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Attorney for Plaintiff,
JONATHAN PORTNEY

**UNITED STATES FEDERAL DISTRICT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION**

JONATHAN PORTNEY

Plaintiff,

v.

COUNTY OF LAKE; and Does 1
through 5, INCLUSIVE,

Defendants.

) Case No.: 24-cv-07802-JSW

)

) **FIRST AMENDED COMPLAINT FOR
DAMAGES**

-) 1. Race Discrimination, Title VII;
) 2. Retaliation, Title VII;
) 3. Retaliation in Violation of Cal. Lab. Code
) § 1102.5;
) 4. Retaliation for Exercising First
) Amendment Right to Free Speech, 42
) U.S.C. § 1983;
) 5. Retaliation, Monell Action, Based on
) Policy and/or Failure to Train or Supervise,
) 42 U.S.C. § 1983;
) 6. Race Discrimination, - FEHA;
) 7. Retaliation, - FEHA;
) 8. Race Harassment - FEHA;
) 9. Failure to Prevent Discrimination,
) Retaliation, Harassment - FEHA;
) 10. Retaliation for Taking & Requesting CFRA
) Leave - FEHA;
) 11. Wrongful Termination in Violation of 14th
) Amendment Right to Due Process, Monell
) Action, 42 U.S.C. § 1983;
) 12. Wrongful Termination in Violation of 14th
) Amendment Right to Property & Equal
) Protection - Monell Action, 42 U.S.C. §
) 1983

JURY TRIAL DEMANDED

1 Plaintiff Jonathan Portney (hereinafter “Mr. Portney”), alleges:

2 **INTRODUCTION**

3
4 1. Defendant County of Lake retaliated and summarily terminated Mr. Portney’s
5 employment as the County of Lake’s Health Services Director because Mr. Portney
6 exercised his First Amendment right of free speech pertaining to matters of public concern,
7 including: complaining about race discrimination and harassment, illegal conduct in the
8 workplace, including but not limited to: the local Fire Chiefs affecting and attempting to
9 affect, government business so they could get the contractor they wanted, to be awarded a
10 government contract; Mr. Portney repeatedly telling the new Public Health Officer that an
11 investigation into an unreported jail death needed to occur; the Board of Supervisors
12 violating the Brown Act by having Board of Supervisors’ Closed Sessions, labeled as Closed
13 Session Public Employee Evaluations for Mr. Portney, when the BOS were in fact
14 conducting government business behind closed doors. Mr. Portney is a Black man of mixed
15 race, having a Black parent and a Caucasian parent. He is perceived as Black, including being
16 perceived as a “light skinned” Black man.
17

18
19 2. Mr. Portney alleges that Defendant County of Lake’s (hereinafter “Defendant”,
20 “Defendant County”, “the County” or “Defendant County of Lake”) managing agents
21 retaliated against him for engaging in protected activity, including but not limited to,
22 expressing his First Amendment Right of Free Speech and the Right to Petition the
23 Government. Defendant treated Mr. Portney differently based on his race and was retaliated
24 against for requiring compliance with state and federal laws, and opposing violations of
25 illegal activity in the workplace, including but not limited to, race discrimination.
26

27
28 3. Federal and State Laws protect an employee who complains about unlawful

1 employment practices in the workplace. The 1964 Civil Rights Act, as amended, Title VII,
2 and the California Fair Employment and Housing Act (“FEHA”) prohibits discriminating
3 against an employee because of the employee’s race, sex, gender, perceived sexual
4 orientation, and other protected classifications. (Gov. Code § 12940, subd. (a).) The FEHA
5 further provides in Government Code section 12940, subdivision (h) that it is unlawful for
6 an employer to discharge or otherwise discriminate against a person “because the person
7 has opposed any practices forbidden under [FEHA].” The California Supreme Court has
8 instructed that Government Code section 12940, subdivision (h) therefore “forbids
9 employers from retaliating against employees who have acted to protect the rights afforded
10 by the [FEHA].” (*Yanowitz v. L’Oreal USA, Inc.* (2005) 36 Cal.4th 1028, 1035).

13 JURISDICTION

14 4. Federal question, subject matter jurisdiction exists as Mr. Portney brings this
15 action pursuant to Title VII of the 1964 Civil Rights Act, as amended, and 42 U.S.C. §1983,
16 as well as pursuant to the laws of the State of California, the California Fair Employment
17 and Housing Act. This court has jurisdiction over the subject matter pursuant to 28 U.S.C.
18 §1331, which provides that “[t]he district courts shall have original jurisdiction of all civil
19 actions arising under the Constitution, laws, or treaties of the United States. 28 U.S.C.A. §
20 1331.
21
22

23 DIVISIONAL ASSIGNMENT

24 5. Assignment of this action was initially to the Eureka Division of this Court,
25 pursuant to L.R. 3-2(f), because the events giving rise to this action occurred in Lake
26 County, California. Pursuant to Civil L.R. 3-2(g), all cases assigned to the Eureka division
27 will be assigned to a Magistrate Judge presiding in that division. Such assignments are
28

1 subject to Civil L.R. 73, and require the consent of the parties. Any case for which all parties
2 do not consent will be reassigned to a District Judge in San Francisco, Oakland, or San Jose
3 division.
4

5 6. On November 7, 2024, this action was filed. On November 14, 2024, Plaintiff
6 filed a Consent/Declination to Magistrate Judge Jurisdiction, declining magistrate
7 jurisdiction [ECF 6]. On November 19, 2024, this action was reassigned to Judge Jeffrey S.
8 White [ECF 9].
9

10 **PARTIES**

11 7. Plaintiff Mr. Portney, is a citizen of the United States of America and during
12 the time he was employed by Defendant County, was a resident of Lakeport, in Lake
13 County, CA. At all times herein relevant, Mr. Portney was an employee of the County of
14 Lake, in the position of Health Services Director, until his wrongful termination on
15 September 12, 2023.
16

17 8. Defendant County of Lake is Mr. Portney's former employer, and a public
18 entity that regularly employs more than 15 persons.
19

20 9. Defendant County of Lake is a "general law" county which adheres to state law
21 as to the number, and duties, of county elected officials. The California Constitution
22 authorizes County of Lake to make and enforce local ordinances that do not conflict with
23 general laws. Additional powers are granted to counties by the Legislature. The powers of
24 a county can only be exercised by the Board of Supervisors or through officers acting under
25 the authority of the Board or authority conferred by law. In addition, the Board must follow
26 the procedural requirements in the statutes or its actions will not be valid. If the Legislature
27 has provided a method by which Lake county may do something, that method must be
28

1 followed. Where the law does not specifically prescribe a method for accomplishing a task,
2 the County may adopt any reasonably suitable means. Defendant County of Lake was and
3 is, also responsible for complying with the laws and regulations of the United States.

4 **RESPONDEAT SUPERIOR**

5
6 10. All of the described conduct, acts, and failures to act are attributed to agents
7 and managing agents of Defendant County of Lake. Said acts, conduct and failures to act
8 were within the scope of such agency and employment. At all times relevant herein, each
9 participant was acting within the course and scope of his or her employment and agency.
10 Further, at all relevant times each Defendant was acting in agreement, and with the
11 endorsement, ratification and consent of each of the other Defendants.
12

13 **RATIFICATION**

14
15 11. Defendant County of Lake and its managing agents, in both their individual
16 and official capacities, ratified, adopted, and authorized each of the Defendants, employees,
17 agents, and managing agents' illegal conduct. Defendant County of Lake and its managing
18 agents knew or should have known, that its agents and managing agents were engaging in
19 illegal conduct and had been warned, informed, and given prior notice of the illegal
20 conducts.
21

22 12. When an employer ratifies the tortious conduct of an employee, the employer
23 becomes "liable for the employee's wrongful conduct as a joint participant." *Fretland v.*
24 *County of Humboldt* (1999) 69 Cal. App. 4th 1478, 1489-1490. An employer who fails to
25 discipline an employee after being informed of that employee's improper conduct can be
26 deemed to have ratified that conduct. *Hart v. National Mortgage & Land Co.* (1987) 189 Cal.
27 App. 3d 1420, 1430; *Iverson v. Atlas Pacific Engineering* (1983) 143 Cal. App. 3d 219, 228.
28

1 According to the court in *Iverson*, supra, if an employer is informed that an employee has
2 committed an intentional tort and nevertheless declines to “censure, criticize, suspend, or
3 discharge” that employee, a claim can be made for ratification. *Id.*

4
5 13. “Ratification is the voluntary election by a person to adopt in some manner
6 as his own, an act which was purportedly done on his behalf by another person, the effect
7 of which, as to some or all persons, is to treat the act as if originally authorized by him. A
8 purported agent’s act may be adopted expressly or it may be adopted by implication based
9 on conduct of the purported principal from which an intention to consent to or adopt the
10 act may be fairly inferred, including conduct which is ‘inconsistent with any reasonable
11 intention on his part, other than that he intended approving and adopting it.’” *Fretland*, supra
12 69 Cal. App. 4th 1491.

13
14 14. At all relevant times alleged herein, Defendant County of Lake and its
15 managing agents and/or employees, in both their individual and official capacities, had
16 actual and constructive knowledge of managing agents and/or employees illegal conduct
17 and have endorsed, ratified, and encouraged managing agents and/or employees’ illegal
18 behavior. Defendant County and its managing agents and/or employees, in both their
19 individual and official capacities, failed to take corrective action to protect Mr. Portney and
20 the public from managing agents and/or employees’ illegal behavior, which has been
21 ongoing for years.

22 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

23
24 15. Mr. Portney exhausted his administrative remedies by filing charges of
25 discrimination with appropriate federal and state agencies, obtaining right to sue letters, and
26 by complying with the Government Code. On March 8, 2024, Mr. Portney submitted his
27
28

1 Tort Claim and it was Received by Defendant County of Lake (Defendant County's form
2 is specifically titled, "Claim for Damages Against the County of Lake", but hereinafter
3 referred to as "Tort Claim") against Defendant County of Lake. The Tort Claim was
4 stamped "Received Mar 8 2024 County of Lake Board of Supervisors/Administrative
5 Office" by the Clerk of the Board. In handwriting, the clerk with Defendant County noted
6 the time of 2:09 p.m., and "County Counsel/DHS" as Department involved. Mr. Portney
7 likewise has a proof of service pertaining to the personal service of the Tort Claim to the
8 Clerk of the Board for Defendant County on March 8, 2024. The address for Mr. Portney's
9 counsel on Mr. Portney's Tort Claim, was listed as 740 4th Street, Santa Rosa, CA 95404.
10
11

12 16. Defendant County failed to send proper or timely written notice of rejection
13 to Mr. Portney or his counsel, within 45 days of receiving the claim, thus Mr. Portney has
14 two years from the accrual of the cause of action to file suit. Cal. Govt. Code §§ 911.6(a),
15 912.6, 945.6(a)(2); Code § 913, § 915.2.
16

17 17. Neither Mr. Portney nor his counsel were ever personally served with a
18 rejection letter, and a letter was never mailed to Mr. Portney's counsel's address as listed on
19 Mr. Portney's Tort Claim (the address listed on Mr. Portney's Tort Claim was):
20

21 Candice Clipner
22 740 4th Street
23 Santa Rosa, CA 95404

24 18. On May 9, 2024, Mr. Portney filed his complaint with the Equal Employment
25 Opportunity Commission ("EEOC") and asked for an immediate Right to Sue. On August
26 9, 2024, the U.S. Department of Justice, Civil Rights Division ("DOJ"), issued Mr. Portney
27 a Federal Notice of Right to Sue letter, which Mr. Portney received on August 9, 2024. The
28

1 DOJ also served the County with the Federal Notice of Right to Sue Notice letter to
2 HR@Lakecountyca.gov and to Supervisor Sabatier and previously emailed Mr. Portney's
3 EEOC complaint to Defendant County. On November 5, 2024, the County of Lake was
4 also personally served with the Federal Notice of Right to Sue letter. Mr. Portney has timely
5 filed his federal civil rights claims.
6

7 19. On September 26, 2024, Mr. Portney filed his complaint with the Department
8 of Fair Employment and Housing ("DFEH") and asked for an immediate Right to Sue. On
9 September 26, 2024, the DFEH issued Mr. Portney a Right to Sue letter. On November 5,
10 2024, Defendant County was personally served with Mr. Portney's Complaint of
11 Discrimination filed with the Civil Rights Department ("CRD") pursuant to the California
12 Fair Employment and Housing Act, and Mr. Portney's Right to Sue Notice from the CRD.
13

14 **WORKERS' COMPENSATION EXCLUSIVITY DOES NOT APPLY**

15 20. Each and every wrongful, injurious, intentional, willful, discriminatory,
16 harassing act, and failure to act, by DEFENDANTS were not normal incidents of
17 employment and were outside the scope of the employment bargain. Thus, Workers
18 Compensation exclusive remedy set forth in California Labor Code §3600 et seq. will not
19 preempt, nor bar Plaintiff's right to recover for damages set forth herein.
20
21

22 **STATEMENT OF FACTS**

23 21. On November 30, 2021, the Board of Supervisors for the County of Lake
24 announced that Mr. Portney was the County of Lake's new Health Services Director
25 effective January 10, 2022. Mr. Portney was living in San Francisco with his wife when he
26 received his offer of employment, and relocated within a few weeks to Lakeport, CA.
27

28 22. The Health Services Director position oversees all of the Health Services

1 functions for the County. On November 30, 2021, the County announced, “We are very
2 excited to partner with Jonathan Portney to further our efforts to fight COVID-19, and
3 promote the health and well-being of every Lake County resident[.]”
4

5 23. In January 2022, when Mr. Portney and his wife first came to Lake County
6 after his hiring, they witnessed what appeared to be a Confederate rally, with what appeared
7 to be hundreds of people with Confederate flags. Mr. Portney asked Ms. Hutchinson if he
8 and his wife were safe in Lake County and said he did not feel safe. Ms. Hutchinson said he
9 was, and suggested he talk to Supervisor Tina Scott.
10

11 24. On or around January 11, 2022, Mr. Portney was appointed as the County of
12 Lake’s Health Services Director. The Health Services Director position is an elected official
13 and department head, position.
14

15 25. Mr. Portney’s direct supervisors were the Board of Supervisors. The County’s
16 County Administrative Officers (“CAO”) were Carol Hutchinson first, then Susan Parker,
17 who acted as the intermediaries between the BOS and Mr. Portney.

18 26. On or around March 18, 2022, Ms. Hutchinson announced that she would be
19 retiring with her last day being April 29, 2022.
20

21 27. In or around April 2022, Mr. Portney spoke with Ms. Huchinson about the
22 racial tension he felt from Lake County staff. Certain Health Department employees would
23 repeatedly not provide him with complete or accurate information he requested, they were
24 dismissive of Mr. Portney, he would get a sigh when he asked questions or for information,
25 or was told, “We don’t do that here.” Mr. Portney would most often receive a stiff “Hello”
26 or no response to, “Hello” from several of the Health Department’s employees. Mr. Portney
27 told Ms. Hutchinson that he had already learned that Black employees and contractors did
28

1 not last in Lake County.

