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April 27, 2020

City of San Bernardino
290 North D Street
San Bernardino, CA 92401

RE: GOVERNMENTAL TORT CLAIM FOR DAMAGES

1. NAME AND ADDRESS OF CLAIMANT

JACKIE ABOUD
C/O Tristan Pelayes, Esq.
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2. DATE, TIME, & PLACE OF INJURY OR DAMAGE

From April 24, 2019 to January 6, 2020.

3. GENERAL DESCRIPTION OF DAMAGES, INJURY OR LOSS

Claimant started working as a Legislative Field Representative at the Mayor's (John Valdivia) and City Council's office on or about April 24, 2019.

However, from the first day Claimant started working for the City to the day of her wrongful termination on or about January 6, 2020, Claimant was yelled at, ridiculed, subjected to sexual harassment and retaliation, including, but not limited to, quid pro quo, pervasive and severe offensive and/or graphic sexual comments, such as sexually suggestive language and gestures unwelcomed profanity, sexual comments and behavior, racist comments, and experienced a hostile work environment on an almost daily basis by Valdivia. Claimant was also retaliated by Valdivia for not engaging in a sexual relationship with him and for reporting Valdivia's behavior to her supervisors and Human Resources throughout her tenure with the City.

Further, on at least three separate occasions during Claimant's employment, Valdivia told her that she needed to "develop a personal relationship" with him and that she also needed to spend more time with him "outside of work". He also threatened her that she was "replaceable", and he would "terminate" her if she did not develop this "personal relationship" with him. Valdivia's intention for compelling Claimant to develop a personal relationship with him was to date Claimant and advance Valdivia's sexual desires on Claimant.

From Valdivia's multiple inappropriate interactions, he conveyed to Claimant, based on his words and/or conduct, that her terms of employment and/or the favorable working conditions depended on the acceptance of his sexual advances towards her.

This sickened Claimant and she immediately understood that Valdivia wanted an inappropriate relationship with her and if she did not give in to his despicable demands, she would lose her job. As a result, not only did she report this to her supervisor and Human Resources, she also tried to avoid Valdivia as much as she could.

When Valdivia recognized Claimant's discomfort with his sick proposals, he became enraged every time and ridiculed, insulted, and created a hostile work environment for Claimant by stripping her from her assignments, deny her training, creating unreasonable demands upon her, changing his expectations of her without giving her any notice and giving her instructions for tasks and then when Claimant followed his instructions he would deny them and contradict himself simply to blame and ridicule Claimant.

As part of retaliation due to Claimant not submitting to his sexual desires, Valdivia would then demand Claimant to submit to his indecent proposals again, and when Claimant refused, he would turn around and put her on the "misery program" once more. This cycle would repeat itself throughout Claimant's employment with the City until her wrongful termination date.

Claimant was afraid of Valdivia, not only because of the treatment she received, but also because she saw how he treated her co-workers in the same manner, especially females when it came to inappropriate behavior of a sexual nature and male co-workers when it came to hostile work environment. She feared ruining her professional reputation as her first "career-type" job and was constantly told by Valdivia she was not good enough to leave his office and move on to a better career.

On or about the end of May 2019, Claimant was scheduled to attend the Service Council meeting to report back what service events were occurring in the City. Valdivia pulled Claimant aside before she headed to the meeting and asked her to keep an eye out for the citizen and leader of the group, Cheryl Brown, as she was "not a supporter of Valdivia". He also instructed Claimant not to report any of the Citizen Relationship Management ("CRM") of the neighborhoods above the 210 Freeway in San Bernardino, specifically wards 4 and 7.

On or about June 19, 2019, as part of retaliation for not submitting to his sexual desires, Valdivia had altered Claimant's terms of employment by setting her up for failure. Specifically, Claimant was informed that Alex Cousins (a non-paid male policy intern and economics student) was sent to the League of California Cities Conference instead of Claimant. This conference is not attended by interns and it is attended by Legislative Field Representatives such as Claimant. At the time, Claimant was working on specific issues within the City that were a part of the conference, such as the "homelessness" crisis in San Bernardino. Claimant was not permitted to attend any conferences and was not properly briefed nor trained on any policy issues to be able to speak in-depth about them to the public, which was 95% of her job at the time.

Throughout her tenure with the City, Claimant would normally work for seven hours or longer without being permitted to take a meal break or a rest period by Valdivia. Claimant was often told to stay after scheduled hours and come in before scheduled hours without pay to ensure her job was "safe".

