

1 Michael A. McGill SBN 231613
mcgill@policeattorney.com
2 **LACKIE, DAMMEIER & MCGILL APC**
3 367 North Second Avenue
Upland, CA 91786
4 Telephone: (909) 985-4003
5 Facsimile: (909) 985-3299

6 Attorneys for Claimant
NEELY NAKAMURA
7
8 City of Riverside
Colleen J. Nicol, City Clerk
9 City Hall East
3900 Main Street
10 Riverside, CA 92522

11
12 Claim of NEELY NAKAMURA,) **TORT CLAIM**
)
13 Claimant,) (Govt. Code §910)
)
14 vs.)
)
15)
16 CITY OF RIVERSIDE, a municipal corporation;)
CITY OF RIVERSIDE POLICE)
17 DEPARTMENT, an operating department;)
BRAD HUDSON, individually and as City)
18 Manager; TOM DESANTIS, individually and as)
Assistant City Manager; JOHN DELAROSA,)
19 individually and as Acting Chief of Police;)
20 MICHAEL BLAKELY, individually and as a)
Captain and Deputy Chief; MICHAEL COOK,)
21 individually and as a Lieutenant; FRANK)
ASSUMMA, individually and as a Sergeant;)
22 JOHN CAPEN, individually and as a Sergeant;)
23 and DOES 1 THROUGH 10 INCLUSIVE,)
)
24 Defendants.)
)

25
26 TO THE CITY CLERK OF THE CITY OF RIVERSIDE:
27 You are hereby notified that Claimant claims damages from the DEFENDANTS as
28 follows:

1 1. Claimant desires all inquiries, notices and communications be sent or directed to
2 Michael A. McGill Esq., LACKIE, DAMMEIER & MCGILL APC, 367 North Second Avenue,
3 Upland, California, 91786, Telephone (909) 985-4003, Facsimile (909) 985-3299.

4 2. Claimant NEELY NAKAMURA was employed by Defendant City of Riverside
5 in the capacity as a Police Officer, and as such is entitled to the benefits and protections of the
6 Public Safety Officers Procedural Bill of Rights (“POBOR”) Act, Government Code section
7 3300 et seq. Claimant’s home address is confidential under Penal Code §§146(e) and 832.7, and
8 Vehicle Code §1808.4(a)(11).

9 3. Defendant City of Riverside (“the City”) is a duly constituted municipal
10 corporation operating under the laws of the State of California, wholly situated in the County of
11 Riverside. Riverside Police Department (“the Department”) is an operating department of the
12 City. At all times relevant herein for all purposes connected with the management of
13 employment relations matters within the Riverside Police Department, the City delegated its
14 final policy-making authority to the remaining individual Defendants. The City adopted and
15 ratified each of their decisions as alleged herein as its own policies, customs, practices or
16 decisions, as if the same had been promulgated directly by the City.

17 4. Defendant BRAD HUDSON will be sued individually and as City Manager.
18 Defendant TOM DESANTIS will be sued individually and as Assistant City Manager.
19 Defendant JOHN DELAROSA will be sued individually and as Acting Chief of Police.
20 Defendant MICHAEL BLAKELY will be sued individually and as a Captain and Deputy Chief.
21 Defendant MICHAEL COOK will be sued individually and as a Lieutenant. Defendant FRANK
22 ASSUMMA will be sued individually and as a Sergeant. Defendant JOHN CAPEN will be sued
23 individually and as a Sergeant. In doing the things alleged herein, each Defendant acted under
24 color of state law, within the course and scope of his employment, and as an official policy-
25 maker for the City.

26 5. Defendant DOES 1 through 10 are not known or identified at this time. On
27 information and belief, Claimant alleges that each Doe is in some manner responsible for the
28 wrongs alleged herein, and that each such Defendant advised, encouraged, participated in,

1 ratified, directed, or conspired to do, the wrongful acts alleged herein. When the true names and
2 capacities of said Defendants become known, Claimant will seek relief to amend this claim to
3 show their true identities in place of their fictitious names as DOES 1 through 10.