2 28. Mr. Portney told Ms. Hutchinson that Eileen Van Cleave, Director of Nursing
3 (in Mr. Portney's department) who is a racial minority, that she had warned him that he
4 would face hardship due to prevalent bullying and harassment, and that she was being
5 harassed by Jennifer Baker. Mr. Portney told Ms. Hutchinson that he feared for his safety
6 as a Black man in this environment. Ms. Hutchinson told Mr. Portney to not worry, and that
7 she was relatively safe despite being a lesbian in Lake County, even though there was a
8 protest at her home. Ms. Hutchinson recommended that he talk with Supervisor Scott.
9

10 29. About a week or two after talking with CAO Hutchinson, she arranged a
11 Zoom conference between Supervisor Scott and Mr. Portney. Mr. Portney told Supervisor
12 Scott that being a Black man, seeing Confederate flags, and racial tension with employees,
13 that he did not feel safe. Supervisor Scott said she heard his concerns. She said her husband
14 is Black and that their children have experienced name-calling and that she and her husband
15 have had to stand up for their kids when it comes to racism at school. Supervisor Scott told
16 Mr. Portney to talk with Fire Chief Jeffrey Thomas who was the newly appointed, and first
17 and only Black fire chief in Lake County's history.
18

19 30. In or around April 2022, Mr. Portney reached out to Fire Chief Jeffrey Thomas
20 about the racial tensions he was experiencing. Mr. Portney said he was not feeling
21 comfortable and felt like he was walking on eggshells working with the other Fire Chiefs.
22 Mr. Portney explained that the other Fire Chiefs were not showing up for meetings that he
23 facilitated but they do for others. Mr. Portney said they are not following the policies and
24 procedures that he is required to have them follow. Fire Chief Thomas agreed and said that
25 he has mentioned policies and procedures violations with the other Fire Chiefs, and
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27
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1 attempted to correct them, but they dismissed his concerns and proposals for correction.
2 Fire Chief Thomas told Mr. Portney that people like us are not welcome or wanted here,
3 especially in leadership. He told Mr. Portney that he thought Mr. Portney's race had
4 something to do with his problems with the Fire Chiefs and that he thought the same thing
5 for his problems with the Fire Chiefs. Chief Thomas told Mr. Portney that he planned to
6 resign in May due to similar problems, and the Fire Chiefs' unwillingness to address the
7 concerns Chief Thomas was raising.
8

9
10 31. On April 12, 2022, County Administrative Officer ("CAO") Susan Parker was
11 appointed Interim CAO.

12 32. On or around April 14, 2022, Supervisor Scott announced her early resignation
13 from the Board of Supervisors, and that her resignation would be effective July 31, 2022.

14 33. In or around May 2022, Lynn Brookes (Community Health Nurse) came to
15 Portney's office and mockingly said she had a gift for Portney. Upon sitting down, she
16 offered Portney a wooden whistle and placed it on his desk. Brookes said it was for his
17 safety. Brookes explained that she and Deputy Health Services Director, Jennifer Baker, had
18 discussed safety concerns Portney should have. Brookes mockingly told Portney he could
19 use the whistle if he were "under attack" and said, "and maybe someone will come and
20 help." Brookes further told and demonstrated to Portney how to use the whistle. "You blow
21 once," and blew the whistle, "you blow twice" and blew the whistle a second time. Brookes
22 then told Portney that the Fire Department Chiefs were unhappy with him, pointed to her
23 skin on her forearm (which is white) and said, "People who are different struggle here."
24 After, Lynn Brookes asked Portney if he used the whistle she gave him and then laughed.
25 Brookes also mockingly told Portney to keep the whistle nearby.
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1 34. In Mr. Portney's capacity as Health Services Director, he was overseeing a
2 Request for Proposal (RFP) previously issued by Carol Hutchinson, who was the Interim
3 Health Services Director before Mr. Portney was appointed (as well as the CAO). The RFP
4 was regarding the County's Inter-Facility Transfer ("IFT") Ambulance Services and Local
5 Emergency Medical Services System.
6

7 35. The RFP was to remedy the inadequate IFT services to meet local needs, as
8 it was not uncommon for no IFT transports to be available on some days, even though the
9 County had two, 25-bed critical care hospitals. Oversight of the IFTs was the responsibility
10 of the Local Emergency Medical Services Authority ("LEMSA"). The County's LEMS
11 contractor, North Coast EMS ("NCEMS"), had not provided solutions. Therefore, the
12 County sought bids for its IFT RFP.
13

14 36. On May 19, 2022, an award letter was sent to all proposers advising that Marsh
15 EMS Consultants' proposal was selected.
16

17 37. Before it was publicly announced that Marsh was selected, on or between May
18 19th - May 24th, 2022, Fire Chiefs Mike Ciano, Willie Sapeta, and Paul Duncan contacted Mr.
19 Portney by email protesting Marsh EMS Consultants being selected, and identified AP Triton
20 as the candidate that should have won. Mr. Portney responded that there was a panel of five that
21 decided the outcome of the bid (The fact that the Fire Chiefs were contacting Mr. Portney
22 indicated to him that his Deputy Director, Jennifer Baker, leaked this confidential information
23 to the Fire Chiefs as she was the only person in the Health Department who had access to this
24 information and Ms. Baker was very supportive of the Fire Departments' interests).

25 38. On May 23, 2022, Ms. Parker was appointed permanent CAO.
26
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1 39. On May 24, 2022, AP Triton emailed the Board of Supervisors its Letter of Appeal
2 regarding not being selected, and several layers of hearsay in support of its position that Marsh
3 EMS Consultants should not have been selected.

4 40. In or around May/June 2022, Mr. Portney told his Deputy Director, Jennifer
5 Baker, that he was trying to establish a relationship with the fire departments and they were
6 ignoring him. He was discussing policy violations from the Fire Department and LEMSA, when
7 Ms. Baker's eyes got wide and said, "Walk the line or something bad could happen to you."
8

9 41. On or around June 7, 2022, Mr. Portney had a Closed Session Employee
10 Evaluation with the Board of Supervisors, CAO Parker, and Annita Grant. Supervisor Pyska
11 asked Mr. Portney about the Letter of Appeal by AP Triton. Mr. Portney told the BOS that in
12 addition to the Letter of Appeal, Fire Chiefs Ciancio, Duncan, and Septea were interfering with
13 the RFP process by engaging with his Deputy Director Baker, to seek information on the RFP
14 outcome prior to BOS presentation & review.
15

16 42. Mr. Portney also told the BOS that Fire Chiefs had sent emails to Mr. Portney
17 after the Intent to Award was sent to Mike Marsh, and the four other companies that placed
18 bids, inquiring about Marsh's qualifications compared to AP Triton, and why AP Triton was not
19 selected. The Fire Chiefs stated that they believed AP Triton was more capable to do the work
20 than Mike Marsh Consulting. Mr. Portney informed the BOS during this closed session meeting,
21 that he felt the Fire Departments were attempting to interfere and influence the RFP process
22 because they wanted AP Triton to get the award.
23

24 43. CAO Parker said that based on what AP Triton shared, she thought it was a good
25 idea to do the RFP process over again. Mr. Portney objected, stating that the BOS had not even
26 had the opportunity to review Marsh EMS Consultants' proposal, and that the winning proposal
27 is what a group of 5 panelists decided was best for the County for the scope of work needed in
28

1 the RFP.

2
3 44. Mr. Portney told the BOS that Fire Chiefs Ciancio, Duncan, Sepeta, and AP
4 Triton, did not want Marsh EMS Consulting to receive this award because the Fire Chiefs and
5 AP Triton knew that Marsh EMS Consulting was pushing to revamp the ambulance system
6 because it was not compliant with the Lake County EMS Ordinance No. 2687, nor Ambulance
7 Operation Standards (Sec.83.2), Non-Emergency Services Operations (Sec. 83.3). Mr. Portney
8 also told the Board of Supervisors that AP Triton had a conflict of interest as they were creating
9 a strategic plan to dismantle the 1970s EMS Act which would stop private ambulances from
10 being able to co-operate with Fire Districts Operational areas, which would push out private
11 ambulances and giving the Fire Department full control.
12

13
14 45. In response, Supervisor Pyska told Mr. Portney that CAO Parker was right, and
15 that the RFP should be conducted again (this is in closed session, without verifying any of AP
16 Triton's claims against Marsh Consulting). Mr. Portney asked why, and on what grounds.
17 Supervisor Pyska told Mr. Portney that it seemed like there was tension with the outcome of the
18 winning candidate, in the view of the Fire Department, and that maybe the Fire Departments
19 should have a say in the process. Mr. Portney told Supervisor Pyska that just because there is
20 tension, that should not mean the County should not select the winning candidate and that he
21 believed a conflict of interest existed in the Fire Departments' desire to have AP Triton win the
22 contract. Mr. Portney told Supervisor Pyska that the Health Department is trying to fix the
23 problems that the Fire Departments have created. Having the Fire Departments determine how
24 the Health Department operates and when the Fire Departments are currently not meeting
25 standards did not seem appropriate. CAO Parker interjected that she would work with Mr.
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1 Portney to do the RFP process over again. Mr. Portney said that this was inappropriate. CAO
2 Parker told Mr. Portney to inform Marsh EMS Consulting that he would no longer be
3 considered for the award, and to retract the offer. Mr. Portney asked if the Board would at least
4 consider looking at the Marsh EMS proposal for consideration, to which Supervisor Pyska
5 responded, “No.”
6

7 46. Mr. Portney told the Board of Supervisors that the Fire Departments’ interference
8 was inappropriate as they were attempting to influence government business and operations. Mr.
9 Portney told the BOS that he needed a candidate like Marsh Consulting to hold the Fire EMS
10 accountable for their inability to provide services to meet the community’s and hospitals’ needs
11 for the County’s patients. He also told the BOS that he had asked the Fire Department several
12 times for records pertaining to response times & transport times to no avail.
13
14

15 47. County Counsel Grant said that she would try to help Mr. Portney get access to
16 this information through a [public records] request. Counsel Grant also said that accessing this
17 information through a request was going to be challenging because the Fire Departments is not
18 organized and was lacking in many regards. Upon conclusion of this Closed Session Meeting &
19 Evaluation, CAO Parker said she would contact Mr. Portney about redoing the RFP.
20

21 48. On June 20, 2022, Mr. Portney issued a cancellation of the RFP as directed by the
22 BOS. Despite that it was never discussed in open session with the public.
23

24 49. In or around late June 2022, Public Health Officer, Eric McLaughlin, M.D.,
25 informed Ms. Baker, in Mr. Portney’s presence, about the importance of confidentiality and how
26 she was not to share internal health department information with external partners.
27

28 50. In or around July 2022, Mr. Portney told Ms. Baker that Staff Service Analyst,

1 Kelly Hanlon, would be supporting him instead of Ms. Baker, in the second RFP process.

2
3 51. In or around July of 2022, a former Emergency Management Services contractor
4 for Lake County who is also Black, informed Mr. Portney that he was pushed out by the Fire
5 Department due to their adversarial relationship and lack of support. The contractor warned Mr.
6 Portney to be cautious in his dealings with the Fire Departments and the Board of Supervisors,
7 whom the contractor described as advocates for the Fire Departments, and said the BOS engage
8 in shady dealings in their operations.

9
10 52. In or around August 2022, Crystal Markytan, Director of Social Services, wrote
11 an email to Mr. Portney to “get in line” after he told her that his department could not have one
12 of the nurses from his department working in her department, because the County of Lake did
13 not have a Public Health Officer (PHO McLaughlin, M.D., had resigned in June 2022). Mr.
14 Portney called Ms. Markytan for an explanation as to her email regarding “get[ting] in line.” Ms.
15 Markytan told him that, “People like you” in this county had to fall in line. Mr. Portney asked
16 if she was threatening him. She said to label it as advice. Mr. Portney took her “People like you”
17 comment as racist because he is Black and she is Caucasian.

18
19 53. Plaintiff is informed and believes and alleges, that on or around August 12, 2022,
20 Deputy Director for Health Services, Jennifer Baker, informed staff at a satellite location, that
21 she and Health Programs Coordinator, Amanda Frazell, were going to frivolously manufacture
22 a letter of “No Confidence” against Mr. Portney and that the letter of no confidence was
23 sponsored by the Fire Chiefs.

24
25 54. Plaintiff is informed and believes and alleges that Ms. Baker was rallying the staff
26 against Mr. Portney and belittling him to Health Staff. Lynn Brooks (Community Health Nurse,
27 Senior) and others were also disparaging Mr. Portney amongst Health Services staff and
28

1 influential members of the public and at clinics. Ms. Brookes would go out of her way to
2 disparage Mr. Portney at clinics. Mr. Coddington complained to Human Resources, Ms. Samac,
3 about Ms. Brookes, but Ms. Brookes was thereafter promoted.
4

5 SECOND RFP

6 55. On August 29, 2022, the second RFP was announced, with proposals to be
7 submitted by September 13, 2022. The County received bids from 5 businesses, including Marsh
8 Consulting and AP Triton.

9 56. On November 7, 2022, Fire Chief Mike Ciano emailed Mr. Portney and others
10 (included BOS members) that he wanted copies of the RFP proposals and all of the score
11 sheets. Mr. Portney replied to all, that it was confidential information and that he would not be
12 provided that information.
13

14 57. On November 8, 2022, the panelists selected End Point Consulting. Mr. Portney
15 emailed all proposers that End Point Consulting was chosen.
16

17 58. In early November, 2022, Mr. Portney's son was born.

18 59. On November 14, 2022, Fire Chief Mike Ciano emailed Mr. Portney and
19 Supervisor Sabatier, Supervisor Crandall, Counsel Grant, CAO Parker, Fire Chief Willie Sapeta,
20 Fire Chief Huggins, and Fire Chief Patrick Reitz, and Fire Chief Paul Duncan, with the following
21 subject, "Protest of the EMS RFP".
22

23 Mr. Portney,

24 7 days ago I requested copies of the RFP proposals and all of the score
25 sheets. At this time (Nov 14th 4:55 pm) I have yet to receive them. I
26 understand that by policy or law you have ten days to get any records
27 requested back to the requestee. With the appeal process only 7 days there
28 is definitely reason to wonder why. I have to question your motives and any
lack of transparency. I am formally appealing the process you used in
regards to this RFP and will be attending the BOS mtg. to state my

1 concerns with awarding a contract to a company when we can not even
2 determine whether there was something to protest.

3 *Mike Ciancio , Fire Chief*

4 *Northshore Fire Protection District*

5 60. Mr. Portney replied to all that a letter of intent to award was pending, and that an
6 RFP proposer had a right to rebut the decision by sending a formal letter of appeal (Chief
7 Ciancio, however, was not an RFP proposer). Mr. Portney noted, “It becomes difficult when
8 insider knowledge is shared hindering the integrity of the process.”
9

10 61. On November 16, 2022, a staff member congratulated Mr. Portney on the birth
11 of his son and that person asked to see a photo of his son. Liberty Francis (Tobacco Program
12 Manager) was also present and when he showed the photo, Ms. Francis looked and said, “Oh.”

