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OF ORIGINAL FILED
Los Angeles Superior Court

MAY 12 2010

John A. Clarke, Executive Officer/Clerk
By DOROTHY SWAIN, Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

CHRISTOPHER LEE DUNN, Plaintiff, v. BURBANK POLICE DEPARTMENT, CITY OF BURBANK, and DOES 1 Through 100, Inclusive, Defendants.	Case No. BC 417928 **DECLARATION OF KRISTIN A. PELLETIER IN SUPPORT OF THE CITY OF BURBANK'S MOTION FOR SUMMARY JUDGMENT OR, IN THE ALTERNATIVE, SUMMARY ADJUDICATION** **Date: July 26, 2010** **Time: 8:30 a.m.** **Dept.: 31**

CITY ATTORNEY
2010 MAY 18 PM 5:52

I, Kristin A. Pelletier, hereby declare as follows:

1. I am an attorney licensed to practice before this Court and a partner with the law firm of Burke, Williams & Sorensen, LLP, counsel of record in this matter defendant City of

Burbank. Unless otherwise stated, the following statements are of my own personal knowledge, and if called upon to testify, I could and would testify competently thereto.

2. Attached hereto as Exhibit GG are true and correct copies of cited excerpts of the first day of deposition of plaintiff Chris Dunn, which I took on January 13, 2010.

3. Attached hereto as Exhibit HH are true and correct copies of cited excerpts of the second day of deposition of plaintiff Chris Dunn, which I took on March 22, 2010.

4. Attached hereto as Exhibit II are true and correct copies of the face page, index, and provisions of the Memorandum of Understanding between the City of Burbank and the Burbank Police Officers' Association with respect to administrative disciplinary proceedings. The procedures regarding arbitration hearings to challenge major discipline are set forth at pages 53-56 of the MOU

5. Attached hereto as Exhibit JJ is a true and correct copy of a July 17, 2009 letter to me from Mr. Dunn's counsel withdrawing Mr. Dunn's request for arbitration.

6. Attached hereto as Exhibit KK is a true and correct copy of the invoice of the arbitrator, which the parties were required to pay because of the late cancellation of the arbitration hearing.

7. Attached hereto as Exhibit JJ is a true and correct copy of the excerpts from Plaintiff Christopher Lee Dunn's verified Responses to Special Interrogatories Law Propounded by the City of Burbank, served on November 23, 2009.

///

///

///

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 12th day of May, 2010 at Los Angeles, California.

KRISTIN A. PELLETIER

PROOF OF SERVICE BY PERSONAL DELIVERY

I am employed in the County of Los Angeles, State of California and am over the age of 18 and not a party to the within action. My business address is 1511 W. Beverly Blvd., Los Angeles, CA 90026. On May 12, 2010, I personally served the following document described as:

DECLARATION OF KRISTIN A. PELLETIER IN SUPPORT OF THE CITY OF BURBANK'S MOTION FOR SUMMARY JUDGMENT OR, IN THE ALTERNATIVE, SUMMARY ADJUDICATION

by delivering copies thereof to:

Solomon E. Gresen, Esq.
Law Offices of Rheuban & Gresen
15910 Ventura Boulevard, Suite 1610
Encino, CA 91436

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on May 12, 2010, at Los Angeles, California.

1 SUPERIOR COURT OF THE STATE OF CALIFORNIA
2 FOR THE COUNTY OF LOS ANGELES
3
4 CHRISTOPHER LEE DUNN,)
5 Plaintiff,)
6 vs.) No. BC417928
) VOLUME I
7 BURBANK POLICE DEPARTMENT;)
CITY OF BURBANK; AND DOES 1)
8 THROUGH 100, INCLUSIVE,)
9 Defendants.)
10
11
12
13 Deposition of CHRISTOPHER LEE DUNN,
14 taken at 200 North Third Street,
15 Burbank, California, commencing at
16 10:12 a.m., Wednesday, January 13, 2010,
17 before Susan C. Campana, CSR No. 9573, RPR,
18 pursuant to Notice.
19
20
21
22
23
24
25 PAGES 1 - 173

CERTIFIED TRANSCRIPT

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866 299-5127

1 APPEARANCES OF COUNSEL:

2

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5 BY: SOLOMON E. GRESEN, ATTORNEY-AT-LAW

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7 15910 Ventura Boulevard

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10

11 FOR THE DEFENDANTS:

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14 BY: KRISTIN A. PELLETIER, ATTORNEY-AT-LAW

15 Suite 2400

16 444 South Flower Street

17 Los Angeles, California 90071-2953

18 213/236-0600

19 THE VIDEOGRAPHER:

20 CHUCK GOSWITZ

21 ALSO PRESENT:

22 TIM STEHR

23 CAROL HUMISTON, ATTORNEY-AT-LAW

24

25

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1 A. Yes.
2 Q. What was your next assignment?
3 A. Detective.
4 MR. GRESEN: Do you have a correction?
5 THE WITNESS: I have a question.
6 When you mean "assignment," are you saying --
7 because I worked as an officer in other places, but I'm
8 still an officer.
9 Are you referring to position and title or just
10 position?
11 Q. BY MS. PELLETIER: I was referring to just
12 position. And I understand you gave me a rank change.
13 A. Right.
14 Q. So I was -- I was about to clarify that with
15 you.
16 So while you were still at the rank of officer,
17 can you tell me the other positions you held subsequent
18 to patrol officer?
19 A. Yes. I worked as a training officer.
20 Q. What time frame?
21 A. 2002 to 2003.
22 Q. Okay.
23 A. I worked in special enforcement detail.
24 Q. Okay. What time frame?
25 A. 2004 to 2006.

1 Q. Did you take time off work because of the
2 injury?
3 A. A couple days.
4 Q. Is that the workers' comp --
5 A. Yes.
6 Q. -- case?
7 Okay. You also indicated that you were assigned
8 to SRT --
9 A. Yes.
10 Q. -- or the special response team.
11 Were you in SED by the time you were assigned to
12 SRT?
13 A. I don't remember.
14 Q. Tell us what the special response team is.
15 A. The special response team is a select group of
16 individuals who are provided advanced training in
17 hostage-type crisis scenarios and other duties as far as
18 high risk, search warrants, amongst other things in order
19 to support patrol and the department's mission.
20 Q. By the way, did you get any extra pay or
21 benefits as a defensive tactics instructor?
22 A. No.
23 Q. Is there any premium or extra pay for being on
24 SRT?
25 A. No.

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1 Q. What does "SED" stand for?
2 A. Special enforcement detail.
3 Q. Okay. And I will tell you that my review of
4 records indicates that you were assigned to SED in
5 November of 2003.
6 Does that sound about right?
7 A. Yes.
8 Q. I take it the special enforcement detail was an
9 up-and-running unit at the time you were assigned into
10 it?
11 A. Yes.
12 Q. Who was in that unit?
13 A. Lieutenant Rosoff. I believe he was a sergeant
14 at the time. Officer -- oh, he's a detective, Tommy
15 Kister. And there were other officers who just left. I
16 believe that was -- that was it as far as active.
17 Q. Okay. Do you recall the names of the officers
18 who had left the special enforcement detail?
19 A. Yes. Then Detective Hawver. And that's all I
20 recall.
21 Q. So if I understand what you've indicated, at the
22 time you were assigned into SED, there were only two
23 members of that unit, Sergeant Rosoff and Detective
24 Kister?
25 A. Yes.

1 Q. Is SED considered to be an elite or a
2 prestigious unit to be assigned to -- or was it at the
3 time?
4 MR. GRESEN: Vague. Foundation. Speculation.
5 You may answer.
6 THE WITNESS: I would characterize it as specialized
7 and desirable.
8 Q. BY MS. PELLETIER: And what did SED do?
9 A. SED was a specialized unit that supported the
10 investigation division in the investigation of various
11 crimes by providing surveillance, plainclothes
12 operations, and a number of different duties in order to
13 ensure or help the investigation.
14 Q. Was it, for example, more complex? What -- if
15 you know, what was the process that determined if SED got
16 involved in an investigation of a particular crime?
17 A. There is not a process. It would be more like a
18 request or a proactive generation by the sergeant of SED
19 saying, "We are going to get involved and assist."
20 Q. During your tenure in SED, did your rank change
21 at all?
22 A. No.
23 Q. When did your rank change to detective?
24 A. When I was promoted to detective.
25 MR. GRESEN: Date.

1 THE WITNESS: Oh, I'm sorry.

2 I only know -- I'm just giving estimates again.

3 I would say 2006, early.

4 Q. BY MS. PELLETIER: I have July 2006.

5 Does that sound about right?

6 A. That could be right.

7 Q. Did you test -- was there a testing process for

8 the detective position?

9 A. Yes.

10 Q. Can you tell us what that testing process

11 consisted of?

12 A. The testing process consists of, again, a letter

13 of intent, an examination as provided by the department,

14 and an interview process. And, of course, a list, and

15 then a selection.

16 Q. I take it the examination was written?

17 A. Yes.

18 Q. Do you recall who interviewed you for the

19 detective promotional position?

20 A. Yes.

21 Q. And who was that?

22 A. I believe it was Omar Rodriguez, a Glendale

23 lieutenant or sergeant. It could have been a sergeant.

24 And that's all I remember. There could have been a third

25 person.

1 You may answer.
2 THE WITNESS: It's multiple questions.
3 The first part, to my understanding it's called
4 a rule of three.
5 Q. BY MS. PELLETIER: Okay.
6 A. And that is -- my understanding of that is that
7 the three top candidates, the selective body, as you
8 refer to them as, has the ability to select from those
9 three candidates, not necessarily in any order.
10 Q. Okay. Based upon your time at the Burbank
11 Police Department, do you have any information or belief
12 as to whether there was a practice once a list was
13 generated of taking people off the list in their
14 numerical order?
15 In other words, despite the rule of three, was
16 the practice in Burbank, if you know, to take people in
17 their numerical order?
18 MR. GRESEN: Foundation. Speculation.
19 You may answer.
20 THE WITNESS: I do not know.
21 Q. BY MS. PELLETIER: You also -- let me strike
22 that.
23 When you were promoted to detective, did your
24 assignment within the Burbank Police Department change?
25 A. Yes.

1 Q. And what did it change to?
2 A. To -- from specialized enforcement detail to a
3 detective in the vice/narcotics unit.
4 Q. Did you have to be the rank of detective to go
5 into the vice/narcotics unit?
6 A. Yes.
7 Q. And as I understood your prior testimony, and --
8 and correct me if I'm wrong, simultaneous with being
9 promoted to detective, you were assigned to
10 vice/narcotics?
11 MR. GRESEN: The record speaks for itself.
12 You may answer.
13 THE WITNESS: Did you -- what did you say?
14 MR. GRESEN: You may answer.
15 THE WITNESS: It was kind of confusing.
16 Can you state that again?
17 Q. BY MS. PELLETIER: Sure.
18 At the same time you were -- I understood you to
19 say at the same time you were promoted to detective, you
20 were transferred to the vice/narcotics unit.
21 Is that correct?
22 A. Yes.
23 Q. Okay. Was there a testing process for the
24 vice/narcotics position other than what we've talked
25 about with respect to detectives?

1 direct supervisor was in what I'll call your -- your day
2 job?
3 A. The only job that had a direct supervisor would
4 have been SED.
5 Q. Okay.
6 A. Patrol supervisors change regularly, and there's
7 no one individual that you deal with on a basis of a
8 period of time. So -- if that answers your question.
9 Q. Did, for example, whoever -- I know you've given
10 us some names of people who were in SRT at a supervisory
11 level.
12 Did any of those people ever complete
13 performance evaluations on you?
14 A. No.
15 Q. Okay. Your -- one of your allegations in your
16 complaint is that you were subjected to
17 discrimination/harassment based on your race; correct?
18 A. Yes.
19 MR. GRESEN: Rifkin objections.
20 You may answer.
21 Q. BY MS. PELLETIER: What is your race?
22 A. I am of Japanese-American heritage.
23 Q. And what is the percentage of Japanese or
24 Japanese-American heritage that's -- that's in your
25 blood?

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1 MR. GRESEN: Vague. Foundation.

2 You may answer.

3 THE WITNESS: Medically, I don't know. But I would

4 say it's half and half.

5 Q. BY MS. PELLETIER: Since your last name's Dunn,

6 I'm going to presume your mother is the Japanese half?

7 A. Yes.

8 Q. During the -- the time that you were employed at

9 the Burbank Police Department, were there other

10 Asian-Americans or Asians on the department?

11 A. Yes.

12 Q. Who?

13 A. Sergeant Tommy Kister and then Celia Barber.

14 MS. PELLETIER: I made a stack.

15 We haven't marked any exhibits yet. Do you want

16 me to start at 200?

17 I don't like to label the same exhibit seven

18 times. It makes life hard. So my request would be, to

19 the extent we're together, I don't think it's going to

20 be -- I think that will generally be the case. But if I

21 mark what I'm about to mark as Exhibit 200, to the best

22 we can, it stays Exhibit 200 and doesn't have 15 other

23 numbers. It will make it easier to do an exhibit list

24 later on.

25 So I'm willing to take a series of numbers that

1 And -- and if we have to jump and I start again at 500,
2 we will. But 200 seems like an awful lot of -- of
3 deposition exhibits.
4 MS. PELLETIER: I'm going to hand the court reporter
5 a document, then, I'm going to --
6 MR. GRESEN: Thank you.
7 MS. PELLETIER: -- ask be marked as Exhibit 201.
8 (Exhibit 201 was marked for identification.)
9 Q. BY MS. PELLETIER: Mr. Dunn, is that your
10 signature on Exhibit 201 under the sentence, "I have read
11 and received a copy of this memorandum"?
12 A. Yes.
13 Q. Okay. I take it you've -- you've seen that
14 memorandum before?
15 A. Yes.
16 Q. What is it?
17 A. It's --
18 MR. GRESEN: The document speaks for itself.
19 You may answer.
20 THE WITNESS: It's a departmental memorandum where
21 the subject is "Administrative Leave With Pay."
22 Q. BY MS. PELLETIER: And were you placed on
23 administrative leave on April 18, 2007?
24 A. Yes.
25 Q. And from April 18, 2007, through the remainder

1 of your tenure from the -- excuse me. Let me rephrase
2 that.
3 From April 18, 2007, until you were terminated
4 from the Burbank Police Department, was your assigned
5 work location your home?
6 A. Yes.
7 Q. The memorandum indicates that if you were to
8 leave your residence during the work schedule established
9 at your home, you should contact Captain Janice Lowers to
10 inform her of that.
11 MR. GRESEN: The document speaks for itself.
12 Q. BY MS. PELLETIER: And my question for you is,
13 did you follow that direction?
14 A. No.
15 Q. Tell me what you did that wasn't following that
16 direction.
17 A. I never spoke with Janice Lowers.
18 Q. Okay. Well, I guess what -- let me -- let me
19 break it down.
20 Did -- were there times when you left your
21 residence during 0800 to 1600, Monday through Friday,
22 where you didn't inform Captain Lowers that you were
23 leaving?
24 A. Yes.
25 Q. Can you estimate for me how many times that

1 occurred?

