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County of San Diego

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1 Daniel M. Gilleon SBN 195200  
2 The Gilleon Law Firm  
3 1320 Columbia Street, Suite 200  
San Diego, CA 92101  
4 Tel: (619) 702-8623/Fax: (619) 702-6337

5 Manuel Corrales, Jr. SBN 117647  
6 ATTORNEY AT LAW  
7 17140 Bernardo Center Drive, Suite 358  
San Diego, CA 92128  
8 Tel: (858) 521-0634/Fax: (858) 521-0633  
9 Email: [mannycorrales@yahoo.com](mailto:mannycorrales@yahoo.com)

Attorneys for Plaintiff SARA ALFARO

**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF SAN DIEGO**

SARA ALFARO

Plaintiff,

vs.

CITY OF SAN DIEGO; SAN DIEGO  
FIRE-RESCUE DEPARTMENT; JAMIE  
NICHOLS; KELLEY ZOMBRO; and  
GINA LA MANTIA and DOES 1-50  
inclusive,

Defendants.

Case No. 37-2018-00019800-CU-OE-CTL

**COMPLAINT FOR DAMAGES**

1. Sex Harassment in Violation of Title VII, 42 U.S.C. 2000e et seq.
2. Sex Harassment in Violation of FEHA Cal. Gov't Code §12940(a) & (j)
3. Discrimination in Violation of Title VII, 42 U.S.C. 2000e et seq.
4. Discrimination in Violation of FEHA, Cal. Gov't Code §12940(a)
5. Unequal Pay in Violation of the California Equal Pay Act, Cal. Lab. Code §§ 1194.5, 1197.5
6. Retaliation in Violation of Title VII
7. Retaliation in Violation of Cal. Gov't Code §12940(h)
8. Retaliation in Violation of Violation of the Whistleblower Protection Act, Gov. Code 8547 et seq.
9. Retaliation in Violation of the California Whistleblower Protection Act, Cal. Lab.

Code §§ 1102.5 & 98.6  
10. Failure to Take All  
Reasonable Steps to Prevent  
Sexual Harassment,  
Discrimination, and  
Retaliation in Violation of  
Cal. Gov't Code § 12940(k)  
11. Intentional Infliction of  
Emotional Distress

**DEMAND FOR JURY TRIAL**

Plaintiff Sara Alfaro alleges as follows:

**I.**

**INTRODUCTION**

1. Sara Alfaro brings this suit against the San Diego Fire-Rescue Department ("SDFD" or "the Department"), the City of San Diego, Jamie Nichols, Kelley Zombro, and Gina La Mantia for sexual harassment and discrimination, as well as retaliation and intentional infliction of emotional distress, that she has experienced while working for the Department.

2. Men dominate the ranks and culture of the SDFD. Women hold only five of the approximately 120-130 operational Fire Captain positions, one of approximately 25 Battalion Chief positions, and one of approximately 12 Deputy Chiefs positions. The atmosphere of the SDFD is undeniably a boys' club.

3. One of the few female employees and female Fire Captains employed by the SDFD, Alfaro has been and continues to be subjected to severe sexual harassment. Included in the onslaught of sexually objectifying behaviors Alfaro has experienced, male SDFD employees have groped her, unzipped her shirt, placed their exposed genitalia on her possessions, photo shopped a picture of a penis onto a picture of her and distributed this at work, and sent her multiple sexually suggestive text messages. This sexually hostile behavior was a

1 conspicuous and pervasive feature of Alfaro's workplace, of  
2 which the SDFD and the City of San Diego could not help but  
3 know.

4 4. Alfaro never reciprocated this unwelcome sexual  
5 attention, and, instead, focused on her professional  
6 development. Nonetheless, she has faced a constant struggle  
7 for equal treatment in promotions, assignments, pay and other  
8 terms and conditions of employment. Despite proving herself as  
9 Captain of one of the Department's ten busiest Fire Houses,  
10 Alfaro has been locked out of certain promotions and  
11 assignments that go, without exception, to men, many of whom  
12 lack Alfaro's qualifications. Many of these positions involve  
13 stereotypically male subjects, such as trucks and engines.  
14 Alfaro is also held to a higher standard and expected to  
15 perform additional work without pay or recognition.

16 5. The SDFD and the City of San Diego turned a blind eye  
17 to this overt harassment and discrimination for close to 17  
18 years. In February, 2017, Alfaro mentioned this harassment and  
19 discrimination to a Fire Chief, who filed an EEO complaint,  
20 precipitating two workplace investigations. Instead of taking  
21 immediate steps to protect Alfaro, SDFD and the City's HR  
22 Department disclosed the fact of her complaints and its  
23 investigation to the men of the department, over Alfaro's  
24 repeated warnings that this would cause retribution by her male  
25 colleagues.

26 6. Foreseeably, this resulted in severe retaliation. The  
27 sexual harassment intensified and Alfaro was denied countless  
28 promotions and assignments, without legitimate explanation.  
Upon information and belief, the facts of this rapidly  
deteriorating situation are known to the SDFD and the City,  
which have failed to remedy the situation.

1 7. Alfaro files this Complaint to bring an end to the  
2 many years of strife she has endured as a result of the SDFD  
3 and the City of San Diego's indifference.

4 **II.**

5 **PARTIES**

6 8. The SDFD oversees all fire, emergency medical,  
7 lifeguard, and emergency management services in the city. The  
8 SDFD maintains 48 fire stations and 9 permanent lifeguard  
9 stations. There are a total of approximately 1,300 employees in  
10 the Department, including all fire, lifeguard, and civilian  
11 personnel. It is headquartered at 1010 Second Ave., Suite  
12 400, San Diego, CA 92101.

13 9. The SDFD is a department of the City of San Diego  
14 ("San Diego" or "the City"). As such, it is an agent of the  
15 City, and its actions and knowledge are also those of the City.  
16 All Department employees identified herein are also employees  
17 of the City. The City HR office is located at 1200 Third Ave,  
18 Suite 1316 San Diego, CA 92101.

19 10. Jamie Nichols is a Fire Captain at the SDFD. As an  
20 employee and agent of the SDFD and the City, he is an agent for  
21 those entities and his actions and knowledge are those of the  
22 SDFD and the City. His business address is the same is that for  
23 the SDFD.

24 11. Gina La Mantia is a Deputy Chief at the Department. As  
25 an employee and agent of the SDFD and the City, she is an agent  
26 for those entities and her actions and knowledge are those of  
27 the SDFD and the City. Her business address is the same is that  
28 for the SDFD.

12. Kelley Zombro is a Deputy Chief at the Department. As  
an employee and agent of the SDFD and the City, he is an agent  
for those entities and his actions and knowledge are those of the

1 SDFD and the City. His business address is the same is that for  
2 the SDFD.

3 13. Alfaro does not know the true names and capacities of  
4 defendants sued in this Complaint as Does 1 through 20,  
5 inclusive, and therefore sues these defendants by fictitious  
6 names pursuant to Section 474 of the California Code of Civil  
7 Procedure. Plaintiff will amend this Complaint to allege the  
8 true names and capacities of Does 1 through Doe 20, inclusive,  
9 when ascertained. Alfaro is informed and believes, and on that  
10 basis alleges, that each of the defendants named herein as Does  
11 1 through 20, inclusive, is responsible in some manner for the  
12 occurrence, injury and other damages alleged in this Complaint.

13 14. Alfaro is informed and believes, and on that basis  
14 alleges, that each defendant was in some manner responsible for  
15 the acts and damages alleged herein, and/or are indebted to  
16 Plaintiff as alleged herein, and that each defendant participated  
17 in the acts alleged herein and that, in participating in such  
18 acts, each defendant was the agent and co-conspirator of each  
19 other defendant, and was acting in the course and scope of such  
20 agency and conspiracy.

21 15. Sara Alfaro began her employment with the San Diego  
22 Fire-Rescue Department and the City as an EMT in 2000. In 2001,  
23 she became a Firefighter following a four-month long training in  
24 the San Diego Basic Fire Academy. Prior to joining the SDFD,  
25 Alfaro worked as a seasonal Firefighter with Cal Fire. Over the  
26 course of her tenure with the SDFD, Alfaro has taken on many  
27 different roles and contributed to many Department projects and  
28 initiatives. In September 2015, Alfaro was promoted to Fire  
Captain, and became one of five female operational fire  
captains in the Department.