13 62. On or around December 5, 2022, Ms. Hanlon placed an agenda item for the BOS
14 on the County’s website, listing RFP, Successful Proposal and Approval from county counsel.
15

16 63. On or around December 5, 2022, nine health services staff employees (whom
17 Portney did not directly supervise) purportedly electronically signed (although dates of
18 signatures were not indicated) a letter “as our official [even though there is no such official
19 document] notice regarding a Vote of No Confidence (“VONC”) in County of Lake Health
20 Services Director Jonathan Portney.” Even though the letter was purportedly signed by the 9
21 staff employees, **Fire Chief, Paul Duncan, who is not an employee of the County, was the**
22 **first author of this document** and instigated this so this his preferred contractor, AP Triton
23 would get the contract.
24

25 64. Fire Chief Duncan facilitated the VONC against Mr. Portney in coordination with
26 his staff to eliminate the possibility of an audit of the Fire Department as well as policy or
27 contractual changes with the LEMSA or the EMS agency that Mr. Portney was pursuing in the
28

1 interest of public safety and adherence to health and safety codes. Chief Duncan wanted to
2 remove Mr. Portney to ensure that AP Triton would receive the 2nd RFP award, as AP Triton's
3 proposals aligned with the Fire Department's operational goals and would protect their control
4 over EMS policies. Mr. Portney believes that Chief Duncan's efforts were further influenced by
5 racial bias against him.
6

7 65. On December 6, 2022, at 8:35 a.m., **Paul Duncan** (asst. Fire Chief at South Lake
8 County Volunteer Firefighters Association, Division Chief, Operations Cal Fire North Division
9 operations chief) **via Docusign, emailed Supervisor Mike Green, the VONC Letter.** At
10 9:01, Supervisor Green forwarded the email to Mr. Portney. Not by happenstance, Mr. Portney
11 had a 9:00 a.m. Zoom meeting with the BOS. Mr. Portney also had an evaluation with the BOS
12 scheduled for December 6, 2022, but this meeting was cut short due to the VONC letter Fire
13 Chief Duncan emailed to Supervisor Green. The evaluation was rescheduled to December 13,
14 2022. At 10:37 a.m., Mr. Portney emailed Supervisor Green and Ms. Samac, that he would
15 respond to these concerns/allegations submitted by Chief Duncan and certain Health
16 Department staff. Mr. Portney emailed that the accusations were not true, that he could prove
17 it (however, he did put an email in the thread of another email the termination of Jennifer Baker
18 and the employee promotion in the same email was because Susan Parker, told him to do it).

19 66. Mr. Portney's evaluation meeting was rescheduled to on or about December 13,
20 2022.

21 67. On or around December 6, 2022, Ms. Samac was informed by Mr. Dwight
22 Coddington, amongst other things, that there was a collaborative effort to undermine Mr.
23 Portney that he was a witness to. Ms. Samac ended the meeting by asserting that his complaint
24 sounded as if he planned on suing to which Mr. Coddington replied, we "simply want to see
25 changes." Mr. Coddington is a witness to racist comments made by others against Portney.

26 68. After December 6, 2022, in or around the month of December, Kelly Hanlon,
27
28

1 told Mr. Portney that Liberty Francis¹ said she saw a photo of Mr. Portney's son and said, "It's
2 unfortunate it's mixed, it will have that hair texture, you know?"

3 69. In or around December 7-10, Mr. Portney met with Anita Grant and Pam Samac
4 at County Counsel's office in the book room. Mr. Portney told them that Ms. Baker was
5 coordinating with his staff to cause chaos and tension in his department and he felt he was being
6 harassed by multiple staff. Ms. Grant said they would contract an independent investigator,
7 Oppenheimer, and launch an investigation. Mr. Portney said that this was turning into an
8 unworkable hostile environment.

9 70. On December 8, 2022, Matthew Rothstein (Public Information Officer) told Mr.
10 Portney he just provided the VONC letter to Lake County News, Elizabeth Larsen. Mr. Portney
11 asked why he would do that when complaints are supposed to be investigated before being
12 released. He told Mr. Portney he would need to talk to Susan Parker. Mr. Portney called CAO
13 Parker and asked her the same thing. She told him to "get ahead" of what the press would write,
14 and told him to email all of his staff about the VONC.

15 **Mr. Portney's December 13, 2022 Employee Evaluation Meeting**

16 71. On December 13, 2022, Mr. Portney's Employee Evaluation meeting took place
17 (previously scheduled for December 6). Mr. Portney brought a 12 page rebuttal document to
18 the VONC letter. The BOS were present as well as CAO Parker and Anita Grant. Mr. Portney
19 said he had evidence to rebut the VONC letter and had a rebuttal letter and exhibits. Ms. Parker
20 said, "You can give those to me." She walked over to Mr. Portney and said, "I'll take that." And
21 picked up the documents. Mr. Portney said he was really disappointed with what was going on
22 with the VONC and said he feels like he is being harassed. **Supervisor Simon aggressively**
23 **said in response, "So what do you want us to do about it?"** Mr. Portney put his head down.
24 After some silence, Ms. Grant said, they would investigate, that they have great investigators that
25 they work with and they will be reaching out. Mr. Portney did say he wanted an investigation.
26

27
28 ¹ Liberty Francis also goes by "Liberty Perry".

1 72. Also on December 13, 2022, Mr. Portney reported to the BOS that he felt like he
2 was being harassed because of his race and that he did not feel safe. **Supervisor Green** said in
3 response to Mr. Portney, **“If you hear banjos coming your way or see hooded men coming**
4 **over the hill, be sure to let us know.”**

5 73. Supervisor Green’s comment was racist in and of itself and thus hostile toward
6 Mr. Portney. Supervisor Simon’s aggressive comment clearly showed that the BOS did not want
7 to be bothered by Mr. Portney’s complaints or Mr. Portney’s fears for his safety.

8 74. During the December 13, 2022 meeting, Mr. Portney not only complained of race
9 harassment orally, but also in writing. Mr. Portney’s 12 page written rebuttal to the “No
10 Confidence” letter said, “Defamation, Ageism, Racism, Whistleblower Retaliation Harassment,
11 & County Policy Violation on every page, and Mr. Portney had several exhibits with his rebuttal
12 letter that CAO Parker took. Mr. Portney verbally rebutted all of the points in the VONC letter.

13 75. On December 16, 2022, during a phone call with Fire Captain, Jim Dowdy, after
14 Mr. Portney was explaining the required process to run the Emergency Medical Care
15 Committee (EMCC), and after Mr. Portney objected to the fire department’s plan to create their
16 own policies and procedures regarding how fire department operates (the intent to bypass the
17 EMS authority (the Board of Supervisors and Mr. Portney, as the appointed Health Services
18 Director), Mr. Dowdy then said the fire department was already operating off these policies.
19 Portney responded by requesting that the fire department stop immediately, and follow the
20 county policy. **Fire Captain Dowdy paused, and said, “All right, boy” in a condescending**
21 **and derogatory manner, and hung up on Portney.** The use of the word “boy” to Mr.
22 Portney, was an unsubtle racist term that is used with the intent to subordinate and emasculate
23 Black men, and was akin to Mr. Dowdy calling Mr. Portney the “n” word.

24 76. Around mid-December 2022, County of Lake employee Crystle Williams (at the
25 time, Staff Analyst for CA Children’s Services) came to Mr. Portney’s office door, and derisively
26 told Mr. Portney that she heard he was having a problem with the Fire Chiefs, and she heard the
27 Fire Chiefs were calling him “the hard ‘R’” (Portney took this to mean the “N-” word), “boy,”
28

1 and “monkey.”

2 77. On December 22, 2022, Mr. Portney reported a harassment complaint based on
3 gender/sex, by Mr. Coddington, against Cindy Silva Brakett, to Ms. Grant.

4 78. Also on December 22, 2022, Mr. Portney received a harassment complaint against
5 Lynn Brookes from Health Programs Coordinator I2, Grace, who is a minority. Mr. Portney
6 told Ms. Grant that he had concerns with HR’s ability to handle these complaints, and that
7 employees did not feel protected when raising harassment issues. In Ms. Grace’s complaint,
8 among others, she reported,

9 • that she had previously complained to her supervisor in late April 2022 about Ms.
10 Brookes bullying behavior during Grace’s training;

11 • Grace also complained about Ms. Brookes’ apparent retaliation for Grace’s above
12 complaint against Ms. Brookes, by stating that Grace “is such a cunt” during a grant/budget
13 meeting with several people present in the summer;

14 • Grace also complained that Ms. Brookes told a caller who was concerned with
15 monkeypox, “You should cut off your penis huh?!” Ms. Brookes also laughed;

16 • Ms. Brookes was supposed to train Grace, who did not want to train her. Ms.
17 Brookes gave her misleading information regarding vaccines;

18 • Ms. Brookes told Grace not to follow CDC and State recommendations for
19 transporting refrigerated vaccines.

20 79. Mr. Portney emailed County Counsel Anita Grant that he received a harassment
21 complaint from Ms. Guintivano and that he had little faith in HR’s ability to handle the
22 accusations and that he did not believe staff were protected when claims of harassment are
23 brought forward. Ms. Grant recommended an outside investigator. Mr. Portney agreed,
24 emailing that the complaints they were receiving were alarming and that he desired a safe
25 environment.

26 80. On December 27, 2022, Mr. Portney put in a request for FMLA/CFRA leave to
27 care for his newborn child. On January 3, 2023, leave was approved for Mr. Portney, by HR
28

Director Dianna Rico for Pam Samac, for January 11, 2023 to February 8, 2023 leave.

2023

81. From January 11-February 8, 2023, Mr. Portney was approved for FMLA/CFRA leave for baby bonding.

82. On January 23, 2023, Dwight Harrington complained to Mr. Portney and others that he had been retaliated against for authoring a letter of support for Mr. Portney.

Good morning Rainy,

I've given this a lot of consideration and feel you're asking me to work in an unsafe environment given the treatment I've received in retaliation for my authoring a letter of support in Director Portney. In proximity to that office is Amanda and Charlene who co-authored the letter of no confidence in Director Portney, which I found to be wholly inappropriate as I watched Deputy Director Baker direct both of them to consider authoring such an item and leak it to the press before her termination. I also feel I am not completely out-of-line for considering this possible retaliation for my speaking about staffs worries Iyesha Miller is deflecting some of her duties – which as a result of, I would like to work with our new Equity Coordinator in building a more supportive and transparent framework to help staff feel more heard. LaTasha, Kelly, and I have been through a lot as a result of the previous deputy director's behaviors and emboldening of harassment among her favored colleagues. I would feel most productive and safe continuing to work alongside them at the 858 office. I am open to maintaining that as a secondary office, but worry about the implications for my productivity and health If forced to work in such close proximity to people who quite honestly hate me. I've watched both JP and Philip be the targets of ridicule from the clique in Public Health and do not want to be subject to it too.

83. On January 26, 2023, Matthew Rothstein, Ms. Parker's Deputy, and Ms. Parker, contacted Mr. Portney, asking him to make a presentation for the BOS. Mr. Portney asked if it could wait until he was back from Paternity Leave. Ms. Parker texted, "It's just one day." Mr. Portney worked for 12 hours but did not receive pay for working during his leave and was not able to take a different date of leave to make up for his work during leave.

84. In February of 2023 Dwight Coddington, Latasha Branch, and Cindy Silva Brakett reported to Mr. Portney that their offices' had been broken into after hours, and their personal belongings were missing, and or moved. Mr. Portney reported this to HR Pam Samac and she recommended that he check with Celia Pulido to see camera footage and gain a report of the staff key-in, where staff have to input a code to turn off the office alarm.

1 85. When Mr Portney asked Ms. Pulido for this information, she told Mr. Portney
2 that the camera footage was deleted, and that the Key-in information was erased. Mr. Portney
3 reported this to Ms. Samac, and no investigation by HR went into the matter. Ms. Branch
4 reported to Mr. Portney that these types of events, such as personal items being missing, started
5 happening in November 2022.

6 86. On or about February 6, 2023, Mr. Portney whistleblow to County of Lake's
7 investigator, Madeline Buitelaar, in an email, by providing documentation regarding the
8 falsehoods in the accusations made by the Cal-Fire Chief, Paul Duncan, and LCHD staff.

9 87. On or around February 26, 2023, Mr. Portney reported to CAO Parker and the
10 BOS pertaining to significant safety concerns and violations in the County's ambulatory care
11 system, including violations of Lake County Ordinance No. 2687, within the Fire Department's
12 Emergency Services Agency which did not meet the minimum standards in Ordinance No.
13 2687 of the Lake County Code. Emergency and Non-Emergency Services (83.1 Permits and
14 Permittees, 83.2 Ambulance Operations Standards, 83.3 Non-Emergency Services Operation,
15 and 89.1 Department Responsibilities, including the failure to prioritize emergency response
16 over inter-facility transfers. Ambulance and staff services were unavailable for emergencies due
17 to resource shortages. The Fire Department's failure to maintain emergency readiness
18 endangered public health and safety by leaving 9-1-1 calls unanswered.

19 88. On or about February 27, 2023, Mr. Portney was informed by Sutter Lakeside
20 Hospital CEO that Tim Stephens and Adventist Health COO, Dr. Evan Bloom, about delayed
21 ground transfers, with ambulance providers refusing inter-facility transfers on 2/25/2023 at
22 1315. Mr. Portney immediately reported this information to CAO Parker and the BOS in an
23 email, explaining that this directly violated the Lake County EMS Ordinance. Mr. Portney
24 further reported that he confirmed refusals by ambulance providers under Fire Chief Reitz's
25 jurisdiction. The Hospitals that had delayed transfers were causing patient harm and in violation
26 of Ordinance No. 2687, which requires prioritization of emergency services.

27 89. On March 6, 2023, Supervisor Bruno Sabatier emailed Mr. Portney for dates so
28

1 “we can sit with the hospitals and fire districts to discuss the future of IFTs and EMS services.”
2 On March 6, 2023, Mr. Portney responded, “We have to let the process work without
3 retaliation and harassment....not a Fire Department or hospital decision”

4 90. On March 7, 2023, Mr. Portney requested FMLA/CFRA leave from April 3,
5 2023 to April 24, 2023. This request for CFRA leave was approved, for baby bonding.

6 91. In or around March 7-8, 2023, Mr. Portney reported to Ms. Samac that his
7 laptop was left at his office and was now not working, and in a different position than he left
8 it. He also emailed Ms. Samac that Apple expected that it was water damage. Mr. Portney told
9 Ms. Samac that he believed this was not the first occurrence of his office being broken into. Ms.
10 Samac asked who had keys to his office. Mr. Portney said he thought only he and the interim
11 Public Health Officer, Carl Sporer, had a key (Mr. Portney shared an office with Mr. Sporer).
12 Ms. Samac advised Mr. Portney to determine who had the keys to his office and collect them.

13 92. On or around March 7 or 8th, 2023, Mr. Portney told Amanda Frazell who had
14 a key to the safe that had all the keys to all the offices, that he needed all the keys to his office
15 because he had confidential information in his office. She said, “You need to trust us.” Mr.
16 Portney said it is not a matter of trust, it is a matter of confidentiality for you and all the other
17 staff (for example, Mr. Portney had a disciplinary action on his desk for someone that was in
18 a position different on March 7, than he left it). Ms. Frazell did not respond, or give Mr.
19 Portney the keys, and walked away. Mr. Portney asked Ms. Hanlon if she could get the keys.
20 About a week later she said she was able to round up keys she was able to find for her office
21 and Mr. Portney’s and that Ms. Hanlon would keep the extra keys in her office.