4 6. Defendants, and each of them, were the agents, employees and servants of every
5 other Defendant. Defendants acted in the course and scope of said agency, service and
6 employment at all relevant times.

7 7. Defendants and employees of Defendants have discriminated and retaliated
8 against Claimant for the lawful exercise of her individual civil rights and liberties of free
9 expression and participation in political activities. Defendants have targeted Claimant due to
10 these lawful actions.

11 8. At all times employed by the Department, Plaintiff performed her duties
12 competently and without difficulty.

13 ***Background Information***

14 9. On February 8, 2010, at approximately 3 a.m., Riverside's Chief of Police, Russ
15 Leach, was pulled over by Riverside officers who observed him driving his City-issued vehicle
16 without any vehicle lights or a license plate. The vehicle also had no left-side tires and was
17 riding on the aluminum wheels. Leach initially evaded the officers, but later pulled over. Leach
18 smelled of alcohol and his speech was mumbled and repetitive. The officers believed that Leach
19 was driving under the combined influence of alcohol and prescribed medication.

20 10. The officers appropriately contacted a field supervisor sergeant for assistance.
21 While the field supervisor was en route, Leach used his mobile phone to contact Assistant Chief
22 of Police, DeLaRosa. Within minutes, a sergeant arrived on scene. The sergeant was handed the
23 mobile phone and spoke with Chief DeLaRosa. DeLaRosa asked the sergeant who the lieutenant
24 watch commander was, and after finding out, ended the call. During the brief contact with
25 Leach, the sergeant also believed that Leach had been driving under the influence of an alcoholic
26 beverage. The officers were then dispatched to a call and left the scene.

27 11. The lieutenant then arrived on scene. He had been in contact with DeLaRosa
28 throughout the night. Leach was then placed in his vehicle and driven home. Field sobriety tests

1 were not administered to Leach, as they would have to any other citizen. A chemical test was
2 not obtained, as it would have from any other citizen. Both collectively, or individually,
3 DeLaRosa and the lieutenant decided not to pursue a driving under the influence of alcohol
4 and/or drugs investigation of Leach, as they would have with any other citizen. Instead, the
5 decision was made to cover up the incident and prepare a simple traffic collision report. The
6 sergeant was also asked to prepare the report, despite the fact that such a report would generally
7 be prepared by the on-scene officers.

8 12. Based upon information and belief, this decision was made by and between each
9 of the named Defendants.

10 13. On the way home, the lieutenant admonished Leach for putting the officers in a
11 predicament by having to cover up the fact that he was breaking the law. The lieutenant also
12 confirmed that he believed Leach was driving under the influence and that if tested, he would be
13 at or over the legal limit.

14 14. During the morning of February 8, 2010, the sergeant began preparing the
15 property damage only traffic collision report. The sergeant listed Leach's sobriety as "HBD (had
16 been drinking)-Impairment Unknown."

17 15. Also that morning, Esquivel arrived for work and was confronted by the
18 lieutenant. The lieutenant informed Esquivel that he wished to remove his name from
19 consideration for promotion to captain. The reason being that the lieutenant wanted to quell any
20 rumors that his actions in covering up Leach's incident would in any way lead to his obtaining a
21 promotion. During this conversation, Esquivel learned for the first time what had gone on hours
22 earlier. Esquivel learned immediately that the incident involved a car stop and a failure to yield.
23 Esquivel was of the opinion that the incident could have easily been a hit and run and that a full
24 investigation should have been commenced. Esquivel spoke with the sergeant and asked why
25 the investigation didn't involve a hit and run. The sergeant responded that this was the way they
26 wanted it.

27 16. Throughout the day on February 8, 2010, Esquivel had numerous conversations
28 with DeLaRosa explaining that he had serious reservations about what they were doing implying

1 that they were attempting to cover up what had happened. Esquivel repeatedly told DeLaRosa
2 that a complete independent investigation needed to be conducted. Esquivel indicated on
3 numerous occasions and in varying words that what they were doing was illegal and contrary to
4 their obligations as peace officers.

