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10 LAUREN FERRARA and ROBIN SMITH

11 UNITED STATES DISTRICT COURT
12 NORTHERN DISTRICT OF CALIFORNIA

13 LAUREN FERRARA and ROBIN SMITH,

Case No.:

14 Plaintiffs,

COMPLAINT

15 v.

1. **GENDER DISCRIMINATION**
2. **SEXUAL HARASSMENT**
3. **RETALIATION**
4. **FAILURE TO MAINTAIN ENVIRONMENT FREE FROM HARASSMENT**
5. **NEGLIGENT SUPERVISION AND RETENTION OF HARASSING EMPLOYEES**
6. **WRONGFUL DISCHARGE**
7. **BREACH OF EMPLOYMENT CONTRACT**
8. **BREACH OF IMPLIED COVENANT OF GOOD FAITH AND FAIR DEALING**
9. **INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**
10. **NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS**

16 COUNTY OF SONOMA SHERIFF'S
17 DEPARTMENT, SHERIFF BILL COGBILL,
18 ASSISTANT SHERIFF GARY ZANOLINI,
19 ASSISTANT SHERIFF MICHAEL COSTA,
20 JAIL CAPTAIN LINDA SUVOY, PATROL
21 CAPTAIN DAVE SEDERHOLM,
22 LIEUTENANT PAUL DAY, LIEUTENANT
23 DAVE EDMONDS, LIEUTENANT PHILIP
24 LAWRENCE, LIEUTENANT MICHAEL
25 TOBY, LIEUTENANT RANDALL
26 WALKER, SERGEANT STEVE FREITAS,
27 SERGEANT SANDY GEISLIN, SERGEANT
28 ROY GOURLEY, SERGEANT JOE RAYA
and DOES 1-50,

Defendants.

DEMAND FOR JURY TRIAL

1. Plaintiffs LAUREN FERRARA and ROBIN SMITH ("Plaintiffs"), by and through their attorneys, allege the following against Defendants COUNTY OF SONOMA SHERIFF'S DEPARTMENT, Sheriff Bill Cogbill, Assistant Sheriff Gary Zanolini, Assistant

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1 Sheriff Michael Costa, Jail Captain Linda Suvoy, Patrol Captain Dave Sederholm, Lieutenant
2 Paul Day, Lieutenant Dave Edmonds, Lieutenant Philip Lawrence, Lieutenant Michael Toby,
3 Lieutenant Randall Walker, Sergeant Steve Freitas, Sergeant Sandy Geislin, Sergeant Roy
4 Gourley, Sergeant Joe Raya, and Does 1-50 ("Defendants"):

5 **SUBJECT MATTER JURISDICTION**

6 2. This is an action brought pursuant to Title VII of the United States Civil Rights
7 Act of 1964, as amended, (42 U.S.C. §2000e, et seq.) ("Title VII") to obtain relief for Plaintiffs
8 FERRARA and SMITH for discrimination in employment against Plaintiffs because of their sex.
9 By this action, Plaintiffs seek the following relief, pursuant to Title VII: monetary relief,
10 including back pay, front pay, compensatory damages, attorneys' fees and costs of suit, and
11 injunctive relief, as set out more fully in the Prayer for Relief, for said discriminatory practices
12 of Defendants.

13 3. Pendant jurisdiction of plaintiffs' California state law claims, including violation
14 of the California Fair Employment and Housing Act (Government Code Section 12900, et seq.)
15 for discrimination in employment against Plaintiffs because of their sex (SMITH) and sex and
16 sexual orientation (FERRARA) is grounded in 28 U.S.C.1367(a) in that said claims are
17 transactionally related and form part of the same case or controversy as plaintiffs' federal
18 question claims under Title VII.

19 **VENUE AND PERSONAL JURISDICTION**

20 4. Plaintiffs are adult female individuals and citizens of the United States. Plaintiff
21 SMITH currently resides in Sonoma County, California and Plaintiff FERRARA resided in
22 Sonoma County, California at all times relevant to this Complaint. Plaintiff FERRARA is a
23 Lesbian.

24 5. Defendant COUNTY OF SONOMA SHERIFF'S DEPARTMENT ("Defendant
25 Sheriff's Department" or "Defendant Department") is a governmental entity and an employer in
26 Santa Rosa, Sonoma County, California. At all relevant times, Defendant Department engaged in
27 an industry affecting commerce and employed more than fifteen (15) regular employees.

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1 Plaintiffs will amend this Complaint to allege their true names and capacities when ascertained.
2 Plaintiffs are informed and believe and on that basis allege that each of the fictitiously named
3 Defendants is responsible in some manner for the occurrences alleged herein, and that Plaintiffs'
4 injuries were proximately caused by the aforementioned Defendants.

5 14. Whenever in this complaint reference is made to "Defendants, and each of them,"
6 such allegation shall be deemed to mean the acts of Defendants acting individually, jointly,
7 and/or severally.

8 15. Plaintiffs are informed and believe, and on that basis allege, that at all times
9 mentioned herein, each of the Defendants was the agent, servant and employee, co-venturer and
10 co-conspirator of each of the remaining Defendants, and was at all times herein mentioned,
11 acting within the course, scope, purpose, consent, knowledge, ratification, and authorization of
12 such agency, employment, joint venture, and conspiracy.

13 **SHERIFF'S DEPARTMENT'S CONTINUING**
14 **DISCRIMINATORY HISTORY**

15 16. For at least the past decade, Defendant Sheriff's Department has engaged in a
16 pattern and practice of denying female citizens of Sonoma County their civil rights by refusing
17 to take and/or appropriately handle their domestic violence reports.

18 17. For at least the same ten (10) year period, Defendant Sheriff's Department has
19 engaged in a pattern and practice of denying its female law enforcement officers their civil rights
20 by treating them less favorably than their male counterparts, allowing a sexist, racist,
21 homophobic, intimidating, and abusive environment to exist on the basis of their gender and
22 other protected classifications, retaliating against them after they reported the discriminatory and
23 hostile work environment, and refusing to make a legitimate concerted effort to increase the
24 number of female sworn Deputies from the current average of approximately 6% female (13
25 females out of a total of 243 sworn Deputies) to the comparable national average of
26 approximately 13% female, among other actions.

27 18. In 2002, the above-described denial of citizens' civil rights resulted in a
28 \$1,000,000. settlement with the family of a Hispanic woman who was killed by her abusive

1 husband after Defendant Sheriff's Department repeatedly denied her equal protection of the law
2 by discriminating against her on the basis of her sex when she called the Department for help, in
3 the matter of Estate of Maria Teresa Macias, et al. v. Sheriff Mark Idhe, et al., U.S.D.C. No.
4 Dist., Case No. C-96-3658 - DLJ.

5 19. Between 1996 and 2001, the aforesaid denial of female peace officers' civil rights
6 resulted in Defendant Department paying at least \$300,000. in civil settlement of claims brought
7 by over ten (10) different women who were forced to endure the above-described intolerably
8 discriminatory working conditions.

9 20. One of the most egregious aspects of Defendant Sheriff's Department's
10 discriminatory practices is an oppressive written sexual harassment policy that "mandates" that
11 all female Deputies "must" report each and every instance of sexual harassment they experience
12 or witness, orally and in writing, to a supervisor of the Department. Plaintiffs are informed and
13 believe that the Sheriff who inserted this language into the policy did so in order to "eliminate
14 the cycle of [sexual harassment] lawsuits" being filed by female officers of the Department (as
15 opposed to eliminating the cycle of discrimination, harassment and retaliation being committed
16 by male officers of the Department).

17 21. The aforesaid intimidating written policy prevented plaintiffs from reporting all
18 instances of gender discrimination, sexual and sexual orientation harassment, and retaliation they
19 experienced and witnessed at Defendant Sheriff's Department. Plaintiffs are informed and
20 believe, and on that basis allege, that the policy also prevented, and continues to prevent, other
21 female and homosexual officers from reporting similar acts that they experience(d) and
22 witness(d) at the Department.

23 22. In and about 1996, the California Attorney General's Office conducted an
24 investigation of Defendant Sheriff's Department's overall handling of domestic violence cases
25 (in part in response to the murder of Teresa Macias described in paragraph 18 above). After a
26 four (4) month review of the Department's policies and procedures, the Attorney General's
27 Office made numerous recommendations, including but not limited to: 1) that increased law
28 enforcement training must be directed at correcting the practice of trying to discourage victims

1 from filing [domestic violence] complaints; and 2) that the Sonoma County Police Chief's
2 Association should consider a policy precluding personnel who had been found to be the subject
3 of valid domestic violence complaints (e.g., officer perpetrators) from handling such cases.

4 23. In and about 1997-1998, the Sonoma County Grand Jury issued a Final Report
5 which concluded that Defendant Sheriff's Department was "not doing enough to recruit women
6 and minorities" and should increase its sworn staff to support the area of "domestic violence"
7 would be beneficial.

8 24. In and about 1998, the United States Commission on Civil Rights began an
9 investigation of Sonoma County's law enforcement practices in response to community
10 allegations of "patterns of civil rights violations." One such allegation was that Defendant
11 Department "lacked ethnic and gender diversity among [its] sworn employees." At that time,
12 Sonoma County had an overall average of 6.9 percent female sworn Deputies, with Defendant
13 Department's individual average lower than that.