2 A. Numerous.

3 Q. And can you tell me why you didn't follow the

4 instructions in the memorandum to report in, so to speak,

5 before you left your home?

6 A. Yes.

7 MR. GRESEN: Argumentative. Assumes facts not in

8 evidence. Misstates the evidence.

9 You may answer.

10 THE WITNESS: Yes. Because early on in this process

11 I contacted -- I attempted to contact Janice Lowers and

12 ended up speaking with Pat Lynch who was a lieutenant at

13 the time. And he informed me for working out and menial

14 times, I don't have to call every single time and inform

15 him, especially when I'm working out, and I work out a

16 lot and do activities.

17 Q. BY MS. PELLETIER: Okay. Other than what you've

18 described as working out or other times you left to -- to

19 perform what you said, menial tasks, did you follow the

20 instruction to -- well, let me -- let me strike that.

21 Because I know --

22 It sounds like you never called in to anyone

23 after the one conversation with Pat Lynch?

24 A. I don't -- I don't recall ever calling in to

25 anyone after he -- he basically clarified.

1 And it was my understanding that this order
2 changed. It's not as strict as it was. I was concerned
3 about that in the beginning, and then my understanding
4 was that I could leave. Unless I was leaving town or
5 going on vacation, I didn't have to call in every time.
6 Q. Okay. The third paragraph of this memorandum
7 says, "During the period of administrative leave, you
8 shall not enter any nonpublic area of the police station
9 without my permission."
10 Did you follow that instruction?
11 A. Yes.
12 Q. During the time frame between being put on
13 administrative leave and being served with the notice of
14 intent to terminate, did you enter the Burbank police
15 station for any reason?
16 A. Yes.
17 Q. And what was that?
18 A. I came here for an internal interview.
19 Q. Okay. Anything else?
20 A. Twice.
21 Q. Okay.
22 A. I came here for a Skelly proceeding.
23 Q. Okay. And that was after the notice of intent;
24 right?
25 A. Yes. That could have been after. I'm sorry.

1 And I don't believe there was any other time.
2 Q. Okay. I take it you didn't attempt to sign up
3 for any extra-duty assignments during the time you were
4 on administrative leave?
5 A. No.
6 Q. And I also take it you didn't do any active work
7 as a Burbank police officer?
8 A. No.
9 Q. And the first paragraph of this notice indicates
10 that, "You shall surrender your badge, flat badge,
11 identification cards, proximity cards, duty weapons, and
12 ammunition."
13 Did you do that?
14 A. Yes.
15 Q. And did you do it upon receipt of the
16 memorandum?
17 A. Shortly thereafter.
18 Q. Who did you give those items to?
19 A. Captain Janice Lowers and J.J. Puglisi and Pat
20 Lynch.
21 Q. I know the answer to this, but just so I'm
22 clear.
23 Other than the two internal affairs interviews,
24 prior to the notice of intent and subsequent to being
25 placed on administrative leave, did you enter any Burbank

1 Police Department workplace?

2 A. I don't remember entering, no.

3 Q. Okay. I asked it the first time as the station,

4 and that's why I wanted to make sure that --

5 A. What -- what would you consider -- where are

6 there any other --

7 Q. I don't know --

8 A. -- outbuildings?

9 Q. I don't know that there are because -- because

10 Burbank is centralized, but I want to make sure I'm being

11 thorough. That's why I asked the question.

12 By the way, the last paragraph says if you get

13 any subpoenas, you're required to appear pursuant to

14 those subpoenas.

15 Do you recall whether you received any subpoenas

16 during the time you were on administrative leave?

17 A. Yes.

18 Q. And did you respond to those subpoenas?

19 A. Yes.

20 Q. And I take it you went directly to the

21 courthouse to respond?

22 A. Yes.

23 Q. Do you recall how many subpoenas you received?

24 A. No.

25 Q. Let me ask it this way and see if we can get

1 some sort of a range.

2 Was it less than ten?

3 A. Yes.

4 Q. Okay. Was it less than five?

5 A. Yes.

6 MS. PELLETIER: I'll show you a documented that I'm

7 going to ask the court reporter to mark as Exhibit 202.

8 (Exhibit 202 was marked for identification.)

9 Q. BY MS. PELLETIER: Have you seen Exhibit 202

10 before?

11 A. Yes.

12 Q. And tell us what Exhibit 202 is.

13 MR. GRESEN: The document speaks for itself.

14 You may answer.

15 THE WITNESS: A Burbank Police Department memorandum.

16 The subject is "Reassignment."

17 Q. BY MS. PELLETIER: Okay. And did this reflect

18 your reassignment from the vice/narcotics unit to the

19 juvenile bureau?

20 A. Yes.

21 MR. GRESEN: The document speaks for itself.

22 Q. BY MS. PELLETIER: Was March 30, 2007, the last

23 day you worked in the vice unit?

24 A. Yes.

25 Q. Okay. And you worked in the juvenile unit until

1 you were placed on administrative leave?

2 A. Yes.

3 Q. Who was your direct supervisor in the juvenile

4 unit?

5 A. Sergeant Darin Ryburn.

6 Q. Okay. Who else worked in the juvenile division?

7 A. Detective Ken Schiffner, Detective Reeve Ricard,

8 and I -- I seem to remember someone else, but I can't

9 recall at this point.

10 Q. And were you told why you were being transferred

11 from vice to juvenile?

12 A. Yes.

13 Q. And what were you told?

14 A. I was told that I was under investigation.

15 Q. And you were -- you had heard prior to this that

16 Culver City -- the Culver City Police Department was

17 conducting an investigation of you; is that correct?

18 A. Yes.

19 Q. And that was a criminal investigation?

20 A. I don't know.

21 MS. PELLETIER: Okay. I'll show you a document that

22 I'm going to ask the court reporter to mark as Exhibit

23 203.

24 MR. GRESEN: Thank you.

25 MS. PELLETIER: And for the record, Exhibit 203 --

1 the first page is a summons. The second page is a first
2 amended complaint.
3 (Exhibit 203 was marked for identification.)
4 Q. BY MS. PELLETIER: Let me just ask you,
5 Mr. Dunn, do you recognize Exhibit 203?
6 A. Yes.
7 Q. Is this the complaint that you reviewed prior to
8 your deposition here today?
9 A. I don't know if this is one or two. I think
10 there might have been a second version.
11 Q. And for the record --
12 A. I don't know.
13 Q. -- I'll --
14 A. I don't know if this is the exact one.
15 Q. Just for the record -- and I'm sure your counsel
16 will agree with me unless I'm -- I'm missing something.
17 This is the second version. This is the amended
18 complaint.
19 A. This is -- yes. Then your answer's yes.
20 Q. Okay. And I want to call your attention to the
21 exhibits to this complaint, actually.
22 And if you can -- they're not tabbed. But
23 towards the end is a document marked Exhibit B, and it
24 says "California Department of Fair Employment and
25 Housing."

1 Have you located that document?
2 A. Yes.
3 Q. The document indicates that the complaint was
4 filed on 5/27/2009.
5 Did you read this complaint prior to submitting
6 it to the Department of Fair Employment and Housing?
7 MR. GRESEN: Foundation. Assumes facts not in
8 evidence.
9 You may answer.
10 And -- and do not answer as to anything your
11 attorney said or discussed with you.
12 You may answer.
13 Q. BY MS. PELLETIER: And my question was, just so
14 you have it in mind, did you read it before it was
15 submitted to the DFEH?
16 MR. GRESEN: We had a problem earlier. I just wanted
17 to be clear for the record.
18 THE WITNESS: Yes.
19 Q. BY MS. PELLETIER: And did you personally submit
20 this complaint to the Department of Fair Employment and
21 Housing?
22 A. No.
23 Q. Is there anything in this complaint to the
24 Department of Fair Employment and Housing that is
25 inaccurate?

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1 MR. GRESEN: Overbroad. Rifkin objections.
2 Compound.
3 You may answer as to your understanding.
4 THE WITNESS: It is my understanding there is nothing
5 inaccurate in this complaint.
6 Q. BY MS. PELLETIER: Okay. Take a minute -- take
7 a minute to take a look at it because there's some boxes
8 checked, and just see if there's anything there that
9 strikes you as not being accurate.
10 MR. GRESEN: To the extent that that's a question,
11 the same objections.
12 The other thing for the record is that this
13 small -- probably six-point typeface is a little blurry
14 in the copies that we have.
15 MS. PELLETIER: And these are the copies you filed
16 with the court. So that's what I'm using. I -- I
17 understand, though.
18 Q. Did you see anything in your review that you
19 believed to be inaccurate in Exhibit B to your first
20 amended complaint?
21 MR. GRESEN: Overbroad. Rifkin objections.
22 Compound.
23 You may answer as to your understanding.
24 THE WITNESS: No.
25 Q. BY MS. PELLETIER: Okay. Prior to this

1 complaint being filed with the Department of Fair
2 Employment and Housing, had you filed any prior
3 complaints with the Department of Fair Employment and
4 Housing?
5 A. Yes.
6 Q. And when did you do that?
7 A. 1998 and '99 as a part of that previously
8 discussed litigation.
9 Q. Okay. Any other time?
10 A. No.
11 Q. Let me ask you to take a look at Exhibit C, and
12 you're going to need to leaf back a few pages.
13 The first page of Exhibit C is a letter from
14 Carol Humiston to your lawyers. But I'm actually more
15 interested in the -- the pages following that. The ones
16 that are entitled "City of Burbank/Police Department
17 Claim For Damages."
18 MR. GRESEN: It's the last two pages.
19 THE WITNESS: Oh.
20 Q. BY MS. PELLETIER: Have you seen Exhibit C to
21 your first amended complaint previously?
22 A. Yes.
23 Q. Did you see it prior to the time it was
24 submitted to the City of Burbank?
25 A. Yes.

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1 Q. In reviewing that document, is there anything in
2 there that is inaccurate?
3 MR. GRESEN: Rifkin objections. Legal conclusion --
4 oh, that's part of it.
5 Rifkin objections, overbroad, and compound.
6 But as to your understanding, you may answer.
7 And speculation.
8 THE WITNESS: No.
9 Q. BY MS. PELLETIER: Okay. Prior to this claim
10 for damages being submitted to the City of Burbank, had
11 you submitted any other claim for damages to the City of
12 Burbank?
13 A. Workers' comp count?
14 Q. No. I'm -- I'm -- this document here is what
15 we -- we in the business call a tort claim. So it is --
16 it's different than a workers' comp claim.
17 So had you made another claim pursuant to
18 Government Code Section 910?
19 MR. GRESEN: Rifkin objections.
20 But as to your understanding, you may answer.
21 THE WITNESS: No.
22 Q. BY MS. PELLETIER: Okay. And let's just make it
23 clear in case there's any cloudiness in -- in your
24 understanding of what's what.
25 Other than the workers' comp claim that you made

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1 L.A. CLEAR, and other individuals that were the incidents
2 that resulted in your termination.
3 Do you have that date in mind?
4 A. Yes.
5 MS. PELLETIER: Okay. Let me -- actually, let me
6 mark --
7 I'm going to show you a document that I'll ask
8 the court reporter to mark as Exhibit 214.
9 Is that what I'm up to? Oh, 204.
10 (Exhibit 204 was marked for identification.)
11 Q. BY MS. PELLETIER: Do you recall getting a call
12 from L.A. CLEAR on March 11, 2007?
13 A. Yes.
14 Q. And did that call come in on your Nextel?
15 A. The City's Nextel.
16 Q. Okay. And who did you talk to?
17 A. I don't remember the operator's name. It was a
18 representative from L.A. CLEAR.
19 Q. And --
20 A. Actually, let me correct that. It was a message
21 from L.A. CLEAR.
22 Q. And what did the message say?
23 A. That there was an alert or a warning about
24 another agency was interested in working an informant
25 that was registered to me, and they gave me his contact

1 information.

2 Q. Okay. Where were you when you got the message

3 from L.A. CLEAR?

4 A. I was in a park.

5 Q. Where?

6 A. In Santa Monica.

7 Q. Which park was it?

8 A. I don't know what the name of that park is.

9 Q. Can you give me the location?

10 A. I don't even know the streets, actually, believe

11 it or not.

12 Q. Okay. Does the name Cloverfield Park ring a

13 bell?

14 A. Yes.

15 Q. And what were you doing in that park?

16 A. I was attending a family function.

17 Q. Picnic?

18 A. I think it was my dad's birthday party.

19 Q. Okay. Who else was present at that family

20 function?

21 A. My wife.

22 Do you want her name?

23 Q. Sure.

24 A. Carmelina Dunn.

25 Q. Okay.

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1 A. My family members.
2 Q. From -- which of your family members were
3 present?
4 A. My immediate family members. Sherman Dunn, my
5 father.
6 Q. Okay.
7 A. Denise Dunn, my mother.
8 Q. Okay.
9 A. Ideal Dunn, my sister. Nadia Dunn, another
10 sister. Quinton Dunn, my brother. Nadia's husband, my
11 brother-in-law, David Magli, M-a-g-l-i. Alicia Dunn,
12 another sister.
13 And I believe that was it.
14 Q. Okay. What were you doing at the time the L.A.
15 CLEAR -- at the time that you listened to the L.A. CLEAR
16 message?
17 A. Playing badminton.
18 Q. Okay. You indicated that L.A. CLEAR left you a
19 message indicating that another agency was interested in
20 somebody registered to you, and they had left you contact
21 information for the officer of that other agency; is that
22 correct?
23 A. Yes.
24 Q. Did you contact the officer at that other
25 agency?

1 A. Yes.
2 Q. And who was that?
3 A. Detective Koffman.
4 Q. Okay. And when did you do that in relation to
5 playing the L.A. CLEAR message?
6 A. Immediately after.
7 Q. You stopped playing badminton?
8 A. Yes.
9 Q. What occurred during that conversation?
10 A. We basically exchanged information regarding the
11 informant and his intentions, and that was it.
12 Q. Tell me what he said to you. "He" being
13 Detective Koffman.
14 A. He explained to me that he had an informant that
15 gave him information that my informant was in possession
16 of a large quantity of narcotics. They intended to do an
17 operation and -- which he already had in motion, and he
18 was basically just providing notification to me.
19 Q. What did you say to him?
20 A. I informed him a little bit of background on
21 Gail Day, of -- of her activities as an informant. I
22 disagreed with him about the amount that his informant
23 had claimed that she had or was in possession of. And I
24 think I gave him some information about her house and --
25 and some of the operations we had done previously.