On or about August 14, 2019, Claimant met with a City's Human Resources representative, Michelle Webb. Claimant told Webb about her experiences with Valdivia and reported the above described actions and conduct by him. Claimant discussed the hostile work environment that Valdivia created due to the sexual harassment. Webb confirmed that Valdivia's behavior was improper, but that Claimant should beware of Valdivia's actions "once Human Resources notified him of the complaints," because he could retaliate without repercussion. Claimant was not given any further guidance.

On or about August 30, 2019, as part of retaliation for not submitting to his sexual desires, Valdivia targeted Claimant and set forth confusing instructions so she would continue to suffer under the "misery program." Particularly, Valdivia changed the quota of CRMs for Claimant to complete. He originally told Claimant to complete 50 CRMs per week, but on that day, he told Claimant to do 50 CRMs.

Valdivia did this to ridicule and create unattainable demands on Claimant based on her refusal to submit to Valdivia's sexual advances. Claimant would often get yelled at for not attending scheduled events/meetings that she had to cancel due to his random requests that she only spend her day driving around completing 50 CRMs, resulting in mental abuse to Claimant.

On or about September 11, 2019 at the direction of Valdivia, his executive assistant, Renee Brizuela, told Claimant that her attendance at a Sheriff's Rodeo event on Saturday, September 28, 2019 was mandatory even though she was not going to be paid to attend said event. Brizuela told Claimant that she was required to pay for her own ticket to the event, and that the event was just meant for her to "spend time" with Valdivia outside of work.

On or about September 28, 2019, Claimant told Renee Brizuela that she couldn't attend the Sheriff's Rodeo event because she was sick despite having already paid for the ticket to the event. This enraged Valdivia and he ridiculed and belittled Claimant for months after the event for not attending and accused her of failing at her job for not making an effort to develop a "personal relationship" with him by attending the event with him.

On or about October 8, 2019, Claimant met with Human Resources representative, Michelle Webb again and reported Valdivia's actions and the fact that things were getting worse. Webb advised Claimant to speak with someone else because she herself was "not able to take on issues like these" because she was new. Webb advised Claimant to wait until she had put in her notice to leave the position to file the claim with Human Resources because of Valdivia's likelihood of retaliating against Claimant.

On or about the end of October 2019 and the beginning of November 2019, Valdivia called Claimant into his office to discuss her schedule. He then began to reprimand her for not attending the Sheriff's Rodeo about a month previously and that he felt that Claimant didn't want to develop a "personal relationship" with him. In addition, Valdivia reiterated that Claimant "needed to make more of an effort" to spend time with him outside of work to go on dates with Valdivia. He then told Claimant that he was going to start having "one-on-one lunches" with staff members soon, which terrified Claimant because she did not want to spend time with him outside of work and she wanted to keep their relationship strictly professional. When Claimant became hesitant to go on the dates, Valdivia told Claimant that she was easily replaceable and threatened to terminate her if she did not meet his demands and "make an effort to develop a personal relationship" with him.

On or about November 1, 2019, at the direction of Valdivia, Renee Brizuela ordered Claimant to report to work from 8 a.m. to 10 a.m., then remain in the area "unpaid" for three hours, and then go back to work at 1 p.m. to work an event for Valdivia at the San Bernardino Airport. Claimant expressed her objections to Brizuela to no avail. In fear of retaliation by Valdivia, Claimant worked the event without being paid.

On or about November 14, 2019, Valdivia scheduled a meeting with Claimant. Valdivia wanted to discuss how he wanted Claimant to learn more about his "personal needs" and how he was still upset with her because she didn't attend the Sheriff's Rodeo event. Valdivia warned Claimant that he had strategically placed cameras all throughout the office to watch staff while he was away from the office. From Claimant's perspective, personal needs of Valdivia meant having sex with him.