22 93. On March 8, 2023, Mr. Portney emailed county counsel, Anita Grant, that
23 attorney Carlton Briggs was representing him and that he could discuss all matters on his
24 behalf, and that Mr. Briggs would reach out to her tomorrow.

25 94. On or around March 8, 2023, unbeknownst to Mr. Portney beforehand, Anita
26 Grant met with the Lakeport NAACP and discussed his employment, and aspects of the
27
28

1 investigation into the VONC letter. At no time did Mr. Portney ask County of Lake to discuss
2 his employment with the NAACP or give consent for them to discuss his employment. Mr.
3 Portney was stunned that the County of Lake was sharing matters regarding his employment
4 with the community.
5

6 95. On March 11, 2023, Sutter Health Hospital and Adventist Health reported that
7 911 calls were unanswered or delayed while inter-facility transfers were refused by Fire
8 Department EMS Services. Lakeport and North Shore Fire Departments admitted resource
9 shortages. Fire Departments failed to comply with Ordinance No. 2687 of the Lake County
10 Code. Mr. Portney immediately reported this to the BOS and CAO Parker.
11

12 96. On March 14, 2023, Mr. Portney reported to Pam Samac documentation from
13 Fire Chief Reitz who outlined ambulance 911 refusals. In a follow up phone call, Mr. Portney
14 explained that these violated Lake County Ordinance No. 2687, creating safety risks for the
15 community as well as the hospital. Ms. Samac dismissed his concerns, stating, "I am not sure
16 why you are copying me as I don't know anything about this."
17

18 97. Also on March 14, 2023, Mr. Portney presented consideration to the BOS for
19 funding for Mike Marsh EMS consulting for \$20,000 for coordinating the emergency
20 ambulance strike team that responded to the needs of the community due to the lack of
21 response for the local EMS response. Mr. Portney presented the item to the BOS, Sutter
22 Lakeside Representative Tim Stephens (CEO of Sutter), Dr. Evan Bloom (COO Adventist),
23 Sutter Lakeside Chief Nurse Executive Pauline Orr, and Adventist Health Representative, Ed
24 Beltram, were present and gave a plea to the BOS to address and fix the ambulance
25 transportation issue citing that because of the lack of services their patients are needlessly
26 suffering with long wait time at hospitals when they need to be transferred for critical care.
27
28

1 98. In around March 15, 2023, Mr. Portney received reports from his staff that their
2 offices were being broken into: Mr. Portney's Public Information Officer (Dwight
3 Coddington); Staff Service Analyst (Kelli Hanlon, who worked only with Mr. Portney); Health
4 Program Coordinator for COVID-19 outreach (LaTasha Branch), were also broken into. Mr.
5 Portney forwarded their complaints to HR, Pam Samac. Ms. Samac never communicated to
6 Mr. Portney about what if anything, the County would do to investigate these break-ins, or to
7 prevent this conduct from occurring in the future.
8

9
10 99. On or around March 17, 2023, Mr. Portney emailed a complaint against Danielle
11 Woodford to HR Pam Samac, HR Diana Rico, and Casey Moreno. Mr. Portney asked HR to
12 investigate allegations of harassment and take appropriate action. Mr. Portney complained
13 about Ms. Woodford making harassing comments based on one's gender (being a male and
14 that all males are lazy), and hostile behavior toward particularly LaTasha Branch (a Black
15 woman), James, and Kelly W. Mr. Portney reported that Ms. Branch had witnessed the bullying
16 of James by Ms. Woodford and Cindy Silva-Brackett, amongst other complaints.
17

18 100. On or around March 28, 2023, during his evaluation meeting with the BOS, COA
19 Parker, and County Counsel, Mr. Portney was presented with a document by the BOS titled
20 Lake County Fire Chiefs' Association submitted by Willie Sepeta, and addressed to the BOS
21 presented on 3/13/2023, "calling into question the need for the Mike Marsh EMS Consulting
22 for Ambulance Strike Team Support" further saying "We feel the \$20,000.00 would best benefit
23 our communities and stakeholders/partners by investing those funds to extend the
24 NCEMS/Lake County EMS Liaison position with current employee Morgan Fox. Thank you
25 for your time." Mr. Portney told the BOS that this effort to undermine his authority and
26 attempt to direct the BOS behind his back to encourage him to allocate funds to the Fire
27
28

1 Department was absolutely inappropriate. Mr. Portney outlined to the BOS the continued
2 violations of the Lake County Ordinance by the Fire Department (“health and safety violations
3 within the Fire Department’s Emergency Services Agency, which fell short of the standards laid
4 out in Ordinance No. 2687 of the Lake County Code Sec. 9-83. Emergency and Non-
5 Emergency Services (83.1 Permits and Permittees, 83.2 Ambulance Operations Standards, 83.3
6 Non-Emergency Services Operation, & 89.1 Department Responsibilities).

8
9 101. From April - August 2023, Mr. Portney also had numerous calls from blocked
10 numbers with racist comments such as the “N” word repeated in fast succession, and “Go
11 back to Africa.” Mr. Portney reported these instances to the NAACP of Lake County, who
12 advised Mr. Portney that these types of events happen to them often as well. Mr. Portney also
13 reported these events to a police officer with the Lake County Police Department.

14
15 102. On April 1, 2023, Mr. Portney reported to Mr. Guintivano that Supervisors
16 Bruno and Green seem to be providing materials and agenda items to Fire Chief Sepeta prior
17 to public knowledge and that someone on the BOS was providing the Fire Department with
18 information regarding the Health Department’s budget, as the Fire Department personnel
19 asked if he had extra money from specific budgets to buy materials and supplies, which was
20 inappropriate. Mr. Portney reported further that the Fire Chiefs were not following the
21 ordinance and were using their own rules and that the Fire Department was not allowing
22 private ambulances. Mr. Portney further reported that he did not want patients to continually
23 die unnecessarily.

25
26 103. On April 18, 2023, during a public BOS meeting, Mr Portney presented a
27 proposal to contract with Endpoint EMS Consulting in response to the second RFP to
28 evaluate the County’s inter-facility transport system and address ordinance violations. Fire

1 Chiefs Patrick Reitz and Ciancio (Northshore) and Sapeta (Lake County Fire Protection
2 District) berated Mr. Portney and accused him of being unfit for his position and argued the
3 funds should go to AP Triton, a competing bidder for the contract who was not selected.
4 Supervisors Sabatier and Green recommended pausing on the contract and the BOS voted to
5 pause the contract.
6

7 104. On or about April 18, 2023, the Board of Supervisors told Mr. Portney to table
8 this, since the Fire Department hired AP Triton out of its own funds.
9

10 105. On or around April 19, 2023, Mr. Portney emailed a 4 page harassment
11 complaint (with 2 pages typed) to Pam Samac, Ms. Parker, Anita Grant, and Mr. Briggs. His
12 complaint was based on race and the unlawful activity of the Fire Chiefs attempting to effect
13 government business so they could get the contractor they wanted to be awarded a
14 government contract that was the subject of RFP 1 and RFP 2. Mr. Portney further reported,
15 “I have heard that the Fire Chiefs listed here have used derogatory/slang statements toward me,
16 . . . B-wor[d], N-word, and most recently, a Fire Chief referred to me as “Boy” in a phone
17 conversation” Mr. Portney also reported, among other matters, that he wanted the racial
18 slurs, “and misconduct like BAV [Brown Act Violations] from the Fire Chiefs Association and
19 a few of the County of Lake by the BOS to stop. I have little hope for change, considering I
20 have been advocating for support for the last 6 months, with little communication from those
21 I am reaching out to for support.”
22

23 106. On or around April 20, 2023, Mr. Portney complained to Ms. Samac of ongoing
24 harassment, bullying, and being subject to false accusations. Mr. Portney noted that anger from
25 people could be seen during public board meetings and that he has been subjected to the same
26 in person. Mr. Portney wrote that other minority colleagues have faced similar experiences and
27
28

1 that he was concerned about his and their well being. Mr. Portney further reported receiving
2 anonymous phone calls expressing disgruntlement and hate due to his efforts to address health
3 equity and racism as a public health principle. Mr. Portney reported that he was concerned for
4 his safety and his family's, and so requested to work remotely. Supervisor Pyska asked Mr.
5 Portney where he would work remotely. Mr. Portney said he thought it would be best if he
6 moved out of Lakeport to Hidden Valley (the next town). Supervisor Pyska disregarded his
7 request and said, "That is still in the County." Mr. Portney reported that people had called him
8 telling him that he "should go back to Africa."
9
10

11 107. On or about April 26, 2023, Ms. Parker emailed Mr. Portney that his request to
12 work remotely would need to be approved and signed by the Board at his follow-up evaluation,
13 as the Board approves remote work requests. Ms. Parker noted that she scheduled his follow
14 up evaluation with the Board on May 2, 2023 as a closed session item.
15

16 108. On April 26, 2023, Ms. Samac emailed Mr. Portney and others that Van
17 Dermiden Makus Investigations Law Firm had been engaged to investigate his complaints of
18 harassment, discrimination, bullying, and/or retaliation. Christina Petricca was the attorney
19 investigator assigned to investigate these allegations. Mr. Portney expressed concern via an
20 email to Pam Samac, County Counsel, and Susan Parker, about the County's failure to provide
21 follow-up or results on his harassment complaint in December 2022.
22

23 109. On April 28, 2023, Ms. Petricca introduced herself via email to Mr. Portney and
24 confirmed she was conducting an investigation into his complaints.

25 110. On April 28, 2024, Mr. Briggs replied to Ms. Petricca's email confirming that he
26 was representing Ms. Portney.

27 111. On May 1, 2023, Ms. Petricca emailed Mr. Portney that she was an attorney
28 retained by Lake County to conduct an investigation into his concerns.

112. On May 2, 2023, during a closed session BOS meeting for Mr. Portney's Employee Evaluation (Ms. Parker was also present and County Counsel), Mr. Portney reiterated and expressed the ongoing violations of Ordinance No. 2687. Mr. Portney reported to the BOS that health and safety codes were still being violated by the Fire Department, the Lake County Ambulance Ordinance was still not being followed, that the Fire Chiefs were still interfering with the RFP. Mr. Portney said there was lack of support from the BOS, County Counsel, and CAO was absent (meaning of no help). Mr. Portney told the BOS that he felt that they were internally blocking his efforts to address the issues with the RFP and Fire Chiefs to favor and protect the Fire Department. Mr. Portney recommended that they allow him to continue to have Endpoint Consulting address these violations and policy failures. Supervisors Sabatier and Green stated they were aware there were problems with the Fire Departments' EMS operations, but said to cancel the second RFP decision to award the contract to EndPoint Consulting. Mr. Portney objected, saying that Endpoint was the validly chosen proper candidate who was chosen by a panel after the first RFP that was also thrown out. The BOS then said to table the topic for a follow-up meeting with the BOS and Mr. Portney, but the meeting never occurred.

113. On or around May 4th, 2023, Mr. Portney thereafter had a Zoom meeting with Ms. Petricca and Mr. Briggs, and Mr. Portney reported what he believed to be unlawful conduct, including unlawful harassment, discrimination, and retaliation, violations of laws, including:

- that a Fire Chief referred to Mr. Portney an "boy" in a telephone conversation;
- that staff reported to him that he was being referred to as a "nigger" and "monkey";
- Mr. Portney referenced a complaint by former HR Director (a Black woman), Pam Nichols, against Ms. Parker wherein Ms. Parker was accused of harassing behavior;

- that there were violations of the ambulance ordinance by the Fire EMS providers, Browns Act Violations taking place by the BOS having closed door conversations and decision making by the BOS which should be public discussion, including but not limited to:

→ Mr. Portney reported that the BOS were engaging in decision making outside of properly noticed public meetings by holding private, sequential conversations to make decisions, bypassing public transparency.

→ Mr. Portney reported that Supervisors Green and Sabatier were actively participating in the EMCC/IFT committees together, and creating and reviewing policy in these meetings, then taking that policy they created and presenting it back to themselves in BOS open session for approval. Mr. Portney said this was a conflict of interest and that the EMCC meetings did not follow Brown Act Compliance.

→ Mr. Portney reported that the BOS would list closed session meetings under the pretext of “employee evaluation” for Mr. Portney. During these sessions, the BOS would discuss county business, including the Fire Chiefs’ obstruction into the RFP process so that its chosen contractor would be used. These discussions directly impacted county operations and decision-making, were not agendized, and in violation of the Brown Act, thereby bypassing public transparency, and a fair and equal bidding process as required.

→ the Board used closed sessions to deliberate on the RFPs and public contracting which are not allowed exceptions. All discussion of the RFPs were not in an open forum in violation of the transparency requirements of the Brown Act.

→ Mr. Portney reported that he was asked to make a presentation and present it while he was on approved paternity leave. Mr. Portney agreed because he feared retaliation if he did not. He spent about 2 days and 12 hours preparing the presentation;

→ Mr. Portney reported that the LEMSA contracted by the County was not fulfilling its contract resulting in limited to no monitoring of local EMS services. Mr. Portney

1 further reported that the BOS had been repeatedly notified of these failures by LEMSA, but
2 failed to enforce their requirements under the contract with the County;

3 → Mr. Portney reported inadequate ambulance staffing by the local EMS
4 agency, and reported how this was a violation of the ordinance, and health and safety codes.
5 Mr. Portney reported continually informing the BOS of this inadequacy.

6 → Mr. Portney also reported that the County was in violation of California's
7 Health and Safety Code requirement by not having a full time Public Health Officer, and as a
8 result, the clinical providers (Public Health Nurses) had no clinical supervision of their patient
9 care. Mr. Portney further reported that he repeatedly tried to get the County to comply with the
10 Health and Safety Code requirements and reported that he has complained repeatedly about
11 the lack of a full time PHO.

12 → Mr. Portney reported workplace harassment and retaliation by Lake
13 County staff being motivated by race and in retaliation for Mr. Portney complaining that the
14 VONC was based on race and in retaliation for the RFP not going the way the Fire Chiefs
15 wanted it to, and in retaliation for the termination of Jen Baker as a result of Mr. Portney's
16 complaint. Mr. Portney further reported that he felt HR was contributing Mr. Portney being
17 retaliated because Pam Samac was friends staff and she was protecting staff but not Mr.
18 Portney.

19 → Mr. Portney reported that Dwight Coddington complained of harassment
20 and that Mr. Coddington also complained about others making racist derogatory comments
21 about Mr. Portney in Mr. Harrington's presence, which was not addressed by Human
22 Resources.

23 → Mr. Portney reported that the County leaked the VONC to Lake County
24 News immediately after it occurred and before any investigation took place.

25 → Mr. Portney reported that his office was being repeatedly broken into and
26 that his personal items were being tampered with.

27 114. On or around May 9, 2023, the Fire Department (Lakeport Fire Dept.) put on
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1 their agenda for a vote of no confidence for Health Services Director, Mr. Portney.