14 25. In December 1999, the California Advisory Committee to the U.S. Commission
15 on Civil Rights issued a Report based upon its findings, including but not limited to the
16 following recommendations: 1) that Defendant Sheriff's Department "must continue efforts to
17 increase gender and ethnic diversity within their ranks;" and 2) that Defendant Department
18 "revise its sexual harassment policy to eliminate the double jeopardy reporting feature that
19 currently negatively affects its female officers." To date, Defendant Department has followed
20 neither of these recommendations. The percentage of female sworn Deputies is still
21 approximately 6% and the oppressive sexual harassment policy is still in effect.

22 26. Plaintiffs are informed and believe, and on that basis allege, that in and about
23 2000, at least five (5) female Cadets enrolled at the evening session of the Santa Rosa Junior
24 College Police Academy (many of whose Training Officers were male Deputies employed by
25 Defendant Sheriff's Department) were forced to resign from the program as a result of pervasive
26 sexual harassment by a male Cadet and the Academy's refusal to stop it. Plaintiffs are further
27 informed and believe that the male Cadet responsible for the harassment was allowed to
28 complete the program without adverse consequence.

1 27. Plaintiffs are informed and believe, and on that basis allege, that in or about
2 September 2004 (a month after plaintiff FERRARA was constructively discharged) Defendant
3 Sheriff Bill Cogbill ordered all thirteen (13) of the remaining female patrol Deputies to present
4 themselves at one of two scheduled meetings to discuss the Department’s concern about an
5 “atmosphere of discomfort” for the women deputies. At said meeting(s), the female Deputies
6 were too apprehensive about Defendant Department’s oppressive sexual harassment policy, and
7 fearful of retaliatory action by Defendant Department, to individually report any discrimination
8 or harassment they had experienced.

9 28. Plaintiffs are informed and believe, and on that basis allege, that on or about
10 December 22, 2004, all thirteen (13) remaining female Deputies jointly signed a letter to
11 Defendant Sheriff Cogbill, addressing the Department’s concern. Among other things, the letter
12 stated:

13 a. They feel it is “crucial” that the Department take a proactive approach to
14 recruiting and hiring more women, minorities, homosexuals, and others “accepting of women in
15 the law enforcement;”

16 b. They believe that the Department’s texts, policies and procedures related to
17 promotion and specialty assignments set an “abhorrent” discriminatory standard (i.e., absolutely
18 no mentoring or respect for very few women able to ascend to these positions, no actual
19 “acceptance” of women in these positions, and promotion of most women into less desirable
20 “soft” specialties such as DVSA, Coroner, and Personnel);

21 c. They do not believe that their skills, merits, and experience are “valued by the
22 same rating system” as their male counterparts, specifically noted to be in violation of Title VII
23 of the Civil Rights Act of 1964;

24 d. The language of Defendant Department’s written Sexual Harassment Policy
25 (particularly the mandatory reporting requirement for victims and witnesses) “protects the
26 perpetrator and further alienates and isolates the victim,” is unreasonable given the highly
27 destructive nature of discrimination and harassment, and has the “effect of discriminating against
28 females,” specifically noted to be in violation of Title VII;

1 e. The language of Defendant Department’s Sexual Harassment Policy does
2 not contain any specific disciplinary measures that will be taken against a perpetrator, with the
3 exception of the right to “temporarily transfer the accused on an emergency basis until the
4 investigation is completed,” allowing for discipline of a perpetrator “as minimal as personal bias
5 would allow;”

6 f. The female Deputies who have reported discrimination and harassment to
7 Defendant Department in the past have had their “aspirations of advancement crushed” and their
8 “careers ... sacrificed,” while the male perpetrators’ careers have “ultimately prosper[ed];”

9 g. Despite Defendant Sonoma County and Defendant Sheriff’s Department’s
10 professed “zero tolerance” for harassment, individual employees’ actions “speak otherwise” and
11 discrimination and harassing acts “continue in the workplace;”

12 h. In order to stop discriminatory and harassing acts from occurring, it will require
13 “dedication and commitment from the top command staff” that such actions will not be tolerated,
14 unyielding strength to support that commitment, and “recognizable consequences to the
15 offender;” and

16 I. Because Defendant Department’s “efforts to protect itself from liability” have
17 resulted in the County’s Human Resources Department becoming “estranged from the concerns
18 of its female Deputies,” an outside consultant conversant in the law enforcement culture and the
19 unique issues surrounding women in this work environment, is needed to “bridge the gap”
20 between the female Deputies and Defendant Department.

21 29. Plaintiffs are informed and believe, and on that basis allege, that as of the date of
22 the filing of this Complaint, none of the female Deputies’ above-described requests have been
23 honored by Defendant Department.

24 **FACTS REGARDING PLAINTIFF LAUREN FERRARA**

25 30. Plaintiff Lauren Ferrara (“FERRARA”) first dreamed of becoming a peace officer
26 when she was eight (8) years old. She got good grades, volunteered over a hundred hours as a
27 Police Explorer, served as an unpaid Intern and paid Community Service Officer, obtained a

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1 Criminal Justice Degree from Sonoma State University, and received Basic and Advanced POST
2 police officer training certificates, all in furtherance of this dream.

3 31. On July 23, 2001, FERRARA was hired as a Deputy Sheriff Trainee by
4 Defendant Department. On December 11, 2001, she was promoted to Deputy Sheriff I and on
5 December 7, 2002, she was promoted to Deputy Sheriff II. At all relevant times, FERRARA
6 was a Sworn Deputy in the Law Enforcement (Patrol) Division of Defendant Department.

7 32. FERRARA was the youngest female Deputy ever hired by Defendant
8 Department, just twenty-two (22) years of age. There has been only one (1) female Deputy hired
9 by the Department in the four (4) years since.

10 33. Throughout FERRARA's employment at Defendant Department, male Deputies
11 and command staff engaged in a pattern and practice of treating her differently than similarly
12 situated male Deputies of the Department, on the basis of her sex and/or sexual orientation. This
13 disparate treatment included, but was not limited to, the following:

14 34. FERRARA was failed in a final physical combat test at the Santa Rosa Junior
15 College Police Academy. Another female Deputy and her were the only ones who were failed
16 on this test. They were told by the male Training Officer that they needed to be "better" than
17 recruits from other departments. FERRARA and the other female recruit subsequently passed the
18 final test.

19 35. In or about May 2002, FERRARA was assigned to Patrol at the Main Office
20 (downtown Santa Rosa). In this position, she was never allowed to work in the same zone as
21 other female Deputies on the same shift. When another female Deputy questioned why this was,
22 she was reprimanded by Defendant Sergeant Joe Raya for even suggesting the assignments were
23 discriminatory. Another male Sergeant then announced in a briefing that he had better never
24 hear another "accusation" like that again. After this, the female Deputies were still never
25 allowed to work in the same zone on the same shift during FERRARA's tenure. Defendant
26 Department's male officers work together on the same shifts all the time.

27 36. FERRARA was given special training in an isolated area while in Patrol regarding
28 defending her service revolver. FERRARA and another female Trainee were told by several

1 male Training Officers, all employed by Defendant Department, that they were going to be
2 “watched very carefully” to make sure they could master officer safety, because a previous
3 female trainee had failed the program for officer safety.

4 37. FERRARA was forced to listen to male Deputies racially profile and make racist
5 remarks about African-American and Mexican-American citizens. This conduct is prohibited by
6 Department Policy. After FERRARA made a comment to a fellow Deputy about the open and
7 obvious racism, she was repeatedly questioned by Defendant Lieutenant Dave Edmonds about
8 the reasons for the comment and told that because she was “mandated” to immediately report
9 any racial bias she saw or heard, she could be fired for not doing so. Defendant Edmonds even
10 went so far as to tell FERRARA she could be fired for him simply not believing that she could
11 not recall the specifics of what she had seen or heard.

12 38. After FERRARA identified a male Training Officer who had engaged in racial
13 profiling and racist remarks to Defendant Edmonds, and the Deputy informally responded that
14 FERRARA had “misinterpreted” his comments, Defendant Edmonds asked FERRARA if she
15 was “too sensitive” about race, told her she should “reconsider” doing police work, and told her
16 that a memo about the incident would be “sent up the chain of command and put in [her] file.”

17 39. The above-described unfair treatment drove FERRARA into the Women’s
18 Restroom in tears. At the time, she was just two (2) weeks away from completing a ten (10)
19 month training program. Defendant Edmonds stood outside the restroom and repeatedly
20 demanded that FERRARA come out and talk to him. FERRARA verbally responded, through
21 another Deputy and on her own, that she was “sick” and going home. Defendant Edmonds then
22 barged into the Women’s Restroom, came within a few inches of FERRARA’s face, and loudly
23 demanded to know if she was “crying” about what they had talked about. When FERRARA
24 responded, “No,” that she was sick, he reiterated that a “memo would be placed in [her] file”
25 and left.

26 40. FERRARA is informed and believes that the male Training Officer who she
27 identified as engaging in racial profiling and racist remarks, in violation of Department policy,
28 was never disciplined for his conduct.

1 41. In or about September 2002, FERRARA was transferred to the Windsor
2 Substation because the town wanted a female Deputy. For several months after her transfer,
3 many of the male Deputies at the Substation would not look FERRARA in the eye or
4 acknowledge her daily greetings. The Sergeant who was supposed to be supervising her,
5 Defendant Sandy Geislin, only said “Hi” to FERRARA in passing the (3) to four (4) times she
6 saw him in the Substation in the almost six (6) months she worked there, and never personally
7 checked in to see how she was doing.