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1 from reviewing the internal affairs investigation, his
2 statement is that you, through your conversation with
3 him, tried to deter him from going after your informant
4 in this operation; correct?
5 MR. GRESEN: Compound. Vague.
6 You may answer.
7 THE WITNESS: Yes.
8 Q. BY MS. PELLETIER: And is he lying when he says
9 that?
10 A. Again --
11 MR. GRESEN: Argumentative. Speculation.
12 Foundation.
13 You may answer.
14 THE WITNESS: Again, I don't consider lying the same
15 as misstating the facts.
16 Q. BY MS. PELLETIER: Okay. Well, let me ask you
17 this.
18 During this phone conversation that you had with
19 Detective Koffman, he told you that his informant, the
20 person who informed on your informant, was in the
21 entertainment business; correct?
22 A. No.
23 Q. You realize that he's contended that he told you
24 that?
25 MR. GRESEN: Foundation. Speculation.

1 You may answer.

2 THE WITNESS: Yes.

3 Q. BY MS. PELLETIER: Was he lying about that?

4 MR. GRESEN: Argumentative. Foundation.

5 Speculation.

6 You may answer -- assumes facts not in evidence.

7 You may answer.

8 THE WITNESS: Again, my definition of "lying" would

9 be intentionally misleading. I believe he said something

10 similar, but it was not those exact words.

11 Q. BY MS. PELLETIER: What did he say?

12 A. He said he's a well-known guy.

13 Q. Did he give you any indication that this

14 well-known guy was in the entertainment industry?

15 A. No.

16 Q. Did he -- did Detective Koffman tell you during

17 this telephone conversation that his informant had

18 purchased drugs from Gail and had seen more drugs beyond

19 what he had purchased in Gail's apartment?

20 MR. GRESEN: Compound.

21 You may answer.

22 THE WITNESS: The latter part of that is true.

23 Q. BY MS. PELLETIER: Okay. So it's your testimony

24 that Detective Koffman did not tell you that his

25 informant -- we'll call him "Jack" -- had purchased drugs

1 from Gail?

2 A. I don't remember that part.

3 (Tim Stehr leaves the deposition proceedings.)

4 Q. BY MS. PELLETIER: Detective Koffman told you

5 that his informant had seen more drugs in Gail's

6 apartment beyond those that he purchased from Gail. I

7 think you indicated that part was correct?

8 A. Yes.

9 Q. And you knew from Detective Koffman that his

10 informant was male; correct?

11 A. Yes.

12 Q. Do you have any evidence that Detective Koffman

13 engaged in any of his actions because of your race?

14 MR. GRESEN: Foundation. Speculation.

15 You may answer.

16 THE WITNESS: No.

17 Q. BY MS. PELLETIER: Do you have any -- had you

18 had any prior contact, ever, with Detective Koffman?

19 A. No.

20 Q. Do you have any information that Detective

21 Koffman knew of your race?

22 A. At what time?

23 Q. At the time -- let's say prior to your

24 termination.

25 A. Yes.

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1 look like a phone record.

2 You may answer.

3 THE WITNESS: It was brief.

4 Q. BY MS. PELLETIER: Estimate for me how long that

5 conversation was.

6 A. Five to ten minutes.

7 Q. Okay. Did you have any trouble hearing

8 Detective Koffman during that phone conversation?

9 A. No.

10 Q. Were you experiencing any problems with your

11 phone?

12 A. Yes.

13 Q. What were those?

14 A. The battery was dying.

15 Q. Did you tell Detective Koffman that?

16 A. No.

17 Q. Did your phone cut out or disconnect at any

18 time?

19 A. No.

20 Q. Following your conversation with Detective

21 Koffman, and actually fairly --

22 And I will tell you Exhibit 204 is a

23 compilation. The phone records have been provided.

24 How long after you talked to Detective Koffman

25 did you talk to Sergeant Duran?

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1 A. Within a few minutes.
2 Q. Okay. Did you charge your Nextel in between
3 that conversation?
4 A. No.
5 Q. Did the battery die during your conversation
6 with Sergeant Duran?
7 A. No.
8 Q. What did you discuss with Sergeant Duran?
9 A. I explained to him the conversation between
10 myself and Koffman, the intentions of Culver City, and I
11 wanted his opinion on how to proceed.
12 Q. Did you tell Sergeant Duran that your
13 conversation with Detective Koffman was acrimonious?
14 A. I did not say "acrimonious."
15 Q. What did you say?
16 A. I don't remember the exact verbiage.
17 Q. Did you communicate that there were conflicts
18 between you and Detective Koffman during your phone
19 conversation?
20 A. I believe I indicated that Detective Koffman had
21 a problem with the conversation.
22 Q. Was your battery low when Detective Koffman
23 called you?
24 A. I don't remember if that was the case.
25 Q. Did you have any problem hearing Sergeant Duran

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1 THE VIDEOGRAPHER: And we are on the record at
2 3:53 p.m.
3 This is the beginning of Tape 3, Volume I.
4 Q. BY MS. PELLETIER: I'm going to switch topics on
5 you again, and I want to ask you some questions about
6 allegations in your complaint with respect to race-based
7 statements that you contend were uttered in your
8 presence.
9 And I'm going to be asking you, just so you
10 know, some pretty detailed questions about that in terms
11 of who's involved, the dates, and witnesses so that I can
12 follow up on that information and take depositions, take
13 people's statements. Things of that nature.
14 So if you can, you know, keep in mind, give me
15 your best estimate and your best recall of those things.
16 Before I get down to the details, though, I take
17 it that the statements you're referring to were made --
18 strike that.
19 The statements referenced in your complaint were
20 heard by you prior to your placement on administrative
21 leave; correct?
22 MR. GRESEN: Overbroad. Compound.
23 You may answer.
24 THE WITNESS: Yes.
25 Q. BY MS. PELLETIER: And we know from looking at

1 the document that you were placed on administrative leave
2 in April of 2007.
3 Can you tell me -- can you give me your best
4 estimate of when prior to April of 2007 was the last time
5 you heard somebody make a race-based comment?
6 A. It would have been in 2007, maybe a month or two
7 prior to that.
8 Q. And what was the statement?
9 A. I was at SRT training, and I was referred to as
10 a "Jap."
11 Q. Tell me exactly what was said.
12 A. Something to the effect of, "You're going to be
13 beat like World War II because you know we beat the
14 Japs."
15 MS. PELLETIER: Give me just one second.
16 THE VIDEOGRAPHER: It's okay.
17 MS. PELLETIER: Okay. I thought I was still on my
18 leash.
19 Q. During what period of time did you serve on SRT?
20 Will you remind me of that.
21 A. From 2004 to the time I was placed on
22 administrative leave.
23 Q. And who made the statement, "You're going to be
24 beat like" -- I'm paraphrasing here because I didn't
25 write down every word. But, "You're going to be beat

1 like what happened in World War II because you know we
2 beat the Japs." Who said that?
3 A. Sam Anderson.
4 Q. Okay. Who is Sam Anderson?
5 A. He's an officer who works K-9.
6 Q. Is he also on SRT?
7 A. Yes.
8 Q. Who else was present?
9 A. All the members of SRT.
10 Q. So who was present?
11 A. Lieutenant Dilibert, Sergeant Misquez, Aaron
12 Kendrick, Brian Gordon, J.J. Puglisi, Chris Robarts,
13 Scott Meadows, Mike Macias, John Pfrommer, Chris Racina.
14 There's more, but I'm starting to get to that
15 point where I don't want to be redundant.
16 Q. What was going on at the time --
17 A. Chris Canales.
18 Q. Okay. What was going on at the time?
19 A. We were doing a shooting competition, thus the
20 reference "beat."
21 Q. You were competing against Officer Anderson?
22 A. It was separate teams. Yes.
23 Q. And was that comment directed to your team or to
24 you personally?
25 A. To me personally.

1 Q. Did you tell Sergeant Duran about this comment?
2 A. No.
3 Q. Did you report the comment to any supervisor?
4 A. No.
5 Q. Remind me, who was your lieutenant in vice at
6 the time this comment was made? So in 2007.
7 A. J.J. Puglisi.
8 Q. Tell me -- let's just start by people.
9 Tell me the other individuals who have used a
10 racial slur in your presence.
11 A. Directed towards me or just in my presence?
12 Q. Let's start with directed towards you. But I'm
13 going to want both.
14 A. "Racial slur" as in an epithet or a statement or
15 joke?
16 Q. Let me put it to you this way.
17 Anything you consider to be racially offensive.
18 A. Sergeant Yadon.
19 Q. Okay. And I'm going to start with the list of
20 names.
21 So who else besides Sergeant Yadon?
22 A. Claudio Losacco.
23 Q. Okay.
24 A. Sam -- oh, you said who else. Chris Racina.
25 And that's all.

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1 Q. You started to say Officer Anderson.
2 Did -- other than the comment we just discussed,
3 did Officer Anderson make any other comment, joke,
4 statement that you considered to be racially offensive?
5 A. Yes.
6 Q. So let's start there.
7 What else did Officer Anderson say?
8 A. On many occasions he referred to me as "Jap,"
9 "Nip." He referred to Asians as "fish head." When
10 speaking to Larry Nichols, who was our range master and
11 served in Vietnam, he would refer to Asians as "gooks"
12 and "Charlie." He routinely used that type of language.
13 In order for me to give you an estimate, it would be over
14 a period of time. I do not know how many times he used
15 it.
16 Q. Were you -- other than your SRT assignment, did
17 you work with Officer Anderson otherwise?
18 A. Yes.
19 Q. And when did you work with Officer Anderson?
20 A. On patrol.
21 Q. Okay. So now we're going back to 2001 to 2003,
22 approximately?
23 A. Yes.
24 Q. Tell me the time frame that you and Officer
25 Anderson were on SRT together.

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1 A. The entire time that I was there.
2 Q. Tell me when -- well, let me ask it generally.
3 The comments that you relayed -- "Jap," "Nip,"
4 "fish head," "gooks," "Charlie" -- were those made while
5 you worked with Officer Anderson on patrol or SRT or
6 both?
7 A. Both.
8 Q. Let me focus first on the SRT.
9 Do you recall Officer Anderson calling you --
10 well, let me -- let me strike that.
11 Do you recall Officer Anderson calling you a
12 "Jap" while you worked on SRT?
13 A. Yes.
14 Q. And I know you've told me about the World War II
15 comment. So I don't need to cover that again if you
16 consider that to be in this category. But tell me what
17 else you recall Officer Anderson saying while you worked
18 on SRT using the term "Jap."
19 A. Any time that he referred to my heritage or
20 anything to do with like a Japanese-made car or just
21 making a joke about the "Japs" or the "Nips," he would
22 use those -- that terminology.
23 Q. How often did he do that?
24 A. (No audible response.)
25 Q. In other words, I'm not talking about how often

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1 he used that terminology when talking about some Asian
2 issue.
3 About how often did that topic come up?
4 A. I would say -- I mean, if I had to characterize
5 it, as regular.
6 Q. Who would be a witness to the fact that this was
7 regular commentary by Officer Anderson?
8 MR. GRESEN: Foundation.
9 You may answer.
10 THE WITNESS: As I already answered before, at any
11 given time, any member of the SRT and anyone on patrol
12 with us on the same shift.
13 Q. BY MS. PELLETIER: Have you discussed
14 Sergeant -- I'm sorry, Officer Anderson's comments with
15 anyone on the Burbank Police Department?
16 A. No.
17 Q. Back when you were in patrol and Officer
18 Anderson made these types of comments, who was your
19 direct supervisor?
20 A. Omar Rodriguez, Jon Murphy, Lieutenant Chris
21 Welker, Lieutenant Will Berry. And, again, that rotated
22 as shifts changed.
23 Q. Did you report Officer Anderson's comments to
24 Sergeant Rodriguez at the time that you were in patrol?
25 A. No.

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1 you personally?

2 MR. GRESEN: Foundation. Speculation.

3 You may answer.

4 THE WITNESS: Yes.

5 Q. BY MS. PELLETIER: And what information do you

6 have that that instruction was given in order to target

7 you?

8 A. I don't know if it's specifically regarding --

9 giving that instruction --

10 Can you be more specific? I believe it's

11 related but...

12 Q. Well, I asked you if you had any information

13 that Yadon's instruction to the vice guys not to

14 associate with the SED guys, if that was directed at or

15 designed to target you, and you said you did have that

16 information.

17 A. It was designed to target me, but also the other

18 officer, Canales, as well.

19 Q. Okay. And what information do you have that

20 that instruction was to target you and Canales?

21 A. When I was on patrol, I was a training officer.

22 I was in the training officer's office when another

23 training officer, Claudio Losacco, entered. And myself

24 and Officer Reyes, another Hispanic officer from the

25 LAPD, were sitting doing reviews -- doing ratings.

1 And he came in there, and he was mad about some
2 of the issues. I don't even remember what the exact
3 issue was. But he made the statement to the effect that
4 he's not -- he's not happy with the fact that we've -- he
5 said, "You people have come over here and are trying to
6 change this department."
7 And the reason that that relates to later is
8 that Claudio Losacco from that point on was never
9 friendly to me. And, in fact, I would hear rumors that
10 he was talking bad about me and many -- at different
11 times to people. And when he was in -- of course, this
12 all comes full circle because he's a detective with --
13 under Sergeant Yadon in vice/narcotics.
14 So I believe, in essence, that that was the
15 beginning of why this was being targeted towards myself
16 and Canales, because we were both LAPD and we're both
17 minorities.
18 Q. And all the rest of the -- if I understood
19 your -- your complaint, all the rest of the vice unit
20 guys were Caucasian?
21 A. Yes.
22 Q. Let me -- let me strike that.
23 It's targeted at the SED guys. Were there any
24 other members of the SED unit who were minority at the
25 time that Yadon gave the order not to associate with SED?

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1 directed at you and Canales because of your race.
2 So can you explain that to me?
3 MR. GRESEN: Improper form of question. The record
4 speaks for itself to the extent that it misstates any
5 testimony.
6 But you may answer.
7 THE WITNESS: Yes. When you asked me that question,
8 and maybe I misunderstood you, I was providing background
9 as to the origin of the conflict. And so I provided the
10 fact that I think it started, because you asked for my
11 opinion, with Duran and Rosoff. And then it spilled
12 over, as I said, with Yadon because Rosoff and Yadon are
13 very good friends. And then, of course, several
14 incidents occurred between Yadon and Duran. Some of
15 which I'm aware of and some which I'm not.
16 And then it spilled over to -- obviously by
17 default to us. And because of the personal issue I
18 talked about with Losacco and now Dan Yadon, who also
19 would never be friendly to me, was not friendly to
20 Canales, had made racial comments during that time that
21 we were working surveillance with -- with narcotics, and
22 in its totality led me to believe what I told him.
23 Q. BY MS. PELLETIER: Let me take you back to --
24 you said that you were in the -- during the time you were
25 a patrol officer or a training officer, you were -- I

1 forget where you told me you were, but you were somewhere
2 when Losacco entered.
3 When is this?
4 A. 2003.
5 Q. Okay. Anything else that Losacco said that you
6 found racially offensive at any time?
7 A. Yes.
8 Q. What else?
9 A. Several times Losacco would be overheard or
10 directly making fun of the accent and/or the verbal
11 delivery of the way certain minorities speak. And he
12 wasn't referring to me. I'm referring to other
13 minorities, talking about other suspects or victims.
14 Q. He'd -- he'd mimic accents?
15 A. Yes.
16 Q. Was there a particular racial group that he
17 would mimic the accent of?
18 A. Yes.
19 Q. And what group was that?
20 A. It was -- it was two groups. The Armenians and
21 African-Americans.
22 Q. And who -- well, let me -- let me strike that.
23 Did you personally hear Claudio Losacco do this?
24 A. Yes.
25 Q. How many times?