1 16. Alfaro has worked in some of the busiest fire stations  
2 in the Department, including Stations 5, 12, 10, 29, and 30,  
3 three of which were double houses. At each station, Alfaro was  
4 the only woman out of a group of 5-10 firefighters during her  
5 shift. In addition to the comprehensive understanding of the  
6 SDFD's operations and equipment Alfaro developed on the job,  
7 she also regularly seeks out and completes trainings. Throughout  
8 her employment, the SDFD has always rated her performance "above  
9 standard" or better.

### 10 **III.**

#### 11 **FACTS**

##### 12 **A. SDFD AND THE CITY SUBJECTED ALFARO TO A HOSTILE WORK** 13 **ENVIRONMENT**

14 17. The SDFD is the epitome of an old boys' club. Men  
15 dominate the Department's ranks and culture. Only five of the  
16 approximately 120-130 operational Fire Captains are women. Women  
17 hold only one of approximately 25 Battalion Chief positions and  
18 one of approximately 12 Deputy Chiefs positions. The few female  
19 employees of the SDFD work disproportionately in administrative  
20 positions and in less busy stations. The B Division, to which  
21 Alfaro belongs, is often referred to as "the Brotherhood."

22 18. Men in the Department openly express male chauvinist  
23 and misogynist views in Alfaro's presence. Alfaro has heard  
24 male coworkers in the workplace referring to women as  
25 "subservient" and discussing the bodies of the few women in the  
26 Department.

27 19. Throughout Alfaro's employment with the SDFD, she  
28 has been the target of unwanted sexual attention and  
transgressions by male supervisors and employees. Male  
firefighters have leered at and commented lasciviously on  
Alfaro's body, groped her rear during work events, watched her

1 while she slept, made loud sniffing noises as if they were  
2 smelling her, and moaned suggestively in her presence. More  
3 specific examples of the harassment that Alfaro experiences  
4 include:

5 a. Early on in Alfaro's employment, Chief Brewster  
6 repeatedly sought excuses to be near her and pressured her  
7 to go out with him.

8 b. In 2013, when Alfaro was at the Station 29 and had  
9 her hands full with gear and equipment, now retired Captain  
10 Broderick Perkins approached her and partially unzipped her  
11 top, exposing her chest. Previously, when she was at  
12 Station 12, Captain Perkins had also slapped her buttocks  
13 when she was standing on a ladder.

14 c. Around 2014-2015, when Alfaro was the only  
15 permanent female firefighter at Station 10, she left a  
16 towel with her last name embroidered on it in a bathroom at  
17 the station, and later received a text message with a  
18 photograph of a penis physically resting on the towel, next  
19 to her name.

20 d. A picture of Alfaro's face with a penis  
21 photoshopped in beside it was later passed around the  
22 Department.

23 e. In 2016, Jamie Nichols grabbed Alfaro's butt  
24 several times during an academy reunion, even in the  
25 presence of his wife.

26 f. In 2016, Alfaro received a phone call from a male  
27 captain, asking her to send him a pair of her dirty  
28 underwear for his birthday.

g. Around February of 2017, Alfaro received multiple  
text messages from Fire Captain Jamie Nichols (male) making  
reference to her as having "big boobs." He also sent her

1 text messages containing images related to the "hot  
2 redhead" stereotype, implying that he considered Alfaro,  
3 whose hair is red, hot.

4 h. On April 7, 2017, Alfaro received a sexually  
5 harassing phone call from one of her own firefighters,  
6 Tyler Larson, who made repeated comments about her  
7 "curves" and her "ass," saying that she was "sexy," that he  
8 "loved her body," and that he "fucking loved" her

9 20. The SDFD and the City knew or should have known about  
10 this harassment, as it occurred frequently, in many cases during  
11 working hours, and often in broad view of others. This  
12 harassment was a severe and pervasive feature of Alfaro's  
13 employment that materially changed the conditions of her  
14 employment, rendering the environment abusive.

15 **B. SDFD AND THE CITY DISCRIMINATED AGAINST ALFARO WITH RESPECT**  
16 **TO PROMOTIONS, PAY, AND OTHER TERMS AND CONDITIONS OF**  
17 **EMPLOYMENT**

18 21. The sexism that pervades the SDFD affects nearly every  
19 aspect of Alfaro's work. Because of her sex and gender, Alfaro  
20 has been denied promotions and work assignments, earned less than  
21 men for the same work, and been held to a discriminatory double  
22 standard.

23 22. The SDFD refuses to appoint Alfaro to any In-Service  
24 Training (IST) Instructor positions related to trucks and or  
25 engines. Alfaro applied for these positions in June 2012, May  
26 2014, January 2015, June 2016, and May 2017. Her experience  
27 teaching and working in the some of the busiest stations makes  
28 her highly qualified for these jobs. Even though 5-10  
instructors are selected for the positions each quarter, in each  
case, the position has gone to a man who was, upon information  
and belief, less qualified. For example, in 2016, a male

1 captain was selected as the lead IST Instructor on roof  
2 operations. Upon information and belief, the captain selected  
3 had limited to no prior experience with roof operations, and had  
4 never worked on a truck before.

5 23. In January of 2015, Alfaro emailed Battalion Chief  
6 and Training Officer James Gaboury to inquire as to why she was  
7 repeatedly passed over for these positions. He provided no  
8 answer, and instead, directed Alfaro to submit a list of the  
9 subjects that she was interested in teaching and relevant  
10 experience. By contrast, SDFD has had no qualms about assigning  
11 Alfaro as an IST Coordinator for Emergency Medical Services - a  
12 less stereotypically male role.

13 24. In or about March of 2015, in anticipation of her  
14 promotion to Captain, Alfaro offered to exchange her permanent  
15 Post Academy Trainer (PAT) position for a temporary one, as a  
16 favor to a male engineer, on the condition that she continue to  
17 maintain the PAT designation and receive her full paramedic pay  
18 along with the additional 5% bonus that is standard for PAT's,  
19 whether permanent or temporary. Battalion Chief Gaboury (male)  
20 agreed with the plan, told Alfaro that she was "doing a stand-up  
21 thing," and assured her that she would continue to receive her  
22 full paramedic pay and the additional 5% PAT pay. Instead, on  
23 June 8, 2015, a memorandum was issued in the Department,  
24 indicating that Alfaro's PAT title was being removed and 5%  
25 bonus terminated effective July 4, 2015. Nonetheless,  
26 Battalion Chief Gaboury directed Alfaro to continue performing  
27 the duties of the PAT position, which Alfaro did, without the  
28 appropriate title or compensation, for several shifts. Alfaro is  
aware of at least three male Fire Captains who kept their PAT  
positions and, upon information and belief, the 5% pay bump for  
performing PAT work, upon promotion.

1           25. Alfaro complained about this to the union president,  
2 Chief Arrollado, who said that he could take no action to restore  
3 Alfaro's PAT title or pay.

4           26. Because her PAT designation was unfairly removed,  
5 Alfaro was promoted into a bottom-step captain position and had  
6 to wait through six months of probation before becoming a top  
7 step captain, a position in which she would have started out,  
8 had she retained her PAT designation. As a result, Alfaro's  
9 salary was not only lower than those of the other male Fire  
10 Captains in the Department, but also lower than the salary than  
11 what she had been receiving as an Engineer with a PAT designation  
12 prior to her promotion.

13           27. In addition to facing discrimination in pay and  
14 promotions, Alfaro has been subjected to heightened scrutiny  
15 and held to a higher standard than male captains. Alfaro's  
16 supervisors have consistently discriminated against her based on  
17 her gender by questioning her skills and expertise, denying her  
18 special work opportunities, subjecting her performance to a much  
19 higher level of scrutiny than male firefighters, and denying her  
20 the support needed for success and advancement within the  
21 Department.

