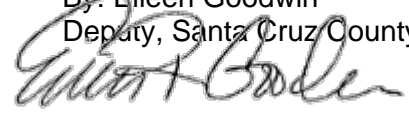


FILED  
5/12/2016 8:54:36 AM  
Alex Calvo, Clerk  
By: Eileen Goodwin  
Deputy, Santa Cruz County



1 Darrell J. York, Esq. (SBN 145601)  
2 Sarah L. Garvey, Esq. (SBN 202491)  
3 Law Offices of York & Garvey  
4 137 N. Larchmont Blvd., #506  
5 Los Angeles, CA 90004  
6 Telephone: (866) 908-2121  
7 Facsimile: (877) 221-3306  
8 Email: djylaw@gmail.com  
9 Email: sarahgarvey@yahoo.com

6 Kevin G. Little, Esq. (SBN 149818)  
7 Law Office of Kevin G. Little  
8 Post Office Box 8656  
9 Fresno, California 93747  
10 Telephone: (559) 342-5800  
11 Facsimile: (559) 420-0839  
12 Email: kevin@kevinglitttle.com

11 Attorneys for Plaintiff Suzanne Fulton

12 SUPERIOR COURT OF CALIFORNIA  
13 FOR SANTA CRUZ COUNTY

15 SUZANNE FULTON, ) Case NO.: 16CV01160  
16 Plaintiff, )  
17 ) COMPLAINT FOR DAMAGES  
18 ) (UNLIMITED CIVIL)  
19 )  
20 vs, ) 1. FAIR EMPLOYMENT AND HOUSING ACT  
21 ) 2. SEXUAL HARASSMENT  
22 SAUL GONZALEZ; THE CITY OF ) [CIVIL CODE §51.7  
23 WATSONVILLE; and DOES 1-10, )  
24 inclusive, ) 3. SEXUAL BATTERY  
25 Defendants. ) [CIVIL CODE §1708.5]  
26 ) 4. GENDER VIOLENCE  
27 ) [CIVIL CODE §52.4]  
28 ) 5. SEXUAL BATTERY

**JURY TRIAL DEMANDED**

27 ///

28 ///

1 TO THE HONORABLE COURT:

2 Plaintiff Suzanne Fulton, through her undersigned counsel,  
3 hereby makes the following allegations against the defendants.

4 **JURISDICTION AND VENUE**

5 1. Jurisdiction and venue are proper in the Superior Court  
6 of California for the County of Santa Cruz because, at all times  
7 relevant hereto, one or more of the defendants resided  
8 in Santa Cruz County, and the occurrences giving rise to  
9 plaintiff's injuries took place in Santa Cruz County.

10 2. This is an action that exceeds the twenty-five thousand  
11 dollar (\$25,000) minimum jurisdiction requirement for unlimited  
12 civil cases.

13 **PARTIES**

14 3. Plaintiff Suzanne Fulton ("Fulton") is a citizen and  
15 resident of the State of California, County of Santa Cruz. At  
16 all pertinent times, Fulton was employed by the City of  
17 Watsonville.

18 4. Defendant Saul Gonzalez ("Gonzalez") is believed to be a  
19 citizen and resident of the State of California, County of Santa  
20 Cruz. At all pertinent times, Gonzalez was a police lieutenant  
21 with the City of Watsonville and is sued in his personal  
22 capacity for the acts of misconduct alleged herein. At all  
23 pertinent times alleged herein, Fulton was working as a crime  
24 analyst for the City of Watsonville and Gonzalez was Fulton's  
25 direct and immediate supervisor. Based on the control he was  
26 capable of exercising and in fact did exercise over Fulton was  
27 her supervisor for purposes of FEHA.

28 ///

1 5. At all relevant times, Defendant CITY OF WATSONVILLE  
2 ("CITY") is and was a duly organized public entity, form  
3 unknown, existing under the laws of the State of California. At  
4 all relevant times, CITY was the employer of Gonzalez and  
5 Defendants DOES 1-10.