8 42. Some of the above-described adverse treatment was due to the fact that
9 FERRARA had broken the police officer “Code of Silence” by reporting the Training Officer for
10 racism and he was one of the most popular members of the Windsor Substation all-male Deputy
11 team. FERRARA was later told that some of the male Deputies in Windsor did not believe
12 women should be “allowed” in law enforcement and Defendant Geislin, in particular, could not
13 stand working with women.

14 43. In or about November 2002, FERRARA was reported by a male Deputy as being
15 “indecisive and scared” in handling an incident. This same Deputy had previously complimented
16 FERRARA’s work performance and told her she was “Sergeant Material” while flirting with her
17 on the job. FERRARA had distanced herself from this Deputy just before his report.

18 44. Following this report, Defendant Sergeant Steve Freitas selectively interviewed
19 the Deputies at the Windsor substation and two reported that FERRARA had “delayed” in
20 responding to incidents, which could indicate that she was scared. Defendant Freitas did not
21 interview FERRARA’s two grave shift beat partners (who had worked with her the most and did
22 not have any criticism of her work performance) in this process.

23 45. When Defendant Freitas got around to interviewing FERRARA about the report,
24 he indicated that the male Deputy should have handled his concerns directly with FERRARA,
25 but once the report was made to him he “had to investigate” it, tell the Sergeant in the Main
26 Office who supervised the Windsor graveyard shift about it, and tell the Windsor Chief of Police
27 about it.

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1 46. When FERRARA was interviewed by Defendant Lieutenant Paul Day (acting
2 Windsor Chief of Police) about the report, he stated that Defendant Freitas should never have
3 brought the issue to him, but since he had, he needed to “put a memo in [her] file” about it.

4 47. In or about November 2002, the same male Deputy who had reported FERRARA
5 for being “scared” stood by and did nothing while FERRARA and another female Deputy fought
6 an intoxicated hit and run subject to the ground (which took approximately a minute and a half).
7 The male Deputy completely ignored two (2) calls FERRARA made for help on her radio during
8 this incident. After the two female Deputies had the suspect handcuffed in the tackle position on
9 the ground, FERRARA saw that the male Deputy was standing right next to them. He then
10 stated, “I’m glad you Ladies have everything under control.”

11 48. FERRARA reported this failure to assist incident to Defendant Sergeant Steve
12 Freitas but to her knowledge, the male Deputy was never talked to nor written up as a result of
13 this report.

14 49. Following the above-described incident, FERRARA requested a transfer out of
15 the Windsor Substation. She wrote a letter to her superiors indicating that she did not feel that a
16 remote substation was the best locale for new officers, due to the lack of personnel, ongoing
17 training, and support. FERRARA was afraid to describe in writing the extent of discriminatory
18 and harassing conduct she experienced at the Windsor Substation because she believed that
19 based upon the way her oral reports had previously been handled, it would effectively mean the
20 end of her career at Defendant Department.

21 50. In or about December 2002, Defendant Sergeant Sandy Geislin gave FERRARA a
22 Performance Evaluation (despite never having supervised her day-to-day activities) in which he
23 indicated that she “need[ed] improvement” handling unusual or stressful situations and had
24 requested the transfer out of the Windsor Substation because she felt she could get the “closer
25 supervision” she needed at the Main Office downtown. This was untrue and FERRARA told
26 Defendant Geislin that she did not agree with what he had written. Defendant Geislin left in the
27 needs improvement rating but changed the reason for the requested transfer. This was the first
28 “needs improvement” rating FERRARA had ever received in a Performance Evaluation from

1 Defendant Department. SMITH believes that this action was in direct retaliation for her prior
2 discrimination and harassment reports and not her actual work performance.

3 51. During FERRARA's next assignment as a Deputy in the Sonoma County Superior
4 Court, she was repeatedly approached by male Deputies and command staff for unwanted
5 romantic relationships and/or offensive sexual encounters. FERRARA did not welcome these
6 pursuits and found them offensive.

7 52. For example, one male Court Security Deputy told FERRARA while on duty that
8 "if [he] weren't married, [he'd] be all up her tree." On another occasion, the same Deputy told
9 FERRARA while at work, "I would never cheat on my wife, but if I did it would be with you."

10 53. Similarly, a male Lieutenant who at first was nice and supportive to FERRARA,
11 then asked her out on luncheon, dinner, and "wine and dine" week-end travel dates over, and
12 over, and over again, despite her polite refusals.

13 54. In or about March 2004, FERRARA was repeatedly asked by one Sergeant,
14 "When are you 'coming' to my shift?" before and after he kissed her on the mouth, without
15 permission or warning, while socializing with a number of officers off duty. FERRARA did not
16 welcome these pursuits and found them offensive.

17 55. In and about early 2004, despite not wanting to publicly speak about her
18 sexuality, FERRARA began to tell male Deputies who inquired that she was a Lesbian, in order
19 to attempt to stop the romantic pursuits by male Deputies and command staff of Defendant
20 Department.

21 56. While in Court Security (and working overtime on Patrol), FERRARA was forced
22 to continually listen to male Deputies make disparaging comments about female Deputies, based
23 on their sex, particularly a female Lieutenant who had recently retired, and make derogatory
24 statements about Lesbian Deputies, based on their sexual orientation, particularly those who did
25 not fit a stereotypical "female" image.

26 57. FERRARA was forced to listen to male Deputies make racist comments and jokes
27 about minority citizens, and make derogatory comments about homosexual citizens (particularly
28 after they began to engage in "marriage" ceremonies in San Francisco).

1 58. In or about March 2004, FERRARA told Defendant Jail Captain Linda Suvoy in
2 confidence that she was very upset at work because of all the sexism, racism, and homophobia
3 she saw and heard on a daily basis. Defendant Suvoy told her that she had heard similar reports
4 from other female patrol Deputies. In violation of Department policy, Defendant Suvoy did not
5 document, investigate, or take corrective action on this report. She did indicate that she would
6 bring up some of the issues in a meeting she had scheduled shortly with the Defendant Sheriff
7 Bill Cogbill, Defendant Assistant Sheriff Michael Costa and others.

8 59. In or about March 2004, FERRARA attended a mandatory Racial Profiling class.
9 When FERRARA told the instructor after the class that she appreciated it, he indicated that it
10 was a difficult class to teach at Defendant Department because of the number of verbal
11 arguments and physical fights that broke out as a result of disputes over the subject matter.

12 60. The same day, FERRARA attended a mandatory Domestic Violence class. In the
13 class, the male Deputy she had reported for racist comments yelled during a video depicting a
14 black couple physically fighting, “Yeah, grab him by his nappy ass!” A Lieutenant and Sergeant
15 of Defendant Department who were present during this outburst did nothing.

16 61. In and about March and April 2004, while working overtime on Patrol,
17 FERRARA observed male Deputies refusing to take domestic violence reports (involving both
18 heterosexual female and homosexual male victims). FERRARA fulfilled her job duties and took
19 these reports, sometimes in the place of the male Deputy who should have taken the report
20 and /or while working double overtime to complete the report.

21 62. In or about April 2004, Defendant Patrol Captain Dave Sederholm notified
22 FERRARA that she was being transferred from Court Security to Patrol (assigned to the Main
23 Office). She was told to contact the Sergeant in charge to schedule her shifts, vacations, etc.
24 She did so.

25 63. In or about April 2004, FERRARA formally requested that she and other
26 homosexual Deputies be granted permission to march, in uniform, in the Santa Rosa and San
27 Francisco Gay Pride Parades. FERRARA pointed out that such public exposure, particularly in
28 San Francisco, could serve as an excellent recruiting device.

1 64. On or about May 4, 2004, Defendant Patrol Captain Dave Sederholm
2 informed FERRARA that her request to march in the San Francisco Gay Parade was denied and
3 that instead of being transferred downtown, she was being “permanently” transferred to the
4 Sonoma Valley Substation (“Sonoma”). Defendant Sederholm told FERRARA to contact
5 Defendant Assistant Sheriff Gary Zanolini with any questions. When she did, Defendant
6 Zanolini told FERRARA that the Department was “uncomfortable” with her request to march in
7 San Francisco.

8 65. FERRARA is informed and believes, and on that basis alleges, that Defendant
9 Sheriff Bill Cogbill made and/or approved the decision to deny her request to march in the San
10 Francisco Gay Parade and to change her assignment in Patrol from the Main Office to Sonoma.

11 66. After FERRARA began work in Sonoma, she was informed by a male Deputy that
12 before her arrival, Defendant Sergeant Joe Raya had told the Deputies there that she had had
13 “problems” at the Windsor Substation and needed to be “watched very closely.” FERRARA is
14 informed and believes that Defendant Raya did not make such comments about males Deputies
15 with comparable levels of experience and work performance when they came to Sonoma.
16 When FERRARA reported this incident as gender discrimination, harassment, and/or retaliation
17 to Defendant Sergeant Roy Gourley, it was turned around on her and the male Deputy who had
18 told her, with the statement that “Raya [was] not the issue” and with the warning, “What is said
19 in the Substation, stays in the Substation.” In violation of Department Policy, Defendant
20 Gourley did not document, investigate, or take corrective action on this report.