5 17. After repeatedly informing DeLaRosa that what they were doing could be
6 unlawful, and after Esquivel made clear that he would not allow a cover-up, Delarosa and the
7 other Defendants had no choice but to launch an investigation. As a result, and at Esquivel's
8 urging of an investigation, the California Highway Patrol (CHP) was contacted regarding
9 conducting an investigation into Leach's traffic collision. Undoubtedly, without Esquivel's
10 constant and repeated pressure, no investigation would have been ordered, let alone an outside
11 investigation. Esquivel was instrumental in gathering and preserving evidence, much of which
12 would likely have been destroyed or otherwise compromised had Esquivel not been outspoken.

13 18. During these conversations, and after being assured a complete investigation was
14 going to be conducted, DeLaRosa ordered Esquivel to formally sign the traffic report regarding
15 Leach's incident. Esquivel protested signing the report, pointing out this was well out of
16 procedure and was unsure if he was legally qualified to sign the traffic report. DeLaRosa
17 assured Esquivel that the report had been reviewed and approved by the City Attorney's Office,
18 the City Manager's Office and the Police Department. DeLaRosa led Esquivel to believe that
19 signing the report was a necessary step in order to proceed with the investigation. Esquivel was
20 led to believe that DeLaRosa wanted to lock down the incident and officer statements in the
21 report so that an accurate investigation could be made. To that end, by signing the report, any
22 changes to the report could only be made by attaching a supplemental report. Prior to signing the
23 report, it would still be considered in "draft" form and any changes would not be noted in the
24 report. By Esquivel signing the report, the incident could not later be changed and the cover up
25 itself could not be covered up.

26 19. On February 9, 2010, Leach was placed on paid medical leave.

27 20. From February 10, 2010 through February 12, 2010, Esquivel voiced his concerns
28 on numerous occasions about what the City was doing, including the cover up. One of those

1 conversations was with DeSantis. In that conversation, Esquivel expressed extreme concern
2 about being ordered to sign the traffic report and the manner in which the Leach incident was
3 being handled. He expressed concern that by trying to protect Leach and cover up his “deuce,”
4 they were actually breaking the law. Esquivel expressed concern about DeLaRosa’s failure to
5 take action with the incident and being purposely left out of the loop. Esquivel warned DeSantis
6 that he needed to be real transparent with this matter, and to date, they haven’t been.

7 21. Almost immediately thereafter, Hudson and DeSantis announced that DeLaRosa
8 would be Acting Chief of Police. In addition, despite Esquivel’s rank as Deputy Chief in Charge
9 of Operations, he was kept out of the loop entirely as to the investigation. Around the same time,
10 the City announced that it would begin an immediate search for a new Chief of Police.

11 *The Violations*

12 22. With the search for a new Chief of Police to replace Leach, DeLaRosa was the
13 Defendants’ clear first choice. He had supported the decision and attempt to cover-up for Leach
14 and was widely considered a “team player” within the City. In addition, he was considered by
15 the City to be an individual that could be easily influenced on matters should there be a need.
16 From the perspective of the City Attorney’s Office, the City Manager’s Office, as well as City
17 Council, DeLaRosa would be the perfect replacement to do their bidding. Despite the
18 announcement that a search would be made for a new chief, it was clear that the Defendants
19 wanted DeLaRosa for the job. Various administrators and officials made statements praising
20 DeLaRosa’s performance and stating unequivocally that he was the best fit for the City.

21 23. However, Esquivel, with his credentials, experience and leadership qualities, was
22 by far better suited for the position. Knowing this, and knowing that Esquivel would be in the
23 running to replace Leach, Defendants felt that they had to discredit Esquivel so as to insure that
24 he would not put in for the job. Almost immediately, the Defendants set out on a course to
25 destroy Esquivel by digging up dirt and muddying his name. The Defendants set out on this
26 course all in the name of getting DeLaRosa promoted to Chief and in retaliation for Esquivel’s
27 protected disclosures.