6 6. At all material times herein, defendants DOES 1 through  
7 10, whose names and capacities are currently unknown were  
8 employed by the City and acted individually and within the  
9 course and scope of their employment, either in a supervisory  
10 or ministerial capacity. Along with the named defendants, each  
11 DOE defendant is responsible in some manner for the injuries and  
12 damages alleged herein. Fulton will amend this Complaint to  
13 rename these defendants as soon as their respective names and  
14 capacities are ascertained. These fictitious defendants are sued  
15 in their personal capacities for acts they performed under color  
16 of law, and they are also sued in their personal capacities  
17 under state law for the causes of action set forth herein.

18 **FACTUAL ALLEGATIONS**

19 7. In July or August of 2015, Gonzalez informed Fulton  
20 that he had personal feelings for her. Fulton told Gonzalez  
21 that she did not have any personal feelings toward him and  
22 Fulton reminded Gonzalez that he was her immediate supervisor.  
23 Despite this, Gonzalez continued to pry into Fulton's personal  
24 affairs and sent her numerous inappropriate, non-work related  
25 text messages.

26 8. On the evening of November 13, 2015, Gonzalez offered  
27 to meet with Fulton because she was upset that it was the first  
28 weekend away from her daughter and over her mother's medical

1 condition and Gonzalez was aware of this. Instead of meeting  
2 Fulton at a mutually agreeable location, Gonzalez showed up at  
3 Fulton's home with a bottle of rum and some diet coke.

4 9. Gonzalez and Fulton consumed some rum and diet coke in  
5 Fulton's living room. Gonzalez then started to kiss Fulton.  
6 Despite Fulton's telling Gonzalez to stop and that she was  
7 feeling the effects of the alcohol, he continued to kiss her.  
8 Fulton repeatedly told Gonzalez to stop and reminded him that he  
9 was her supervisor, but Gonzalez did not stop. Instead,  
10 Gonzalez removed his own clothes and then forcibly removed  
11 Fulton's clothing. Fulton again told Gonzalez to stop but he  
12 continued. Gonzalez pinned Fulton on the couch and she  
13 attempted to get out from underneath him but was unsuccessful.  
14 Fulton continually told Gonzalez to stop but he did not stop.  
15 Gonzalez then removed Fulton's undergarment and sexually  
16 assaulted her. Shortly after Gonzalez ejaculated he dressed and  
17 left her residence.

18 10. Days following the November 13, 2015 incident,  
19 Gonzalez continually texted Fulton's personal phone and sent her  
20 emails. These texts and messages were non-work related and he  
21 made comments about Fulton's breast size and her body. Fulton  
22 continued to make it known to Gonzalez that his conduct was  
23 inappropriate and unwelcome.

24 11. On December 29, 2015, Fulton reported the sexual  
25 assault and Gonzalez's continued harassment to Watsonville  
26 police lieutenant Jorge Zamora. Even though Fulton reported  
27 being sexually victimized, she was never offered any of the  
28 counseling to which she was entitled under Penal Code 679.04.

1 Fulton's work performance is now being scrutinized more closely  
2 and unfairly by her employer since she made her report. Fulton  
3 also received an email from her employer, dated 03/24/2016,  
4 informing her that she could no longer work evenings to  
5 accommodate her therapy appointments, as it was not in the best  
6 interest of the department. This was not applied to other  
7 females in the department, and violated the City's policy  
8 regarding retaliation.

9 12. Fulton timely filed a claim with the Department of  
10 Fair Employment and Housing and brings this claim within the one  
11 year period granted in her right to sue letter.

12 **CLAIMS FOR RELIEF**

13 **FIRST CLAIM FOR RELIEF**

14 **HARASSMENT IN VIOLATION OF FEHA**

15 **(Against All Defendants)**

16 13. Fulton realleges and incorporates by reference  
17 foregoing paragraphs of this Complaint as though fully set  
18 forth herein.