1 A. Several.

2 Q. During the time you heard Claudio Losacco do

3 this, what was your position?

4 A. Both on patrol and SED.

5 Q. How many times did Claudio Losacco mimic accents

6 while you were on SED?

7 MR. GRESEN: Foundation. Speculation.

8 Q. BY MS. PELLETIER: In your presence.

9 A. The same answer. Several. I couldn't give you

10 any number.

11 Q. Do you have any instance in mind? In other

12 words, do you have a recollection of a specific instance?

13 A. Yes. There's several times when it would occur

14 in the -- in the context of if one of the members would

15 ask, "Well, what suspect were you talking to? Who were

16 they? What were their race?"

17 And if it was an African-American female,

18 "Uh-huh," and there would be a head bobbing.

19 And they would go, "Oh, that explains it."

20 If it was referring to an Armenian suspect or

21 witness and there was either a problem or something

22 needed to be clarified, instead of saying, "Well, I know

23 what the problem is," it was like, "What is problem?" So

24 they used the accent.

25 And, of course, with Asians, any time we were

1 doing --

2 Q. Are you still on Losacco?

3 A. Well, you're -- I guess stick with Losacco.

4 Q. Yeah.

5 A. With Losacco, I did not hear the -- that actual

6 use of movie phrases to describe Asian females.

7 Q. Who witnessed the comments that you just

8 indicated were made by Claudio Losacco?

9 MR. GRESEN: Foundation. Speculation.

10 You may answer.

11 THE WITNESS: The list of people in narcotics that I

12 had given you before.

13 Q. BY MS. PELLETIER: Because you said this was

14 when you were in SED?

15 A. Yes.

16 Q. And so it was while SED was working with

17 narcotics?

18 A. Yes.

19 Q. Were there SED folks who witnessed this?

20 A. Yes.

21 Q. And who is that?

22 A. Chris Canales.

23 Q. Other than what you have already told me about,

24 any other racially offensive comments that Claudio

25 Losacco made?

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1 else that were of a racial nature?
2 A. No.
3 Q. Anything else that Claudio Losacco said that you
4 found racially offensive?
5 A. No.
6 Q. And I know you were in SED, but do you have a
7 sense of when the last comment that you overheard was
8 made by Claudio Losacco of a race -- racial nature?
9 A. My sense would be right up until he left.
10 Q. So just prior to your transfer into vice?
11 A. Yes. Because he left right when I got there.
12 Q. Have I covered now all of the race-based
13 comments of Yadon, Losacco, and Anderson?
14 A. No.
15 Q. Okay. So let me -- let me take them one -- I
16 believe I've covered Losacco; right?
17 A. Yes.
18 Q. And I've covered Anderson?
19 A. Yes.
20 Q. What else did Yadon say?
21 A. On one occasion -- well, let me back up.
22 The vice/narcotics unit liked a restaurant
23 called the California Wok -- I believe that was the
24 name -- on Olive and frequented it.
25 There was an occasion where they were going

1 there for lunch, and we were all supposed to go and meet
2 there after -- after some sort of operation, and I
3 indicated that I would not -- I didn't want to eat there.
4 And he stated, "What? You don't like your
5 people's food?"
6 And I said, "Well, I'm not Chinese."
7 And he goes, "Well, it's all the same."
8 He also made several comments that were --
9 Q. Give me just a second before you move on, if you
10 don't mind.
11 A. Okay.
12 Q. Tell me -- let me just ask you, when -- when was
13 this?
14 MR. GRESEN: Well, I just do want to object.
15 You ask him an open-ended question, and he has
16 it in mind, he starts answering, and every time you
17 interrupt him, perhaps there's information that he was
18 going to give that -- that, you know, he may not recall
19 or may not recall it the same way the next time.
20 Q. BY MS. PELLETIER: Okay. I'll tell you what.
21 You -- you give me your -- go -- go through with your
22 narratives, and then I'll -- I'll ask you questions
23 after.
24 Part of that was I just couldn't write fast
25 enough.

1 MR. GRESEN: Oh, okay.

2 MS. PELLETIER: But you're right. I did -- once I --

3 once I caught up, I did start to ask questions.

4 Q. So go ahead. Let's -- so we have the -- what

5 I'll call the California Wok incident.

6 A. I just discussed that incident.

7 Q. Okay. What else?

8 A. I lost my train of thought.

9 There was other incidents where he made a

10 comment -- we were on a surveillance -- and this was when

11 I was in SED and was in vice/narcotics. He almost hit a

12 woman in a crosswalk who was of Asian descent, and people

13 were kind of, you know, joking with him about it as to he

14 almost hit that lady.

15 And said, "Well, it's not my fault. She's

16 Asian. She could barely see at night." And I was

17 standing there. And he looked back at me. He's like,

18 "Right, Dunn? You can see; right?" Something to that

19 effect. The first part was -- I remember that

20 distinctly, but his comment to me after that was to that

21 effect.

22 Q. Anything else you recall by way of comments made

23 by Sergeant Yadon?

24 A. No.

25 Q. Okay. I know these both are while you're on --

1 while you're in SED; right?

2 A. Right.

3 Q. Do you have a sense -- did the California Wok

4 incident occur before the crosswalk incident?

5 A. No.

6 Q. The crosswalk was first?

7 A. Yes.

8 And I would like to add to the last question. I

9 did recall something.

10 Q. Okay. Let me -- and I'll asking about that.

11 But just so I'm clear, can you estimate for me

12 when the crosswalk commentary occurred?

13 A. 2005 to 2006.

14 Q. Okay.

15 A. It was prior to me being in vice/narcotics.

16 Q. Okay. Go ahead.

17 A. You said any comments or -- was your -- your

18 question; correct?

19 Q. Any comments by Sergeant Yadon that you heard

20 that you considered to be racially offensive.

21 A. Yes. As I stated with Claudio Losacco, Dan

22 Yadon was as much a party to the same behavior of using

23 and mimicking the accents and characteristics of the

24 speech of certain minorities.

25 Q. And what minorities were those?

1 A. African-Americans and Armenians.
2 Q. And did Dan Yadon do that in your presence?
3 A. Yes.
4 Q. How many times?
5 A. Several times. Many times between him and
6 Claudio Losacco.
7 Q. Was this also when you were in SED?
8 A. Yes.
9 Q. Did he ever mimic Asians?
10 A. Yes.
11 Q. And what did he do to mimic Asians?
12 A. There was a time where we were doing a -- a vice
13 sting on massage parlors in the city. And there was a
14 comment made by him about -- something to the effect of,
15 "Me love you long time." And similar comments were made
16 by him before and prior to that regarding that same
17 movie, "Full Metal Jacket."
18 Q. That's what you were referencing earlier when
19 you said "movie comments"?
20 A. "Movie phrases." Yes.
21 Q. And this was done in your presence?
22 A. Yes.
23 Q. Was this -- was this also while you were in SED?
24 A. Yes.
25 Q. Okay. With respect to the crosswalk incident,

1 MS. PELLETIER: No. They don't need the room at
2 5:00. They don't need it until 5:30.
3 MR. GRESEN: Oh. They just want us out at 5:00.
4 Fine.
5 MS. PELLETIER: They want us out at 5:00-ish. But
6 yeah. I'm shooting for 5:00.
7 THE WITNESS: Chris Racina, yes.
8 Q. BY MS. PELLETIER: What did -- what did Chris
9 Racina say?
10 A. He made a comment to me one day at the copy
11 machine. We were waiting for copies in the detective
12 bureau. He said, "You know, there's only been three
13 other Asian" -- well, he said "Oriental" -- "Oriental
14 detectives that have worked narcotics. One of them
15 became a transvestite. The other one went insane." And
16 then he led into, "You guys from the LAPD, I have to tell
17 you that I don't like you." And I believed that I was
18 the third.
19 Q. Do you know who Racina was referencing with
20 respect to the person who became a transvestite?
21 A. I don't know his name, but I have heard a story
22 that there's someone that is of transgender now that
23 previously -- an Asian-American.
24 Q. And is that person still on the Burbank Police
25 Department?

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1 MR. GRESEN: Foundation.
2 THE WITNESS: No.
3 Q. BY MS. PELLETIER: And do you know who Racina
4 was referencing when he said the other became insane?
5 A. No.
6 Q. Was anyone present when Racina made this
7 comment?
8 A. No.
9 Q. Any other -- oh, when was this comment made?
10 A. Sometime in 2006.
11 Q. Any other racially offensive comments in your
12 presence by Chris Racina?
13 A. No.
14 Q. What is Chris Racina's race?
15 A. Caucasian.
16 Q. Do you have any information that Chris Racina
17 played a part in the decision-making -- or in the
18 decision to terminate you?
19 MR. GRESEN: Foundation. Speculation.
20 You may answer.
21 THE WITNESS: Yes.
22 Q. BY MS. PELLETIER: And what was his role in the
23 decision to terminate you?
24 MR. GRESEN: Foundation. Speculation.
25 You may answer.

1 that I be terminated or some action against me be taken.
2 And this was related to Omar Rodriguez from Tim Stehr
3 directly.
4 Q. So you heard it from Omar?
5 A. Yes.
6 Q. Did you get information as to why the police
7 chief of the Culver City Police Department was advocating
8 your termination?
9 A. No.
10 Q. Did you get information that Culver City was
11 upset by your behavior, that they were angry over what
12 they believed you had done?
13 A. No.
14 Q. Have we covered all the racist commentary that
15 you heard during your tenure as a Burbank Police
16 Department employee? I think -- I think we finished
17 Yadon, Losacco, Racina, and Anderson; correct?
18 A. Yes.
19 Q. Did anybody else make racist comments?
20 A. Several people made comments regularly from the
21 time that I was -- from the beginning of my employment
22 till the end. However, I cannot recall the specific
23 persons well enough to give you the exact details, only
24 familiar phrases that I heard referring to certain races
25 and certain ancestries of different individuals.

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1 Q. Do you -- do you recall the individuals who made
2 those comments?
3 A. I recall the individuals that were present. But
4 the circumstances, I was in roll call, and I'm facing
5 forward, and I can hear them behind me. And I know that
6 certain people were there, back in that back of the room.
7 The more tenured officers traditionally sit in the back.
8 And they would routinely make comments of a race-based
9 nature in response to briefings or things that were being
10 said to us from a briefing sergeant or lieutenant.
11 Q. And who were the more tenured officers sitting
12 behind you when those comments were made?
13 A. I know that Scott Moody, Brian Cozakos, Angelo
14 Dahlia. They call him -- his name is Buteyn. I don't
15 know his first name. And that's all I can recall.
16 Q. And if I understand your -- your testimony, you
17 can't say that any of those individuals actually uttered
18 something that was racial, but they were sitting in an
19 area behind you and the comments came from behind you?
20 A. Yes.
21 Q. And anybody who was in roll call would have
22 heard those comments?
23 A. Yes.
24 MR. GRESEN: Foundation. Speculation.
25 Q. BY MS. PELLETIER: And is this when you're a

1 patrol officer?

2 A. Yes.

3 Q. Okay. And what were the nature of the comments?

4 A. The nature of the comments would be in -- in

5 forms of jokes or epithets in response to something that

6 would be said.

7 Q. Do you recall who was the supervisor that was

8 conducting the roll call?

9 A. There were several roll calls, and there were

10 different supervisors.

11 Q. And tell me, do you recall who was the

12 supervisor at the time that this type of commentary was

13 going on, who was conducting roll call?

14 A. The same supervisors that I mentioned before.

15 Omar Rodriguez, Jon Murphy. Possibly others. I mean, I

16 know there's other sergeants that I can't remember. But

17 in one particular incident, I remember Armen Dermenjian

18 was a sergeant, and he was present.

19 Q. Were these comments made loud enough for

20 Sergeant Rodriguez to have heard?

21 MR. GRESEN: Foundation. Speculation.

22 You may answer.

23 THE WITNESS: Yes.

24 Q. BY MS. PELLETIER: How about Sergeant Murphy?

25 MR. GRESEN: Same objections.

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866 299-5127

1 THE WITNESS: Yes.

2 Q. BY MS. PELLETIER: And Sergeant Dermenjian?

3 MR. GRESEN: Same objections.

4 THE WITNESS: Yes.

5 Q. BY MS. PELLETIER: Was any response made by any

6 of the three of them to the -- the comments?

7 A. Yes.

8 Q. And what was that?

9 A. On one occasion that I remember specifically,

10 there was a comment made about -- there was a racial

11 epithet used to describe Asians. I don't remember which

12 one it was. But then the comment was made, "Yeah, he was

13 just on a rice rocket," which refers to a motorcycle.

14 Dermenjian took offense to that. And after the roll

15 call, he walked both out, Officer -- and I don't remember

16 who it was -- outside, and made him apologize to me. But

17 I remember it happening, and I don't remember

18 specifically who -- which officer it was that said it.

19 Q. And this is back in the early 2000s?

20 A. Yes.

21 Q. Any other reaction by the sergeants conducting

22 roll call to any racial commentary that took place in

23 your presence during roll call?

24 A. Not that I was party to, no.

25 Q. When you say not that you were a party to, I'm

City of Burbank
MEMORANDUM

Date: April 18, 2007

To: Detective Chris Dunn

From: Captain Janice Lowers

Subject: **ADMINISTRATIVE LEAVE WITH PAY**

Effective today, you are placed on Administrative Leave With Pay. You shall surrender your badge, flat badge, identification card (s), proximity card, duty weapon and ammunition upon receipt of this memorandum.

Your work schedule during the length of your Administrative Leave is 0800 to 1600, Monday through Friday. Your assigned work location is your home. You are ordered to remain fit for duty during these work hours and if you leave your residence you shall contact my office to inform me.

During the period of Administrative Leave, you shall not enter any non-public area of the Police Station without my permission. You shall not work or sign up for any extra duty assignments.

While on Administrative Leave, you shall appear in court pursuant to any subpoena issued to you by the Burbank Police Department Subpoena Control. These appearances should occur during your work schedule as set forth in this memo.

Janice Lowers
Investigation Division Captain

I have read and received a copy of this memorandum.