21 67. Both Defendant Raya and Defendant Gourley informed FERRARA that she was
22 the “only Deputy” assigned to Sonoma who they had not personally requested be transferred
23 there.

24 68. In or about May 2004, a male Deputy told FERRARA that things were “different”
25 in Sonoma in that individual Deputies were expected to “handle and advise” on most calls,
26 meaning that she should not request, nor expect, another Deputy's back-up if she got in trouble
27 and needed it on her patrols.

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1 69. In or about June 2004, Defendant Sergeant Roy Gourley accused FERRARA of
2 “breaking the chain of command” by requesting a transfer out of Sonoma directly to Defendant
3 Patrol Captain Dave Sederholm. This was common practice among male Deputies and what she
4 had previously been told to do by Defendant Sederholm.

5 70. FERRARA was subsequently advised that her transfer had been approved and she
6 was being assigned to the grave yard shift downtown. This became a concern to FERRARA
7 because she realized she would be under the direct supervision of the Sergeant who had
8 repeatedly requested when she was “coming” to his shift and kissed her, against her will, just a
9 few months before.

10 71. In and about June and July 2004, FERRARA was repeatedly forced to listen to a
11 male Deputy openly brag about refusing to take reports from beaten up female domestic violence
12 victims and/or refusing to take abusive male perpetrators to jail, in violation of Department
13 policy. FERRARA is informed and believes that this male Deputy was never disciplined for this
14 conduct.

15 72. In and about July 2004, Defendant Sergeant Joe Raya accused FERRARA of “not
16 following procedure” when she did not call him directly to report she was sick three days in a
17 row (due to painful headaches, nausea, and TMJ). FERRARA had followed the same procedure
18 used by male Deputies by advising the Main Office Front Desk that she was sick.

19 73. On or about July 19, 2004, FERRARA had no choice but to give a two-week
20 notice to end her employment with Defendant Department to protect her physical, mental, and
21 emotional well-being. During the course of her career with Defendant Department, FERRARA
22 had rotated through four (4) separate locations, including the Main Office (downtown Santa
23 Rosa), Windsor Substation, Court Security, and Valley Substation (Sonoma), but no matter
24 where she went or who she worked for, the Department’s pervasive atmosphere of sex and
25 sexual orientation discrimination, harassment, and retaliation were there. Moreover, it was
26 patently obvious to FERRARA that the Department’s command staff set the tone for and ratified
27 their subordinates’ conduct in this regard and were not going to do anything to stop it.

28 ///

1 80. In or about October 2001, Defendant Philip Lawrence was promoted to
2 Lieutenant, and in or about January 2002, he became SMITH's supervisor. Defendant Lawrence
3 immediately began to supervise SMITH more closely, and document SMITH'S perceived
4 performance deficiencies more frequently, than he did her male counterparts. SMITH attempted
5 to report this hostile environment, and the fact that she believed it was in retaliation for her prior
6 reports about Defendant Lawrence, to Defendant Captain Linda Suvoy. In violation of
7 Department policy, Captain Suvoy refused to document, investigate, or take corrective action on
8 this report.

9 81. In and about April 2002, Defendant Lieutenant Randall Walker ordered SMITH to
10 attend an "Audit Interview" in which he asked her questions regarding a restraint chair incident
11 in which an inmate had spit in the face of a Correctional Officer, that had occurred under her
12 supervision in the Mental Health Module of the Sonoma County Jail. During the interview,
13 Defendant Walker's demeanor was extremely intimidating and paternalistic. He would not stop
14 the interview until he forced SMITH to say that he was "right" and she was wrong. At the end
15 of the interview, Defendant Walker told SMITH that she would not be subjected to any
16 disciplinary action as a result of the chair incident.

17 82. On or about May 3, 2002, Defendant Lieutenant Lawrence placed SMITH on
18 Administrative Leave for a series of decisions that he deemed "lacked common sense and good
19 judgment." This was the only time in SMITH's professional career that she had been placed on
20 Administrative Leave for disciplinary reasons. SMITH believes that this action was in direct
21 retaliation for her prior discrimination, harassment and retaliation reports and not her actual
22 work performance.

23 83. On or about May 10, 2002, Defendant Lieutenant Lawrence placed SMITH on a
24 "Performance Improvement Plan." Prior to this, SMITH had always been rated "Outstanding"
25 and "Above-Average" by her superiors and had never received any formal disciplinary action
26 whatsoever. As a part of the Performance Improvement Plan, Defendant Lawrence indicated
27 that SMITH needed additional "training" in a number of areas that he would train and mentor her
28 on. This training and mentoring was never provided by him.

84. Rather than the chair incident becoming part of SMITH's Performance

1 Improvement Plan, Defendant Lieutenant Walker turned it over to the Internal Affairs Division,
2 through the chain of command, for a formal investigation. SMITH is informed and believes that
3 no Audit Interview of a male Officer has ever resulted in an Internal Affairs investigation at
4 Defendant Department. While male officers are always told when an Internal Affairs
5 investigation is started, SMITH was not.

6 85. On or about April 1, 2003, SMITH's employment with the Sonoma County
7 Sheriff's Department was terminated on the grounds that she allegedly "lied" in the Audit
8 Interview conducted by Defendant Walker. SMITH was provided a Skelly Hearing as part of the
9 Civil Service Process to dispute the grounds for the termination.

10 86. In or about March 2003, at SMITH's Skelly Hearing, she again reported the
11 gender discrimination, sexual harassment, and retaliation she had experienced in Defendant
12 Department to Defendant Assistant Sheriff Gary Zanolini. In violation of Department policy,
13 Defendant Zanolini did not document, investigate, or take corrective action on this report.

14 87. On or about June 19, 2003, the Civil Service Commission overturned SMITH's
15 termination and reinstated her employment, finding that she made "no knowingly false
16 statements" in the Audit Interview.

17 88. SMITH is informed and believes that during the course of her Internal Affairs
18 investigation, termination, and reinstatement, and in unrelated matters throughout his law
19 enforcement career, Defendant Lieutenant Walker has made numerous knowingly false
20 statements to command staff of the Department. To SMITH's knowledge, Defendant Walker
21 has never been terminated nor disciplined for any of these statements.

22 89. For example, in or about June 2003, all Sergeants and managers in the Detention
23 Division of Defendant Department were required to undergo more intense background
24 investigations to obtain "Peace Officer" status. SMITH is informed and believes, and on that
25 basis alleges, that Defendant Walker's background check revealed that he had committed a
26 misdemeanor offense. SMITH is further informed and believes, and on that basis alleges, that
27 Defendant Walker did not disclose this arrest on his original application for employment with
28 Defendant Department, nor at any time thereafter. This is also a terminable offense. To

1 SMITH's knowledge, Defendant Walker was not terminated nor disciplined for these offenses.

2 90. On or about June 23, 2003, the day before SMITH's return to work following her
3 reinstatement, during a regularly scheduled briefing for her subordinates, Defendant Lieutenant
4 Walker gave his version of events up to and including SMITH's termination, the Civil Service
5 Hearing, and her reinstatement. SMITH was not afforded the opportunity to be there for this
6 lecture, nor present her version of events.

7 91. On or about June 24, 2003, SMITH returned to work. None of her superiors on
8 duty, including Defendant Walker, acknowledged her return.

9 92. On or about June 27, 2003, SMITH was asked to attend a meeting with Defendant
10 Sheriff Bill Cogbill, in which he invited her to ignore the normal chain of command and report
11 any future problems directly to him.

12 93. On or about July 1, 2003, SMITH reported to Defendant Captain Linda Suvoy the
13 hostile environment and retaliation she had experienced since returning to work. In violation of
14 Department policy, Captain Suvoy did not document, investigate, or take corrective action on
15 this report, but instead told SMITH that she should have initiated contact with Defendant
16 Lieutenant Walker upon her return, that people in Defendant Department would be "watching"
17 her, and that she had better not "start any rumors" about the handling of the restraint chair
18 incident.

19 94. On or about July 8, 2003, SMITH sent a letter to Defendant Sheriff Cogbill
20 specifically describing the unlawful hostile environment that led to her termination and similarly
21 unlawful retaliation she had experienced since returning to work. SMITH specifically requested
22 that Defendant Cogbill take "appropriate action" to maintain the goal of the Department's Sexual
23 Harassment policy. An accurate and complete copy of this letter is attached as "**Exhibit A.**"

24 95. In July 2003, Defendant Cogbill hired a private attorney to conduct an
25 "investigation" of SMITH's hostile environment and retaliation reports. The investigator did not
26 aggressively explore the report, particularly related to Defendant Walker. For example, the
27 investigator did not interview several female subordinates of Defendant Walker, who were
28 known to be the unwelcome recipient of his romantic attention (including cards sent to their

1 home and surveillance of their home) that was so severe that Defendant Walker had been
2 nicknamed “Walker the Stalker” by Correctional Officers in the Jail.

3 96. The Investigator found in the Department’s favor and in violation of Department
4 policy, SMITH was not provided with a copy of the result of the investigation upon its
5 conclusion.