2 115. On May 9, 2023, Dwight Coddington emailed Mr. Portney, the Board of
3 Supervisors, Ms. Samac, the Grand Jury, and Rainy Grafton, that he received Ms. Samac's voice
4 mail but that he was requesting all future correspondence be in writing. Mr. Coddington wrote
5 that he was not interested in participating in another investigation as [a prior investigation] felt
6 as if it was meant to discredit those who reported harassment, discrimination, retaliation, and
7 prejudice the employees have witnesses and endured. Mr. Coddington further wrote the County
8 was obliged to provide him with a harassment free environment but instead encouraged and
9 empowered individuals by declining to discipline. Mr. Coddington further wrote that "Jennifer
10 Baker championed the horrible character assassination of Mr. Portney, empowered harassment,
11 and eventually coordinated with those she she [sic] promoted . . . to retaliate and publicly
12 destroy Mr. Portney's reputation, career, and the precious experience of his son's birth."

13 116. Mr. Portney emailed the Grand Jury that the harassment and targeting against
14 him and staff needs to be investigated and that he could attest to Mr. Coddington's letter and
15 would support the Grand Jury's investigation into his letter and the falsehoods in the Vote of
16 No Confidence.

17 117. In or around May 16, 2023, Mr. Coddington informed Mr. Portney and Ms.
18 Petriccia that Ms. Baker had given him the nickname "Skippy" and referred to him as Skippy
19 to others often in front of Mr. Coddington. Mr. Portney viewed this as a derogatory racist
20 comment, and that "Skippy" was a comparison to the color of Skippy peanut butter and Mr.
21 Portney's light skin color as a mixed race Black man, also having a Caucasian parent.

22 118. On or around May 19, 2023, Mr. Portney and Ms. Petricca had a second Zoom
23 meeting wherein Mr. Portney further complained about continued harassment by the Fire
24 Chiefs and the County not having a full-time Public Health Officer ("PHO") which is a
25 violation of health and safety codes. Before this second Zoom meeting, Mr. Portney had sent
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1 Ms. Petricca documents that showed that Ms. Parker was passing Dr. Karl Sporer off as the
2 County's PHO, who was only a very part-time medical consultant pursuant to his contract with
3 the County.

4 119. On May 31, 2023, Pam Samac emailed Mr. Portney re: "Outcome of Complaint
5 Investigation Conducted by Oppenheimer Investigations Group" and advised that the
6 investigator found that Chris McSorley subjected Mr. Portney to harassment and abusive
7 conduct. Mr. Portney was informed by Ms. Samac, The County's Harassment Policy defines
8 "harassment" as (1) derogatory comments, jokes, slurs, or epithets; (2) assault, impeding or
9 blocking movement, gestures, any physical interference with normal work movement; (3)
10 derogatory posters, letters, poems, graffiti, cartoons, or drawings; or (4) sexual harassment.
11 Further, California law defines "abusive conduct" as conduct in the workplace, with malice, that
12 a reasonable person would find hostile, offensive, and unrelated to an employer's legitimate
13 business interests. Abusive conduct may include repeated infliction of verbal abuse, such as the
14 use of derogatory remarks, insults, and epithets, verbal or physical conduct that a reasonable
15 person would find threatening, intimidating, or humiliating, or the gratuitous sabotage or
16 undermining of a person's work performance.

17 120. On May 31, 2023, Mr. Portney emailed Mr. Guintivano that the Oppenheimer
18 investigation concluded that McSorley was found to have engaged in harassing and abusive
19 conduct toward him and as a direct consequence of the harassment he incurred expenses
20 including a defamation/reputation consultant who charged \$1500 down payment and monthly
21 fees of \$750 to shield him from false claims that McSorley was perpetuating and the continued
22 effort with staff members coordinating with Lake County news to find ways around his attempt
23 to block the attacks. Mr. Portney explained that the costs caused considerable financial strain
24 and requested guidance on how he might seek reimbursement. Mr. Guintivano never
25 responded to Mr. Portney.

26 121. From June 1-July 3, 2023, Mr. Portney baby bonding FMLA/CFRA leave.
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1 122. On June 6, 2023, Mr. Portney reported in an email to Christina J. Petricca that
2 Liberty Francis filed a grievance against him and that he believed the grievance was in
3 retaliation for his previous complaints of racism, harassment, sexism, and ageism within the
4 context of a now closed investigation involving the false allegations in the VONC (Vote of No
5 Confidence).

6 123. On or around June 7, 2023, Mr. Portney, Mr. Guintivano, and Ms. Samac
7 received Ms. McSorley's Civil Rights Department charge electronically. Mr. Portney
8 electronically asked Mr. Guintivano and Ms. Samac if he needed to respond and neither ever
9 answered his question.

10 124. On June 20, 2023, Alik Ourfalian emailed Mr. Portney's counsel and Ms. Samac
11 a summary of the outcome of the "OIG investigation" which found that McSorley, Woodford,
12 and Lynn Brookes engaged in harassing conduct toward Mr. Portney. This investigation found
13 that race was not a factor, which Mr. Portney disputes.

14 125. On July 3, 2023, Shane French the Director of Information Technology emailed
15 Mr. Portney that Lynn Brooks still had access to the Health Service Department Server and
16 emails. He told Mr. Portney this because Mr. Portney noticed activity in Lynn Brooks employee
17 file, and he was concerned about a hack or HIPPA violations if someone had access outside
18 of the network. Mr. French said the only way this would be possible is if there was a transfer
19 of a staff member from one department to another. Mr. French apologized for the policy
20 violation and acknowledged the county's "Standard Operating Procedure" failure. Mr. Portney
21 expressed to Mr. French that he was concerned about HIPPA violations because Lynn Brooks
22 was no longer an employee. Kelli Hanlon & Nurse Kristina Vessingar informed Mr. Portney
23 of Ms. Brooks continuing to defame Mr. Portney. Mr. Portney sent a message to the Board of
24 Supervisors, Mr. Guintivano, and Wellpath Director David G. No one responded to Mr.
25 Portney's complaint regarding Lynn Brooks.

26 126. On or around July 6, 2023, when Portney was on a phone call with the CEO of
27 Sutter Health, Timothy Stevens, Supervisor Bruno, and the CEO of Adventist Health, Colleen
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1 Assavapisitkul, to discuss how to get the Fire Departments to follow ambulance ordinances,
 2 **Stevens said that he talked with Fire Chief Patrick Reitz the other day, and Reitz told**
 3 **Stevens that “he was not going to talk to people like you.”** Stevens said Reitz was referring
 4 to Portney. **Portney took this as a racist comment.**

5 127. Also on July 6, 2023, Mr. Portney observed he had two flat tires after he got off
 6 of work. When he took his car in the same day, he learned that he had nails in all four of his
 7 tires, and had to replace all 4 tires.

8 128. On July 19, 2023, Ms. Petricca emailed Mr. Portney that she did not have
 9 authority to investigate most of his complaints. She wrote that the County only authorized her
 10 to investigate only the following allegations:

- 11 - You alleged that since approximately December 2022 Lake County Fire Protection
 12 District Chief William Sapeta, North Shore Fire Protection District Chief Michael
 13 Ciancio, South Lake Fire Protection District Chief Paul Duncan and Lakeport Fire
 Protection Chief Patrick Reitz have made race-based comments about you.
- 14 - You alleged that during a phone call in December 2022 and at an IFT EMCC Meeting
 15 in April 2023, Kelseyville Fire Protection District Captain Jim Dowdy made race-based
 comments.
- 16 - You alleged that on January 26, 2023 Chief Administrative Officer Susan Parker asked
 you to return from paternity leave to attend a meeting on January 31, 2023.
- 17 - You alleged that during a meeting on March 30, 2023, between the local Fire Chiefs,
 18 Sapeta made “negative” comments about you.
- 19 - You alleged that in early 2023, Public Health Nurse Carol Morgan “disparaged” you to
 20 a new staff member.

21 I understand you have made additional allegations, however, I have not been authorized to
 22 investigate the other allegations you have made. If you have any questions about the scope of
 23 the investigation please contact Pam Samac.

24 129. The Courty did not therefore authorize Ms. Petricca to investigate Mr. Portney’s
 25 numerous complaints against the BOS for Brown Act violations, the County not having a
 26 lawful PHO, and other complaints.

27 130. On August 2, 2023, Mr. Portney reported to Lake County’s investigator, Christina
 28 J. Petricca that he felt he would be retaliated and fired for the complaints he made. Mr. Portney

1 reported that he was being excluded from events, and Ms. Parker was directing his Deputy
2 Director to do tasks that he should be doing, and people were being moved and/or recruited
3 from his department to work in Ms. Parker's department and other County agencies.

4 131. On August 3, 2023, Mr. Portney emailed Lake County News regarding a recent
5 article about him being false, and that the accusations against him in the VONC were false, that
6 the Oppenheimer Investigation Group concluded that the allegations made against him in the
7 Vote of No Confidence were unfounded and that it was concluded that Mr. Portney was
8 harassed. He requested that some articles be taken down.

9 132. On August 4, 2023, Ms. Samac emailed Ms. Grafton and cc'd Mr. Portney a list
10 of the things that Ms. Grafton thought they would need for the new PHO. Ms. Samac asked
11 Ms. Grafton to add to the list as needed. Mr. Portney emailed both minutes later, asking if there
12 was a reason the request was presented to Ms. Grafton and not him, given the organization
13 chart. Mr. Portney did not receive a response.

14 133. On August 4, 2023, Mr. Guintivano informed Mr. Portney's counsel in a
15 telephone conversation that Mr. Portney violated policy by contacting Lake County News and
16 discussing the Oppenheimer investigation results, despite it being Mr. Portney's First
17 Amendment Right to do so. Mr. Guintivano disagreed.

18 134. On August 4, 2023, Mr. Portney complained to Ms. Parker via email that she and
19 Ms. Samac delegated tasks to Deputy Director Rainy Grafton that should have been Mr.
20 Portney's based on the organizational chart. He complained that he asked her and Ms. Samac
21 before, and was asking again if there was a reason these tasks were being delegated to his
22 Deputy Director. Mr. Portney then reported to Ms. Petricca in an email that he had essentially
23 been stripped of duties and that he asked for justification but received no response. Ms.
24 Petricca also did not respond.

25 135. In or around early to mid-August, 2023, Ms. Samac asked Mr. Portney to move
26 out of his office. As a result, he worked in the lobby or common areas as there was no available
27 offices in the main building or the satellite location.
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1 **August 16, 2023 Ad Hoc Meeting**

2 136. On August 16, 2023, Ms. Parker requested an ad hoc meeting with Mr. Portney,
3 Supervisor Eddie Crandall, and Board Chair Jessica Pyska. Once Mr. Portney arrived at Ms.
4 Parker's office, she noticed that only Ms. Parker and Supervisor Pyska were present. Mr.
5 Portney asked where Supervisor Eddie Crandall was, and Ms. Parker replied, "He is busy and
6 will not be joining us." Mr. Portney expressed his concern, saying, "I thought the agreement
7 was that two board supervisors would be present for these conversations." Board Chair Jessica
8 Pyska responded, "Well, we are here, have a seat."

9 137. Ms. Parker provided Mr. Portney with his May 2023 Goals and Objectives list,
10 which was given to him after his last evaluation (and Mr. Portney provided it back to Ms.
11 Parker before 8/16/23). Ms. Parker provided what he has given her, which was signed by Mr.
12 Portney on May 15, 2023, and highlighted in pink and green pen. Ms. Parker also gave him an
13 unsigned Goals and Priorities page without any highlighting. Ms. Parker asked Mr. Portney to
14 sign the unsigned Goals and Priorities document. Mr. Portney noticed the unsigned document
15 was different from the one he signed on May 15, 2023. Mr. Portney asked Ms. Parker why one
16 copy of the Goals and Priorities document was missing information. Ms. Parker said, "It looks
17 the same to me; can you sign it, please?" Mr. Portney informed her that he would need to
18 review it first as he could tell the new document Ms. Parker wanted Mr. Portney to sign was
19 different. Ms. Parker insisted, "It's the same thing; if you can just sign it and give it back to me
20 now." Mr. Portney reiterated that he would need to review it because the documents were not
21 the same. Mr. Portney pointed out the missing text in the unsigned document. Mr. Portney
22 also pointed out that the new document he was being presented with to sign was backdated to
23 May 2, 2023, and requested a new copy of the document with the current date. Ms. Parker did
24 not respond in any way to Mr. Portney's comments.

25 138. Ms. Parker asked "Have you completed the 7 Recommendations in the After
26 Action Report, Any Positive Change MOU, and Tobacco Retail License" Mr. Portney
27 responded that the seven (7) Recommendations in the After Action had been addressed, and
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1 said there was only one (1) recommendation that pertains to the Health Department and said
2 he had a meeting with the partners to address the issue the other six (6), that he recommended
3 the Board establish a point person to address the issues because he does not oversee those
4 agencies.

5 139. Ms. Parker said, “Ok, what about Any Positive Change MOU?” Mr. Portney
6 replied the MOU was complete, and was with APC’s legal counsel for review. Mr. Portney told
7 Supervisor Pyska and Ms. Parker that APC was reluctant to sign because they do not trust the
8 Board of Supervisors because of the historical political attacks on their harm reduction
9 program. Mr. Portney said Annina (van Vourene, CEO for Any Positive Change (“APC”) was
10 particularly upset about Supervisor Crandall’s wife calling for violence against Annina and Any
11 Positive Change. Ms. Parker asked about the violence, and Mr. Portney said you will need to
12 talk to APC or Supervisor Crandall. Mr. Portney said that he had completed the task and was
13 waiting for a copy to come back to him after their review and said that APC is approved by the
14 State, and APC does not have to sign a MOU with the County if they do not want to and the
15 County cannot force APC to sign a contract to engage with the County if it does not desire to
16 do so. Mr. Portney also said that Kim Tengermann and Philip Wegner told him that they were
17 witnesses to the County’s appointed PHO yelling at Annina in a recent meeting which did not
18 help with the County’s effort.

19 140. Ms. Parker then asked, “What about the TRL?, you know, the Tobacco Retail
20 License?” Mr. Portney said the documents should be with County Counsel, as he had asked his
21 Deputy to submit the TRL for review and said that he would check on it. Mr. Portney
22 expressed that he accomplished the objective of completing the TRL. He then told Ms. Parker
23 and Supervisor Pyska that it was difficult to get done because he was still experiencing
24 harassment, retaliation, and bullying. Mr. Portney told them that Liberty Francis was refusing
25 to participate in the TRL process as her job function, and was refusing to take direction from
26 Mr. Portney. Mr. Portney further reported that Supervisor Bruno asked Ms. Francis to work
27 on this task, but Ms. Francis refused.
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1 141. Supervisor Pyska then asked Mr. Portney how he thought he did with the
2 objectives. Mr. Portney told Supervisor Pyska that he successfully completed them, and showed
3 them both supporting documentation, and said that he found it incredibly difficult due to the
4 bullying, harassment, and insubordination that continued, despite requests for support from
5 HR (Pam Samac). Supervisor Pyska expressed surprise, "That is still going on? There's more?"
6 Mr. Portney confirmed, "Yes, it's still going on, and I am disappointed that I have not been
7 given any further outcome to my requests to investigate the Vote of No Confidence and the
8 harassment by identified staff members," and listed the names of the individuals who signed
9 the vote of no confidence who were still harassing him. Supervisor Pyska said, "Wait, Paul
10 Duncan hasn't apologized to you?" Mr. Portney replied, "No." Supervisor Pyska then said,
11 "Jonathan, you are the director of the department; you need to figure it out." Mr. Portney
12 responded, "I am trying, but I'm not getting the support from HR to be able to do my job." Ms.
13 Parker added, "Well, these kinds of processes can take some time, and it's costing a lot of
14 money." Ms. Parker paused for a few seconds and then said, "We invest in our young people,
15 you know, like Matthew." Mr. Portney said, "Well, that's great for Matthew, I'm happy for
16 him."

