected in Plaintiff's place.

2 35. Further, Defendants took adverse actions with Plaintiff's age as a motivating factor
3 the pretextual discipline, and termination of which are described above.

4 36. As a proximate result of Defendants' discrimination against Plaintiff, Plaintiff has
5 suffered and continues to suffer substantial losses in earnings, both past and future, and has and
6 continues to suffer embarrassment, humiliation and mental anguish all to his damage in an amount
7 according to proof.

8 37. As a direct and proximate result of the conduct of Defendants and each of them,
9 Plaintiff has incurred and will continue to incur special damages, including, but not necessarily
10 limited to lost wages and salary, deferred compensation, lost benefits, lost pensions, lost future
11 earnings and benefits, medical costs and expenses all in an amount to be determined according to
12 proof at trial.

13 38. As a further, direct and proximate result of the conduct of Defendants, and each of
14 them, Plaintiff has suffered and will continue to suffer general damages, including severe emotional
15 distress. Plaintiff sustained great emotional disturbance and shock injury to his nervous system, all
16 of which caused and continues to cause Plaintiff severe physical and emotional injury, without
17 limitation in an amount to be determined according to proof at trial.

18 39. As a result of Defendants' discriminatory conduct as alleged herein, Plaintiff has no
19 plain, adequate or complete remedy at law, and Defendants continue to engage in said wrongful
20 conduct. Therefore, Plaintiff requests that Defendants, including its agents and employees and those
21 acting in concert with them are permanently enjoined from engaging in this alleged wrongful
22 practices set forth herein.

23 **THIRD CLAIM**

24 **Failure to Prevent Harassment And Retaliation**

25 **Violation of Cal. Gov. Code §§ 12940(K)**

26 40. Plaintiff incorporates by reference paragraphs 1 through 39 as though set forth fully
27 herein.

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1 41. In violation of FEHA, Defendants failed to take all reasonable steps necessary to
2 prevent the retaliation and discrimination against Nyland. In perpetrating the above-described
3 conduct, Defendants engaged in a pattern, practice, policy and custom of unlawful discrimination
4 and retaliation. Said conduct on the part of Defendants constituted a policy, practice, tradition,
5 custom and usage which denied Plaintiff protection of the civil rights statutes enumerated above.

6 42. At all relevant time periods Defendants failed to make an adequate response and
7 investigation into the conduct of Defendants and the aforesaid pattern and practice, and thereby
8 established a policy, custom, practice or usage within the organization of Defendants, which
9 condoned, encouraged, tolerated, sanctioned, ratified, approved of, and/or acquiesced in unlawful
10 sex harassment towards employees of Defendants, including, but not limited to, Plaintiff.

11 43. At all relevant time periods there existed within the organization of Defendants a
12 pattern and practice of conduct by their personnel which resulted in discrimination, harassment
13 and/or retaliation, including but not necessarily limited to, conduct directed at Plaintiff.

14 44. Defendants did not provide adequate sex harassment, discrimination or retaliation
15 training with respect to its employees and managers. Defendants were put on notice that it might be
16 committing this illegal activity in the workplace and failed to take the reasonable step of conducting
17 a thorough investigation into whether Defendants were committing this conduct in the workplace.

18 45. Defendants knew or reasonably should have known that the failure to provide any or
19 adequate education, training, and information as to their personnel policies and practices regarding
20 sex harassment, discrimination, retaliation would result in discrimination, harassment and/or
21 retaliation. Providing adequate education, training, and information as to their personnel policies
22 and practices regarding sex harassment was a reasonable step that Defendants could have taken, but
23 did not take, to prevent sex harassment in the workplace. The failure of Defendants to take the
24 above-mentioned reasonable steps to prevent harassment, constituted deliberate indifference to the
25 rights of employees, including but not limited to those of Plaintiff. The failure of Defendants to take
26 the abovementioned reasonable steps was a substantial factor in it committing additional acts of sex
27 harassment of Plaintiff. These additional acts of sex harassment of Plaintiff caused Plaintiff harm.
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