6 97. On or about September 11, 2003, SMITH was called into the office of
7 Defendant Lieutenant Michael Toby regarding a “performance issue.” The meeting was about a
8 video-taped alleged “excessive use of force” incident in January 2003 (prior to SMITH’s
9 termination in April 2003). Defendant Toby had waited over three (3) months after SMITH’s
10 return to work to bring the incident up. Because this was a terminable offense, Defendant Toby
11 was required to allow SMITH to have a Union Representative present during the interview, if
12 she requested one. SMITH’s request for a Union Representative was denied.

13 98. Following the above-described meeting, SMITH informed Defendant Sheriff Bill
14 Cogbill about Defendant Toby’s denial of her right to union representation under the “Peace
15 Officers Bill of Rights.” Defendant Cogbill indicated that according to Defendant Assistant
16 Sheriff Michael Costa, Defendant Toby stated that SMITH had not requested a Union
17 Representative in the interview. SMITH’s audio taped recording, and Defendant Department’s
18 own transcript of their audio taped recording, both validated that she had. To SMITH’s
19 knowledge, Defendant Toby was not terminated or disciplined for his violation or
20 misrepresentation.

21 99. On or about January 29, 2004, SMITH sent an e-mail to Defendant Sheriff
22 Cogbill
23 describing the continuing hostile environment and retaliation she was experiencing at work. An
24 accurate and complete copy of this e-mail is attached as “**Exhibit B**” (bottom). In violation of
25 Department policy, Defendant Cogbill did not document, investigate, or take corrective action on
26 this report.

27 100. Instead, on or about January 30, 2004, Defendant Sheriff Cogbill, wrote SMITH
28 an e-mail that stated that it was his position that she had been “treated fairly and appropriately”

1 and for her own good she should “leave this issue and move forward.” See **Exhibit B** (top).

2 101. On or about February 11, 2004, SMITH received a Performance Evaluation from
3 Defendant Lieutenant Lawrence for the period January 8, 2002 to September 30, 2002, which
4 she had been requesting for approximately sixteen (16) months, that rated her “Standard” overall
5 and in almost every category. On or about January 24, 2004, SMITH received a Performance
6 Evaluation from Defendant Lieutenant Michael Toby for the period December 17, 2001 to
7 December 17, 2003, that also rated her “Standard” overall and in most categories.

8 102. The above-described Performance Evaluations contained the lowest ratings
9 SMITH had ever received in over thirteen (13) years of employment, and she believes are the
10 direct result of her prior sex discrimination, harassment, and retaliation reports and not her actual
11 work performance.

12 103. Before the events described in this Complaint, SMITH had hopes of one day
13 being
14 promoted to Lieutenant, or higher, within the Detention Division of Defendant Department. She
15 now fears going in to work each day and worries about being unfairly criticized and falsely
16 accused.

17 104. SMITH is informed and believes that the only way for her to further advance in
18 Defendant Department now is to receive a specialty assignment such as Personnel,
19 Classification, or I.A. in the Detention Division of Defendant Department.

20 **FIRST CAUSE OF ACTION**

21 **Sex Discrimination In Employment**
22 **Against Defendant Sheriff’s Department**
23 **Disparate Treatment**

24 105. Plaintiffs repeat and reallege by reference each and every allegation contained in
25 paragraphs 1 through 104 and incorporate the same herein as though fully set forth.

26 106. Defendant Sheriff’s Department was at all material times an employer within the
27 meaning of Title VII and California Government Code Section 12900, et seq. (“Fair
28 Employment and Housing Act”) and, as such, barred from discriminating in employment
29 decisions on the basis of sex.

1 107. Plaintiffs were at all material times employees covered by Title VII and the Fair
2 Employment and Housing Act prohibiting discrimination in employment on the basis of sex.

3 108. Defendant Department engaged in a pattern and practice of discriminating against
4 female employees, including Plaintiffs, on the basis of sex in violation of Title VII and the Fair
5 Employment and Housing Act by awarding work assignments, skilled positions, transfers,
6 promotions, continued employment and other employment benefits, on the basis of gender. Said
7 conduct constitutes disparate treatment against Plaintiffs in that Defendant Department
8 intentionally denied the aforesaid employment opportunities to Plaintiffs because of Plaintiffs'
9 sex.

10 109. Defendant Department further engaged in a pattern and practice of discriminating
11 against female employees, including Plaintiffs, on the basis of sex in bestowing oral or written
12 warnings, memoranda, job performance appraisals, terminations and other employment actions,
13 on the basis of gender. Said conduct constitutes disparate treatment against Plaintiffs in that
14 Defendant Department intentionally took the aforesaid employment related acts toward Plaintiffs
15 because of Plaintiffs' sex.

16 110. The above-described conduct continued before and after plaintiff SMITH was
17 actively terminated from employment. and plaintiff FERRARA was constructively terminated
18 from employment. The fact that SMITH and FERRARA are female was a substantial factor in
19 Defendant Department's decision to terminate and/or negatively effect their employment. The
20 facts on which Plaintiffs base this conclusion are the statistically low number of females in
21 Defendant Department's sworn workforce, the history of numerous prior sex discrimination and
22 sexual harassment lawsuits against the Department, the Department's oppressive sexual
23 harassment policy and procedures, the fact that similarly situated males were not terminated
24 from employment by Defendant Department, and other similar facts.

25 111. Defendant Department stated that Plaintiff SMITH's termination was due to lying
26 in the Audit Interview. This reason was a pretext for discrimination on account of the facts that
27 Defendant had evidence that SMITH had not, in fact, lied in the Interview, Smith's employment
28 was reinstated by the Civil Service Review Board, Defendant did not terminate the employment

1 of male Officers it had evidence had lied before, during, and after the Interview, and Defendant
2 continued to discriminate against, harass, and retaliate against SMITH after she succeeded in
3 reclaiming her job.

4 112. The actions taken by Defendant Department against Plaintiff FERRARA caused
5 her to be constructively discharged from her employment, in that Defendant Department
6 intentionally created and knowingly permitted the above-described working conditions, which
7 were so intolerable or aggravated that at the time of FERRARA's resignation that a reasonable
8 employer would have realized that a reasonable person in her position would be compelled to
9 resign. As a proximate result of these working conditions, Plaintiff FERRARA did resign from
10 her employment on August 2, 2004.

11 113. Defendant Department's discriminatory actions against Plaintiffs, which
12 constitute unlawful employment practices in violation of Title VII and the Fair Employment and
13 Housing Act, have caused and will continue to cause Plaintiffs loss of salary, benefits, seniority,
14 promotional opportunities, and intangible loss of such employment-related opportunities as
15 experience in the positions from which Plaintiffs were terminated, all in amounts according to
16 proof.

17 114. As a further proximate result of Defendant's unlawful and intentional
18 discriminatory actions against Plaintiffs, as alleged above, Plaintiffs have been harmed in that
19 Plaintiffs have suffered emotional pain, humiliation, mental anguish, loss of enjoyment of life,
20 and emotional distress. As a result of such discrimination and consequent harm, Plaintiffs have
21 suffered such damages in amounts according to proof.

22 115. Plaintiff SMITH has no plain, adequate, or complete remedy at law to redress the
23 wrongs alleged in this action and a permanent injunction are her only means of securing
24 adequate relief from the persistent and egregious pattern and practice of discrimination in
25 Defendant Department. Said injunctive relief is further necessary to dissipate the lingering
26 effects of the Department's pervasive discriminatory practices. Plaintiff SMITH is suffering and
27 will continue to suffer irreparable injury as a result of the acts of Defendant Department absent
28 the Court granting her injunctive relief.

1 and thereby ratified said conduct.

2 124. The actions taken by Defendant Department against Plaintiff FERRARA caused
3 her to be constructively discharged from her employment, in that Defendant Department
4 intentionally created and knowingly permitted the above-described working conditions, which
5 were so intolerable or aggravated that at the time of FERRARA's resignation that a reasonable
6 employer would have realized that a reasonable person in her position would be compelled to
7 resign. As a proximate result of these working conditions, Plaintiff FERRARA did resign from
8 her employment on August 2, 2004.

9 125. As a result of the hostile and offensive work environment created and perpetrated
10 by Defendants, and each of them, and the Defendants' failure to protect Plaintiffs from further
11 harassment, Plaintiffs suffered emotional distress.

12 126. Plaintiffs are informed and believe, and on that basis allege, that in addition to the
13 practices enumerated above, Defendants, and each of them, have engaged in other discriminatory
14 practices against them which are not yet fully known. At such time as said discriminatory
15 practices become known to them, Plaintiffs will seek leave of Court to amend this Complaint in
16 that regard.

17 127. As a direct and proximate result of Defendants' willful, knowing and intentional
18 discrimination against them, Plaintiffs have suffered and will continue to suffer pain and
19 suffering, and mental anguish and emotional distress; they have incurred and will continue to
20 incur medical expenses for treatment by psychotherapists and other health professionals, and for
21 other incidental expenses; and they have suffered and will continue to suffer a loss of earnings
22 and other employment benefits and job opportunities. Plaintiffs are thereby entitled to general
23 and compensatory damages in amounts according to proof.

24 128. As a further direct and proximate result of Defendants' wrongful acts, Plaintiffs
25 have been compelled to retain the services of counsel in an effort to enforce the terms and
26 conditions of their employment relationship with Defendant Department, and have thereby
27 incurred, and will continue to incur, legal fees and costs, the full nature and extent of which are
28 presently unknown to Plaintiffs, who therefore will seek leave of Court to amend this Complaint

1 in that regard when the same shall be fully and finally ascertained. Plaintiffs request that
2 attorneys' fees be awarded pursuant to Title 42 United States Code Section 2000e-5(k) and
3 California Government Code Section 12965(b).