4-18-07

Detective Chris Dunn Date

Served by: 4-18-07

Lieutenant Date

cc: All Captains, All Watch Commanders, Subpeona Control

EXHIBIT
201
1-13-10
DUNN
depobook.com

BURBANK POLICE DEPARTMENT
MEMORANDUM

DATE: March 30, 2007

TO: Detective Chris Dunn

FROM: Deputy Chief Tim Stehr

SUBJECT: Re-Assignment

The purpose of this memorandum is to advise you, effective immediately, you are being re-assigned from the Vice Narcotics Unit to the Juvenile Bureau. You will report directly to Lieutenant Pat Lynch for further details regarding this temporary assignment.

Your re-assignment is necessary based on an ongoing Personnel Investigation and is not punitive. The nature of the related allegations requires this move to protect you, other employees, and the Department from any perception of impropriety pending the outcome of the aforementioned investigation.

Deputy Chief Tim Stehr

depoback.com
EXHIBIT
202
1-13-10
DUNN

SUM-100

SUMMONS on First Amended Complaint
(CITACION JUDICIAL)

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES
JUL 24 2009
John A. Clarke, Executive Officer/Clerk
By RUGENA LOPEZ, Deputy

NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):

Burbank Police Department, City of Burbank, and Does 1 through 100, Inclusive.

YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):

Christopher Lee Dunn

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (*www.courtinfo.ca.gov/selfhelp*), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (*www.lawhelpcalifornia.org*), the California Courts Online Self-Help Center (*www.courtinfo.ca.gov/selfhelp*), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of $10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case.

¡AVISO! Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. AVISO: Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de $10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:
(El nombre y dirección de la corte es): Superior Court of California
County of Los Angeles - 111 North Hill Street, Los Angeles, CA 90012

CASE NUMBER:
(Número del Caso): BC417928

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
Law Offices of Rheuban & Gresen - 15910 Ventura Blvd., Suite 1610, Encino, CA 91436

DATE: JUL 24 2009
(Fecha)
Clerk, by RUGENA LOPEZ, Deputy
(Secretario) *(Adjunto)*

(For proof of service of this summons, use Proof of Service of Summons *(form POS-010).)*
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, *(POS-010)).*

[SEAL]

NOTICE TO THE PERSON SERVED: You are served
1. [ ] as an individual defendant.
2. [ ] as the person sued under the fictitious name of *(specify)*:
3. [ ] on behalf of *(specify)*:
   - [ ] under: [ ] CCP 416.10 (corporation) [ ] CCP 416.60 (minor)
   - [ ] CCP 416.20 (defunct corporation) [ ] CCP 416.70 (conservatee)
   - [ ] CCP 416.40 (association or partnership) [ ] CCP 416.90 (authorized person)
   - [ ] other *(specify)*:
4. [ ] by personal delivery on *(date)*:

EXHIBIT 203 1-13-10

Form Adopted for Mandatory Use
Judicial Council of California
SUM-100 [Rev. July 1, 2009]

SUMMONS

Code of Civil Procedure §§ 412.20, 465
www.courtinfo.ca.gov
American LegalNet, Inc.
www.FormsWorkflow.com

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Attorneys for Plaintiff
CHRISTOPHER LEE DUNN

(SPACE BELOW FOR FILING STAMP ONLY)

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES
JUL 24 2009
John A. Clarke, Executive Officer/Clerk
By RUGENA LOPEZ Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

CHRISTOPHER LEE DUNN, Plaintiffs, -vs- BURBANK POLICE DEPARTMENT; CITY OF BURBANK; AND DOES 1 THROUGH 100, INCLUSIVE. Defendants.	CASE NO.: BC417928 Assigned to: Alan S. Rosenfield Case Filed: July 16, 2009 FIRST AMENDED COMPLAINT FOR: 1. VIOLATIONS OF THE CALIFORNIA FAIR EMPLOYMENT AND HOUSING ACT [GOVERNMENT CODE § 12940 ET SEQ.] 2. VIOLATIONS OF THE PUBLIC SAFETY OFFICERS PROCEDURAL BILL OF RIGHTS [GOVERNMENT CODE § 3300 ET SEQ.]

COMES NOW PLAINTIFF, CHRISTOPHER LEE DUNN, WHO ALLEGES AS FOLLOWS:

GENERAL ALLEGATIONS

1. At all times herein mentioned, Plaintiff CHRISTOPHER LEE DUNN ("Det. Dunn") was, and remains, a resident of the County of Los Angeles, State of California, and the acts complained of took place in the County of Los Angeles, State of California. Plaintiff is of Asian ancestry, at all times herein mentioned, was employed by Defendants BURBANK POLICE DEPARTMENT and CITY OF BURBANK. At the time of his termination, Plaintiff Dunn held the

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rank of Detective.

2. Plaintiff is informed and believes and based thereon allege that Defendant BURBANK POLICE DEPARTMENT (the "Burbank PD") is a public entity in the State of California. Plaintiff is further informed and believes that Defendant Burbank PD employs more than five employees and is engaged in interstate commerce within the meaning of California Government Code, section 12926. At all times mentioned herein, Defendant Burbank PD was Plaintiff's employer.

3. Plaintiff is informed and believes and based thereon allege that Defendant CITY OF BURBANK ("COB") is a public entity in the State of California. The exact relationship between Defendant COB and the Burbank PD is unknown to Plaintiff. However, Plaintiff is informed and believes that Defendant COB owns and/or operates Defendant Burbank PD, such that both entities are properly defendants in this action. In addition, Plaintiff is informed and believes that Defendant COB employs more than five employees and is engaged in interstate commerce within the meaning of California Government Code, section 12926. At all times mentioned herein, Plaintiff is informed and believes that Defendant COB was his employer, along with the Burbank PD.

4. The true names and capacities, whether individual, corporate, associate or otherwise, of Defendants named herein as DOES are unknown to Plaintiff, who therefore sues said Defendants by said fictitious names. Plaintiff is informed and believes, and thereupon alleges, that each of said DOE Defendants is negligently or otherwise responsible in some manner for the events and happenings herein referred to, and negligently or otherwise caused injuries and damages proximately thereby to the Plaintiff. Plaintiff prays leave to amend this Complaint to substitute the specific names of said DOES and to specify their said negligent acts as they become known.

5. Plaintiff is informed and believes and based thereon alleges that at all times mentioned herein, the DOE Defendants, and each of them, were the officers, directors, advisors, employees or otherwise agents and/or co-conspirators of Defendants Burbank PD and COB, and each of them, and were acting within the scope of their authority as such officers, directors, advisors, employees or agents with the permission and consent of Defendants Burbank PD and COB, and each of them, such that Plaintiff is informed and believe that Defendants Burbank PD and COB approved,

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encouraged, or otherwise ratified and/or adopted the alleged acts and actions of the DOE Defendants, as more fully described at length, below. Defendants Burbank PD and COB was involved in the selection, consultation, and or hiring of each and every other participant in the events relevant herein, along with the DOE Defendants, and each of them, who at all times were acting in both an individual capacity, and as officers, directors, advisors, employees or otherwise agents of Defendants Burbank PD and COB.

ALLEGATIONS COMMON TO ALL CAUSES OF ACTION

6. For four years in the late 1980's and the early 1990's, Plaintiff Christopher Lee Dunn served his country in the United States Army. Plaintiff was a Military Police Investigator, who conducted civilian and military criminal investigations for his unit. Det. Dunn also served as a patrolman, protective services detail, point man on the Special Response Team (SRT), and was a qualified expert in all classes of assigned weapon systems. Plaintiff's awards and commendations included, without limitation, the 1988 Top Rookie award and a 1989 Army Achievement Medal, among others.

7. Plaintiff joined a police force in 1995 as a police officer with the Los Angeles Police Department ("LAPD"). During his tenure at LAPD, Plaintiff was a Team Leader of a divisional Special Enforcement Group specializing in career criminal investigation and fugitive apprehension. Plaintiff was also a member of the East LA anti-gang unit CRASH unit, or Community Resources Against Street Hoodlums, and at times served as a divisional firearms and tactics instructor. In1998, Plaintiff received the LAPD Medal of Valor, presented to a very select few for courage under fire. The very next year, President Bill Clinton and Vice President Al Gore presented him with the 1999 Top Cop Award for exceptional valor above and beyond the call of duty.

8. In March, 2001, Plaintiff Dunn transferred from LAPD to COB/Burbank PD. During his tenure at COB/Burbank PD, Plaintiff at times served as a field training officer, a POST certified defensive tactics instructor, a Special Enforcement Detail (SED) investigator, and Special Response Team (SRT) member/instructor. At all time, Plaintiff discharged his duties in a capable, competent and professional manner. In 2007, Plaintiff received the Professional Esteem Award from the Burbank City Council, and in 2007, Plaintiff also received the Organized Crime Drug Enforcement

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Task Force Award ("OCDETF"), awarded by (then) US Attorney General, Alberto Gonzales.

9. During his tenure at COB/Burbank PD, Det. Dunn was repeatedly subjected to improper and inflammatory race-based comments by certain of his fellow officers. Racial slurs and epithets were commonly used by those same officers, and Plaintiff was regularly called a "Jap," "Nip," "Half Breed," "Charlie," and "Fish Head," among others. Comments were also made about Plaintiff's "slanted eyes," his "Chinese" heritage (though he is Japanese), and stereotypical jokes about "seeing at night" and being "blindfolded by dental-floss," and "World War II," among others, were also common. When Plaintiff questioned this behavior to his supervisors, he was told that the officers were just joking around and that he should not make a big deal of it. Because these statements were so common and were made in plain hearing of supervisors and others in positions of high authority, Plaintiff did not pursue his complaints - believing them to be futile.

10. Plaintiff was also witness to numerous other offensive and racially insensitive comments made about members of other races, both officers and suspects alike. Armenians were called, "Armo's, " "Moes," "Ian's," "Sand Niggers," and the like. Blacks were called "Nigger," "Gangstas," and "Gee's," among others. Vehicles driven by minorities were referred to as "Rice Rockets" or "Gee-rides," and unidentified African-American suspects were sometimes booked as "Tyrone Doe" instead of "John Doe." Hispanics were called "Mexicans," "Beaners," "Spics," "Taco Vendors" and the like, and unknown Hispanic suspects were often booked as "Juan Doe" instead of "John Doe." A true and correct copy of a booking sheet, with individual names redacted, detailing how unknown Hispanics were booked in as "Juan Doe" is attached, marked as Exhibit "A," and is incorporated herein by this reference as though fully set forth at length. Again, because these statements were so common and were made in plain hearing of supervisors and others in positions of high authority, Plaintiff did not pursue any complaints - believing them to be futile.

11. In September of 2006, Plaintiff was assigned to the Special Enforcement Detail ("SED"). The SED team routinely is involved in serious, high risk, high-profile investigations. Plaintiff had an outstanding record and received several commendations for duties performed as a member of the SED. Shortly thereafter, Plaintiff was promoted to detective. As a detective, Plaintiff wanted to be assigned to the prestigious narcotics unit. Because of his heritage, however, Plaintiff

203-5

was warned away from the position in the unit, which at that time was composed entirely of Caucasian officers. Plaintiff was expressly informed by his supervisor that the "all-white" narcotics unit did not want him there. However, because his performance warranted advancement, Plaintiff persisted and was ultimately promoted into the unit.

12. Immediately upon being assigned to the unit, Plaintiff was treated differently than the white officers. Some of Plaintiff's white coworkers were decent and honest people, and did not engage in the wrongful conduct. Nonetheless, most were reluctant to assist Plaintiff in fear of retaliation from the more powerful and politically connected among them. Many of the officers were unfriendly, and inappropriate and insensitive race-based comments and jokes were commonplace. Plaintiff was again told by a coworker in the narcotics unit, "you know they don't want you here." Plaintiff was given the less desirable assignments in the unit, even though at that time he had more narcotics seizures than any other officer in the department. Plaintiff reported the above-described disparate and discriminatory treatment, and the instigator (Sgt. Dan Yadon) was reassigned back to the patrol division. This created a rift between Plaintiff and many of the remaining white officers in the narcotics unit, who supported Sgt. Yadon and were intolerant towards Plaintiff. Even so, Plaintiff was nominated for and received the 2007 OCEDET Federal Narcotics Task Force Award, as described above, while working in the "all-white" narcotics unit.

13. On March 30th, 2007, Plaintiff was presented with a complaint concerning his alleged interaction with a narcotics informant. The complaint alleged that Det. Dunn "tipped off" the informant concerning a Culver City Police Department investigation into her activities, and allegedly suggested that the informant get rid of any drugs in her possession. This is the same Det. Dunn who was a recipient of the presidential National Top Cop Award, the LAPD Medal of Valor, and the 2007 OCEDET Federal Narcotics Task Force Award. This was Plaintiff's first major complaint in approximately 20 years of working at various law enforcement related jobs as described above.

14. Interestingly, the informant who was allegedly "tipped off" was arrested by the Culver City PD with several ounces of narcotics - enough to support a "possession with intent to sell" felony conviction. Presumably, if the informant was actually "tipped off," she would not have had narcotics in her possession when the police arrived to arrest her. Nevertheless, a lengthy 14

203-6

month investigation ensued by the Burbank PD, Culver City PD, LASO Sheriffs Office, and the LA District Attorney's office. Plaintiff was initially transferred to the juvenile division, than was sent home on administrative leave with pay.

15. When the complaint was presented to the Burbank PD, Sgt. Yadon's close personal friend, business partner and confidant, Lt. Eric Rosoff, headed up the administration of the investigation. Shortly after her arrest for felony possession with intent to sell, the informant was interviewed by Lt. Rosoff. At that time, the informant recanted her earlier statements, and told Lt. Rosoff that she had been threatened in the initial interview, and that she fabricated the allegations against Det. Dunn in order to avoid the prosecution and jail time threatened by the Culver City PD. The informant had no incentive to recant other than her conscience, because absent her testimony against Det. Dunn, she would not be able to receive favorable treatment from the prosecution as promised.

16. Plaintiff is informed and believes that the investigation into the alleged incident was incomplete, irregular and not within the normal practices of the Burbank PD. There were only partial transcripts, summaries of interviews were read and then summarized by the non-interviewing officer, inexplicable breaks in the interview of the key witness, witness were not interviewed directly, and statements were made by the District Attorney's office which were unusual and inappropriate, among other things. Plaintiff is informed and believes that these irregularities and abnormal practices resulted from the direct involvement of Lt. Rosoff, in retaliation for Plaintiff's complaints against his friend, business partner and confidant, Sgt. Dan Yadon.

17. Lt. Rosoff also attempted to improperly and adversely influence a police witness to the investigation, Sgt. Thor Merich. In a memorandum, Sgt Merich stated that he was intimidated by Lt. Rosoff and encouraged to not be completely truthful with investigators. As of the date of the filing of the within complaint, Plaintiff is informed and believes that no investigation has been completed into the above described attempt by Lt. Rosoff to improperly manipulate the testimony of witnesses to the complaint against Plaintiff.