17 142. Mr. Portney asked Ms. Parker and Supervisor Pyska when he should be expecting
18 the result of his harassment investigation and what was going to be done about getting support
19 when it comes to the insubordination of Health Services staff. Ms. Parker looked at Supervisor
20 Pyska, quickly stood up, walked behind Mr. Portney, and made a motion with her hand towards
21 her neck/throat to Supervisor Pyska, suggesting to stop the conversation (Mr. Portney could
22 see this in the reflection of the window in Ms. Parker's office because her office has floor-to-
23 ceiling glass). Mr. Portney asked Ms. Parker, "What was that about?" She dismissed it, saying,
24 "Oh, nothing," and began to sit back down, then said, "I think the word you're looking for is
25 'difficult'." Mr. Portney corrected her, "No, the words are 'insubordination' and 'harassment.'"

26 143. Ms. Parker then said, "How about we end on a positive note? What is something
27 good that is going on with you?" Mr. Portney responded that he was enjoying his time with his
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1 newborn and that he was looking forward to taking paternity leave. Ms. Parker asked, “When
2 are you taking Paternity Leave again?” Mr. Portney gave her the predicted dates of October 23,
3 2023-November 6, 2023. Ms. Parker and Supervisor Pyska wrote notes. Ms. Parker then
4 concluded the meeting. At no time was Mr. Portney or his work performance criticized.

5 **Ms. Parker Approves Merit Pay Increase for Mr. Portney**

6 144. On August 16, 2023, Ms. Parker signed an approval for Mr. Portney to receive
7 a merit increase to \$12,608.00 per month (effective retroactive to July 22, 2023).

8 145. On August 17, 2023, Ms. Parker, Ms. Rico, and Mr. Portney electronically signed
9 Mr. Portney’s merit increase

10 146. On August 25, 2023, a file was created “Adopt Proclamation Designating the
11 Thirty-First Day of August as International Overdose Awareness Day” for the BOS on
12 September 11, 2023.

13 147. On August 30, 2023, Mr. Portney emailed the Board of Supervisors and
14 expressed that Lynn Brookes, who was now working at Wellpath, after she was identified as
15 harassing him, was continuing to harass and defame him to his staff at work gatherings. Mr.
16 Portney expressed concern for how this was impacting his working relationship with Wellpath.
17 Mr. Portney reported that Lynn Brookes was making comments that he was not qualified for
18 his job, that he was bad at his job, and that Mr. Portney should not be working in “this county.”
19 He did not receive any response.

20 148. On or around the last week of August/first week of September 2023, a Grand
21 Juror came to Mr. Portney’s office. Mr. Portney asked if the Grand Jury received the complaint
22 he emailed, and if they would be looking into his claims of harassment. The Grand Juror
23 responded they were looking into it.

24 **Portney’s repeated requests for investigation into unreported Jail Death.**

25 149. On or around the end of August, 2023, David Garzoli, the Lake County
26 Jail’s Wellpath Medical Director, informed Mr. Portney of an inmate drug overdose and
27 death.
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1 150. On or about September 1, 2023, Dr. Noemi Doohan started working as
2 the new Lake County Public Health Officer. The County of Lake had been unlawfully
3 without a full-time Public Health Officer which Mr. Portney had complained about for the
4 past year and to Ms. Petriccia. Mr. Portney met with Dr. Doohan and notified her of an
5 overdose and death in the jail and told her an investigation was required into what
6 happened.

7 151. On or about September 6, 2023, Mr. Portney met in person with Dr.
8 Doohan for about an hour and a half. Dr. Doohan asked Mr. Portney to help her establish
9 goals and objectives for her job to present to Ms. Parker later that afternoon. Mr. Portney
10 said he could give her his recommendations. Mr. Portney again mentioned the overdose in
11 the jail, the lack of a proper jail inspection, and that she needed to perform an investigation
12 into the jail death, and how the death was not reported and/or reported properly. Mr.
13 Portney told Dr. Doohan about continued ambulance ordinance violations and illegal
14 activity occurring with the local fire department and the Local Emergency Services (EMS)
15 Agency and how their actions went against the Health and Safety Code and the Lake
16 County Ordinance. Mr. Portney told her that if she wanted goals and objectives, addressing
17 these would be his recommendation for a good start. Mr. Portney told her that he had been
18 trying to address these issues, but that he was ignored when he brought these problems to
19 leadership's attention. As the Public Health Officer, Dr. Doohan was the designated
20 authority to investigate jail deaths, as outlined in the Jail Medical contract with the County of
21 Lake. Dr. Doohan said she was meeting with Ms. Parker that afternoon, and would talk
22 with her about what they discussed about the jail death and needed investigation.

23 152. On or about September 7, 2023, Mr. Portney and Dr. Doohan met again.
24 Mr. Portney asked Kim Tengermann and Kelli Hanlon to join him in a meeting with Dr.
25 Doohan yet again to discuss his concerns about the unreported overdose in the jail and the
26 need for a jail inspection to be conducted by an official PHO (according to Sheriff Martin)
27 because a proper jail inspection had not been done in more than 2 years(Health officers are
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1 required to inspect jails in California at least once every two years (California Health and
2 Safety Code § 1241). At this meeting, Mr. Portney provided Dr. Doohan with the necessary
3 documents to conduct the jail inspection and inquired about investigating overdoses in the
4 jail. Dr. Doohan spoke about preventative measures that the jail could take, such as during
5 intake, the jail personnel could administer Narcan to inmates who are perceived to be high
6 on drugs. Mr. Portney questioned the ethics and/or legality of that proposed
7 implementation; Dr. Doohan said she would look into it.

8 153. Mr. Portney believes the death was never reported by the County of Lake or
9 the Lake County Sheriff's department, in violation of Assembly Bill 2761 and Penal Code
10 10008, which requires the County to report and post specific information within 10 days
11 whenever a person dies in the County's custody, and the Death in Custody Reporting Act,
12 which requires a local jail, local law enforcement, to report death information on a quarterly
13 basis, and in violation of other laws. During Mr. Portney's employment, the County of Lake
14 County had not reported an in custody death since April 15, 2023. (Currently, the last deaths
15 that are reported for the County of Lake are April 15, 2023 and June 17, 2024).

16 **9/8/23 Request for FMLA/CFRA Leave & Parker's Deficiencies Letter**

17 154. On September 8, 2023, Mr. Portney submitted his FMLA/CFRA baby
18 bonding leave from October 23-November 6, 2023 via email to Ms. Samac and Ms. Rico.

19 155. On September 8, 2023 at 2:52 p.m., Ms. Parker emailed Mr. Portney a
20 pretextual "Notice of Performance Deficiencies Identified After Review of Goals and
21 Objectives at an Ad Hoc Meeting on August 16, 2023." Ms. Parker informed Mr. Portney
22 that she was going to share the Deficiencies Letter document with County Counsel and the
23 Board of Supervisors. Ms. Parker requested Mr. Portney provide a response to her
24 accusations the same day. Mr. Portney requested that his rebuttal and response be submitted
25 and attached along with Ms. Parker's pretextual "Deficiencies" letter. However, months
26 after his termination, Mr. Portney's rebuttal response was not included in his personnel file.
27 Mr. Portney's rebuttal outlined that Ms. Parker's assessment was false and the objectives
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1 were complete. Mr. Portney's rebuttal was sent to the Board, County Counsel, and Ms.
2 Parker.

3 156. On September 11, 2023, Mr. Portney met with Dr. Doohan and informed
4 her that it was Overdose Awareness Month and that it was on the Agenda tomorrow, that
5 Mr. Portney's Department was presenting to the BOS a Proclamation Designating the
6 thirty-first day of August as International Overdose Awareness Day. Mr. Portney then again
7 expressed his concern to Dr. Doohan about the jail overdose death and that no
8 investigation had been yet being conducted in the jail. Mr. Portney again asked Dr. Doohan
9 to conduct a proper jail assessment and investigation. Dr. Doohan said she would need
10 some time to review how to conduct a jail assessment and investigation. Dr. Doohan told
11 Mr. Portney that she would be meeting with CAO Susan Parker in the early afternoon to
12 discuss Mr. Portney's request for an investigation into the jail death amongst other topics.
13 Mr. Portney asked Dr. Doohan if she would mind that he not be present for the meeting
14 because he was whistleblowing about illegal activity and was already being targeted because
15 he complained about harassment and asked for investigations.

16 Portney's 9/12/23 Termination

17 157. On Sept. 12, 2023, it was on the Board's agenda to Adopt Proclamation
18 Designating the Thirty-First Day of August as International Overdose Awareness Day. Mr.
19 Portney went home sick around 2:00 p.m. He asked Ms. Hanlon to put him down for sick
20 time. At 4:21 p.m., CAO Parker texted Mr. Portney, "The BOS has requested your presence
21 in the Chambers. Please advise arrival."

22 158. Mr. Portney responded that he went home sick around 2:00 p.m., and had
23 been working from home. He asked what this was regarding and wrote that he could Zoom
24 in if that option was available. Ms. Parker did not respond.

25 159. After 5:00 p.m., the Board of Supervisors, after closed session terminated
26 Portney after a motion and vote by the Board of Supervisors. At 5:37 p.m., County Counsel
27 emailed Mr. Portney a Release Agreement. At the time of Mr. Portney's termination, he was
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1 earning \$12,608 per month and did not have health insurance through the County of Lake.
 2 Portney was effectively offered about \$50,432.00 (4 months of salary) and had until
 3 September 18, 2023 to accept. Mr. Portney was terminated while some of his complaints
 4 were purportedly still under investigation with Ms. Petricca, and in retaliation for making his
 5 numerous complaints.

6 160. On September 14, 2023, at 9:46 AM, Susan Parker emailed Mr. Portney a
 7 memorandum, an “Appendix A” the explanation was that Plaintiff’s termination was
 8 “Management At-Will” (“For Cause” termination was not checked) and a form about
 9 unemployment as well as a General Release in exchange for about four months of pay.

10 161. Weeks after Mr. Portney’s termination, the County of Lake provided a
 11 purported “approved” Leave of Absence Request Form dated September 12, 2023, signed
 12 by CAO Susan Parker and Pam Samac for leave from October 23, 2023 to November 7,
 13 2023 for baby bonding.

14 **FIRST CAUSE OF ACTION**

15 **Race Discrimination in Violation of** 16 **Title VII of the Civil Rights Act of 1964** 17 **42 U.S.C. § 2000e, *et. seq.***

18 162. Mr. Portney incorporates by reference herein each and every paragraph of the
 19 complaint as though set forth fully herein.

20 163. Defendant County was Plaintiff’s employer for purposes of Title VII.

21 164. Workplace harassment constitutes a form of discrimination under Title VII.

22 165. Title VII of the Civil Rights Act of 1964 prohibits employment discrimination on
 23 any of five specific grounds: race, color, religion, sex, [and] national origin. 42 U.S.C. §2000e-
 24 2(a)(1).

25 166. Defendant County wrongfully terminated the employment of Mr. Portney,
 26 treating him differently in the termination process than any employee of a classification
 27 different from Mr. Portney. Defendant did not treated non-Black employees in such a
 28 disrespectful and malicious manner as Mr. Portney.

1 167. Mr. Portney's race, Black/African American, was a substantial and motivating
2 factor for Defendant's conduct in violation of Title VII.

3 168. Mr. Portney has suffered the adverse employment actions as herein alleged. Mr.
4 Portney's race, Black/African American, was a motivating factor for these adverse employment
5 actions against him.

6 169. Mr. Portney was harmed as herein alleged and Defendant County's adverse
7 employment actions were a substantial factor in causing Mr. Portney's injuries, losses, damages
8 and harm as herein alleged, which continue.

9 170. As a legal result of the above described conduct of Defendant County, and each
10 of them, Mr. Portney has sustained and will continue to sustain physical, mental, and emotional
11 injuries, pain, distress, suffering, anguish, fright, nervousness, grief, anxiety, worry, shame,
12 mortification, injured feelings, mental suffering, shock, humiliation, and indignity, as well as
13 other unpleasant physical, mental, and emotional reactions, damages to his good name,
14 reputation, standing in the community and other non-economic damages.

15 171. As a further legal result of the above-described conduct of Defendant County and
16 its employees and agents, and each of them, Mr. Portney was hindered, prevented and
17 precluded from performing his usual activities, namely the full time position he had with
18 Defendant County, causing Mr. Portney to sustain damages for loss of income, wages, earnings,
19 and earning capacity, pension contributions and credit time for working, benefits, and other
20 economic damages, in an amount to be ascertained according to proof. Mr. Portney claims such
21 amounts as damages together with prejudgment interest. Mr. Portney's protected conduct was
22 a substantial or motivating factor in any retaliatory acts taken by Defendant County.

23 172. As a further legal result of the above-described conduct of Defendant County,
24 and each of them, Mr. Portney suffered incidental, consequential and special damages in an
25 amount according to proof.

26 173. As a further legal result of the above-described conduct of Defendant County,
27 and each of them, Mr. Portney has and will continue to incur attorney's fees and costs in an
28

1 amount according to proof.

2 174. The conduct of Defendant County and its agents and employees as described
3 herein was malicious, oppressive, and done with a willful and conscious disregard for
4 Mr. Portney's rights. Defendant County and its agents and employees or supervisors
5 authorized, condoned and ratified the unlawful conduct of the others.

6 175. Wherefore, Plaintiff prays for judgment as more fully set forth below.

7 **SECOND CAUSE OF ACTION**

8 **Retaliation**

9 **Violation of Title VII of the Civil Rights Act of 1964**

10 **42 U.S.C. § 2000e, *et. seq.***

11 176. Mr. Portney incorporates by reference herein each and every paragraph of the
12 complaint as though set forth herein full.

13 177. Title VII prohibits Defendants from retaliating against any employee because he
14 engaged in protected activity. Resisting and/or complaining of discrimination or harassment,
15 or retaliation are protected activities under Title VII.

16 178. Defendant County and its agents, servants, and/or employees, engaged in
17 unlawful retaliation in violation of Title VII as described above.

18 179. Mr. Portney repeatedly engaged in protected activities when he regularly opposed
19 discriminatory and harassing and retaliatory conduct in the workplace.

20 180. Mr. Portney engaged in protected activities regularly, as he was constantly
21 opposing discriminatory and harassing conduct.

22 181. As a result, Mr. Portney was viewed as a complainer and his complaints went
23 upon deaf ears.

24 182. When Mr. Portney's complaints should have been investigated, he was further
25 retaliated for his complaints of race discrimination and harassment, which were all not
26 investigated or legitimately investigated, and terminated before conclusion of a supposed
27 investigation.