4 **THIRD CAUSE OF ACTION**

5 **Discrimination in Employment**
6 **Against All Defendants**
7 **Retaliation**

8 129. Plaintiffs repeat and reallege the allegations contained in paragraphs 1 through
9 128 and incorporate the same by reference as though fully set forth herein.

10 130. As herein alleged, Defendants, and each of them, took the following actions
11 against Plaintiff SMITH: Placed her on Administrative Leave, placed her on a Performance
12 Improvement Plan; subjected her to an Internal Affairs investigation; actively terminated her
13 employment; gave her negative Performance Appraisals; and similar wrongful acts.

14 131. As herein alleged, Defendants, and each of them, took the following actions
15 against Plaintiff FERRARA: Transferred her to Windsor, gave her verbal warnings, reported that
16 they gave her written warnings, gave her negative Performance Appraisals; changed her transfer
17 to Sonoma; constructively terminated her employment, and similar wrongful acts.

18 132. Defendants' above-described actions were caused by and were taken in retaliation
19 for the protected activity of Plaintiffs described herein, including reporting racial profiling and
20 racist comments, reporting sex discrimination, harassment, and retaliation, reporting sexual
21 orientation discrimination and harassment, in that there was a close proximity in time between
22 the protected activities and adverse actions, similarly situated male Deputies and Officers were
23 not subjected to the same actions, plaintiff SMITH's employment was reinstated by the Civil
24 Service Review Board, and similar facts. Defendants had no legitimate business reasons for any
25 such acts.

26 133. Each of said acts of retaliation are in violation of Title VII and the Fair
27 Employment and Housing Act. Plaintiffs are informed and believe, and on that basis allege, that
28 in addition to the practices enumerated above, Defendants may have engaged in other retaliatory
actions against them which are not yet fully known. At such time as such actions become

1 known, Plaintiffs will seek leave of Court to amend this Complaint in that regard.

2 134. As a direct and proximate result of Defendants' willful, knowing and intentional
3 discrimination and retaliation against them, Plaintiffs have suffered and will continue to suffer
4 pain and suffering, and mental anguish and emotional distress. Plaintiffs have suffered and will
5 continue to suffer a loss of earnings and other employment benefits and job opportunities.
6 Plaintiffs are thereby entitled to general and compensatory damages in amounts according to
7 proof.

8 135. As a further, direct and proximate result of Defendants' violation of Title VII and
9 the Fair Employment and Housing Act, as described above, Plaintiffs have been compelled to
10 retain the services of counsel in an effort to enforce the terms and conditions of their
11 employment relationship with Defendants, and have thereby incurred, and will continue to incur,
12 legal fees and costs, the full nature and extent of which are presently unknown to them.
13 Plaintiffs will therefore seek leave of Court to amend this Complaint in that regard when the
14 same shall be fully and finally ascertained. Plaintiffs request that attorneys fees be awarded
15 pursuant to Title 42 United States Code Section 2000e-5(k) and California Government Code
16 Section 12965(b).

17 **FOURTH CAUSE OF ACTION**

18 **Sex Discrimination**
19 **Against Defendant Sheriff's Department**
20 **Failure to Maintain Environment Free From Harassment**

21 136. Plaintiffs repeat and reallege the allegations contained in paragraphs 1 through
22 135 and incorporate the same by reference as though fully set forth herein.

23 137. Defendant Sheriff's Department failed to take all reasonable steps to prevent
24 discrimination and harassment against Plaintiffs from occurring, and to take immediate and
25 appropriate corrective action to remedy the harassment, in violation of the Fair Employment and
26 Housing Act.

27 138. Specifically, Defendant engaged in the course of conduct set forth above,
28 including creating and maintaining an extremely oppressive sexual harassment policy that
intimidates victims from reporting, and not disciplining perpetrators of harassment and

1 retaliation under the policy, among other acts.

2 139. Plaintiffs are informed and believe, and thereon allege, that Defendant
3 Department has failed to the present time to take any disciplinary action against any of the
4 harassing and/or retaliating Deputies and Officers described in this Complaint, or any
5 individually named Defendants, such as providing counseling, issuing a formal warning, or
6 imposing probation, suspension, or termination, for the wrongful acts they took against
7 Plaintiffs.

8 140. WHEREFORE, Plaintiffs request relief as hereinafter provided.

9 **FIFTH CAUSE OF ACTION**

10 **Negligent Supervision And Retention of Harassing Employees**
11 **Against Defendant Sheriff's Department**

12 141. Plaintiffs repeat and reallege by reference each and every allegation contained in
13 Paragraphs 1 through 140 and incorporate the same herein as though fully set forth.

14 142. Beginning in approximately 2001, and continuing thereafter, Defendant
15 Department knew, or reasonably should have known, that the individual Defendants and/or
16 supervisors, agents or employees were engaging in the unlawful behavior described above.

17 143. At all material times, Defendant Department knew, or reasonably should have
18 known, that the conduct, acts, and failures to act of all other Defendants and/or supervisors,
19 agents and employees as described above violated Plaintiffs' rights under federal and state law.

20 144. At all material times, Defendant Department knew, or reasonably should have
21 known, that the incidents, conduct, acts, and failures to act described above, would and did
22 proximately result in emotional distress to Plaintiffs, including, but not limited to, loss of sleep,
23 anxiety, tension, depression, and humiliation.

24 145. At all material times, Defendant Department knew, or in the exercise of
25 reasonable care should have known, that unless Defendant intervened to protect Plaintiffs, and to
26 adequately supervise, prohibit, control, regulate, discipline, and/or otherwise penalize the
27 conduct, acts, and failures to act, of the individual Defendants and/or supervisors, employees or
28 agents as alleged above, said conduct, acts, and failures to act would continue, thereby

1 subjecting Plaintiffs to personal injury and emotional distress.

2 146. Defendant Department knew, or in the exercise of reasonable care should have
3 known, that unless Defendant intervened to protect Plaintiffs, and to adequately supervise,
4 prohibit, control, regulate, discipline, and/or otherwise penalize the conduct, acts, and failures to
5 act of the individual Defendants and others described above, Defendant's failure to so protect,
6 supervise, and intervene would have the effect of encouraging, ratifying, condoning,
7 exacerbating, increasing and worsening said conduct, acts, and failures to act.

8 147. At all material times, Defendant Department had the power, ability, authority, and
9 duty to so intervene, supervise, prohibit, control, regulate, discipline, and/or penalize the conduct
10 of all the individual Defendants and/or supervisors, agents or employees as described above.

11 148. Despite said knowledge, power, and duty, Defendant Department negligently
12 failed to act so as to prevent, supervise, prohibit, control, regulate, discipline, and/or penalize
13 such conduct, acts, and failures to act, or to otherwise protect Plaintiffs.

14 149. As a direct and proximate result of the failure of Defendant Department to protect
15 Plaintiffs, and to adequately supervise, prohibit, control, regulate, discipline, and/or otherwise
16 penalize the conduct, acts, and failures to act of the individual Defendants and/or supervisors,
17 agents or employees as alleged above, said conduct, acts, and failures to act were perceived by
18 them as, and in fact had the effect of, ratifying, encouraging, condoning, exacerbating,
19 increasing, and/or worsening said conduct, acts, and failures to act.

20 150. At all times material herein, the failure of Defendant Department to protect
21 Plaintiffs, and to adequately supervise, prohibit, control, regulate, discipline, and/or otherwise
22 penalize the conduct, acts, and failures to act of the individual Defendants and/or supervisors,
23 agents or employees violated Plaintiffs' rights under federal and state law.

24 151. As a direct and proximate result of Defendant Department's actions, Plaintiffs
25 have suffered and will continue to suffer pain and suffering, and mental anguish and emotional
26 distress; they have incurred and will continue to incur medical expenses for treatment by
27 psychotherapists and other health professionals, and for other incidental expenses; and they have
28 suffered and will continue to suffer a loss of earnings and other employment benefits and job

1 opportunities. Plaintiffs are thereby entitled to general and compensatory damages in amounts to
2 be proven at trial.

3 **SIXTH CAUSE OF ACTION**

4 **Wrongful Discharge From Employment**
5 **Against Defendant Sheriff's Department**

6 152. Plaintiffs repeat and reallege by reference each and every allegation contained in
7 paragraphs 1 through 151, and incorporate the same herein as though fully set forth.

8 153. Plaintiffs are informed and believe, and on that basis allege, that they were
9 terminated from their employment solely as a consequence of reporting the sex discrimination,
10 sexual harassment and/or sexual orientation harassment to which they and other female
11 employees had been subjected by Defendant Sheriff's Department.

12 154. It is the public policy of the State of California as expressed in the State
13 Constitution, Government Code, and common law, that individuals shall not be discriminated
14 against in their employment on the basis of their sex or sexual orientation, or sexually harassed,
15 or retaliated against in their employment, based upon the fact that they have made a report of the
16 same.

17 155. As a direct and proximate result of Defendant Department's termination of
18 Plaintiffs in violation of public policy, Plaintiffs have suffered and will continue to suffer pain
19 and suffering, and mental anguish and emotional distress. Plaintiffs have suffered and will
20 continue to suffer a loss of earnings and other employment benefits and job opportunities.
21 Plaintiffs are thereby entitled to general and compensatory damages in amounts to be proven at
22 trial.