18. Thereafter, on or about July 17, 2008, and even though the complaint against Plaintiff was not properly investigated or substantiated, Plaintiff was terminated from his position as a

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Detective at the Burbank PD. The stated reasons for the termination were because he allegedly interfered with the above-described investigation and for insubordination. Plaintiff is informed and believes that the true reason for the termination was because of Plaintiff's race, ethnicity and/or national origin, and in retaliation for Plaintiff's complaints of harassment and discrimination against Sgt. Dan Yadon and Lt. Rosoff.

19. On May 27, 2009, Plaintiff filed a Complaint for discrimination and harassment, among other things, with the California Department of Fair Employment and Housing ("DFEH") and, on that same date, received a "Notice of Case Closure," and "Right to Sue Notice," true and correct copies of which are attached, collectively marked as Exhibit "B," and are incorporated herein by this reference as though fully set forth at length. Plaintiff has also filed a Governmental Claim Form with the City of Burbank which was rejected on July 10, 2009, true and correct copies of which are attached, collectively marked as Exhibit "C," and are incorporated herein by this reference as though fully set forth at length. Therefore, Plaintiff has properly exhausted his administrative remedies.

FIRST CAUSE OF ACTION
(Wrongful Discrimination in Violation of Government Code Section 12940, Subsections (a) and (c) Against Defendants City of Burbank, Burbank Police Department, and DOES 1 Through 100, Inclusive)

20. Plaintiffs repeat and re-allege by this reference each and every allegation contained in the General Allegations, paragraphs 1 through 19, and incorporate the same herein as though fully set forth at length.

21. Plaintiff was employed by Defendants COB, Burbank PD and DOES 1 through 100, and each of them (hereinafter sometimes collectively referred to as the "Burbank PD Defendants"), during the times and in the positions which are described with more particularity, above. At all times herein mentioned, Plaintiff was performing competently in his position within the Burbank PD.

22. While working for the Burbank PD Defendants, and each of them, as more fully described above in the General Allegations, Plaintiff was subjected to discrimination and discriminatory policies, practices and procedures based upon race, ancestry and national origin,

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among other things. The discriminatory practices included, by way of example and not by way of limitation:

a. The consistent and pervasive use of racial epithets and other racially inflammatory or otherwise inappropriate language, such as "Jap," "Nip," "Half Breed," "Charlie," and "Fish Head," among others;

b. Scrutinizing Plaintiff's work more carefully than Caucasian officers, for no reason other than race, ancestry, and national origin, among other things;

c. Plaintiff was given the less desirable assignments in the narcotics unit, even though he at that time had more narcotics seizures than any other officer in the unit;

d. Causing false charges to be filed against Plaintiff for allegedly "tipping off" a witness, among other things as more fully described above;

e. Improperly attempting to influence witness testimony, including the statements of Sgt. Thor Merich, for the purpose of attacking Plaintiff and getting him removed from the Department;

f. Failing to properly investigate claims of harassment, discrimination and retaliation, and the additional failure to appropriately impose discipline on the offending employees;

g. Terminating or otherwise disciplining Plaintiff, among other things, based on his race, ancestry and national origin, and not based upon his performance, as more fully described above.

23. These discriminatory practices, as well as those described in the General Allegations, above, created a hostile work environment in which minorities, among others, were subjected to disadvantageous terms, conditions, and/or privileges of employment, based not on the content of their character, but on the color of their skin, their ancestry, and race, among other things. This hostile working environment adversely affected each and every officer in the Burbank PD, regardless of color, race or ancestry, and has caused a rift in the Burbank PD between those officers who treat minorities the same as Caucasian males, and those who wish to discriminate and cultivate favoritism. This hostile work environment ultimately resulted in the charges being filed against Plaintiff and his

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termination from the Department.

24. Government Code section 12940(a) embodies fundamental, substantial, and well-established public policies of the State of California. By engaging in the discriminatory activities and by maintaining the discriminatory policies, practices and procedures more fully described above, and more specifically by terminating Plaintiff as set forth above, the Burbank PD Defendants violated Government Code section 12940(a), and the fundamental, substantial, and well-established public policies embodied therein.

25. Government Code section 12940(c) embodies fundamental, substantial, and well-established public policies of the State of California. By engaging in the discriminatory activities and by maintaining the discriminatory policies, practices and procedures more fully described above, and more specifically by terminating Plaintiff as set forth above, the Burbank PD Defendants violated Government Code section 12940(c), and the fundamental, substantial, and well-established public policies embodied therein.

26. Plaintiff is informed and believe and based thereon allege that in addition to the practices enumerated above, Defendants, and each of them, have engaged in other practices in violation of the Fair Employment and Housing Act, including Government Code section 12940, which are not yet fully known. At such time as said practices become known, Plaintiffs will seek leave of Court to amend this Complaint in that regard.

27. Plaintiff is informed, and believes, and thereon alleges that between March, 2007, and July, 2008, Defendants COB, Burbank PD, and Does 1 through 100, and each of them, knowingly and willfully conspired and agreed among themselves to cause Plaintiff to be terminated because of his race, ancestry and/or national origin, and to deprive Plaintiff of the benefits and privileges of his employment as described herein. In so doing, Defendants violated the fundamental, substantial, and well-established public policies embodied in Government Code section 12940(i), by aiding, abetting, inciting, compelling or coercing the doing of any of the acts forbidden under Government Code section 12940, subsections (a) and (k), or by attempting to do so.

28. As a direct and proximate result of Defendants' willful, knowing, and intentional violations of FEHA by discriminating against Plaintiff based on race, ancestry and national origin,

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and by using discrimination as a wrongful basis for termination, and by their failure to take all reasonable steps necessary to prevent discrimination as hereinabove alleged, Plaintiff lost his job and was damaged thereby in a sum according to proof with interest thereon at the legal rate allowed.

29. As a further direct and proximate result of Defendants and each of their willful, knowing, and wrongful termination and failure to take all reasonable steps necessary to prevent discrimination as herein described, Plaintiff has suffered and will continue to suffer pain, extreme and severe mental anguish and emotional distress. Plaintiff has incurred and will continue to incur medical expenses for treatment by psychotherapists and other health professionals, as well as for other incidental expenses. Plaintiff has suffered and will continue to suffer loss of earnings and other employment benefits and job opportunities. Plaintiff is thereby entitled to general and compensatory damages in amounts according to proof.

30. As a further direct and proximate result of Defendants and each of their violations of Government Code section 12940, subsections (a) and (c), as more fully described herein, Plaintiff has been compelled to retain the services of legal counsel in an effort to enforce the terms and conditions of the employment relationship, and has thereby incurred, and will continue to incur, legal fees and costs, the full nature and extent of which are presently unknown to Plaintiff, who therefore will seek leave of Court to amend this Complaint in that regard when the same shall become known to him. Plaintiff requests that attorney and expert witness fees be awarded pursuant to Government Code section 12965.

SECOND CAUSE OF ACTION

(Wrongful Harassment in Violation of Government Code Section 12940, Subsections (a) and (j) Against Defendants City of Burbank, Burbank Police Department, and DOES 1 Through 100, Inclusive)

31. Plaintiffs repeat and re-allege by this reference each and every allegation contained in the General Allegations, paragraphs 1 through 32, and incorporate the same herein as though fully set forth at length.

32. While working for the Burbank PD Defendants, and each of them, as more fully described above in the General Allegations, Plaintiff was subjected to unlawful harassment based upon race, ancestry and national origin, among other things. The harassment included, by way of

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example and not by way of limitation, the continuous and pervasive use of racial epithets and other racially inflammatory or otherwise inappropriate language, such as "Jap," "Nip," "Half Breed," "Charlie," and "Fish Head," among others. Comments were also made about Plaintiff's "slanted eyes," his "Chinese" heritage (though he is Japanese), and stereotypical jokes about "seeing at night" and being "blindfolded by dental-floss," and "World War II," among others, were also common, as were the disparate treatment, close scrutiny of minorities, and failure to impose appropriate discipline against offending employees, among other things, as more fully described above in the General Allegations.

33. This harassment, as well as that described in the General Allegations, above, created a hostile work environment in which minorities, among others, were subjected to verbal and other harassment based on the color of their skin, their race, and their ancestry, among other things. This hostile working environment adversely affected each and every officer in the Burbank PD, regardless of color, race or gender, and has caused a rift in the Burbank PD between those officers who treat minorities the same as Caucasian males, and those who wish to discriminate, harass and cultivate favoritism.

34. Government Code section 12940(a) embodies fundamental, substantial, and well-established public policies of the State of California. By engaging in the harassing conduct hereinabove described, and by maintaining policies, practices and procedures which promote and do not punish harassment, as more fully described above, the Burbank PD Defendants violated Government Code section 12940(a), and the fundamental, substantial, and well-established public policies embodied therein, such that an injunction should properly issue to enjoin further misconduct on the part of the Burbank PD Defendants, in the manner set forth below.

35. Government Code section 12940(j) embodies fundamental, substantial, and well-established public policies of the State of California. By engaging in the harassing conduct hereinabove described, and by maintaining policies, practices and procedures which promote and do not punish harassment, as more fully described above, the Burbank PD Defendants violated Government Code section 12940(j), and the fundamental, substantial, and well-established public policies embodied therein.

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36. Plaintiff is informed, and believes, and thereon alleges that between March, 2007, and July, 2008, Defendants COB, Burbank PD, and Does 1 through 100, and each of them, knowingly and willfully conspired and agreed among themselves to harass Plaintiff because of his race, ancestry and/or national origin, and to deprive Plaintiff of the benefits and privileges of his employment as described herein. In so doing, Defendants violated the fundamental, substantial, and well-established public policies embodied in Government Code section 12940(i), by aiding, abetting, inciting, compelling or coercing the doing of any of the acts forbidden under Government Code section 12940, subsections (a) and (j), or by attempting to do so.

37. Plaintiff is informed and believe and based thereon allege that in addition to the practices enumerated above, Defendants, and each of them, have engaged in other practices in violation of the Fair Employment and Housing Act, including Government Code section 12940, which are not yet fully known. At such time as said practices become known, Plaintiff will seek leave of Court to amend this Complaint in that regard.

38. As a direct and proximate result of Defendants' willful, knowing, and intentional violations of FEHA by harassing Plaintiff based on race, ancestry and national origin, and by their failure to take all reasonable steps necessary to prevent discrimination as hereinabove alleged, Plaintiff lost his job and was damaged thereby in a sum according to proof with interest thereon at the legal rate allowed.

39. As a further direct and proximate result of Defendants and each of their willful, knowing, and intentional harassment and failure to take all reasonable steps necessary to prevent harassment as herein described, Plaintiff has suffered and will continue to suffer pain, extreme and severe mental anguish and emotional distress. Plaintiff has incurred and will continue to incur medical expenses for treatment by psychotherapists and other health professionals, as well as for other incidental expenses. Plaintiff has suffered and will continue to suffer loss of earnings and other employment benefits and job opportunities. Plaintiff is thereby entitled to general and compensatory damages in amounts according to proof.

40. As a further direct and proximate result of Defendants and each of their violations of Government Code section 12940, subsections (a) and (j), as more fully described herein, Plaintiff has

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been compelled to retain the services of legal counsel in an effort to enforce the terms and conditions of the employment relationship, and has thereby incurred, and will continue to incur, legal fees and costs, the full nature and extent of which are presently unknown to Plaintiff, who therefore will seek leave of Court to amend this Complaint in that regard when the same shall become known to him. Plaintiff requests that attorney and expert witness fees be awarded pursuant to Government Code section 12965.

THIRD CAUSE OF ACTION

(Wrongful Retaliation in Violation of Government Code Section 12940(h) Against Defendants City of Burbank, Burbank Police Department, and DOES 1 Through 100, Inclusive)

41. Plaintiffs repeat and re-allege by this reference each and every allegation contained in the General Allegations, paragraphs 1 through 40, and incorporate the same herein as though fully set forth at length.

42. While working for the Burbank PD Defendants, and each of them, as more fully described above in the General Allegations, the polices and procedures implemented by Burbank PD Defendants created a custom and practice of discrimination and retaliation within the Burbank PD against police officers when they reported discrimination, or other types of misconduct, among other things. The retaliatory practices included, by way of example and not by way of limitation:

a. Scrutinizing Plaintiffs' work more carefully than Caucasian officers;

b. Causing false charges to be filed against certain Plaintiffs, including initiating personal complaints, or claims of misconduct against them, among other things, as more fully described above;

c. Failing to properly investigate claims of harassment, discrimination and retaliation, and the additional failure to appropriately impose discipline on the offending employees, among other things, as more fully described above;

d. Attempting to terminate, demote, or otherwise discipline Plaintiffs, among other things, as more fully described above;

e. Improperly following the officers on their daily routines, and harassing them to force them out of the Department, among other things, as more fully described above; and

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f. Placing officers on administrative leave, removing them from positions of authority, and making difficult and demeaning assignments to seasoned officers only after they have filled complaints of discrimination, harassment or retaliation.

43. These retaliatory practices, as well as those described in the General Allegations, above, created a hostile work environment in which the Burbank POD Defendants retaliate against police officers when they reported discrimination, or other types of misconduct, among other things. This hostile working environment adversely affected each and every officer in the Burbank PD, regardless of color, race or gender, and has caused a rift in the Burbank PD between those officers who treat minorities the same as Caucasian males, and those who wish to retaliate and cultivate favoritism.

44. On or about July 17, 2008, Plaintiff was terminated from his position as a Detective at the Burbank PD. The stated reasons for the termination were because he allegedly interfered with the above-described investigation and for insubordination. Plaintiff is informed and believes that the true reason for the termination was in retaliation for Plaintiff's complaints of harassment and discrimination against Sgt. Dan Yadon and Lt. Rosoff, among others.

45. Government Code section 12940(h) embodies fundamental, substantial, and well-established public policies of the State of California. By retaliating against police officers when they reported discrimination, harassment or other types of misconduct, as more fully described above, the Burbank PD Defendants violated Government Code section 12940(h), and the fundamental, substantial, and well-established public policies embodied therein, such that an injunction should properly issue to enjoin further misconduct on the part of the Burbank PD Defendants, in the manner set forth below.

46. Plaintiff is informed, and believes, and thereon alleges that between March, 2007, and July, 2008, Defendants COB, Burbank PD, and Does 1 through 100, and each of them, knowingly and willfully conspired and agreed among themselves to retaliate against Plaintiff for his reporting and complaining of harassment and discrimination at the Department. In so doing, Defendants violated the fundamental, substantial, and well-established public policies embodied in Government Code section 12940(i), by aiding, abetting, inciting, compelling or coercing the doing of any of the

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acts forbidden under Government Code section 12940, subsection (h), or by attempting to do so.