28 183. Defendant County, its agents, and/or employees retaliated against Plaintiff on the
basis of his protected activities and took material and adverse employment actions against

1 Plaintiff. Mr. Portney's protected activities were a substantial or motivating factor in the
2 retaliatory acts taken by Defendant County.

3 184. As a direct and proximate result of Defendant's unlawful acts, Mr. Portney has
4 suffered and continues to suffer injury including loss of wages, physical, mental and emotional
5 injuries, pain, distress, suffering, anguish, fright, nervousness, grief, anxiety, worry, shame,
6 mortification, injured feelings, mental suffering, shock, humiliation and indignity, as well as
7 other physical, mental, and emotional reactions, damages to his good name, reputation,
8 standing in the community and other non-economic damages, and he accordingly is entitled
9 to an award of compensatory damages.

10 185. As a further legal result of the above-described conduct of Defendant County and
11 its agents, Mr. Portney has suffered incidental, consequential, and special damages in an amount
12 according to proof.

13 186. Plaintiff is entitled to statutory attorneys' fees and costs, and other appropriate
14 relief as determined by this court.

15 187. Wherefore, Mr. Portney prays for judgement as more fully set forth below.

16 **THIRD CAUSE OF ACTION**

17 **Retaliation - Violation of Lab. Code § 1102.5**

18
19 188. Mr. Portney incorporates by reference as though fully set forth herein, each
20 and every allegation set forth above in this Complaint. As a separate and distinct claim for
21 relief, Mr. Portney alleges as follows:

22 189. Cal. Lab. Code § 1102.5 provides,

23 (a) An employer, or any person acting on behalf of the employer, shall not make,
24 adopt, or enforce any rule, regulation, or policy preventing an employee from
25 disclosing information to a government or law enforcement agency, to a person
26 with authority over the employee, or to another employee who has authority to
27 investigate, discover, or correct the violation or noncompliance, or from providing
28 information to, or testifying before, any public body conducting an investigation,
hearing, or inquiry, if the employee has reasonable cause to believe that the
information discloses a violation of state or federal statute, or a violation of or
noncompliance with a local, state, or federal rule or regulation, regardless of
whether disclosing the information is part of the employee's job duties.

1 (b) An employer, or any person acting on behalf of the employer, shall not
2 retaliate against an employee for disclosing information, or because the employer
3 believes that the employee disclosed or may disclose information, to a
4 government or law enforcement agency, to a person with authority over the
5 employee or another employee who has the authority to investigate, discover, or
6 correct the violation or noncompliance, or for providing information to, or
7 testifying before, any public body conducting an investigation, hearing, or inquiry,
8 if the employee has reasonable cause to believe that the information discloses a
9 violation of state or federal statute, or a violation of or noncompliance with a
10 local, state, or federal rule or regulation, regardless of whether disclosing the
11 information is part of the employee's job duties.

12 (c) An employer, or any person acting on behalf of the employer, shall not
13 retaliate against an employee for refusing to participate in an activity that would
14 result in a violation of state or federal statute, or a violation of or noncompliance
15 with a local, state, or federal rule or regulation.

16 190. In addition, a report made by an employee of a government agency to their
17 employer is a disclosure of information to a government or law enforcement agency pursuant
18 to subdivisions (a) and (b). Cal. Lab. Code § 1102.5 (e).

19 191. Defendant County retaliated against Mr. Portney because he reported and
20 opposed racial discrimination and harassment, retaliation, harassment of others, and because
21 Mr. Portney also reported what he believed to be violations of non-compliance with
22 ordinances, local, state, or federal rules or regulations, including numerous health and safety
23 violations, Brown Act violations, violations of the RFP in public contracts, violation of Cal.
24 Penal Code 10008, Cal. Health & Safety Code 1241, in addition to numerous others.

25 192. As a direct and proximate result of Defendant's unlawful acts, Mr. Portney has
26 suffered and continues to suffer injury including loss of wages, physical, mental and emotional
27 injuries, pain, distress, suffering, anguish, fright, nervousness, grief, anxiety, worry, shame,
28 mortification, injured feelings, mental suffering, shock, humiliation and indignity, as well as
other physical, mental, and emotional reactions, damages to his good name, reputation,
standing in the community and other non-economic damages, and he accordingly is entitled
to an award of compensatory damages.

193. As a further legal result of the above-described conduct of Defendant, Plaintiff
was hindered, prevented, and precluded from performing usual work activities, causing Plaintiff
to sustain damages for loss of professional opportunities, work experience, and/or employment

1 opportunities and advancement in an amount according to proof at trial.

2 194. As a further legal result of the above-described conduct of Defendant County
3 and its agents, Mr. Portney has suffered incidental, consequential, and special damages in an
4 amount according to proof.

5 195. The conduct of Defendant County and its agents and employees as described
6 herein was malicious, oppressive, and done with a willful and conscious disregard Mr. Portney's
7 rights and for the deleterious consequences of Defendant County's actions. Defendant and
8 their agents and employees authorized, condoned, and ratified the unlawful conduct of the
9 other.

10 196. As a direct and proximate result of the aforesaid unlawful acts of Defendant
11 County, Mr. Portney has suffered wage loss and mental suffering.

12 197. Plaintiff is entitled to statutory attorneys' fees and costs, and other appropriate
13 relief as determined by this court.

14 198. Wherefore, Plaintiff prays judgement as more fully set forth below.

15 **FOURTH CAUSE OF ACTION**

16 **Retaliation for Exercising First Amendment Right to Free Speech,**
17 **42 U.S.C. §1983**

18 199. Mr. Portney incorporates by reference herein each preceding paragraph of the
19 complaint as though set forth herein full.

20 200. Mr. Portney brings this claim under federal statute 42 U.S.C. §1983, which
21 provides that any person or persons, who, under color of law, deprives another of any rights,
22 privileges, or immunities secured by the Constitution or laws of the United States shall be liable
23 to the injured party.

24 201. Public employees enjoy the right to free speech with respect to matters of public
25 concern, and the right not to suffer retaliation on account of that speech, as protected by the
26 First and Fourteenth Amendments to the U.S. Constitution. State action designed to retaliate
27 against, and chill free speech strikes at the very heart of the First Amendment.
28

204. Plaintiff's speech was a substantial or motivating factor for the adverse employment actions taken against him by Defendant.

206. Wherefore, Plaintiff prays judgement as more fully set forth below.

207. Mr. Portney incorporates by reference herein each and every paragraph of the complaint as though set forth herein in full.

209. On information and belief, the County's practice of retaliation, harassment and

1 abuse carried out against Mr. Portney, although not authorized by any written law or express
2 policy, is so permanent, well-settled and well-known by longtime County employees as to
3 constitute a custom and practice with the force of law.

4 210. Defendant County employees repeatedly engaged in racist and harassing conduct,
5 they failed and refused to comply with County policies to address, prevent, discipline, and
6 remedy such harassment.

7 211. That the County practice of tolerating discrimination, harassment and retaliation
8 was so permanent and well-settled as to constitute a custom and practice with the force of law
9 is evident, not only from Plaintiff Portney's allegations above, but also by the County's
10 termination of HR Director, Pamela Nichols, who is Black/African-American, and former DA
11 Daniel Flesch, who is Jewish.

12 212. Defendant County's wrongful termination of Ms. Nichols demonstrated that its
13 tradition of failing and refusing to enforce its own written policies against harassment had taken
14 on the force of law as the County's permanent, well-settled custom and practice. Nichols'
15 Federal Court complaint, alleging multiple civil rights violations, is case number 20-cv-05259,
16 filed in the Northern District of California on July 31, 2020. Mr. Flesch's Federal Court
17 complaint, alleging multiple civil rights violations, is case number 3:21-cv-02018 SI, filed March
18 23, 2021.

19 213. Defendant County was not only deliberately indifferent to the constitutional
20 rights of its employees, including but not limited to Plaintiff Portney, but demonstrated a
21 conscious disregard for the constitutional rights of its employees.

22 214. As a legal result of the above described conduct of Defendant County, and each
23 of them, Mr. Portney has sustained and will continue to sustain physical, mental, and emotional
24 injuries, pain, distress, suffering, anguish, fright, nervousness, grief, anxiety, worry, shame,
25 mortification, injured feelings, mental suffering, shock, humiliation, and indignity, as well as
26 other physical, mental, and emotional reactions, damages to his good name, reputation,
27 standing in the community and other non-economic damages. Mr. Portney's protected conduct
28

1 was a substantial or motivating factor in any retaliatory acts taken by Defendant County.

2 215. As a further legal result of the above-described conduct of Defendant County,
3 and each of them, Mr. Portney was hindered, prevented, and precluded from performing usual
4 work activities, causing Mr. Portney to sustain damages for the loss of earning capacity and
5 work advancement and/or promotion.

6 216. As a further legal result of the above-described conduct of Defendant County,
7 Mr. Portney suffered incidental, consequential and special damages in an amount according to
8 proof.

9 217. As a further legal result of the above-described conduct of Defendant Portney,
10 and each of them, Mr. Portney has and will continue to incur attorney's fees and costs in an
11 amount according to proof.

12 218. As a direct and proximate result of the aforesaid unlawful acts of Defendant
13 County, and each of them, Mr. Portney has suffered mental health consequences in an amount
14 to be proven at time of trial.

15 219. Wherefore, Plaintiff prays for judgement as more fully set forth below.

16 **SIXTH CAUSE OF ACTION**

17 **Race Discrimination in Violation of FEHA**

18 **Government Code §12940, et. seq.**

19
20 220. Mr. Portney incorporates by reference all of the factual allegations set forth in this
21 complaint except those inconsistent with this cause of action.

22 221. At all times herein mentioned, the Fair Employment and Housing Act, California
23 Government Code §12900-12996 (hereinafter "FEHA"), was in full force and effect and
24 binding on Defendant County. These statutes required Defendant County to refrain from
25 discriminating against any employee on the basis of race, national origin, gender and engaging
26 in protected activity.

27 222. The FEHA makes it an unlawful employment practice for an employer to
28 discriminate against an employee in "terms, conditions, or privileges of employment" on the

1 basis of the employee's race, national origin, gender and engaging in protected activity.

2 223. Defendant County was an employer for purposes of the Fair Employment and
3 Housing Act, California Government Code §12900-12996 (hereinafter "FEHA").

4 224. DEFENDANTS discriminated against Mr. Portney on the basis of his race, Mr.
5 Portney's race, Black/African American, was a motivating factor in Defendant County's
6 decision to terminate him. Mr. Portney was treated differently than other similarly situated
7 employees because of his race.

8 225. Defendant County subjected Plaintiff to severe and pervasive harassment and
9 discrimination based on his race, which created a hostile work environment.

10 226. As a legal result of the above described conduct of Defendant and their agents,
11 and each of them, Mr. Portney has sustained wage loss and will continue to sustain physical,
12 mental, and emotional injuries, pain distress, suffering, anguish, fright, nervousness, grief,
13 anxiety, worry, shame, mortification, injured feelings, mental suffering, shock, humiliation, and
14 indignity, as well as other physical, mental, and reactions, damages to his good name,
15 reputation, standing in the community and other non-economic damages.

16 227. As a further legal result of the above-described conduct of Defendant County,
17 and each of them, Mr. Portney suffered incidental, consequential and special damages in an
18 amount according to proof.

19 228. As a further legal result of the above-described conduct of Defendant County,
20 and each of them, Mr. Portney has and will continue to incur attorney's fees and costs in an
21 amount according to proof.

22 229. As a direct and proximate result of the aforesaid unlawful acts of Defendant, and
23 each of them, Mr. Portney has suffered mental health. Mr. Portney claims damages for such
24 health problems in an amount to be proven at time of trial.

25 230. By reason of the conduct of Defendants herein, Mr. Portey has retained attorneys
26 to prosecute his claims under FEHA. Plaintiff is therefore entitled to recover reasonable
27 attorney's fees and costs pursuant to Government Code §12940 *et seq.*, in addition to other
28

1 damages as provided by law as alleged herein.

2 **SEVENTH CAUSE OF ACTION**

3 **Retaliation in Violation of FEHA**

4 **Government Code § 12940(h)**

5
6 231. Plaintiff realleges and incorporates by reference the foregoing, as though fully set
7 forth herein.

8 232. At all relevant times, the Fair Employment and Housing Act and its implementing
9 regulations, including California Government Code §12900-12996 (hereinafter “FEHA”), were
10 in full force and effect. Defendant County, through itself and its agents, was an employer for
11 the purposes of FEHA. These statutes required Defendants to refrain from discriminating
12 against any employee on the basis of race, gender, national origin, religion and/or religious
13 creed and engaging in protected activity.

14 233. California Government Code §12940(h) states:

15 It is an unlawful employment practice, unless based upon a bona fide
16 occupational qualification, or, except where based upon applicable
17 security regulations established by the United States or the State of
18 California...for any employer, labor organization, employment agency,
19 or person to discharge, expel, or otherwise discriminate against any
20 person because the person has opposed any practices forbidden under
21 this part or because the person has filed a complaint, testified, or
22 assisted in any proceeding under this part.

23 234. Defendant County retaliated against Mr. Portney as he opposed and reported
24 discrimination, including racial, sex and religious discrimination, by Defendants in the
25 workplace against himself and other coworkers. No effective action was taken by Defendant
26 County. Defendant County’s retaliation against Mr. Portney violated FEHA.

27 235. FEHA makes it an unlawful employment practice for an employer to discriminate
28 against an employee in “terms, conditions, or privileges of employment” on the basis of the
employee’s religion/religious creed, race, national origin, gender, and engaging in protected
activity.

236. FEHA further provides in Government Code §12940(h) that it is unlawful for

1 an employer to discharge or otherwise discriminate against a person “because the person has
2 opposed any practices forbidden under FEHA.” The California Supreme Court has instructed
3 that Government Code §12940(h) therefore “forbids employers from retaliating against
4 employees who have acted to protect the rights afforded by the FEHA.” *Yanowitz v. L’Oreal*
5 *USA, Inc.* (2005) 36 Cal. 4th 1028, 1035.

6 237. Plaintiff’s reporting of allegations of discrimination, including racial, sex and
7 religious discrimination, harassment, and inequality, in the workplace was a substantial
8 motivating reason for Defendant County’s retaliation and adverse actions against Ms. Portney.

9 238. As a legal and proximate result of Defendant County’s actions and those of its
10 agents, Mr. Portney was harmed. Defendant County’s conduct as herein alleged was a
11 substantial factor in causing Mr. Portney’s harm.

12 239. As a legal result of the above described conduct of Defendant County, and each
13 of them, Mr. Portney has sustained and will continue to sustain wage loss, physical, mental, and
14 emotional injuries, pain distress, suffering, anguish, fright, nervousness, grief, anxiety, worry,
15 shame, mortification, injured feelings, mental suffering, shock, humiliation, and indignity, as
16 well as other physical, mental, and emotional reactions, damages to his good name, reputation,
17 standing in the community and other non-economic damages.

18 240. As a further legal result of the above-described conduct of Defendants, and each
19 of them, Mr. Portney was required, and in the future may be required, to engage the services
20 of health care providers, and incurred expenses for medicines and other related expenses in a
21 sum to be ascertained according to proof.