22           28. For example, in or about October of 2015, Battalion  
23 Chief Steve Salaz required Alfaro to undergo two special  
24 trainings that male captains were not required to attend. During  
25 one of the trainings, Chief Salaz sent a male captain to shadow  
26 Alfaro. At this time, Alfaro was already a Fire Captain with an  
27 extraordinary amount of experience in not only training but also  
28 teaching training, so there was no reason to have another  
Captain overlooking her performance. In doing so, Chief Salaz  
undermined and humiliated Alfaro in front of other members of  
the Department.

1 **C. SDFD AND THE CITY FAILED TO TAKE ANY ACTION TO PREVENT**  
2 **OR CORRECT THE DISCRIMINATION AND HARASSMENT, AND**  
3 **DEFENDANTS RETALIATED AGAINST ALFARO**

4 29. The SDFD and the City have known of the  
5 discrimination and harassment that Alfaro faced for years. Her  
6 superiors are responsible for the discrimination and are  
7 either responsible for or present to observe much of the  
8 harassment she regularly encounters. Yet, the SDFD and the City  
9 prefer to turn a blind eye. When Alfaro finally complained  
10 formally, the SDFD and the City of San Diego carried out the  
11 resulting investigations in a public manner with no regard for  
12 Alfaro's privacy. Predictably, the publicity around this  
13 investigation only exacerbated the harassment, as the SDFD and  
14 the City knew or should have known it would. In addition, Alfaro  
15 has repeatedly been denied promotions and assignments because of  
16 her protected complaints and, in the alternative, because of her  
17 sex. The SDFD and the City of San Diego, including Fire Chief  
18 Brian Fennessy failed to take reasonable steps to remedy this  
19 deteriorating situation.

20 30. In February of 2017, Alfaro complained to Chief  
21 Arrollado. When Alfaro described the disrespect she faced and  
22 the fear she experienced as a result of this discrimination and  
23 harassment, Chief Arrollado acknowledged that Alfaro was not  
24 the only female firefighter who had reached out to him about  
25 this problem.

26 31. Following their conversation, Chief Arrollado filed a  
27 sexual harassment complaint with the City EEO office on  
28 Alfaro's behalf as part of his mandatory reporting duties as  
a supervisor and union president at the time.

32. In or about March of 2017, Alfaro told John O'Neill of  
the City HR Office that the City should not serve any papers to

1 her or interview her at the fire station because it was not  
2 neutral ground. She warned O'Neill that firefighters connected  
3 to sexual harassment complaints were severely targeted at work.

4 33. On March 28, 2017, Alfaro was served with a Notice to  
5 Appear for an investigation on April 3, 2017. Not only was the  
6 Notice served while Alfaro was on duty, but it was sent to a  
7 Battalion Chief who was not even her assigned supervisor.

8 34. In response, Alfaro sent emails to Anna Fudge and Abby  
9 Jarl-Veltz in the City HR department, expressing once more that  
10 she did not wish to have any part of the investigation happen  
11 at the fire station. These went unheeded.

12 35. A few days after the first witness was called in  
13 response to her report of sexual harassment, approximately  
14 thirty people blocked Alfaro on Facebook. Not long after this,  
15 Alfaro received several phone calls with just heavy breathing.

16 36. On April 7, 2017, Alfaro received a phone call from  
17 Tyler Larson, one of the firefighters from her own crew.  
18 During the call, he made repeated comments about her "curves"  
19 and her "ass," saying that she was "sexy," that he loved her  
20 body, and that he "fucking loved" her.

21 37. On or about April 8, 2017, Alfaro reported this  
22 harassment to the City EEO and HR, who referred it back to the fire  
23 department for an investigation. Despite Alfaro's explicit  
24 requests that the SDFD not publicize her harassment complaints  
25 within the Department, the City sent her a Notice of Fact Finding  
26 indicating that she would be interviewed about the incident  
27 while on duty at the fire station. Once again, Alfaro received  
28 the notice while she was at work with several male firefighters  
nearby.

38. May 2, 2017, Alfaro responded by sending an email to  
Chiefs Alfredo Duron, Alan Arrollado, Jeffrey Mitchell, Robert

1 Garcia, Brian Fennessy, and Kevin Ester again asking that they  
2 not serve and interview her at the fire station.

3 39. On May 17, 2017, Alfaro interviewed for an In-  
4 Service Training Coordinator position. Immediately before the  
5 interview, personnel at the facility where the interview was to  
6 occur informed Alfaro that everyone was talking about her sexual  
7 harassment claim against Jamie Nichols. Nonetheless, Alfaro  
8 performed well on the interview and was more qualified than the  
9 other candidates. A few days later, she received a call from  
10 Battalion Chief Ty Shimoguchi, who notified her that she had not  
11 been selected for the position, but gave her no explanation.  
12 Several days later, Alfaro learned that a male captain, the  
13 most junior candidate, was selected for the position. The  
14 selected candidate had been Captain for less than 6 months at  
15 the time and had previously been in predominately operational  
16 positions within the Department. The IST Training Coordinator  
17 was an administrative position that Alfaro was much more  
18 qualified for, as she had been Captain for well over a year at  
19 this time, and had extensive experience helping develop the  
20 engineer training academy, working with probationary fighters,  
21 and assisting with continuing education as an IST instructor.

22 40. In June of 2017, Alfaro was forced to go on light duty  
23 due to a back injury. During this time, Alfaro has applied to a  
24 number of special assignments, including the Safety Committee,  
25 the Emergency Medical Services Operations Coordinator, and the  
26 Wildland Hand Crew. In addition, numerous coordinators from  
27 training and EMS have requested that Alfaro help out with  
28 various projects within the Department, including the new  
Engineers Academy (an initiative that she had helped develop)  
and Project Heartbeat. However, upper level management has  
denied Alfaro all of these positions and special assignments.

1 Each such position or assignment went to a less-qualified male  
2 firefighter with much less relevant experience.

3 41. In June of 2017, Alfaro informed Captain Joseph Scuri  
4 that she was interested in assisting with training in the  
5 Engineers Academy. Initially, Scuri agreed that Alfaro should be  
6 on the team, as she had helped develop the idea and knew the  
7 most about the project. Later, Chief Scuri told Alfaro that  
8 Battalion Chief Ty Shimoguchi had "cussed him out" for  
9 requesting her on the team. At the end of the month, Alfaro  
10 received an email from Battalion Chief Shimoguchi denying her  
11 request to assist with the training, stating that there were  
12 already three light duty personnel helping out with the project.  
13 However, during prior conversations with Alfaro, Captain Scuri  
14 had commented that none of the other firefighters knew or would  
15 do as much for the project as she could, and continued to request  
16 that she help out with the project during her time off without  
17 receiving the official assignment and pay.

18 42. Throughout the months of June and July of 2017,  
19 Alfaro continued to pitch new ideas and initiatives for ways to  
20 improve the Department. She created a variety of different  
21 resources to use for disaster preparedness, stress reduction,  
22 and fact findings, but found little feedback or support.

23 43. In or about late June of 2017, Alfaro emailed Deputy  
24 Chief of Emergency Medical Services, Gina La Mantia, to request  
25 guidance on how to be successful as a high ranking female  
26 firefighter within the Department. On July 5, 2017, Alfaro  
27 received an email from La Mantia, stating that La Mantia felt  
28 uncomfortable meeting with Alfaro without a witness based on  
statements that Alfaro had made during previous Department  
investigations into La Mantia's misconduct and violations of  
Department rules and regulations. Upon information and belief,

1 La Mantia's hesitance to meet with Alfaro was also the result  
2 of Alfaro's protected complaints of sexual harassment and  
3 discrimination and participation in the resulting  
4 investigations, as well as the City and the SDFD's mishandling  
5 of those complaints and investigation. They eventually  
6 scheduled a time to meet with a witness present, but La Mantia  
7 later cancelled their meeting.

8 44. After this, La Mantia placed herself on an interview  
9 panel for the EMS Operations Coordinator position, a position  
10 that La Mantia knew or should have known Alfaro had applied  
11 for. On August 1, 2017, Chief La Mantia, notified Alfaro that  
12 she had been denied the position of EMS Operations Coordinator.  
13 Alfaro responded by emailing La Mantia to ask for feedback and to  
14 follow up on her request for mentorship. In response, La Mantia  
15 claimed that Alfaro's statements in a 2014 fact-finding made her  
16 request for guidance "completely irrational and insincere."