28

1 24. As an aside, on or about February 17, 2010, DeLaRosa attended a roll-call, or
2 patrol briefing. He discussed his displeasure based on his belief that Department personnel were
3 posting comments under press articles involving the Department's handling of Leach's cover-up.
4 DeLaRosa urged officers not to participate in such postings, stating his belief that such conduct
5 was unprofessional. He further told them that they should support the officers involved—
6 ostensibly himself including. After his comments, he opened the discussion up for questions.
7 One officer asked DeLaRosa why it took him thirty-one hours to notify the CHP of Leach's
8 accident. DeLaRosa became visibly upset, responding that he would not explain himself, and
9 called the officer a "lone wolf out there by [himself]," obviously referencing perceived disloyalty
10 on the part of the officer for failure to support DeLaRosa's actions, or cover-up. Soon thereafter,
11 that officer was fired for frivolous reasons and currently maintains a wrongful termination
12 lawsuit against the Defendants.

13 25. In early March 2010, Esquivel was called in as a witness for an internal affairs
14 investigation. The interview was conducted by an attorney, as well as Cook, Assumma,
15 DeLaRosa; Blakely, and Capen. Although the interview was conducted with Esquivel named as
16 a witness, it became readily apparent by the questions asked that Esquivel was a target. The
17 interview lasted approximately an hour and a half. It became readily apparent that the
18 Defendants were targeting Esquivel out of retaliation for his refusal to go along with the cover-
19 up. Esquivel was asked questions about the status and location of Leach's vehicle. Esquivel
20 explained that before he became involved in the matter, the vehicle was held in the evidence bay
21 "for repair," rather than it being locked down as evidence. Esquivel ordered that the vehicle be
22 locked down and not touched.

23 26. During the interview, it became apparent that Blakely had illegally obtained the
24 transcripts and/or phone numbers from Esquivel's telephone. Blakely asked Esquivel about a
25 phone number that Esquivel had frequently called, despite the fact that the number had no
26 relation to the investigation. Under orders to respond, Esquivel indicated that the phone number
27 belonged to Claimant, Neely Nakamura. At the time, Nakamura and Esquivel were involved
28 intimately in a relationship that was private and unknown to members of the Department. The

1 relationship was lawful, consensual and did not affect either Nakamura or Esquivel's ability to
2 perform their job. Esquivel and Nakamura's relationship did not violate any Department rules or
3 regulations and Defendants had/have no lawful basis to delve into it.

4 27. Upon hearing that Esquivel had been speaking with Claimant frequently,
5 Defendants viewed this as their opportunity to dig up dirt on Esquivel in order to put into action
6 their plan of retaliating against Esquivel and forcing him out. In turn, they viewed this as the
7 method to get rid of DeLaRosa's only serious internal competition for the Chief's position.

8 28. Also as part of Esquivel's protected disclosures, approximately a few weeks later,
9 Esquivel was again called in to an internal affairs interview, this time as the target officer. The
10 interview was again conducted by an attorney, as well as Cook, Assumma, Capen, and
11 DeLaRosa. This interview constituted the City's internal affairs investigation into the Leach
12 incident. Esquivel responded, as he also did at his CHP interview, by explaining all of the
13 aforementioned facts. Esquivel explained how he pressed DeLaRosa to do the investigation and
14 not to cover-up the incident. Esquivel showed the investigators the text message that he had
15 received from DeLaRosa ordering him to sign the traffic report.

16 29. Then, in the morning on or about April 9, 2010, Esquivel was speaking with
17 Nakamura on the phone when he observed Assumma and Capen in the parking lot. Esquivel and
18 Nakamura work in the same building. Assumma and Capen work as internal affairs
19 investigators, and are assigned to a different building. It would be unusual for Assumma and
20 Capen to be at his building, unless there for some business related purpose. After hanging up
21 with Nakamura, Esquivel went to work. Esquivel was immediately contacted by DeLaRosa and
22 told that Internal Affairs needs to meet with him this afternoon, and to remain available.