22 241. As a direct and proximate result of Defendants unlawful actions as described
23 above, Mr. Portney has incurred, and will continue to incur loss of employment opportunities,
24 advancement, and promotional opportunities, all due to this damage in an amount according
25 to proof.

26 242. As a further legal result of the above-described conduct of Defendant County,
27 and each of them, Mr. Portney suffered incidental, consequential, and special damages in an
28

1 amount according to proof.

2 243. As a further legal result of the above-described conduct of Defendant County,
3 and each of them, Mr. Portney has and will continue to incur attorney's fees and costs in an
4 amount according to proof.

5 244. The conduct of Defendant County and/or their agents and/or employees as
6 described herein was malicious, oppressive, and done with a willful and conscious disregard for
7 Mr. Portney's rights and for the deleterious consequences of Defendant's actions.

8 245. Finally, as a direct and proximate result of the aforesaid unlawful acts of
9 Defendants, and each of them, Mr. Portney has suffered mental health damages. Mr. Portney
10 claims damages for such health problems in an amount to be proven at time of trial.

11 246. By reason of the conduct of Defendants herein, Mr. Portney has retained
12 attorneys to prosecute his claims under FEHA. Mr. Portney is therefore entitled to recover
13 reasonable attorney's fees and costs pursuant to Government Code §12940 et seq., in addition
14 to other damages as provided by law as alleged herein.

15 247. Wherefore, Plaintiff prays for judgement as more fully set forth below.

16 **EIGHTH CAUSE OF ACTION**

17 **Race Harassment in Violation of FEHA**

18 **Cal. Gov. Code §12940(a)**

19
20 248. Plaintiff realleges and incorporates by reference the foregoing, as though fully
21 set forth herein.

22 249. At all times material to this complaint, Plaintiff was an employee within the
23 meaning of the FEHA.

24 250. Defendant County is an employer within the meaning of the FEHA.

25 251. California Government Code §§ 12940, et seq. prohibits an employer from
26 discriminating against and harassing an employee on the basis of his religion.

27 252. The above-described actions and omissions of Defendant County constituted
28 harassment of Plaintiff on account of his race.

1 253. Plaintiff was subjected to working in a severe, persistent, or pervasively hostile
2 work environment, which interfered with his work performance, denied him employment
3 privileges, and adversely affected the terms and conditions of his job based on his
4 race/Black/African-American.

5 254. The harassing conduct to which Plaintiff was subjected was so severe,
6 widespread, or persistent that a reasonable person in Plaintiff's circumstances would have
7 considered the work environment to be hostile or abusive.

8 255. Plaintiff considered the work environment to be hostile or abusive.

9 256. The conduct of Defendant County constitutes a continuing violation of
10 Plaintiff's rights from the first act to the latest action.

11 257. As a direct, foreseeable, and proximate result of Defendant's actions, Plaintiff
12 has suffered and continues to suffer humiliation, embarrassment, mental and emotional
13 distress, and discomfort, all to Plaintiff's damage in an amount in excess of the minimum
14 jurisdiction of this court, the precise amount to be proven at trial.

15 258. As a direct and proximate result of the discrimination and harassment suffered
16 by Plaintiff and the hostile and offensive work environment as described above, Plaintiff has
17 incurred, and will continue to incur, expenses, wages, opportunities for employment and
18 advancement, and work experience, all to his damage in an amount according to proof.

19 259. As a further direct and proximate result of Defendant County's violation of the
20 FEHA, Plaintiff has been compelled to retain the services of counsel in an effort to enforce
21 his statutory rights and the terms and conditions of his employment relationship with
22 Defendant County, and have thereby incurred, and will continue to incur, legal fees and
23 costs, the full nature and extent of which are presently unknown to Plaintiff, and Plaintiff is
24 therefore entitled to reasonable attorneys' fees and costs of suit as provided by the FEHA,
25 Cal. Govt. Code § 12965(b).

26 WHEREFORE, Plaintiff prays for judgment against Defendant County as set forth
27 below.
28

NINTH CAUSE OF ACTION

Failure to Prevent Discrimination, Harassment, and Retaliation

FEHA, California Govt. Code § 12940(k)

260. Plaintiff incorporates by reference herein each and every paragraph of the complaint as though set forth herein full.

261. Pursuant to California Government Code §12940(k), it is an unlawful employment practice for an employer to fail to take all reasonable steps to prevent harassment from occurring.

262. On information and belief, Defendant County did not take all reasonable steps to prevent discrimination and harassment from occurring. On information and belief, at all relevant times, Defendant did not have appropriate policies, procedures, practices, guidelines, rules, trainings and/or enforcement regarding the prevention of harassment and discrimination in the workplace. Defendants' conduct as alleged herein constitutes a violation of §12940(k).

263. As a legal result of the above-described conduct of Defendants, and each of them, Plaintiff has sustained and will continue to sustain physical, mental, and emotional injuries, pain distress, suffering, anguish, fright, nervousness, grief, anxiety, worry, shame, mortification, injured feelings, mental suffering, shock, humiliation, and indignity, as well as other physical, mental, and emotional reactions, damages to his good name, reputation, standing in the community and other non-economic damages.

264. As a further legal result of the above-described conduct of Defendants, and each of them, Plaintiff was required, and in the future may be required, to engage the services of health care providers, and incurred expenses for medicines and other related expenses in a sum to be ascertained according to proof.

265. As a further legal result of the above-described conduct of Defendants, and each of them, Mr. Portney suffered incidental, consequential and special damages in an amount according to proof.

1 266. As a further legal result of the above-described conduct of Defendants, and
2 each of them, Mr. Portney has and will continue to incur attorney's fees and costs in an
3 amount according to proof.

4 267. Finally, as a direct and proximate result of the aforesaid unlawful acts of
5 Defendants, and each of them, Plaintiff has suffered stress-related health consequences. Mr.
6 Portney's claims damages for such health problems in an amount to be proven at time of
7 trial.

8 268. By reason of the conduct of Defendants herein, Mr. Portney has retained
9 attorneys to prosecute his claims under FEHA. Plaintiff is therefore entitled to recover
10 reasonable attorney's fees and costs pursuant to Government Code §12940 et seq., in
11 addition to other damages as provided by law as alleged herein.

12 269. Wherefore, Plaintiff prays for judgement as more fully set forth below.

13 **TENTH CAUSE OF ACTION**

14 **Retaliation for Taking & Requesting California Family Rights Act Leave**

15 **"CFRA"- California Govt. Code § 12945.2(k)**

16
17 270. Plaintiff incorporates by reference as though fully set forth herein, each and
18 every allegation set forth above in this Complaint.

19 271. At all times relevant herein, Plaintiff worked for Defendant County for over
20 12 months, had worked at least 1,250 hours during the 12 months period immediately
21 preceding the first day of leave and Defendant County employed more than 50 employees.

22 272. In early November 2022, Mr. Portney's son was born.

23 273. In January 2023, Mr. Portney started taking intermittent protected CFRA leave
24 for baby bonding.

25 274. Mr. Portney was approved to take CFRA leave for baby bonding for the entire
26 month of June 2023.

27 275. On September 8, 2023, Mr. Portney again requested taking CFRA leave for
28 baby bonding, from October 23-November 6, 2023. Plaintiff was eligible for the requested

1 leave.

2 276. On September 8, 2023, after Mr. Portney submitted his FMLA/CFRA leave
3 request, Ms. Parker emailed Mr. Portney a pretextual, “Deficiencies Letter.” Ms. Parker
4 informed Mr. Portney that she was going to share the Deficiencies Letter with County
5 Counsel and the Board of Supervisors.

6 277. On September 12, 2023, Mr. Portney was informed that the BOS terminated
7 his employment. In response to a request for Mr. Portney’s personnel file, several weeks after
8 Mr. Portney’s termination, the County of Lake provided Mr. Portney’s attorney with a Leave
9 of Absence Request Form, that was dated September 12, 2023, and signed by CAO Susan
10 Parker and Pam Samac, for purported approved leave for Mr. Portney, from October 23,
11 2023 to November 7, 2023. Mr. Portney was not provided this supposed approval for leave
12 during his employment.

13 278. Mr. Portney was never paid for his work in January 2023, during his CFRA
14 leave for baby bonding. It was unlawful for Defendant to have Mr. Portney work during his
15 protected CFRA leave, and to not compensate Mr. Portney for his work.

16 279. It was unlawful for Defendant to discharge, retaliate against Plaintiff because
17 of Plaintiff’s exercise of the right to take leave for baby bonding pursuant to Cal. Govt. Code
18 § 12945.2.

19 280. As a direct, foreseeable and legal result of Defendants’ discriminatory acts,
20 Plaintiff has suffered and continue to suffer substantial losses in earnings, bonuses and other
21 employment benefits, in addition to expenses incurred in obtaining alternative employment,
22 and have suffered and continue to suffer humiliation, embarrassment, mental and emotional
23 distress, and discomfort, all to Plaintiff’s damage in an amount to be proven at trial.

24 281. By reason of the conduct of Defendant, Plaintiff has necessarily retained
25 attorneys to prosecute this action. Plaintiff is therefore entitled to reasonable attorney’s fees
26 and litigation expenses incurred in bringing this lawsuit.

27 282. Wherefore, Plaintiff prays for judgement as more fully set forth below.
28

ELEVENTH CAUSE OF ACTION

**Wrongful Termination in Violation of 14th Amendment Right to Due Process -
Monnell Action, 42 USC 1983, Based on Official Policy, Practice or
Custom in Violation of 42 U.S.C.**

283. Plaintiff incorporates by reference as though fully set forth herein, each and every allegation set forth above in this Complaint.

284. Mr. Portney brings this claim under federal statute 42 U.S.C. §1983, which provides that any person or persons, who, under color of law, deprives another of any rights, privileges, or immunities secured by the Constitution or laws of the United States shall be liable to the injured party.

285. The United States Constitution provides: “nor shall any State deprive any person of life, liberty, or property without due process of law.” The Right to Due Process includes a right to notice and a fair hearing.

286. Mr. Portney engaged in the protected activities as described above. Mr. Portney was summarily terminated and not provided with all of his Constitutional Rights to Due Process.

287. Defendant acted under color of law at all times herein relevant. The acts of Defendant County deprived Mr. Portney of his particular rights under the laws of the United States and the United States Constitution as herein set forth, and under the Fourteenth Amendment Right to Due Process.

288. Defendant County acted pursuant to an expressly adopted official policy or a longstanding practice or custom of Defendant County.

289. Defendant wrongfully and retaliatorily terminated the employment of Mr. Portney in violation of public policy which provides for Due Process, to maintain his property right in his employment with Defendant County, and to be free from retaliation in the workplace. Defendant terminated his employment as a result of illegally intruding on her Fourteenth Amendment Right to Due Process as herein alleged, which was a motivating

1 factor in his termination and Mr. Portney was treated differently than other similarly situated
2 County employees.

3 290. As a direct, foreseeable and legal result of Defendant's discriminatory acts,
4 Plaintiff has suffered and continue to suffer substantial losses in earnings, bonuses and other
5 employment benefits, in addition to expenses incurred in obtaining alternative employment,
6 and have suffered and continue to suffer humiliation, embarrassment, mental and emotional
7 distress, and discomfort, all to Plaintiff's damage in an amount to be proven at trial.

8 291. By reason of the conduct of Defendant,, Plaintiff has necessarily retained
9 attorneys to prosecute this action. Plaintiff is therefore entitled to reasonable attorney's fees
10 and litigation expenses incurred in bringing this lawsuit.

11 292. Wherefore, Plaintiff prays for judgement as more fully set forth below.

12 **TWELFTH CAUSE OF ACTION**

13 **Wrongful Termination in Violation of 14th Amendment Right to Property & Equal**
14 **Protection- Monnell Action, 42 USC 1983, Based on Official Policy, Practice or**
15 **Custom in Violation of 42 U.S.C. § 1983**

16 293. Plaintiff incorporates by reference herein each and every paragraph of the
17 complaint as though set forth herein full.

18 294. The Fourteenth Amendment of the United States Constitution provides, in
19 pertinent part, that..."no state shall make or enforce any law which shall abridge the
20 privileges or immunities of citizens of the United States; nor shall any state deprive any
21 person of life, liberty, or property, without due process of law; nor deny to any person
22 within its jurisdiction the equal protection of the laws."

23 295. Mr. Portney brings this claim under federal statute 42 U.S.C. §1983, which
24 provides that any person or persons, who, under color of law, deprives another of any
25 rights, privileges, or immunities secured by the Constitution or laws of the United States
26 shall be liable to the injured party.

27 296. Mr. Portney engaged in the protected activities described above and
28

1 incorporated herein.

2 297. Defendant County, acting in its official capacity acted under color of law at all
3 times herein relevant.

4 298. The acts of Defendant County deprived Mr. Portney of his rights under the
5 laws of the United States and the United States Constitution as herein set forth, and
6 under the Fourteenth Amendment Right to Property and Equal Protection.

7 Plaintiff was treated discriminatorily, and disparately from the way in which Defendant
8 treated individuals of a different classification from Mr. Portney, denying him equal
9 protection under the law.

10 299. Defendant County acted pursuant to an expressly adopted official policy or a
11 longstanding practice or custom of Defendant County.

12 300. The Defendant's acts, as herein alleged, were so closely related to the
13 deprivation of Mr. Portney's rights as to be the cause that caused Mr. Portney's
14 ultimate injuries as herein alleged.

15 301. Defendant wrongfully and retaliatorily terminated the employment of Mr.
16 Portney in violation of public policy which provides for Due Process, to maintain his
17 property right in his employment with Defendant County, and to be free from retaliation in
18 the workplace. Defendant terminated his employment as a result of illegally intruding on his
19 Fourteenth Amendment Right to Due Process as herein alleged, which was a motivating
20 factor in his termination and Mr. Portney was treated differently than other similarly situated
21 County employees.

22 302. As a direct, foreseeable and legal result of Defendant's discriminatory acts,
23 Plaintiff has suffered and continue to suffer substantial losses in earnings, bonuses and other
24 employment benefits, in addition to expenses incurred in obtaining alternative employment,
25 and have suffered and continue to suffer humiliation, embarrassment, mental and emotional
26 distress, and discomfort, all to Plaintiff's damage in an amount to be proven at trial.

27 303. By reason of the conduct of Defendant, Plaintiff has necessarily retained
28

1 attorneys to prosecute this action. Plaintiff is therefore entitled to reasonable attorney's fees
2 and litigation expenses incurred in bringing this lawsuit.

3 304. Wherefore, Plaintiff prays for judgement as more fully set forth below.

4 WHEREFORE, Plaintiff prays for the following relief against Defendant and each
5 of them:

- 6 1. For general damages in the amount of \$20,000,000 according to proof;
- 7 2. For special damages according to proof;
- 8 3. For all statutory attorney fees and costs;
- 9 4. For pre-judgement and post-judgement interest at the maximum legal rate on
10 all sums awarded;
- 11 5. For such other relief as the Court deems just and proper.
- 12 6. Plaintiff hereby demands a trial by jury.

13 Dated: January 15, 2025

Candice Clipner

14 By: _____
15 Candice Clipner
16 Attorney for Plaintiff,
JONATHAN PORTNEY