23 **SEVENTH CAUSE OF ACTION**

24 **Breach of Implied Employment Contract**
25 **Against Defendant Sheriff's Department**

26 156. Plaintiffs repeat and reallege by reference each and every allegation contained in
27 paragraphs 1 through 155, and incorporate the same herein as though fully set forth.

28 Plaintiffs SMITH and FERRARA entered into an employment relationship with Defendant
Department as described above, pursuant to which they agreed to work for the Department and

1 for which the Department agreed to pay Plaintiffs compensation. During the entire course of
2 Plaintiffs' employment with Defendant, there existed an implied-in-fact employment contract
3 between Plaintiffs and Defendant Department, which at the time of Plaintiffs discharges
4 included, but was not limited to, the following terms and conditions:

5 a. Plaintiffs would be able to continue their employment with Defendant indefinitely
6 so long as they carried out their duties in a proper and competent manner;

7 b. Plaintiffs would not be demoted, discharged, or otherwise disciplined, nor would
8 Plaintiffs' job functions be reassigned for other than good cause with notice and opportunity to
9 improve;

10 c. Defendant would not evaluate Plaintiffs' performance in an arbitrary, untrue or
11 capricious manner; and

12 d. Defendant would provide Plaintiffs with support so that they could properly carry
13 out their responsibilities.

14 157. This total employment agreement was evidenced by various written documents,
15 oral representations to Plaintiffs by Defendant's agents and employees, and the parties' entire
16 course of conduct, including the following:

17 a. Defendant Department's written and oral personnel policies and discipline
18 procedures;

19 b. Defendant's established policy which was known to Plaintiffs, and relied on by
20 them, that employees such as Plaintiffs, who had performed services as good and faithful
21 employees, would have secure employment tenure with Defendant; that employees such as

22
23 Plaintiffs would be permitted to continue employment unless discharged for good and sufficient
24 cause; and that employees such as Plaintiffs would not be demoted, discharged or disciplined
25 without good and sufficient cause;

26 c. Again and again during their employment, Plaintiffs were told by their superiors,
27 orally and in writing, that they were doing a satisfactory or better job. As a result of such
28 representations, Plaintiffs came reasonably to expect to rely on the promise of job security. Such

1 statement and acts communicated to Plaintiffs the idea that they had performed their jobs
2 satisfactorily and that their jobs were secure. Plaintiffs in good faith relied upon these
3 representations and believed them to be true; and

4 d. Plaintiffs' reliance on, and belief in, and acceptance in good faith of all the
5 assurances, promises and representations as listed above led Plaintiffs through their employment
6 with Defendant to reasonably believe that their employment was secure and that thereby existed
7 a contract of continuous employment with Defendant. As independent consideration for this
8 contract of continuing employment, and as evidence of Plaintiffs' reliance thereon, Plaintiffs
9 refrained from seeking any other employment and from time to time turned down, gave up and
10 refrained from pursuing other career opportunities.

11 158. Plaintiffs undertook and continued employment and duly performed all of the
12 conditions of the contracts to be performed by them. Plaintiffs at all times have been ready,
13 willing and able to perform, and have offered to perform, all of the conditions of the contract to
14 be performed by them.

15 159. Despite the representations made to Plaintiffs by Defendant and the reliance they
16 placed upon them, Defendant failed to carry out its responsibilities under the terms of the
17 employment agreements in the following ways:

- 18 a. by subjecting Plaintiffs to arbitrary, unfair and dishonest criticism; and
19 b. by wrongfully terminating Plaintiffs on or about April 1, 2003 (SMITH) and
20 August 2, 2003 (FERRARA), despite satisfactory performance.

21 160. As a proximate result of Defendant Department's breach of the total employment
22 agreements, Plaintiffs have suffered and continue to suffer substantial losses in earnings,
23 bonuses, and other employment benefits which they would have received had Defendant not
24 breached said agreements, plus expenses incurred in obtaining substitute employment, all to their
25 damage in amounts according to proof.

26 161. WHEREFORE, Plaintiffs request relief as hereinafter provided.

27 //

28 //

1 **EIGHTH CAUSE OF ACTION**

2 **Breach of Implied Covenant of Good Faith and Fair Dealing**
3 **Against Sheriff's Department**

4 162. Plaintiff repeat and reallege by reference each and every allegation contained in
5 Paragraphs 1 through 161 and incorporate the same herein as though fully set forth.

6 163. Plaintiffs and Defendant Sheriff's Department entered into an oral employment
7 contract upon their hire and during the term of Plaintiffs' employment. The basic terms of the
8 agreement provided that Plaintiffs' employment would be secure as long as their performance
9 was satisfactory, that Plaintiffs would not be impeded in their performance or career
10 expectations, that Plaintiffs would not be terminated without good cause, and that Plaintiffs
11 would earn agreed-upon wages and fringe benefits.

12 164. Plaintiffs undertook and continued employment, and duly performed all of the
13 conditions of the employment agreement to be performed by them until prevented from further
14 performance by Defendant. Plaintiffs had at all times been ready, willing and able to perform all
15 of the conditions of the agreement to be performed by them.

16 165. From the time they began reporting Defendants' sex discrimination and sexual
17 harassment, Defendant Department breached the covenant of good faith and fair dealing by not
18 following Department policy and documenting, investigating and correcting the same, not
19 disciplining the harassers, and not preventing further discrimination and harassment from
20 occurring.

21 166. From the time they began reporting Defendants' sex harassment and sexual
22 harassment, Defendant Department further breached the covenant of good faith and fair dealing
23 by retaliating against Plaintiffs for reporting the same. This retaliation included, but was not
24 limited to, the following acts.

25 167. As against Plaintiff SMITH: Placed her on Administrative Leave, placed her on
26 an Employee Improvement Plan; subjected her to an Internal Affairs investigation; actively
27 terminated her employment; gave her negative Performance Appraisals; and similar wrongful
28 acts.

1 perpetrating sex and sexual orientation discrimination, harassment, and retaliation themselves, as
2 described above, the Defendants, and each of them, abused their special positions as Plaintiffs’
3 employer and superiors which vested them with substantial power to control Plaintiffs’ work
4 environment and to damage Plaintiffs’ interests and well-being.

5 175. Through the outrageous conduct described above, the Defendants, and each of
6 them, acted with the intent to cause, or with reckless disregard for the probability of causing
7 Plaintiffs to suffer emotional distress.

8 176. As a direct and proximate result of Defendants' actions, Plaintiffs have suffered
9 and will continue to suffer pain and suffering, and mental anguish and emotional distress; they
10 have incurred and will continue to incur medical expenses for treatment by psychotherapists and
11 other health professionals, and for other incidental expenses; and they have suffered and will
12 continue to suffer a loss of earnings and other employment benefits and job opportunities.
13 Plaintiffs are thereby entitled to general and compensatory damages in amounts to be proven at
14 trial.

15 **TENTH CAUSE OF ACTION**

16 **Negligent Infliction of Emotional Distress**
17 **Against All Defendants**

18 177. Plaintiffs repeat and reallege by reference each and every allegation contained in
19 Paragraphs 1 through 176 and incorporates the same herein as though fully set forth.

20 178. In carrying out the above-described conduct, the Defendants, and each of them,
21 breached a duty owed to Plaintiffs to provide a workplace free from unfair treatment,
22 discrimination, harassment and retaliation, and abused their positions of authority toward them.
23 Said conduct exceeded the inherent risks of employment and was not the sort of conduct
24 normally expected to occur in the workplace. Defendant Sheriff’s Department violated said duty
25 directly by ratifying all the individual Defendants’ conduct.

26 179. Defendants, and each of them knew, or should have known, that said conduct
27 would cause Plaintiffs extreme emotional distress. As a proximate result of Defendants’
28 negligent conduct, Plaintiffs suffered and will continue to suffer extreme humiliation,

1 embarrassment, mental anguish, and emotional distress in amounts according to proof.

2 180. WHEREFORE, Plaintiffs pray that judgment be entered in their favor and against
3 Defendants as follows:

4 1. For back pay, with prejudgment interest, from the date of FERRARA's termination of
5 employment to the date of judgment;

6 2. For compensatory damages according to proof;

7 3. For costs of suit, including reasonable attorney's fees and expert fees, pursuant to
8 Title 42 United States Code Section 2000e-5(k) and California Government Code Section
9 12965(b) and other applicable law;

10 4. For general damages of \$3,000,000.;

11 5. For interest on the sums of damages awarded, calculated from the appropriate dates to
12 the date of judgment;

13 6. For injunctive relief, including but not limited to:

14 a. An order that Defendant Department cease and desist from discriminating
15 against females on the basis of their sex in hiring, awarding specialty assignments, promoting,
16 disciplining (including oral or written warnings), and/or terminating its officers from
17 employment;

18 b. An order that Defendant Department immediately begin to increase its
19 hiring of female employees, both at rank and command staff levels, with the goal of increasing
20
21 the percentage of rank female Deputies to the national average of 13% within 3 years and
22 increasing the number of command staff females to 5% within 3 years;

23 c. An order that Defendant Department immediately begin increasing its
24 assignment of females to specialty positions, including SWAT, VCI and MAGNET to 10%
25 within 3 years;

26 d. An order that Defendant Department cease and desist from retaliating
27 against females for engaging in the protected activity of reporting perceived violations of Title
28 VII and the Fair Employment and Housing Act;

1 e. An order that an objective law enforcement employer/employee consultant
2 agreed to by Plaintiffs be hired to act as a go-between to assist in the revision of Defendant's
3 current sexual harassment policy;

4 f. An order that Defendant's current sexual harassment policy be revised to
5 remove the "mandatory" language related to reporting and to add specific disciplinary measures
6 to be taken against harassers;

7 g. An order that ROBIN SMITH be given reasonable consideration in the
8 testing process without bias for a special assignment in Personnel, Classification, or I.A.; and

9 h. An order that ROBIN SMITH be given reasonable consideration in
10 the testing process without bias for promotion to Lieutenant.