23 30. Unbeknownst to Esquivel, and around the same time, Assumma and Capen
24 illegally accosted and detained Nakamura as she exited her vehicle going to work. Nakamura
25 was taken by the investigators in their vehicle to the Internal Affairs Office. She was placed in
26 an interrogation room and interrogated for several hours by Cook and Capen, as well as Blakely.
27 Nakamura was repeatedly told that she couldn't leave and that she had no option but to speak
28 with the investigators. She was told that she is not leaving there until they speak to Pete and

1 have a chance to compare notes, presumably to determine if she was lying. At one point,
2 Nakamura requested and was allowed to go to the bathroom, but was prohibited from taking her
3 personal mobile phone with her and she was escorted by an officer who waited right outside the
4 door of the bathroom. Nakamura was unlawfully detained, and falsely imprisoned, throughout
5 the process.

6 31. Despite the aforementioned detention, Nakamura was told to remain calm and that
7 she was just a witness officer and that no harm would come to her if she simply cooperated. At
8 the same time, it was made clear that she had no choice but to cooperate. Nakamura was shown
9 Esquivel's phone records and repeatedly asked why she was speaking to Esquivel so often.
10 Despite the fact that it was none of their business, the investigators compelled Nakamura to
11 respond and provide intimate details about her private relationship with Esquivel. Investigators,
12 without any lawful or legitimate reason, demanded that Nakamura reveal that she had engaged in
13 a private intimate relationship with Esquivel. Nakamura was forced to reveal when her private
14 intimate relationship began; she was forced to reveal private and confidential information about
15 her intimate relationship, that occurred off-duty and having no connection to her employment.
16 Nakamura was forced to reveal that she had sexual intercourse with Esquivel while off-duty.
17 Nakamura was even forced to reveal whether her husband was aware of the intimate relationship.
18 Investigators asked if Nakamura and Esquivel made pictures or videos of their intimate
19 relationships. Investigators pressed the issue, forcing Nakamura to describe the type of sex acts
20 that they would engage in:

21 Q1: Okay. And again, I – I – I apologize for being graphic, but can you
22 describe the type of sex acts that we're talking about just so we're clear?

23 A: As far as if they were intercourse?

24 Q1: Yeah, well uh, you've already said intercourse...

25 A: Right.

26 Q1: ...occurred. Did other sex acts occur?

27 A: What type of sex acts?
28

1 Q1: Oral copulation uh, masturbation, anything like that uh, or was it always
2 just intercourse?

3 A: All of the above.

4 32. In taking these actions, these Defendants violated Nakamura's state and federal
5 rights, including but not limited to those prohibiting unlawful and unreasonable search and
6 seizures and invasions of privacy. Nakamura was kidnapped as that term is used in Section 207
7 of the Penal Code. Any officer who committed similar acts against any member of the public
8 would certainly be guilty of a crime. In addition, the Defendants searched and seized
9 Nakamura's personal mobile phone. Investigators illegally forwarded copies of intimate
10 messages to themselves and photographed copies of said messages. Nakamura never consented
11 to having her personal property searched and seized.

12 33. Furthermore, and despite having illegally obtained the information from
13 Nakamura, the evidence obtained had no legitimate relationship or nexus to the workplace. The
14 information illegally obtained did not demonstrate a violation of department policies or
15 procedures. Similarly, the information illegally obtained from Nakamura evidenced no violation
16 of policies or procedures with regard to Esquivel either. Regardless, the Defendants now had
17 information they could use to extort Esquivel and force him out and thereby retaliate against him.