17 45. As a result of Alfaro's reports of sexual harassment  
18 and discrimination, and her participation in fact findings with  
19 the City EEO division, HR Department, and the SDFD, she has been  
20 ostracized within the Department. Fire chiefs ignore Alfaro in  
21 the workplace, and men snicker at her under their breath. On  
22 October 30, 2017, Professional Standards Unit Chief Garcia  
23 conducted a discipline training with four captains and multiple  
24 engineers. He would not look Alfaro in the eyes and stood up to  
25 shake hands with everyone except her. During the training, he  
26 did not look Alfaro in the eyes, and no one sat next to her.

27 46. On October 26, 2017, Alfaro sent an email to Battalion  
28 Chief Glen Holder reporting that she had received more crank  
calls since the beginning of the investigation into her sexual  
harassment complaints, and asked that Chief Holder pass the  
email up the chain of command in the Department. In her email,

1 she stressed that the Department needed to follow and enforce  
2 its own policies and procedures relating to sexual harassment.  
3 Alfaro made it abundantly clear that she would no longer  
4 tolerate SDFD and the City's failure to protect SDFD employees  
5 from sexual harassment and resulting retaliation, and indicated  
6 that she would do whatever it takes to protect herself and her  
7 family.

8 47. Shortly after this, Deputy Chief Kelley Zombro  
9 called Alfaro. During their conversation, Zombro said that  
10 Alfaro was physically vulnerable and would not be able to protect  
11 herself, implying that she would face physical harm for such  
12 reports of harassment and retaliation. 48. Continuing this  
13 effort to intimidate Alfaro, on October 30, 2017, Zombro paid  
14 Alfaro a visit at her station during her next shift. Zombro put  
15 Alfaro's rig out of service for 2 hours, ensuring that she  
16 would have to remain at the station. He then met Alfaro, one-  
17 on-one, outside. Standing on a curb to add further to the  
18 substantial height difference between the two, Zombro chastised  
19 Alfaro for sending the email and informed her that Chief Fennessy  
20 did not want her to send any further emails or videos. Again, he  
21 implied that Alfaro was vulnerable, saying that she "needed to  
22 get stronger." Alfaro was intimidated by Zombro's manner and  
23 tone.

24 49. This retaliation is continuing. On November 23,  
25 2017, after learning that her daughter-in-law's water had  
26 broken, Alfaro requested emergency leave to be present at the  
27 birth of her grandchild. Alfaro is unaware of any occasion on  
28 which the SDFD has denied a request for emergency leave. The  
Department refused. Alfaro was told that Chief Zombro had  
denied her emergency leave request, saying that if she left, she

1 would be abandoning her post and would be subject to discipline.  
2 As a result, Alfaro missed the birth of her grandchild.

3 50. The Department and the City continue to endorse this  
4 behavior and have taken no meaningful steps to redress the  
5 harassment, discrimination, and retaliation. Chief Jamie  
6 Nichols, one of the men who harassed Alfaro, was promoted to a  
7 specialty station and given a raise after just a 4-day  
8 suspension, sending a clear message to others that the Department  
9 did not prohibit his sexually targeting Alfaro. Chief Nichols is  
10 currently also assigned as an overtime instructor in the Fire  
11 Academy, which carries a significant increase in pay. The  
12 Department continues to ratify this ongoing harassment,  
13 discrimination, and retaliation.

14 **D. ALFARO EXPERIENCED SUBSTANTIAL MENTAL AND EMOTIONAL INJURY**  
15 **BECAUSE OF DEFENDANTS' UNLAWFUL CONDUCT**

16 51. SDFD's wrongful actions, described above, have taken a  
17 massive toll on Alfaro's emotional and mental wellbeing. Alfaro  
18 has not only suffered economic loss, but also experienced and  
19 continues to experience humiliation, depression, severe emotional  
20 distress, anxiety, stress, and difficulty sleeping. She has also  
21 had to give up responsibilities that she had formerly enjoyed,  
22 including teaching the continuing education and paramedic  
23 classes, because of the erosion of respect for her among men in  
24 the Department. In sum, she has been made to feel like she no  
25 longer belongs within the Department.

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IV.

CAUSES OF ACTION

FIRST CAUSE OF ACTION

(Sex Harassment in Violation of Title VII,  
42 U.S.C. 2000e et seq.)

(Against SDFD, the City, Jamie Nichols & Does 1 through 20,  
inclusive)

52. Alfaro hereby incorporates by reference Paragraphs 1 through 51 of this Complaint as if fully set forth herein.

53. At all times herein mentioned, Title VII, 42 U.S.C. 2000e et seq., was in full force and effect and was fully binding upon SDFD, the City, and Nichols. 42 U.S.C. 2000e-2 prohibits discrimination, including sex-based harassment.

54. The actions of Alfaro's male managers and coworkers, including without limitation the unwelcome sexual and sexually objectifying comments, noises and gestures, romantic pursuit, sexual contact, exposure of male genitalia, misogynist and male chauvinist remarks, and other lude behavior, created a hostile sexual environment that materially altered Alfaro's working conditions and which constitutes sexual harassment in violation of 42 U.S.C. 2000e-2(a).

55. This harassing conduct was severe and pervasive.

56. A reasonable person in Alfaro's position would consider the environment to be hostile or abusive and Alfaro considered and considers the environment to be hostile and abusive.

57. SDFD and the City knew or should have known of these violations, and took no steps to bring an end to the harassment Alfaro faced. Instead, these violations have continued throughout Alfaro's employment and constitute a continuing violation.

58. As a direct, foreseeable and proximate result of SDFD, the City, and Nichols's unlawful actions, Alfaro has

1 suffered economic damages including back pay, front pay,  
2 equity, benefits and other compensation.

3 59. As a direct, foreseeable, and proximate result of  
4 SDFD, the City, and Nichols's unlawful actions, Alfaro has  
5 suffered emotional distress, humiliation, shame, and  
6 embarrassment, all to Alfaro's damage in an amount to be proven  
7 at the time of trial.

8 60. SDFD, the City, and Nichols committed the acts herein  
9 despicably, maliciously, fraudulently, and oppressively, with  
10 the wrongful intention of injuring Alfaro, from an improper and  
11 evil motive amounting to malice, and in conscious disregard of  
12 the rights and safety of Alfaro and others.

13 61. Alfaro is thus entitled to recover punitive damages in  
14 an amount according to proof.

15 **SECOND CAUSE OF ACTION**

16 **(Sex Harassment in Violation Of FEHA**  
17 **Cal. Gov't Code § 12940(a) & (j))**

18 **(Against SDFD, the City, Jamie Nichols & Does 1 through 20,**  
19 **inclusive)**

20 62. Alfaro hereby incorporates by reference Paragraphs 1  
21 through 61 of this Complaint as if fully set forth herein.

22 63. At all times herein mentioned, California's Fair  
23 Employment and Housing Act ("FEHA"), Cal. Gov't Code §§ 12900,  
24 et seq., was in full force and effect and was fully binding upon  
25 SDFD, the City and Nichols. Specifically, §§ 12940(j) prohibits  
26 an employer from sexually harassing an employee on the basis of  
27 her sex.

28 64. The actions of Alfaro's male managers and coworkers,  
including without limitation the unwelcome sexual and sexually  
objectifying comments, noises and gestures, romantic pursuit,  
sexual contact, exposure of male genitalia, misogynist and male  
chauvinist remarks, and other lude behavior, created a hostile

1 sexual environment that materially altered Alfaro's working  
2 conditions and which constitutes sexual harassment in violation  
3 of Gov't Code § 12940(j)(1).

4 65. This harassing conduct was severe and pervasive.

5 66. A reasonable person in Alfaro's position would consider  
6 the environment to be hostile or abusive and Alfaro considered  
7 and considers the environment to be hostile and abusive.

8 67. SDFD and the City knew or should have known of these  
9 violations, and took no steps to bring an end to the harassment  
10 Alfaro faced. Instead, these violations have continued  
11 throughout Alfaro's employment and constitute a continuing  
12 violation.