19 14. By both subjective and objective measures, Fulton was  
20 subjected to a hostile working environment, because the  
21 misconduct involved interfered with a reasonable person's  
22 ability to perform his or her job and because Fulton was  
23 actually affected. A motivating reason for this harassment was  
24 Fulton's gender and Gonzalez's motive of having a sexual and an  
25 extramarital affair with her. Because Gonzalez is a supervisor  
26 in the Watsonville Police Department and was Fulton's immediate  
27 supervisor, the City is strictly liable for Gonzalez's harassing  
28

1 actions. Accordingly, each of the defendants violated Fulton's  
2 rights against workplace harassment, in violation of  
3 FEHA, through numerous acts, including, without limitation,  
4 those set forth hereinabove.

5 15. As a proximate result of the defendants' misconduct,  
6 Fulton has suffered and will continue to suffer physical and  
7 emotional injuries, including nervousness, depression,  
8 anguish, embarrassment, fright, shock, pain, discomfort,  
9 fatigue, and anxiety. The amount of Fulton's damages will be  
10 ascertained at trial.

11 16. In committing the foregoing acts, Gonzalez has been  
12 guilty of oppression, fraud, and/or malice under California  
13 Civil Code section 3294, thereby entitling Fulton to  
14 punitive damages in a sum appropriate to punish and make an  
15 example of him.

16 17. FEHA provides for an award of reasonable attorney's  
17 fees and costs incurred by a prevailing party. Fulton has  
18 employed and will continue to employ attorneys to pursue  
19 her interests in this action. Fulton is therefore entitled to an  
20 award of attorney's fees and costs.

21 **SECOND CLAIM FOR RELIEF**

22 **SEXUAL HARASSMENT-Civil Code §51.7**

23 **(Against All Defendants)**

24 18. Fulton re-alleges and incorporates by reference herein  
25 each and every allegation stated above, as though fully stated  
26 herein.

27 19. Between late July 2015 and November 2015, defendant  
28 Gonzalez engaged in a pattern of harassment of plaintiff Fulton,

1 which included inappropriate remarks, sexual overtures, and  
2 unconsented sexualized touching and sexual intercourse. This  
3 unconsented touching included forcibly kissing plaintiff Fulton,  
4 fondling and grabbing her in a sexual manner in erogenous zones,  
5 and sexual intercourse. These actions are sufficiently violent  
6 and/or harmful and/or threatening to come within the purview of  
7 California Civil Code § 51.7.

8 20. Based on the foregoing, Fulton is informed and believe  
9 and thereon allege that a substantial or motivating factors in  
10 her discrimination and sexual harassment was her gender and her  
11 participation in protected activity, in violation of California  
12 Civil Code §§ 51.7, et seq.

13 21. Under California Civil Code §§ 51.7, et seq.,  
14 Defendants, City and Gonzalez both had a duty to refrain from  
15 and to prevent sexual harassment against Fulton. Defendants all  
16 failed to refrain from and to take reasonable steps to prevent  
17 discrimination, harassment, and/or retaliation against Fulton.

18 22. As a proximate result of the Defendants' acts of  
19 sexual harassment, Fulton suffered and continues to suffer  
20 economic losses and interest thereon. Fulton also has suffered  
21 and continues to suffer both physical and non-physical injuries,  
22 including severe emotional distress, humiliation, embarrassment  
23 and mental anguish all to her damage in an amount to be proven  
24 at trial.

25 23. In doing the acts and/or failing to do the acts  
26 alleged herein above, Gonzalez engaged in wrongful acts and  
27 conduct with malice towards Fulton and/or a reckless  
28 indifference to her statutorily protected rights and in

1 conscious disregard of her rights, both statutory and common law  
2 guaranteed Plaintiff by the State of California. As such,  
3 Gonzalez is guilty of oppression and malice for which Fulton is  
4 entitled to punitive damages, in an amount to be proven at  
5 trial. California Civil Code § 52, and California Code of Civil  
6 Procedure §1021 provide that attorneys' fees are recoverable in  
7 an action for which they are specifically provided by statute.  
8 Fulton has retained attorneys for the prosecution of this  
9 action. As a result, Fulton is entitled to her reasonable  
10 attorneys' fees and costs incurred.