18 34. With Nakamura still detained, Blakely and Cook visited Esquivel indicating they
19 needed to talk immediately. Esquivel went with them to Blakely's office, stating they had a
20 "distasteful matter to discuss." Blakely indicated they had interrogated Nakamura and know all
21 of the details of his intimate relationship with her. Esquivel responded that his relationship was
22 private, did not violate the City's anti-nepotism policy, and he was not willing to discuss the
23 matter. Blakely stated to Esquivel that it wouldn't be smart to let this get out, and that the
24 interrogation was painful, with Nakamura crying. Blakely indicated that it would be incredibly
25 damaging and humiliating if this information were to get out. Based on these comments, Blakely
26 and Cook were clearly in violation of Penal Code sections 518, et seq., extortion. Blakely
27 indicated that they had several issues, the Nakamura issue included, that they were going to use
28 against Esquivel. Blakely indicated that, unless a deal could be arranged, it was Defendants

1 intention to immediately relieve him of duty, put him on administrative leave, take away his gun
2 and badge and relieve him of his peace officer powers.

3 35. Blakely advised Esquivel there is another way to handle this, stating that I have a
4 resignation form, and that if he signed it, nothing would be done and all of this information
5 would not get out. In the same breath, Blakely reminded Esquivel that this will be very
6 embarrassing for him and his family if these details get out. Blakely indicated that he was not
7 bluffing.

8 36. Esquivel asked who was behind this. Blakely indicated that they are reporting
9 directly to DeSantis. Esquivel then used his mobile phone to contact DeSantis and indicated that
10 the two needed to talk immediately. DeSantis responds that he should come over and talk with
11 him. As Esquivel gets up to leave, Blakely indicates that he can't leave the office alone and that
12 they are going to escort him.

13 37. Esquivel immediately meets with DeSantis who says that they no longer need his
14 services. Esquivel asks if the City is going through all this effort simply to get rid of him
15 because of the Leach incident or are they trying to muddy him up so he won't be a contender for
16 the Chief's position. DeSantis indicated that the City is inundated with telephone calls of
17 support for Esquivel from the community. Esquivel asked DeSantis if he was telling him, that
18 despite the Chief's application process having just started, he has no chance for the job.
19 DeSantis responded affirmatively, that Esquivel had no chance for the job. DeSantis essentially
20 told Esquivel not to bother putting in for the job. With no prospects of promotion and being
21 threatened with being placed on administrative leave and termination, as well as embarrassment
22 and humiliation with regard to his relationship with Nakamura, DeSantis convinced Esquivel to
23 retire. However, based on the circumstances, Esquivel was in fact constructively discharged
24 through unlawful means.

25 38. At Esquivel's request, he was afforded 30 days in which to retire. At the meeting,
26 DeSantis typed up Esquivel's retirement letter. DeSantis actually spelled Esquivel's name
27 wrong in the letter. Furthermore, Esquivel left the meeting and resumed his job and duties for
28 the next 30 days. Despite the fact that the violations were so egregious in which it was necessary

1 to immediately take Esquivel’s gun and badge, and relieve him of his police powers,
2 immediately after succumbing to the Defendants’ extortion, it became no longer necessary.
3 Esquivel went back to work and actually served as Chief of Police for a period of time during
4 which DeLaRosa was out of town. In addition, the Defendants provided Esquivel with an
5 expensive retirement party and cherished his service.

6 39. After leaving the meeting, Esquivel met with Blakely, who was stunned. One
7 minute Esquivel was a detainee, the next minute it was back to business as usual.

8 40. The Defendants’ actions in violating numerous state and federal laws is simply
9 egregious. In direct retaliation for forcing an investigation into the Leach cover-up, these
10 Defendants set out to destroy Esquivel, tarnish his career, and ruin any chance that he had in
11 becoming Chief of police. In doing so, they created a bogus investigation. They illegally
12 obtained Esquivel’s phone records as part of a fishing expedition into Esquivel. After seeing
13 multiple phone calls to Claimant, they latched on to that information to see where it might lead.
14 For some reason, they felt that an abnormal number of phone conversations somehow gave them
15 a legitimate right to invade Claimant’s privacy. They illegally detained Nakamura and
16 questioned her about her relationship and used that information to extort Esquivel. The violation
17 of Nakamura’s rights was simply collateral damage in their quest to destroy Esquivel.