47. Plaintiff is informed and believe and based thereon allege that in addition to the practices enumerated above, Defendants, and each of them, have engaged in other practices in violation of the Fair Employment and Housing Act, including Government Code section 12940, which are not yet fully known. At such time as said practices become known, Plaintiff will seek leave of Court to amend this Complaint in that regard.

48. As a direct and proximate result of Defendants' willful, knowing, and intentional violations of FEHA by retaliating against Plaintiff because he complained of harassment and discrimination, and by their failure to take all reasonable steps necessary to prevent discrimination as hereinabove alleged, Plaintiff lost his job and was damaged thereby in a sum according to proof with interest thereon at the legal rate allowed.

49. As a further direct and proximate result of Defendants and each of their willful, knowing, and intentional retaliation and failure to take all reasonable steps necessary to prevent retaliation as herein described, Plaintiff has suffered and will continue to suffer pain, extreme and severe mental anguish and emotional distress. Plaintiff has incurred and will continue to incur medical expenses for treatment by psychotherapists and other health professionals, as well as for other incidental expenses. Plaintiff has suffered and will continue to suffer loss of earnings and other employment benefits and job opportunities. Plaintiff is thereby entitled to general and compensatory damages in amounts according to proof.

50. As a further direct and proximate result of Defendants and each of their violations of Government Code section 12940, subsection (h), as more fully described herein, Plaintiff has been compelled to retain the services of legal counsel in an effort to enforce the terms and conditions of the employment relationship, and has thereby incurred, and will continue to incur, legal fees and costs, the full nature and extent of which are presently unknown to Plaintiff, who therefore will seek leave of Court to amend this Complaint in that regard when the same shall become known to him. Plaintiff requests that attorney and expert witness fees be awarded pursuant to Government Code section 12965.

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FOURTH CAUSE OF ACTION

(Wrongful Failure to Take Reasonable Steps to Prevent Harassment, Discrimination and Retaliation in Violation of Government Code Section 12940, Subsections (j)(1) and (k), Against Defendants City of Burbank, Burbank Police Department, and DOES 1 Through 100, Inclusive)

51. Plaintiffs repeat and re-allege by this reference each and every allegation contained in the General Allegations, paragraphs 1 through 50, and incorporate the same herein as though fully set forth at length.

52. While Plaintiff was working for the Burbank PD Defendants, and each of them, as more fully described above in the General Allegations, the Burbank PD Defendants, and each of them, failed to take reasonable steps to prevent harassment, discrimination and retaliation from occurring. Specifically, the Burbank PD Defendants failed to appropriately train its employees in the methods by which harassment, discrimination and retaliation may be prevented. Further, Defendants failed to properly investigate claims of harassment, discrimination and retaliation within the department, and thereafter failed to appropriately discipline its employees who were known to have committed acts of wrongful harassment, discrimination and/or retaliation, among other things, as more fully described above.

53. Government Code section 12940(j)(1) embodies fundamental, substantial, and well-established public policies of the State of California. By failing to take reasonable steps to prevent harassment from occurring, and further by failing to take "immediate and appropriate corrective action," the Burbank PD Defendants violated Government Code section 12940(j)(1), and the fundamental, substantial, and well-established public policies embodied therein.

54. Government Code section 12940(k) embodies fundamental, substantial, and well-established public policies of the State of California. By failing to take reasonable steps to prevent harassment and discrimination from occurring, the Burbank PD Defendants violated Government Code section 12940(k), and the fundamental, substantial, and well-established public policies embodied therein.

55. Plaintiff is informed, and believes, and thereon alleges that between March, 2007, and July, 2008, Defendants COB, Burbank PD, and Does 1 through 100, and each of them, knowingly and willfully conspired and agreed among themselves to fail to take all reasonable steps to prevent

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harassment and discrimination from occurring. In so doing, Defendants violated the fundamental, substantial, and well-established public policies embodied in Government Code section 12940(i), by aiding, abetting, inciting, compelling or coercing the doing of any of the acts forbidden under Government Code section 12940, subsections (j)(1) and (k), or by attempting to do so.

56. Plaintiff is informed and believe and based thereon allege that in addition to the practices enumerated above, Defendants, and each of them, have engaged in other practices in violation of the Fair Employment and Housing Act, including Government Code section 12940, which are not yet fully known. At such time as said practices become known, Plaintiff will seek leave of Court to amend this Complaint in that regard.

57. As a direct and proximate result of Defendants' willful, knowing, and intentional violations of FEHA, and by their failure to take all reasonable steps necessary to prevent discrimination as hereinabove alleged, Plaintiff lost his job and was damaged thereby in a sum according to proof with interest thereon at the legal rate allowed.

58. As a further direct and proximate result of Defendants and each of their willful, knowing, and intentional failure to take all reasonable steps necessary to prevent harassment and retaliation as herein described, Plaintiff has suffered and will continue to suffer pain, extreme and severe mental anguish and emotional distress. Plaintiff has incurred and will continue to incur medical expenses for treatment by psychotherapists and other health professionals, as well as for other incidental expenses. Plaintiff has suffered and will continue to suffer loss of earnings and other employment benefits and job opportunities. Plaintiff is thereby entitled to general and compensatory damages in amounts according to proof.

59. As a further direct and proximate result of Defendants and each of their violations of Government Code section 12940, subsections (j) (1) and (k), as more fully described herein, Plaintiff has been compelled to retain the services of legal counsel in an effort to enforce the terms and conditions of the employment relationship, and has thereby incurred, and will continue to incur, legal fees and costs, the full nature and extent of which are presently unknown to Plaintiff, who therefore will seek leave of Court to amend this Complaint in that regard when the same shall become known to him. Plaintiff requests that attorney and expert witness fees be awarded pursuant to Government

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Code section 12965.

SIXTH CAUSE OF ACTION

(Wrongful Violations of the Public Safety Officers Procedural Bill of Rights in violation of Government Code Sections 3300, Et Seq., Against Defendants City of Burbank, Burbank Police Department and DOES 1 Through 100, Inclusive)

60. Plaintiffs repeat and re-allege by this reference each and every allegation contained in the General Allegations, paragraphs 1 through 59, and incorporate the same herein as though fully set forth at length.

61. While working for the Burbank PD Defendants, and each of them, as more fully described above in the General Allegations, the polices and procedures implemented by Burbank PD Defendants created a custom and practice of discrimination and retaliation within the Burbank PD against police officers when they reported discrimination, or other types of misconduct, among other things. The retaliatory practices included, by way of example and not by way of limitation:

a. Scrutinizing Plaintiffs' work more carefully than Caucasian officers;

b. Causing false charges to be filed against certain Plaintiffs, including initiating personal complaints, or claims of misconduct against them, among other things, as more fully described above;

c. Failing to properly investigate claims of harassment, discrimination and retaliation, and the additional failure to appropriately impose discipline on the offending employees, among other things, as more fully described above;

d. Attempting to terminate, demote, or otherwise discipline Plaintiffs, among other things, as more fully described above;

e. Improperly following the officers on their daily routines, and harassing them to force them out of the Department, among other things, as more fully described above; and

f. Placing officers on administrative leave, removing them from positions of authority, and making difficult and demeaning assignments to seasoned officers only after they have filled complaints of discrimination, harassment or retaliation; and

g. Failing to follow standard investigatory procedures into complaints of

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misconduct and/or poor performance lodged against individual Plaintiffs herein, by failing to complete the investigation with one (1) year, among other things.

62. These retaliatory practices, as well as those described in the General Allegations, above, created a hostile work environment in which the Burbank PD Defendants retaliate against police officers when they reported or filed grievances because of discrimination, or other types of misconduct, among other things. This hostile working environment adversely affected each and every officer in the Burbank PD, regardless of color, race or gender, and has caused a rift in the Burbank PD between those officers who treat minorities the same as Caucasian males, and those who wish to retaliate and cultivate favoritism.

63. Government Code section 3300 embodies fundamental, substantial, and well-established public policies of the State of California. "The Legislature further finds and declares that effective law enforcement depends upon the maintenance of stable employer-employee relations, between public safety employees and their employers. In order to assure that stable relations are continued throughout the state and to further assure that effective services are provided to all people of the state, it is necessary that this chapter be applicable to all public safety officers, as defined in this section, wherever situated within the State of California." Id.

64. Government Code sections 3304 also embodies fundamental, substantial, and well-established public policies of the State of California. By retaliating against police officers when they reported discrimination, harassment or other types of misconduct, as more fully described above, and by failing to conduct proper investigations, among other things, the Burbank PD Defendants violated Government Code section 3304, and the fundamental, substantial, and well-established public policies embodied therein.

65. Plaintiff is informed and believe and based thereon allege that in addition to the practices enumerated above, Defendants, and each of them, have engaged in other practices in violation of the Public Safety Officer's Procedural Bill of Rights, which are not yet fully known. At such time as said practices become known, Plaintiff will seek leave of Court to amend this Complaint in that regard.

66. Government Code sections 3309.5(e) provides, in pertinent part, that "In addition to

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the extraordinary relief afforded by this chapter, upon a finding by a superior court that a public safety department, its employees, agents, or assigns, with respect to acts taken within the scope of employment, maliciously violated any provision of this chapter with the intent to injure the public safety officer, the public safety department shall, for each and every violation, be liable for a civil penalty not to exceed twenty-five thousand dollars ($25,000) to be awarded to the public safety officer whose right or protection was denied and for reasonable attorney's fees as may be determined by the court."

67. Plaintiff is informed and believe and based thereon allege that the outrageous conduct of the Burbank PD Defendants, and each of them, as more fully described above, was done with malice and with a conscious disregard for Plaintiffs' rights, and with the intent, design and purpose of injuring the Plaintiffs. Plaintiff is further informed and believes that the Burbank PD Defendants, and each of them, through their officers, managing agents and/or supervisors, authorized, condoned, ratified or otherwise adopted the unlawful malicious conduct of the Police officer Defendants. By reason thereof, and as set forth in Government Code sections 3309.5(e), Plaintiff is each entitled to receive "a civil penalty" in the amount of $25,000.00 for each malicious violation of the Public Safety Officer's Procedural Bill of Rights, as hereinabove described, in a total amount according to proof at trial.

68. As a direct and proximate result of Defendants' willful, knowing, and intentional violations of the Public Safety Officer's Procedural Bill of Rights, as more fully described above, Plaintiff lost his job and was damaged thereby in a sum according to proof with interest thereon at the legal rate allowed.

69. As a further direct and proximate result of Defendants and each of their willful, knowing, and intentional failure violations of the Public Safety Officer's Procedural Bill of Rights, as more fully described above, Plaintiff has suffered and will continue to suffer pain, extreme and severe mental anguish and emotional distress. Plaintiff has incurred and will continue to incur medical expenses for treatment by psychotherapists and other health professionals, as well as for other incidental expenses. Plaintiff has suffered and will continue to suffer loss of earnings and other employment benefits and job opportunities. Plaintiff is thereby entitled to general and compensatory

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70. As a direct and proximate result of Defendants, and each of their violations of the Public Safety Officer's Procedural Bill of Rights, as more fully described above, Plaintiffs have been compelled to retain the services of counsel in an effort to enforce the terms and conditions of the employment relationship with Defendants, and has thereby incurred, and will continue to incur, legal fees and costs, the full nature and extent of which are presently unknown to Plaintiffs, who therefore will seek leave of Court to amend this Complaint in that regard when the same shall be fully and finally ascertained. Plaintiffs request that attorneys' fees and expert witness fees be awarded pursuant to Government Code section 3309.5(e).

WHEREFORE, Plaintiffs pray that judgment be entered in their favor and against Defendants, and each of them, as follows:

1. For general and special damages according to proof at trial, with interest thereon at the legal rate from the date of the damages,

2. For incidental and coincidental damages according to proof at trial;

3. For a civil penalty not to exceed twenty-five thousand dollars ($25,000) for each violation of the Public Safety Officer's Procedural Bill of Rights, as set forth in Government Code section 3309.5;

3. For costs of suit and interest incurred, including reasonable attorneys' and expert witness fees; and

4. For such other and further relief as the Court may deem just and proper.

Dated: July 23, 2009

LAW OFFICES OF RHEUBAN & GRESEN

SOLOMON E. GRESEN
Attorneys for Plaintiff
CHRISTOPHER LEE DUNN

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DEMAND FOR JURY TRIAL

Plaintiff hereby demands his constitutional right to a trial by jury.

Dated: July 23, 2009

LAW OFFICES OF RHEUBAN & GRESEN

SOLOMON E. GRESEN
~~Attorneys for Plaintiffs~~
CHRISTOPHER LEE DUNN

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INFO - Already at end of message.

N A M E I N Q U I R Y

Ty: P Name: DOE_____ __ Ext: _ Method: S Format: S

Response for DOE

108>	DOE JUAN 1	01	H	M	
109>	DOE JUAN 2	01	H	M	070252
110>	DOE KYA	01	B	F	061680
111>	DOE MARGARET EDRIS	01	W	F	080935
112>	DOE MARISSA	01	W	F	
113>	DOE NORMAND	01	W	M	010162
114>	DOE RICHARD	01	X	X	
115>	DOE RUSSELL TUPPER	01	X	M	013057
116>	DOE SON	01	X	M	051999
117>	DOE TIMOTHY BARTLETT	01	W	M	032651
118>	DOE TODD	01	X	M	000072
119>	DOE TONY	01	X	M	102888
120>	D	02	W	M	122376
121>	D	03	B	M	042577
122>	D	04	B	M	112374
123>	D	05	B	M	090875
124>	D	06	B	M	090878
125>	D	07	B	M	080178

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Ex A 1

20324

INFO - Already at end of message.