11 **THIRD CLAIM FOR RELIEF**

12 **SEXUAL BATTERY-CALIFORNIA CIVIL CODE §1708.5**

13 **(Against Defendant Gonzalez)**

14 24. Fulton re-alleges and incorporates by reference herein  
15 each and every allegation stated above, as though fully stated  
16 herein.

17 25. Defendant Gonzalez subjected Fulton to unlawful sexual  
18 battery in violation of California Civil Code §1708.5 with  
19 intent to cause harmful or offensive contact with an intimate  
20 part of Fulton's body, and sexually offensive contact with  
21 Fulton resulted. Specifically, on November 13, 2015, Gonzalez  
22 forcibly kissed, fondled, and had sexual intercourse with  
23 Fulton.

24 26. Gonzalez is therefore liable to Fulton under Civil  
25 Code § 1708.5, including for compensatory, punitive, and penal  
26 damages, as well as legal fees, expenses and ancillary relief.

27 ///

28 ///



**FOURTH CLAIM FOR RELIEF**  
**GENDER VIOLENCE-CIVIL CODE §52.4**  
**(Against Defendant Gonzalez)**

27. Fulton re-alleges and incorporates by reference herein each and every allegation stated above, as though fully stated herein.

28. On November 13, 2015, defendant Gonzalez performed acts that constituted a physical intrusion or physical invasion of a sexual nature under coercive conditions, whether or not those acts have resulted in criminal complaints, charges, prosecution, or conviction. Specifically, on November 13, 2015, Gonzalez forcibly kissed, fondled, and had sexual intercourse with Fulton.

29. In engaging in this misconduct, Defendant Gonzalez engaged in acts of gender violence, in violation of Fulton's rights under California Civil Code § 52.4.

30. As an actual, legal and proximate cause of the wrongful conduct of Defendant Gonzalez, Fulton has suffered and incurred damages for: (a) physical, mental, and emotional injuries and emotional distress.

31. Plaintiff is entitled to recover her attorneys' fees pursuant to California Civil Code § 52.4(a).

32. Plaintiff is entitled to and requests an award of punitive and penal damages.

///

///

///

///

1 **FIFTH CLAIM FOR RELIEF**

2 **SEXUAL BATTERY**

3 **(Against Defendant Gonzalez)**

4 33. Fulton re-alleges and incorporates by reference herein  
5 each and every allegation stated above, as though fully stated  
6 herein.

7 34. In engaging in and performing the misconduct alleged  
8 above, Defendant Gonzalez intentionally subjected Fulton to a  
9 harmful or offensive touching which actually, legally and  
10 proximately caused plaintiff Green to suffer the injuries and  
11 damages alleged herein. Specifically, on November 13, 2015,  
12 Gonzalez forcibly kissed, fondled, and had sexual intercourse  
13 with Fulton.

14 35. As an actual, legal and proximate cause of this  
15 wrongful conduct, Fulton has suffered and incurred damages for  
16 physical, mental, and emotional injuries and emotional distress.

17 36. Plaintiff is entitled to and requests an award of  
18 punitive and penal damages.

19 **PRAYER FOR RELIEF**

20 WHEREFORE, Fulton prays for the following relief:

21 1. For compensatory, general and special damages in an  
22 amount proven at trial;

23 2. For punitive and exemplary damages from the individual  
24 defendant in an amount appropriate to punish him and deter  
25 others from engaging in similar misconduct;

26 3. For costs and reasonable attorneys' fees pursuant to  
27 FEHA, and as otherwise authorized by statute or law;

28 ///

1 4. For such other relief as the Court may deem proper.

2  
3 Dated: May 11, 2016

York & Garvey

4  
5 By: /s/ Darrell J. York  
6 Darrell J. York  
7 Attorneys for Plaintiff

8  
9  
10 Original efiled this 12<sup>th</sup> Day of May, 2016

11 By: /s/ Darrell J. York