On or about November 25, 2019, at the weekly scheduled Monday staff meeting, Valdivia interrupted the Legislative Field Representative Report prepared by Claimant and Don Smith to state his disgust against homeless people throughout the City. Valdivia told the staff about an encounter he had had recently while he was driving throughout the City, where he told the staff that he was stopped at a stop light and a homeless man was crossing the crosswalk in front of him as it was the man's right of way, then Valdivia pretended to "run the homeless man over" by stepping on the gas as the man approached in order to scare him because Valdivia claimed that "scaring homeless people to death is funny." Valdivia then proceeded to laugh hysterically and with a confused look as to why the rest of the staff including Claimant were not laughing with him. Claimant was disgusted by Valdivia's constant hatred towards homeless people throughout the City. Valdivia often made racist or hateful remarks towards groups of people during their staff meeting, as he claimed that his remarks were "kitchen talk." Also in front of Claimant and staff, Valdivia adjusted his eyes to make fun of people of Asian descent, and often referred to the employees at the Department of Public Works as "lazy old veterans who don't want to work and want the government to pay for their laziness, so we need to tell them what to do to make sure they are working," which left Claimant confused at his inability to act professionally and respectfully.

On or about the end of November 2019 and the beginning of December 2019, Valdivia questioned Claimant's hours in the presence of other staff and accused her of lying because he claimed that there was no way of tracking her hours. Claimant suggested that staff could use a clock-in/clock-out system for peace of mind. Valdivia then called Claimant into his office and asked her to close the door. He then asked Claimant why she wanted her job and why she still there. Claimant told Valdivia that she liked her job because she got to work with the residents of San Bernardino at a grassroots level, so she was able to see the tangible impact made on residents and to bring good change to the City. Valdivia then yelled at Claimant and told her that she was not there to serve the people of San Bernardino, that she was only there to serve him and "his needs". He told Claimant that if she wanted to gain a full-time position or just keep her job that she needed to "build a personal relationship" with him "outside of work", and to "tend to his needs" and anticipate his needs before he even knew what he need it.

On or about December 3, 2019, during the Christmas Open House, Claimant arrived early to the office before the event to prepare. When Claimant walked in, she saw Matthew Brown (Mayor's Chief of Staff), Renee Brizuela (Executive Assistant to the Mayor), Mirna Cisneros (Customer Service Representative), Karen Cervantes (Assistant to the Mayor) and Valdivia huddled. She heard Valdivia yelling at them for spending all the money that was specifically fundraised for the Christmas Open House because he wanted to use the money for other events. This is illegal because the money was raised for a specific purpose. In this case the Christmas Open House only.

On December 11, 2019, Valdivia ordered Claimant to delete pictures posted on his public social media that included Representative Eloise Reyes of San Bernardino in the picture. Valdivia ordered Claimant to crop the representative out of the picture.

On or about December 16, 2019, Valdivia yelled and belittled Claimant and Don Smith for attending the “Ho-Ho Parade”. Valdivia claimed that he did not ask both to attend the event, even though he specifically asked both to attend all four days of the event to ensure that the City had a good presence throughout the parade. Valdivia did this to retaliate against Claimant for rebuking his previous advances, adding to the mental abuse he had already subjected on her.

On January 1, 2020, Claimant went to the hospital because she was severely sick, where she was diagnosed with the flu and was told by her doctor to stay at home for at least three days because she was highly contagious. Claimant texted that information to Renee Brizuela to notify her. Brizuela asked Claimant to send her a doctor’s note from the hospital, which she did.

On January 6, 2020, Claimant went in to work, still getting over the flu, but she wanted to work and catch up with mail that she missed over the holiday season. As soon as she got in to work, Claimant was terminated by Valdivia and/or the City of San Bernardino because she had taken sick leave that was accrued during the same calendar year, due to the flu.

Immediately upon being terminated, Claimant went to Human Resources to meet with Claudia Allen, a Human Resource representative to file a complaint, as her female coworkers urged her to complain on their behalf that day because they were afraid to do so themselves. Claudia Allen took down some notes and processed some paperwork on her computer, but she told Claimant that her experiences and that of her coworkers were not sufficient enough and that her coworkers would need to come report their own experiences to her. Claimant was also told there was nothing the City could do because Valdivia was an “elected official”.

4. NAMES OF PUBLIC EMPLOYEES CAUSING INJURY

JOHN VALDIVIDIA

5. AMOUNT CLAIMED

Pursuant to Government Code section 910(f), the amount of compensatory and other damages claims exceeds \$10,000 and will lie within the unlimited jurisdiction of the Superior Court. Claimant also claims and seeks to recover herein, the statutory and other penalties, damages, attorney’s fees, expert fees, costs as provided by law, to include exemplary damages against John Valdivia.

Page 7
April 27, 2020
Governmental Tort Claim

DATED: April 27, 2020

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