N A M E I N Q U I R Y

Ty: P Name: DOE_____ __ Ext: _ Method: S Format: S

Response for DOE

90>	DOE JOHN	A4	H	M	030677
91>	DOE JOHN	A5	H	M	081546
92>	DOE JOHN	A6	H	M	010680
93>	DOE JOHN	A7	K	M	052862
94>	DOE JOHN	A8	H	M	050335
95>	DOE JOHN	A9	H	M	120967
96>	DOE JOHN	B0	H	M	061766
97>	DOE JOHN	B1	F	M	
98>	DOE JOHN #1	01	H	M	010557
99>	DOE JOHN #10	01	X	M	
100>	DOE JOHN #11	01	X	M	
101>	DOE JOHN #3	01	X	M	
102>	DOE JOHN #4	01	W	M	
103>	DOE JOHN #647	01	W	M	
104>	DOE JOHN #8	01	X	M	
105>	DOE JOHN #9	01	X	M	
106>	DOE JOHN I	01	H	M	091284
107>	DOE JUAN	03	H	M	

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203-05

THE PROVISIONS OF THE CA ORNIA
FAIR EMPLOYMENT AN USING ACT

DFEH # E200809S8015-00

DFEH USE ONLY

CALIFORNIA DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING

YOUR NAME (indicate Mr. or Ms.): DUNN, CHRIS

TELEPHONE NUMBER (INCLUDE AREA CODE): (310)979-0325

ADDRESS: C/O RHEUBAN & GRESEN, 1990 S. BUNDY DR., STE. 540

CITY/STATE/ZIP: LOS ANGELES, CA 90025

COUNTY: LOS ANGELES

COUNTY CODE: 037

NAMED IS THE EMPLOYER, PERSON, LABOR ORGANIZATION, EMPLOYMENT AGENCY, APPRENTICESHIP COMMITTEE, OR STATE OR LOCAL GOVERNMENT AGENCY WH DISCRIMINATED AGAINST ME:

NAME: CITY OF BURBANK / BURBANK POLICE DEPARTMENT

TELEPHONE NUMBER (Include Area Code): (818)238-3000

ADDRESS: 200 N. THIRD STREET

DFEH USE ONLY

CITY/STATE/ZIP: BURBANK, CA 91502

COUNTY: LOS ANGELES

COUNTY CODE: 037

NO. OF EMPLOYEES/MEMBERS (If known):

DATE MOST RECENT OR CONTINUING DISCRIMINATION TOOK PLACE (month,day, and year): 07/17/2008

RESPONDENT CODE: 00

THE PARTICULARS ARE:

I allege that on about or before 07/17/2008, the following conduct occurred:

- X termination
- ___ laid off
- ___ demotion
- X harassment
- ___ genetic characteristics testing
- ___ constructive discharge (forced to quit)
- ___ impermissible non-job-related inquiry
- ___ denial of employment
- ___ denial of promotion
- ___ denial of transfer
- ___ denial of accommodation
- X failure to prevent discrimination or retaliation
- X retaliation
- X other (specify) Hostile Work Environment / Discrimination
- ___ denial of family or medical leave
- ___ denial of pregnancy leave
- ___ denial of equal pay
- ___ denial of right to wear pants
- ___ denial of pregnancy accommodation

by CITY OF BURBANK / BURBANK POLICE DEPARTMENT

Name of Person — Job Title (supervisor/manager/personnel director/etc.)

because of:

- ___ sex
- ___ age
- ___ religion
- X race/color
- X national origin/ancestry
- ___ marital status
- ___ sexual orientation
- ___ association
- ___ disability (physical or mental)
- ___ medical condition (cancer or genetic characteristic)
- ___ other (specify)
- X retaliation for engaging in protected activity or requesting a protected leave or accommodation

State of what you believe to be the reason(s) for discrimination: RACE, COLOR, NATIONAL ORIGIN,RETALIATION FOR ENGAGING IN PROTECTED ACTIVITIES

I wish to pursue this matter in court. I hereby request that the Department of Fair Employment and Housing provide a right-to-sue. I understand that if I want a federal notice of right-to-sue, I must visit the U.S. Equal Employment Opportunity Commission (EEOC) to file a complaint within 30 days of receipt of the DFEH "Notice of Case Closure," or within 300 days of the alleged discriminatory act, whichever is earlier.

I have not been coerced into making this request, nor do I make it based on fear of retaliation if I do not do so. I understand it is the Department of Fair Employment and Housing's policy to not process or reopen a complaint once the complaint has been closed on the basis of "Complainant Elected Court Action."

By submitting this complaint I am declaring under penalty of perjury under the laws of the State of California that the foregoing is true and correct of my own knowledge except as to matters stated on my information and belief, and as to those matters I believe it to be true.

Dated 05/27/2009

At Los Angeles

DATE FILED: 05/27/2009

Ex. 6 /

203-26

DEPARTMENT OF FAIR EMPLOYMENT & HOUSING
1055 West 7th Street, Suite 1400
(213) 439-6700
www.dfeh.ca.gov

May 27, 2009

RE: E200809S6015-00
DUNN/CITY OF BURBANK / BURBANK POLICE DEPARTMENT

NOTICE TO COMPLAINANT'S ATTORNEY

Enclosed is a copy of your client's complaint of discrimination filed with the Department of Fair Employment and Housing (DFEH) pursuant to the California Fair Employment and Housing Act, Government Code section 12900 et seq. Also enclosed is a copy of your client's Notice of Case Closure, which constitutes your client's right-to-sue notice. Pursuant to Government Code section 12962, DFEH will not serve these documents on the employer.

Please refer to the enclosed Notice of Case Closure for information regarding filing a private lawsuit in the State of California.

Sincerely,

Lottie Woodruff
District Administrator

Enclosure: Complaint of Discrimination
Notice of Case Closure

DFEH-200-06 (01/06)

203-27

1055 West 7th Street, Suite 1400
(213) 439-6700
www.dfeh.ca.gov

May 27, 2009

DUNN, CHRIS
C/O RHEUBAN & GRESEN, 1990 S. BUNDY DR., STE. 540
LOS ANGELES, CA 90025

RE: E200809S6015-00
DUNN/CITY OF BURBANK / BURBANK POLICE DEPARTMENT

Dear DUNN, CHRIS:

NOTICE OF CASE CLOSURE

This letter informs that the above-referenced complaint that was filed with the Department of Fair Employment and Housing (DFEH) has been closed effective May 27, 2009 because an immediate right-to-sue notice was requested. DFEH will take no further action on the complaint.

This letter is also the Right-To-Sue Notice. According to Government Code section 12965, subdivision (b), a civil action may be brought under the provisions of the Fair Employment and Housing Act against the person, employer, labor organization or employment agency named in the above-referenced complaint. The civil action must be filed within one year from the date of this letter.

If a federal notice of Right-To-Sue is wanted, the U.S. Equal Employment Opportunity Commission (EEOC) must be visited to file a complaint within 30 days of receipt of this DFEH *Notice of Case Closure* or within 300 days of the alleged discriminatory act, whichever is earlier.

203-25

DFEH does not retain case files beyond three years after a complaint is filed, unless the case is still open at the end of the three-year period.

Sincerely,

Lottie Woodruff
District Administrator

cc: Case File

MARGARITA CAMPOS
CITY CLERK
CITY OF BURBANK
275 EAST OLIVE AVENUE
BURBANK, CA 91510

DFEH-200-43 (08/06)

203-29

CITY OF BURBANK
OFFICE OF THE CITY ATTORNEY
275 East Olive Avenue • P.O. Box 6459 • Burbank, California 91510-6459
818.238.5700 • 818.238.5724 FAX

DENNIS A. BARLOW
City Attorney

JULI CHRISTINE SCOTT
Chief Assistant City Attorney

VIA US CERTIFIED MAIL

July 10, 2009

Writers Direct Dial
(818)238-5707

Solomon E. Gresen
Steven V. Rheuban
Law Offices of Rheuban & Gresen
15910 Ventura Boulevard, Suite 1610
Encino, California 91436

Re: Claim of Christopher Lee Dunn

Dear Mr. Gresen and Mr. Rheuban:

Notice is hereby given that the claim you presented to the City of Burbank on May 28, 2009, wherein it alleges events and/or occurrences that occurred more than six months before the date of filing, is being returned because it was not presented within six months after the event or occurrence as required by law. See Sections 901 and 911.2 of the Government Code. Because the claim was not presented within the time allowed by law, no action was taken on the claim.

Your only recourse at this time is to apply without delay to the City of Burbank for leave to present a late claim. See Sections 911.4 to 912.2, inclusive, and Section 946.6 of the Government Code. Under some circumstances, leave to present a late claim will be granted. See Section 911.6 of the Government Code.

You may seek the advice of an attorney of your choice in connection with this matter. If you desire to consult an attorney, you should do so immediately.

Sincerely,

Carol Ann Humiston
Senior Assistant City Attorney

7/20/09

G.C.

203-30

RHEUBAN & GRESEN
1990 SOUTH BUNDY DR
SUITE 540
LOS ANGELES, CALIFORNIA 90025
TELEPHONE: (310) 979-0325
FACSIMILE: (310) 979-0351

STEVEN V. RHEU
SOLOMON E. GRESEN

STEVEN M. CISCHKE
JOSEPH M. LEVY

RECEIVED
09 MAY 28 PM 3:45
CITY CLERK
CITY OF BURBANK

May 27, 2009

VIA HAND DELIVERY

Ms. Margarita Campos, City Clerk
Office of the City Clerk
City of Burbank
275 East Olive Avenue
Burbank, California 91510-6459

CITY OF BURBANK / BURBANK POLICE DEPARTMENT CLAIM FOR DAMAGES
California Government Code §§ 910 et Seq.

1. Claimants: The name and post office address of the Claimant is as follows: *California Government Code § 910(a).*

   Christopher Lee Dunn
   c/o Law Offices of Rheuban & Gresen
   1990 South Bundy Drive, Suite 540
   Los Angeles, California 90025
   Telephone (310) 979-0325
   Facsimile (310) 979-0351

2. Notices: The post office address to which the person presenting the Claim desires notices to be sent is as follows: *(California Government Code § 910(b).)*

   c/o Solomon E. Gresen, Esq.
   Law Offices of Rheuban & Gresen.
   1990 South Bundy Drive, Suite 540
   Los Angeles, California 90025
   Telephone (310) 979-0325
   Facsimile (310) 979-0351

3. Description: The date, place and other circumstances of the occurrence or transaction which gave rise to the Claim asserted are as follows: *(California Government Code § 910(c).)*

   Between March, 2001, and July, 2008, and continuing, the City of Burbank and the Burbank Police Department, and their officers, employees, servants, and agents, without limitation, engaged in illegal and otherwise wrongful conduct including, without limitation, harassment and

20331

discrimination based on race, color, and national ancestry, among other things, and retaliation for opposing unlawful harassment and discrimination. This conduct created a hostile work environment in the City of Burbank and the Burbank Police Department. Further, the City of Burbank and the Burbank Police Department failed to take reasonable steps to prevent harassment, discrimination and retaliation from occurring, and also refused to take prompt remedial action upon learning of specific instances of harassment, discrimination and retaliation, among other things.

4. Damages: A general description of the indebtedness, obligation, injury, damage or loss incurred so far as it may be known at the time of presentation of the Claim is as follows: *(California Government Code § 910(d).)*

Claimant has been damaged in his career, and health, mind and body, and has suffered a loss of earnings, future earnings and earning capacity.

5. Names: The name or names of the public employee or employees causing the injury, damage, or loss. *(California Government Code § 910(e).)*

Claimant is informed and believes that the public employee or employees causing his injury, damage, or loss include, without limitation, Tim Stehr and Eric Rosoff, among others.

6. Amount: The amount claimed exceeds ten thousand dollars ($10,000.00). Accordingly, no dollar amount shall be included in the Claim. However, it shall indicate whether the claim would be a limited civil case. *(California Government Code § 910(f).)*

The amount claimed exceeds $10,000.00. The total amount due to Claimant is presently unknown, but believed to be in excess of the minimum jurisdictional limits of the Court of Unlimited Jurisdiction.

LAW OFFICES OF RHEUBAN & GRESEN

SOLOMON E. GRESEN
Attorney for Claimant, Christopher Lee Dunn

SEG/dj

203-32

PROOF OF SERVI
F.R.C.P. 5 / C.C.P. 1013a(3)/ [illegible]s of Court, Rule 2060

I am a resident of, or employed in the County of Los Angeles, State of California. I am over the age of 18 years old and not a party to the within action. My business address is 275 E. Olive Avenue, Burbank, California 91502.

On July 10, 2009, I served the following listed document(s), **Notice of Return of Government Claim** by method indicated below, on the party in this action:

Solomon E. Gresen
Steven V. Rheuban
Law Offices of Rheuban & Gresen
15910 Ventura Boulevard, Suite 1610
Encino, California 91436

☒ **BY U.S. MAIL** By placing XX the original / ☐ a true copy thereof enclosed in a sealed envelope(s), with postage prepaid, addressed as per the attached service list, for collection and mailings at the City of Burbank in Burbank, California following ordinary business practices. I am readily familiar with the firm's practice for collection and processing of the document for mailing. Under that practice, the document is deposited with the United States Postal Service on the same day in the ordinary course of business. I am aware that upon motion of any party served, service is presumed invalid if the postal cancellation date or postage meter date on the envelope is more than one day after date of deposit for mailing contained in this affidavit.	☐ **BY ELECTONIC SERVICE (via electronic filing service provider)** By electronically transmitting the document(s) listed above to LexisNexis File and Serve, an electronic filing service provider, at www.fileandserve.lexisnexis.com pursuant to the Court's _____ Order mandating electronic service. See Cal.R.Ct.R. 2053, 2055, 2060. The transmission was reported as complete and without error.
☐ **BY OVERNIGHT DELIVERY** By delivering the document(s) listed above in a sealed envelope designated by the express service carrier, with delivery fees paid or provided for, addressed as per the above service list, to a facility regularly maintained by the express service carrier or to an authorized courier or driver authorized by the express service carrier to received documents.	☐ **BY ELECTRONIC SERVICE (to individual person)** By electronically transmitting the document(s) listed above to the email address(es) of the person(s) set forth on the attached service list. The transmission was reported as complete and without error. See Rules of Court, rule 2060.
☐ **BY PERSONAL SERVICE** ☐By personally delivering the document(s) listed above to the offices at the addressee(s) as shown on the attached service list. ☐By placing the document(s) listed above in a sealed envelope(s) and instructing a registered process server to personally deliver the envelope(s) to the offices at the address(es) set forth on the attached service list. The signed proof of service by the registered process server is attached.	☐ **BY FACSIMILE** By transmitting the document(s) listed above from City of Burbank-City Attorney's Office in Burbank, California to the facsimile machine telephone number(s) set forth on the attached service list. Service by facsimile transmission was made pursuant to agreement of the parties, confirmed in writing.

☒ STATE — I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

☐ FEDERAL — I declare under penalty of perjury under the laws of the United States that I am employed in the office of a member of the bar of this court at whose direction the service is made.

Executed July 10, 2009, at BURBANK, CALIFORNIA.

Lusine Arutyunyan
Type or Print Name

Signature

203-33

1 STATE OF CALIFORNIA)
) ss.
2 COUNTY OF LOS ANGELES)
3
4 I, Susan C. Campana, a certified shorthand
5 reporter in and for the state of California do hereby
6 certify:
7 That the foregoing proceedings were taken before
8 me at the time and place therein set forth, at which time
9 the witness was put under oath by me;
10 That the deposition was recorded
11 stenographically by me and was thereafter transcribed
12 into typewriting under my direction and supervision and
13 contains a true and correct transcript of my shorthand
14 notes so taken.
15 I further certify that I am not related to any
16 party to said action, nor in any way interested in the
17 outcome thereof.
18
19 IN WITNESS WHEREOF, I have hereunto subscribed
20 my name this 29th day of January, 2010.
21
22
23
24 Susan C. Campana
SUSAN C. CAMPANA, CSR NO. 9573
25

Veritext National Deposition & Litigation Services
866 299-5127