13 68. As a direct, foreseeable and proximate result of  
14 SDFD, the City, and Nichols's unlawful actions, Alfaro has  
15 suffered economic damages including back pay, front pay,  
16 equity, benefits and other compensation.

17 69. As a direct, foreseeable, and proximate result of  
18 SDFD, the City, and Nichols's unlawful actions, Alfaro has  
19 suffered emotional distress, humiliation, shame, and  
20 embarrassment, all to Alfaro's damage in an amount to be proven  
21 at the time of trial.

22 70. SDFD, the City, and Nichols's committed the acts  
23 herein despicably, maliciously, fraudulently, and oppressively,  
24 with the wrongful intention of injuring Alfaro, from an improper  
25 and evil motive amounting to malice, and in conscious disregard  
26 of the rights and safety of Alfaro and others.

27 71. Alfaro is thus entitled to recover punitive damages in  
28 an amount according to proof.

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**THIRD CAUSE OF ACTION**

**(Discrimination in Violation of Title VII  
42 U.S.C. 2000e et seq.)  
(Against SDFD, the City, & Does 1 through 20, inclusive)**

72. Alfaro hereby incorporates by reference Paragraphs 1 through 71 of this Complaint as if fully set forth herein.

73. At all times herein mentioned, Title VII, 42, U.S.C. 2000e et seq., was in full force and effect and was fully binding upon SDFD and the City. Alfaro was a member of a group protected by the statute, in particular section 2000e-2(a), prohibiting discrimination in employment based on sex.

74. SDFD and the City discriminated against Alfaro on the basis of her sex in violation of Title VII by denying her promotions and assignments, stripping her of her PAT title, paying her less than similarly-situated men, subjecting her to higher standards and a higher level of scrutiny than it does men, and subjecting her to other inequitable terms and conditions of employment.

75. SDFD and the City knew or should have known of these violations, and took no steps to bring an end to them. Instead, these violations have continued throughout Alfaro's employment and constitute a continuing violation.

76. As a direct, foreseeable and proximate result of SDFD and the City's unlawful actions, Alfaro has suffered and continues to suffer substantial losses in earnings, equity and other employment benefits and has incurred other economic losses.

77. As a further direct, foreseeable and proximate result of SDFD and the City's unlawful actions, Alfaro has suffered emotional distress, humiliation, shame, and

1 embarrassment all to Alfaro's damage in an amount to be proven at  
2 time of trial.

3 78. SDFD and the City committed the acts herein  
4 despicably, maliciously, fraudulently, and oppressively, with  
5 the wrongful intention of injuring Alfaro, from an improper and  
6 evil motive amounting to malice, and in conscious disregard of  
7 the rights or safety of Alfaro and others.

8 79. Alfaro is thus entitled to recover punitive damages in  
9 an amount according to proof.

10 **FOURTH CAUSE OF ACTION**

11 **(Discrimination in Violation of the FEHA  
12 Cal. Gov't Code § 12940(a))**

13 **(Against SDFD, the City, & Does 1 through 20, inclusive)**

14 80. Alfaro hereby incorporates by reference Paragraphs 1  
15 through 79 of this Complaint as if fully set forth herein.

16 81. At all times herein mentioned, California's Fair  
17 Employment and Housing Act ("FEHA"), Cal. Government Code §  
18 12940 et seq., was in full force and effect and fully binding  
19 upon SDFD and the City. Alfaro was a member of a group protected  
20 by the statute, in particular section 12940(a), prohibiting  
21 discrimination in employment based on sex.

22 82. SDFD and the City discriminated against Alfaro on the  
23 basis of her sex in violation of Government Code § 12940(a) by  
24 denying her promotions and assignments, stripping her of her PAT  
25 title, paying her less than similarly-situated men, subjecting  
26 her to higher standards and a higher level of scrutiny than it  
27 does men, and subjecting her to other inequitable terms and  
28 conditions of employment.

83. SDFD and the City knew or should have known of these  
violations, and took no steps to bring an end to them.

1 Instead, these violations have continued throughout Alfaro's  
2 employment and constitute a continuing violation.

3 84. As a direct, foreseeable and proximate result of SDFD  
4 and the City's unlawful actions, Alfaro has suffered and  
5 continues to suffer substantial losses in earnings, equity and  
6 other employment benefits and has incurred other economic  
7 losses.

8 85. As a further direct, foreseeable and proximate  
9 result of SDFD and the City's unlawful actions, Alfaro has  
10 suffered emotional distress, humiliation, shame, and  
11 embarrassment all to Alfaro's damage in an amount to be proven at  
12 time of trial.

13 86. SDFD and the City committed the acts herein  
14 despicably, maliciously, fraudulently, and oppressively, with  
15 the wrongful intention of injuring Alfaro, from an improper and  
16 evil motive amounting to malice, and in conscious disregard of  
17 the rights or safety of Alfaro and others.

18 87. Alfaro is thus entitled to recover punitive damages in  
19 an amount according to proof.

20 **FIFTH CAUSE OF ACTION**

21 **(Unequal Pay in Violation of the California Equal Pay Act,**  
22 **Cal. Lab. Code §§ 1194.5, 1197.5)**  
23 **(Against SDFD, the City, & Does 1 through 20, inclusive)**

24 88. Alfaro hereby incorporates by reference Paragraphs 1  
25 through 87 of this Complaint as if fully set forth herein.

26 89. At all times herein mentioned, the California Equal Pay  
27 Act, California Labor Code 1197.5, was in full force and effect  
28 and fully binding upon SDFD and the City.

89. SDFD and the City violated section 206 et seq. paying  
Alfaro less than similarly-situated men performing substantially  
similar work when viewed as a composite of skill, effort, and

1 responsibility and performed under similar working conditions,  
2 and less than similarly situated men performing equal work on  
3 jobs the performance of which requires equal skill, effort, and  
4 responsibility under similar working conditions.

5 91. SDFD and the City committed these violations  
6 willfully, knowingly, and intentionally.

7 92. SDFD and the City knew or should have known of these  
8 violations, and took no steps to bring an end to them. Instead,  
9 these violations have continued throughout Alfaro's employment  
10 and constitute a continuing violation.

11 93. As a direct, foreseeable and proximate result of  
12 SDFD and the City's unlawful actions, Alfaro has suffered and  
13 continues to suffer substantial losses in earnings, equity and  
14 other employment benefits and has incurred other economic losses.

15 94. As a further direct, foreseeable and proximate result  
16 of SDFD and the City's unlawful actions, Alfaro has suffered  
17 emotional distress, humiliation, shame, and embarrassment all to  
18 Alfaro's damage in an amount to be proven at time of trial.

19 95. Alfaro is thus entitled to recover all legal and  
20 equitable damages under the law, including wages, interest, and  
21 liquidated damages, in an amount according to proof.

#### 22 **SIXTH CAUSE OF ACTION**

#### 23 **(Retaliation in Violation of Title VII)** 24 **(Against SDFD, the City, & Does 1 through 20, inclusive)**

25 96. Alfaro hereby incorporates by reference Paragraphs 1  
26 through 95 of this Complaint as if fully set forth herein.

27 105. At all times herein mentioned, Title VII, 42 U.S.C. 2000e et  
28 seq, was in full force and effect and was fully binding upon  
SDFD and the City. Specifically, § 2000e-3 makes it an unlawful  
employment practice for an employer to retaliate against any  
person because the person has opposed any practices forbidden

1 under Title VII or because the person has made a charge,  
2 testified, assisted, or participated in any manner in an  
3 investigation, proceeding, or hearing related to Title VII.

4 97. On multiple occasions, Alfaro opposed, reported,  
5 and took part in the investigation of the sexual harassment,  
6 discrimination, and retaliation she experienced. In response,  
7 SDFD and the City subjected her to further harassment,  
8 exacerbated by their refusal to keep these complaints and  
9 investigations private, denied her promotions and assignments,  
10 denied her emergency leave request, and subjected her to other  
11 adverse actions.

12 98. SDFD and the City knew or should have known of these  
13 violations, and took no steps to bring an end to them. Instead,  
14 these violations have continued and constitute a continuing  
15 violation.