18 41. On June 1, 2010, CHP issued their report. The investigation concluded that
19 “Leach was under the influence of an alcoholic beverage and/or drugs,” and that the “Riverside
20 Police Department personnel should have administered Chief Leach a series of field sobriety
21 tests to confirm his level of intoxication.” The investigation concluded that Leach was in
22 violation of Vehicle Code §23152(a) and should have been arrested during the traffic stop. The
23 investigation further concluded that the police report should have marked “HBD—Under
24 Influence” on the report, rather than “HBD—Influence Unknown.” The investigation concluded
25 that the delay in contracting CHP for an investigation and the lack of follow-up investigation by
26 the Riverside Police Department, among other things, resulted in an inability to confirm a
27 violation of hit and run.
28

1 42. June 11, 2010, DeLaRosa announced his retirement and apologized for the
2 handling of the Leach incident. The Defendants felt they had no option but to replace
3 DeLaRosa, their chosen candidate, since he had been discredited by the CHP report. The
4 Defendants did not believe the CHP report would be made public, and they felt that any actions
5 he took would not be reported to the public. They were ultimately wrong. Due to Esquivel's
6 actions, the illegalities and gross malfeasances were exposed. In return, he paid the price by
7 having his reputation destroyed.

8 43. Each of the aforementioned actions taken by Esquivel constitute protected
9 activities and/or disclosures in that Esquivel was disclosing violations of policy and practice, as
10 well as violations of state and federal law. Esquivel was also disclosing an abuse of authority, a
11 waste of public funds, and a waste of resources, negligence, unsafe working conditions, and
12 illegal conduct. Esquivel's disclosures are protected disclosures under all state and federal laws.
13 In addition, the Defendants' actions constituted an improper invasion of privacy against
14 Claimant. The aforementioned actions/inquiries invaded a legally protected zone of privacy and
15 lacked any legitimate interest; the inquiry was not narrowly tailored to meet any legitimate
16 interests; the department's use of the information was improper in light of the department's
17 interests. In addition, Claimant was illegally obtained, seized and searched, kidnapped and held
18 without cause or reason. The Defendants' actions led to Claimant receiving unlawful and
19 unjustified discipline. The aforementioned actions of said Defendants violated Claimant's rights
20 under state, federal, and common law, including, but not limited to, the First, Fourth and
21 Fourteenth Amendments to the Constitution of the United States, the Constitution of the State of
22 California, California Penal Code, California Labor Code, California Government Code, and the
23 general right to privacy.

24 44. It is clear that Defendants have retaliated against Claimant for the lawful exercise
25 of his/her individual civil rights and liberties of free expression and association. Claimant has
26 also been the subject of numerous state and federal violations. Claimant was subjected to
27 adverse employment actions as a result of engaging in the aforementioned protected speech
28

1 activities. There exists no legitimate justification for taking the adverse actions against
2 Claimant.

3 45. The actions by Defendants clearly violate Claimant's rights, including but not
4 limited to, Claimant's right to be free from reprisal actions under state and federal law, as well as
5 common law. Claimant claims damages including damages arising from violations under the
6 United States Constitution, the California Constitution, and federal and state law, including but
7 not limited to, the California Labor Code, Government Code, Penal Code, Health and Safety
8 Code. It should further be noted that because this matter entails a significant and ever-increasing
9 controversy, the depth and severity of which is not presently known, not every single facts and
10 piece of information has been included in this claim. Therefore, should additional information
11 be needed, Defendants are encouraged to contact Claimant's representative for further details.

12 46. Claimant claims damages from the City including all damages arising from the
13 aforementioned violations in an amount as of yet undetermined, but as will be determined by a
14 jury.

15
16 Dated: August 4, 2010

Respectfully Submitted,

LACKIE, DAMMEIER & MCGILL APC



Michael A. McGill
Attorney for Claimant,
NEELY NAKAMURA