11 7. For such other and further relief as the Court deems proper.

12 DATED: HINTON, COCHRAN & BORBA

13
14 By _____
15 Desiree O. Cox

16 **PLAINTIFFS DEMAND A TRIAL BY JURY.**

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CERTIFICATION OF INTERESTED ENTITIES OR PARTIES

Pursuant to Civil L.R. 3-16, the undersigned certifies that as of this date, other than the
named parties, there is no such interested to report.

DATED: HINTON, COCHRAN & BORBA

By _____
Desiree O. Cox

EXHIBIT A

PERSONAL AND CONFIDENTIAL PERSONAL AND CONFIDENTIAL

Robin Smith

July 8, 2003

**Sonoma County Sheriff's Department
2796 Ventura Avenue
Santa Rosa, CA 95403**

Attention: Sheriff Cogbill

RE: Meeting of June 27, 2003

Dear Sheriff,

I am writing to thank you for the opportunity you afforded me on June 27, 2003. While I recognize this was intended to be a "welcome me back", I appreciate that we were able to discuss sensitive issues currently affecting the Department. I respect that you seemed concerned.

I have maintained my innocence and the Civil Service Commission has upheld it. However, the Detention Division Management has cast a doubt on staff that I work with. This was presented by Lieutenant Walker in a Day Shift briefing on Monday, June 23, 2003, of which he is the Administrator. This caused overtime for the Department while Lieutenant Walker gave his version of the findings and decision. I was not afforded the same courtesy. Lieutenant Walker went to great lengths, by holding this captive audience to address his "agenda". It is my opinion that Lieutenant Walker created a hostile environment for me to return to. Lieutenant Walker and Assistant Sheriff Costa were both on duty the day I returned and neither one made contact with me to acknowledge my return.

An even more disturbing event was a meeting Captain Suvoy had with me on July 1, 2003. During the conversation I told her of my concerns and feelings regarding Lieutenant Walker's briefing and comments, the day before my return, and his lack of professionalism the day of my return. Captain Suvoy defended his actions saying he was only trying to quell rumors. Regarding him not coming to briefing, the day I returned, she said he probably did it as a courtesy to me. She said he probably didn't want me to be uncomfortable. Captain Suvoy said I should have made contact with Lieutenant Walker. She said people will be watching me. She said what happened is water under the bridge. She said my incident was hard on staff,

EXHIBIT

A

management and probably on me too. She said the Commission says I was not untruthful, but neither were the Lieutenants'. She told me not to start any rumors by talking about the incident. I was shocked that she would even imply such a thing. I felt her tone was accusatory and I felt she was threatening me when she said people would be watching me. I find these veiled threats to be intimidating and offensive. This makes it difficult to perform my duties without fear of reprisal.

I urge you to review the transcripts from the Internal Affairs investigation and from the Civil Service Hearing. These will enlighten you and confirm statements you have already heard. In addition to this critical information, I would like to advise you of the concerns I have surrounding a process which led to my termination. This is the audit process. Through this process the Lieutenants' review an Incident Report and video tape specific to the incident. This causes me concern not only because I fell victim, but because the process is subjective and I believe has moved away from the initial intent. I believe the intent was to document our professional application of policy. This has shifted and is used to judge and prosecute. I was repeatedly criticized by Lieutenant Walker based on his viewing and interpretation of a video. He expected that if he was seeing something on video, I must have seen it occur. When I responded in the negative, his line of questioning became accusatory. With his multiple responses along this line of questioning, he implied I was lying because my observations didn't match the video. It seems only reasonable that if the video is viewing me, it is possible I did not have the same view as the video cameras eye. Sergeant Stewart used the same manner of interpreting the video to prosecute me in the Internal Affairs Investigation. I am hopeful that with some investigation into this concern, there will be clarification and revisions to the current practice.

One of the most significant issues that was not looked into was the fact that the Performance Improvement Plan was based on a subjective assessment and was used as a tool of harassment. Lieutenant Lawrence set forth expectations for training and he failed to provide the training, as he stipulated. My concern is that I could be subjected to disciplinary action for performance "concerns" a Manager may have, based on training they believe I received. In addition to what I have said here, there are numerous other concerns involving Lieutenant Lawrence and his inappropriate behavior during his supervision of me during the PIP.

Lieutenant Lawrence and Lieutenant Walkers' action, which generated the I/A, were endorsed by Captain Suvoy. On both occasions she had an opportunity to inquire about the validity of the allegations and chose not to. This, in my opinion, was negligent and contributed to the harassment I am subjected to.

Sheriff Cogbill, I respect the offer you have provided me to contact you in the event of any concerns that may come up. If circumstances present themselves that I feel would compromise my position or the Department, I will contact you. As you have recognized, it has been made very apparent that Management and Command Staff in the Detention Division are less than pleased with my reinstatement. My concerns

are compounded by my previous attempts to report a hostile work environment to Captain Suvoy, regarding Lieutenant Lawrence, and again in my Skelly Hearing to Assistant Sheriff Zanolini. I complied with policy in my attempt with Captain Suvoy and she refused to accept my notice. I again attempted to notify Assistant Sheriff Zanolini, in the Skelly Hearing. During the Civil Service Hearing, he admitted he did not look into issues presented by myself and my Attorney at the Skelly Hearing.

While you have afforded me the opportunity to come to you, I would like to return the offer. I recognize that you have a cabinet you rely on, but please know I give you this offer and I will provide you with any information I can, with the best interest of the Department and our community at heart. You can trust that what I would tell you would be truthful, and without malice. I am confident you will take the appropriate action in an effort to maintain the goal of the Unlawful Harassment policy.

In closing I would like to reiterate my commitment to professionalism and dedication to the Department. This recent incident I was involved in has affected numerous people and those people, some of which are victims themselves, expect some type of action. I will persevere and continue to be the consummate professional I am.

I am hopeful your schedule will allow a timely response.

Sincerely,

Robin Smith

cc: Attorney Kasey C. Clark

EXHIBIT B

Subj: **Fwd: Re: Sheriff Cogbill,**
Date: 1/30/2004 3:52:53 PM Pacific Standard Time
From:
To:

Date: Fri, 30 Jan 2004 14:54:11 -0800
From: "William Cogbill" <WCOGBILL@sonoma-county.org>
To: "Robin Smith" <RSMITH3@sonoma-county.org>
Cc: "Ed Clites" <ECLITES@sonoma-county.org>, "Michael Costa" <MCOSTA@sonoma-county.org>, "Shaun DuFosee" <SDUFOSEE@sonoma-county.org>
Subject: Re: Sheriff Cogbill,
Mime-Version: 1.0
Content-Type: text/plain; charset=US-ASCII
Content-Transfer-Encoding: quoted-printable
Content-Disposition: inline

Robin

While no one remembers you requesting an evaluation we can certainly accommodate you. Assistant Sheriff Mike Costa will have one written up for that time period. He assures me there is sufficient documentation to do so.

I just talked to Linda Daube and she will prepare a copy of the investigation for you, she also requests that you call her at 996-9530.

I am sorry to hear that you do not feel welcome back, from what I understand you have been treated fairly and appropriately and no differently than any of the other sergeants. If this is not true and you believe you have been discriminated against please follow policy to report any violation.

If you do not feel you can resolve an issue through the chain of command you are free to contact me, as would any employee of the Sheriff's Department. My desire, as I believe is yours, is to leave this issue and move forward for your sake as well as the Departments. Thanks for your efforts in doing so.

>>> Robin Smith 01/29/04 05:08PM >>>
Sheriff Cogbill,

I have received information from Sergeant Ed Clites that causes me concern. He said you have it in writing, that I did not request an Performance Evaluation for the year 2002. This would have been after the successful completion of my Performance Improvement Plan. I requested an evaluation from Lieutenant Lawrence in September, 2002. He denied me saying it was not in my best interest. This was also stated in my Civil Service Hearing, which I will be reviewing the transcripts of.

Additionally, the Attorney who conducted the EEO investigation, advised me during our first meeting in her office, that I would be receiving a copy of the report upon its completion. As you have been told, this has not happened.

Lastly, it has been brought to my attention that the Managers and Command Staff in Detention, are less than pleased with the arrangement you have afforded me to report directly to you. I want to assure you that I have not advertised this, however after the "Use of Force" counseling (9/11/03) with Lieutenant's Toby and Erskine, my perceived violation of Chain of Command was questioned. I would like to continue to have this reporting ability, as "things" have not improved in this Division as far as me being welcomed back.

Please feel free to contact me and thank you for your continued support.

Sincerely,

Robin Smith