16 99. As a direct, foreseeable and proximate result of  
17 SDFD and the City's unlawful actions, Alfaro has suffered and  
18 continues to suffer losses in earnings, equity and other  
19 employment benefits and has incurred other economic losses.

20 100. As a direct, foreseeable, and proximate result of  
21 SDFD and the City's unlawful actions, Alfaro has suffered  
22 substantial emotional distress, humiliation, shame, and  
23 embarrassment, all to Alfaro's damage in an amount to be proven  
24 at the time of trial.

25 101. SDFD and the City committed the acts herein  
26 despicably, maliciously, fraudulently, and oppressively, with  
27 the wrongful intention of injuring Alfaro, from an improper and  
28 evil motive amounting to malice, and in conscious disregard of  
the rights and safety of Alfaro and others.

102. Alfaro is thus entitled to recover punitive damages  
in an amount according to proof.

SEVENTH CAUSE OF ACTION

**(Retaliation in Violation of Cal. Gov't Code § 12940(h))  
(Against SDFD, the City, & Does 1 through 20, inclusive)**

103. Alfaro hereby incorporates by reference Paragraphs 1 through 102 of this Complaint as if fully set forth herein.

104. At all times herein mentioned, California's Fair Employment and Housing Act ("FEHA"), Cal. Gov't Code §§ 12900, et seq., was in full force and effect and was fully binding upon SDFD and the City. Specifically, § 12940(h) makes it an unlawful employment practice for an employer to discriminate against any person because the person has opposed any practices forbidden under this part.

105. On multiple occasions, Alfaro opposed, reported, and took part in the investigation of the sexual harassment, discrimination, and retaliation she experienced. In response, SDFD and the City subjected her to further harassment, exacerbated by the refusal to keep these complaints and investigations private, denied her promotions and assignments, denied her emergency leave request, and subjected her to other employment adverse actions, in violation of § 12940(h).

106. SDFD and the City knew or should have known of these violations, and took no steps to bring an end to them. Instead, these violations have continued and constitute a continuing violation.

107. As a direct, foreseeable and proximate result of SDFD and the City's unlawful actions, Alfaro has suffered and continues to suffer losses in earnings, equity and other employment benefits and has incurred other economic losses.

108. As a direct, foreseeable, and proximate result of SDFD and the City's unlawful actions, Alfaro has suffered

1 substantial emotional distress, humiliation, shame, and  
2 embarrassment, all to Alfaro's damage in an amount to be proven  
3 at the time of trial.

4 109. SDFD and the City committed the acts herein  
5 despicably, maliciously, fraudulently, and oppressively, with  
6 the wrongful intention of injuring Alfaro, from an improper and  
7 evil motive amounting to malice, and in conscious disregard of  
8 the rights and safety of Alfaro and others.

9 110. Alfaro is thus entitled to recover punitive damages  
10 in an amount according to proof.

11 **EIGHTH CAUSE OF ACTION**

12 **(Retaliation in Violation of Violation of the Whistleblower  
13 Protection Act, Gov. Code 8547 et seq.)  
14 (Against SDFD, the City, Zombro, La Mantia, & Does 1 through 20,  
15 inclusive)**

16 111. Alfaro hereby incorporates by reference Paragraphs  
17 1 through 110 of this Complaint as if fully set forth herein  
18 and for a cause of action alleges as follows:

19 112. California's Whistleblower Protection Act,  
20 Government Code 8547 et seq., prohibits public employees from  
21 retaliating against employees for protected disclosures regarding  
22 improper governmental activity. Specifically, it provides that  
23 "any person who intentionally engages in acts of reprisal,  
24 retaliation, threats, coercion, or similar acts against a state  
25 employee [...] for having made a protected disclosure shall be  
26 liable in an action for damages. Cal. Gov't Code § 8547.8; See  
27 also 8547.3.

28 113. On multiple occasions, Alfaro opposed, reported, and  
initiated and took part in the investigation of the sexual  
harassment, discrimination, and retaliation she experienced.  
In response, Defendants attempted to stifle Alfaro's complaints  
and to intimidate her, subjected her to further harassment,

1 exacerbated by the refusal to keep these complaints and  
2 investigations private, denied her promotions and assignments,  
3 denied her emergency leave request, and subjected her to other  
4 adverse employment actions, in violation of Cal. Gov't Code §§  
8547.3 and 8547.8.

5 114. In the alternative, she also participated in an  
6 investigation of Deputy Chief Gina La Mantia, in which she  
7 provided truthful testimony during a hearing to the effect that  
8 La Mantia had violated numerous SDFD rules and regulations and  
9 engaged in gross misconduct by bullying employees and behaving  
10 unprofessionally. In response, Defendants subjected Alfaro to  
11 further harassment, exacerbated by the refusal to keep these  
12 complaints and investigations private, and SDFD and La Mantia  
13 denied her promotions and assignments, in violation of Cal.  
Gov't Code §§ 8547.3 and 8547.8.

14 115. Defendants knew or should have known of these  
15 violations, and took no steps to bring an end to them. Instead,  
16 these violations have continued and constitute a continuing  
17 violation.

18 116. As a direct, foreseeable and proximate result of  
19 Defendants' unlawful actions, Alfaro has suffered and continues  
20 to suffer losses in earnings, equity and other employment  
benefits and has incurred other economic losses.

21 117. As an actual and proximate result of Defendants'  
22 wrongful conduct, Alfaro has suffered and continues to suffer  
23 severe and continuous humiliation, emotional distress, and  
24 physical and mental pain and anguish, all to her damage in an  
25 amount according to proof at the time of trial.

26 118. Defendants committed the acts alleged herein  
27 maliciously, fraudulently, and oppressively, with the wrongful  
28 intention of injuring Alfaro, and acted with an improper and

1 evil motive amounting to malice and in conscious disregard of  
2 Alfaro's rights. Because the acts taken toward Alfaro were  
3 carried out by Defendants acting in a deliberate, cold, callous,  
4 and intentional manner in order to injure and damage Alfaro,  
5 she is entitled to recover punitive damages in an amount  
6 according to proof.

7 **NINTH CAUSE OF ACTION**

8 **(Retaliation in Violation of the California Whistleblower**  
9 **Protection Act, Cal. Lab. Code §§ 1102.5 & 98.6)**  
10 **(Against SDFD, the City, Zombro, Gina La Mantia, & Does 1**  
11 **through 20, inclusive)**

12 119. Alfaro hereby incorporates by reference Paragraphs 1  
13 through 118 of this Complaint as if fully set forth herein.

14 120. California's Whistleblower Protection Act, Cal. Lab.  
15 Code Section 1102.5(a) prohibits "an employer, or any person  
16 acting on behalf of the employer," from making, adopting, or  
17 enforcing "any rule, regulation, or policy preventing an employee  
18 from disclosing information to a government or law enforcement  
19 agency, to a person with authority over the employee, or to  
20 another employee who has authority to investigate, discover, or  
21 correct the violation or noncompliance, or from providing  
22 information to, or testifying before, any public body conducting  
23 an investigation, hearing, or inquiry, if the employee has  
24 reasonable cause to believe that the information discloses a  
25 violation of state or federal statute, or a violation of or  
26 noncompliance with a local, state, or federal rule or regulation,  
27 regardless of whether disclosing the information is part of the  
28 employee's job duties."

121. Cal. Lab. Code Section 1102.5(b) provides that "an  
employer, or any person acting on behalf of the employer, shall  
not retaliate against an employee for disclosing information, or  
because the employer believes that the employee disclosed or may

1 disclose information, to a government or law enforcement agency,  
2 to a person with authority over the employee or another employee  
3 who has the authority to investigate, discover, or correct the  
4 violation or noncompliance, or for providing information to, or  
5 testifying before, any public body conducting an investigation,  
6 hearing, or inquiry, if the employee has reasonable cause to  
7 believe that the information discloses a violation of state or  
8 federal statute, or a violation of or noncompliance with a local,  
9 state, or federal rule or regulation, regardless of whether  
10 disclosing the information is part of the employee's job  
11 duties."

12 122. Cal. Lab. Code Section 1102.5(c) provides that "[a]n  
13 employer, or any person acting on behalf of the employer, shall  
14 not retaliate against an employee for refusing to participate in  
15 an activity that would result in a violation of state or federal  
16 statute, or a violation of or noncompliance with a local, state,  
17 or federal rule or regulation."

18 123. Cal. Lab. Code Section 1102.5(d) provides that "[a]n  
19 employer, or any person acting on behalf of the employer, shall  
20 not retaliate against an employee for having exercised his or  
21 her rights under subdivision (a), (b), or (c) in any former  
22 employment."

23 124. Cal. Lab. Code Section 98.6 forbids discriminating,  
24 retaliating, or taking other adverse actions against an employee  
25 for "engag[ing] in any conduct delineated in this chapter,  
26 including the conduct described in subdivision (k) of Section  
27 96, and Chapter 5 (commencing with Section 1101) of Part 3 of  
28 Division 2, or because the employee or applicant for employment  
has filed a bona fide complaint or claim or instituted or caused  
to be instituted any proceeding under or relating to his or her  
rights that are under the jurisdiction of the Labor Commissioner,

1 made a written or oral complaint that he or she is owed unpaid  
2 wages, [...] or because of the exercise by the employee or  
3 applicant for employment on behalf of himself, herself, or others  
4 of any rights afforded him or her."

5 125. On multiple occasions, Alfaro opposed, reported, and  
6 initiated and took part in the investigation of, the sexual  
7 harassment, discrimination, and retaliation she experienced. In  
8 response, Defendants attempted to stifle Alfaro's complaints and  
9 to intimidate her, subjected her to further harassment,  
10 exacerbated by the refusal to keep these complaints and  
11 investigations private, denied her promotions and assignments,  
12 denied her emergency leave request, and subjected her to other  
13 employment adverse actions, in violation of Labor Code §§ 98.6  
14 and 1102.5(a) through (d).

15 126. In the alternative, she also participated in an  
16 investigation of Deputy Chief Gina La Mantia, in which she  
17 provided truthful testimony during a hearing to the effect that  
18 La Mantia had violated numerous SFD rules and regulations and  
19 engaged in gross misconduct by bullying employees and behaving  
20 unprofessionally. In response, Defendants subjected Alfaro to  
21 further harassment, exacerbated by the refusal to keep these  
22 complaints and investigations private, and Defendants denied her  
23 promotions and assignments, in violation of Labor Code §§  
24 1102.5(a) through (d).

25 127. Defendant knew or should have known of these  
26 violations, and took no steps to bring an end to them. Instead,  
27 these violations have continued and constitute a continuing  
28 violation.

128. As a direct, foreseeable and proximate result of  
Defendants' unlawful actions, Alfaro has suffered and continues

1 to suffer losses in earnings, equity and other employment  
2 benefits and has incurred other economic losses.

3 129. As an actual and proximate result of Defendants'  
4 wrongful conduct, Alfaro has suffered and continues to suffer  
5 severe and continuous humiliation, emotional distress, and  
6 physical and mental pain and anguish, all to her damage in an  
amount according to proof at the time of trial.

7 130. Defendants committed the acts alleged herein  
8 maliciously, fraudulently, and oppressively, with the wrongful  
9 intention of injuring Alfaro, and acted with an improper and evil  
10 motive amounting to malice and in conscious disregard of Alfaro's  
11 rights. Because the acts taken toward Alfaro were carried out by  
12 Defendants acting in a deliberate, cold, callous, and  
13 intentional manner in order to injure and damage Alfaro, she is  
14 entitled to recover punitive damages in an amount according to  
proof.

15 **TENTH CAUSE OF ACTION**

16 **(Failure to Take All Reasonable Steps to Prevent Sexual**  
17 **Harassment, Discrimination, and Retaliation in Violation of Cal.**  
18 **Gov't Code § 12940(k))**  
19 **(Against SDFD, the City, & Does 1 through 20, inclusive)**

20 131. Alfaro hereby incorporates by reference Paragraphs 1  
through 130 of this Complaint as if fully set forth herein.

21 132. At all times herein mentioned, California's Fair  
22 Employment and Housing Act ("FEHA"), Cal. Gov't Code §§ 12900,  
23 et seq., was in full force and effect and was fully binding  
24 upon SDFD and the City. Specifically, § 12940(k) makes it an  
25 unlawful employment practice for an employer to fail to take all  
26 reasonable steps necessary to prevent sexual harassment and  
discrimination from occurring.

27 133. The harassment, discrimination, and retaliation  
28 Alfaro experienced was open and conspicuous such that SDFD and

1 the City knew or should have known it was occurring. Moreover,  
2 SDFD and the City received multiple complaints about this  
3 misconduct. They did not take reasonable to steps to end or  
4 to prevent these violations. Instead, they publicized the  
5 complaints and investigation of the harassment,  
6 discrimination, and retaliation Alfaro was experiencing, with  
7 the predictable result that Alfaro faced even greater  
8 harassment, discrimination, and retaliation. SDFD and the City  
9 failed to adequately investigate this misconduct behavior when  
10 warned and failed to take all reasonable steps to prevent this  
11 discrimination, harassment, and retaliation.

12 134. These violations have continued and constitute a  
13 continuing violation. 144. As a direct, foreseeable and  
14 proximate result of SDFD and the City's  
15 unlawful actions, Alfaro has suffered and continues to suffer  
16 losses in earnings, equity and other employment benefits and has  
17 incurred other economic losses.

18 135. As a direct, foreseeable, and proximate result of  
19 SDFD and the City's unlawful actions, Alfaro has suffered  
20 substantial emotional distress, humiliation, shame, and  
21 embarrassment, all to Alfaro's damage in an amount to be proven  
22 at the time of trial.

23 136. SDFD and the City committed the acts herein  
24 despicably, maliciously, fraudulently, and oppressively, with  
25 the wrongful intention of injuring Alfaro, from an improper and  
26 evil motive amounting to malice, and in conscious disregard of  
27 the rights and safety of Alfaro and others.

28 137. Alfaro is thus entitled to recover punitive damages  
in an amount according to proof.

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**ELEVENTH CAUSE OF ACTION**

**(Intentional Infliction of Emotional Distress)  
(Against All Defendants)**

138. Alfaro hereby incorporates by reference Paragraphs 1 through 137 of this Complaint as if fully set forth herein.

139. The conduct of Defendants and their agents was so extreme and outrageous that it exceeded the boundaries of human decency and was beyond pale of conduct tolerated in a civilized society. This conduct was intended to cause severe emotional distress, or was done in reckless disregard of the probability of causing severe emotional distress.

140. These violations have continued and constitute a continuing violation.

141. As an actual and proximate result of Defendants' wrongful conduct, Alfaro has suffered and continues to suffer severe and continuous humiliation, emotional distress, and physical and mental pain and anguish, all to her damage in an amount according to proof at the time of trial.

142. As a direct, foreseeable and proximate result of Defendants' unlawful actions, Alfaro has suffered and continues to suffer losses in earnings, equity and other employment benefits and has incurred other economic losses.

143. Defendants committed the acts alleged herein maliciously, fraudulently, and oppressively, with the wrongful intention of injuring Alfaro, and acted with an improper and evil motive amounting to malice and in conscious disregard of Alfaro's rights. Because the acts taken toward Alfaro were carried out by Defendants acting in a deliberate, cold, callous, and intentional manner in order to injure and damage Alfaro,

1 she is entitled to recover punitive damages in an amount  
2 according to proof.

3 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

4 Alfaro timely filed charges with the EEOC and the  
5 Department of Fair Employment and Housing agencies and received  
6 right to sue letters. (Attached are the right-to-sue letters as  
7 Exhibit 1 and Exhibit 2).

8 **DEMAND FOR JURY TRIAL**

9 Plaintiff hereby demands a jury trial on all claims and  
10 causes of action alleged herein.

11 **PRAYER FOR RELIEF**

12 WHEREFORE, Alfaro prays for judgment as follows:

- 13 a. For compensatory damages, including but not limited  
14 to, lost back pay, plus interest, lost fringe benefits  
15 and future lost earnings and fringe benefits, lost  
16 equity, damages for emotional distress and pain and  
17 suffering, according to proof allowed by law;  
18 b. For liquidated and punitive damages allowed by law;  
19 c. For restitution and/or disgorgement;  
20 d. For an award to Alfaro of costs of suit incurred herein  
21 and reasonable attorneys' fees;  
22 e. For an award of prejudgment and post-judgment interest;  
23 and  
24 f. For an award to Alfaro of such other and further legal  
25 and equitable relief as the Court deems just and  
26 proper.  
27  
28

DATED: April 20, 2018

s/ Manuel Corrales, Jr.  
Manuel Corrales, Jr., Esq.  
Attorney for Plaintiff SARA  
ALFARO

# **EXHIBIT “1”**

**U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION**  
**NOTICE OF RIGHT TO SUE (ISSUED ON REQUEST)**

To: **Sara Alfaro**  
**C/O Manuel Corrales Jr., Attorney At Law**  
**17140 Bernardo Center Dr., Suite 358**  
**San Diego, CA 92128**

From: **San Diego Local Office**  
**555 W. Beech Street**  
**Suite 504**  
**San Diego, CA 92101**

On behalf of person(s) aggrieved whose identity is  
CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.	EEOC Representative	Telephone No.
<b>488-2018-00131</b>	<b>Ana Sepulveda,</b> <b>Investigator</b>	<b>(619) 557-7297</b>

*(See also the additional information enclosed with this form.)*

**NOTICE TO THE PERSON AGGRIEVED:**

**Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act (ADA), or the Genetic Information Nondiscrimination Act (GINA):** This is your Notice of Right to Sue, issued under Title VII, the ADA or GINA based on the above-numbered charge. It has been issued at your request. Your lawsuit under Title VII, the ADA or GINA **must be filed in a federal or state court WITHIN 90 DAYS of your receipt of this notice;** or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

- More than 180 days have passed since the filing of this charge.
- Less than 180 days have passed since the filing of this charge, but I have determined that it is unlikely that the EEOC will be able to complete its administrative processing within 180 days from the filing of this charge.
- The EEOC is terminating its processing of this charge.
- The EEOC will continue to process this charge.

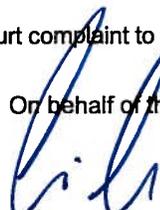
**Age Discrimination in Employment Act (ADEA):** You may sue under the ADEA at any time from 60 days after the charge was filed until 90 days after you receive notice that we have completed action on the charge. In this regard, **the paragraph marked below applies to your case:**

- The EEOC is closing your case. Therefore, your lawsuit under the ADEA **must be filed in federal or state court WITHIN 90 DAYS of your receipt of this Notice.** Otherwise, your right to sue based on the above-numbered charge will be lost.
- The EEOC is continuing its handling of your ADEA case. However, if 60 days have passed since the filing of the charge, you may file suit in federal or state court under the ADEA at this time.

**Equal Pay Act (EPA):** You already have the right to sue under the EPA (filing an EEOC charge is not required.) EPA suits must be brought in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

If you file suit, based on this charge, please send a copy of your court complaint to this office.

On behalf of the Commission



**Christopher S. Green, Director**  
**San Diego Local Office**

**4/16/18**  
*(Date Mailed)*

Enclosures(s)

CC: **Harold Barclay**  
**EEO Investigation Manager**  
**CITY OF SAN DIEGO**  
**1200 Third Ave, Ste 1501**  
**San Diego, CA 92101**

**Manuel Corrales, Jr.**  
**MANUEL CORRALES JR ATTORNEY AT LAW**  
**17140 Bernardo Center Dr., Suite 358**  
**San Diego, CA 92101**

# **EXHIBIT “2”**



## DEPARTMENT OF FAIR EMPLOYMENT & HOUSING

2218 Kausen Drive, Suite 100 | Elk Grove | CA | 95758  
(800) 884-1684 | TDD (800) 700-2320  
<http://www.dfeh.ca.gov> | email: [contact.center@dfeh.ca.gov](mailto:contact.center@dfeh.ca.gov)

April 20, 2018

Manuel Corrales  
17140 Bernardo Center Drive Suite 358  
San Diego, California 92128

RE: **Notice to Complainant's Attorney**  
DFEH Matter Number: 201804-01982320  
Right to Sue: Alfaro / City of San Diego et al.

Dear Manuel Corrales:

Attached is a copy of your 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 attached is a copy of your Notice of Case Closure and Right to Sue.

**Pursuant to Government Code section 12962, DFEH will not serve these documents on the employer.** You must serve the complaint separately, to all named respondents. Please refer to the attached Notice of Case Closure and Right to Sue for information regarding filing a private lawsuit in the State of California. A courtesy "Notice of Filing of Discrimination Complaint" is attached for your convenience.

Be advised that the DFEH does not review or edit the complaint form to ensure that it meets procedural or statutory requirements.

Sincerely,

Department of Fair Employment and Housing



## DEPARTMENT OF FAIR EMPLOYMENT & HOUSING

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(800) 884-1684 | TDD (800) 700-2320  
<http://www.dfeh.ca.gov> | email: [contact.center@dfeh.ca.gov](mailto:contact.center@dfeh.ca.gov)

April 20, 2018

RE: **Notice of Filing of Discrimination Complaint**  
DFEH Matter Number: 201804-01982320  
Right to Sue: Alfaro / City of San Diego et al.

To All Respondent(s):

Enclosed is a copy of a complaint of discrimination that has been filed with the Department of Fair Employment and Housing (DFEH) in accordance with Government Code section 12960. This constitutes service of the complaint pursuant to Government Code section 12962. The complainant has requested an authorization to file a lawsuit. This case is not being investigated by DFEH and is being closed immediately. A copy of the Notice of Case Closure and Right to Sue is enclosed for your records.

Please refer to the attached complaint for a list of all respondent(s) and their contact information.

No response to DFEH is requested or required.

Sincerely,

Department of Fair Employment and Housing



## DEPARTMENT OF FAIR EMPLOYMENT & HOUSING

2218 Kausen Drive, Suite 100 | Elk Grove | CA | 95758  
(800) 884-1684 | TDD (800) 700-2320  
<http://www.dfeh.ca.gov> | email: [contact.center@dfeh.ca.gov](mailto:contact.center@dfeh.ca.gov)

April 20, 2018

Sara Alfaro

,

**RE: Notice of Case Closure and Right to Sue**  
DFEH Matter Number: 201804-01982320  
Right to Sue: Alfaro / City of San Diego et al.

Dear Sara Alfaro,

This letter informs you that the above-referenced complaint was filed with the Department of Fair Employment and Housing (DFEH) has been closed effective April 20, 2018 because an immediate Right to Sue notice was requested. DFEH will take no further action on the complaint.

This letter is also your 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.

To obtain a federal Right to Sue notice, you must contact the U.S. Equal Employment Opportunity Commission (EEOC) 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.

Sincerely,

Department of Fair Employment and Housing

1                                   **COMPLAINT OF EMPLOYMENT DISCRIMINATION**  
2                                   **BEFORE THE STATE OF CALIFORNIA**  
3                                   **DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING**  
4                                   **Under the California Fair Employment and Housing Act**  
                                      **(Gov. Code, § 12900 et seq.)**

5 **In the Matter of the Complaint of**

6 Sara Alfaro

DFEH No. 201804-01982320

7                                   Complainant,

8 vs.

9 City of San Diego

10 ,

11 San Diego Fire-Rescue Department  
12 1010 Second Ave. Suite 400  
13 San Diego, California 92101

14 Jamie Nichols  
15 1010 Second Ave. Suite 400  
16 San Diego, California 92101

17 Kelley Zombro  
18 1010 Second Ave. Suite 400  
19 San Diego, California 92101

Gina La Mantia  
1010 Second Ave. Suite 400  
San Diego, California 92101

20                                   Respondents.

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21 1. Respondent **City of San Diego** is an **employer** subject to suit under the  
22 California Fair Employment and Housing Act (FEHA) (Gov. Code, § 12900 et seq.).

23 2. Complainant **Sara Alfaro**, resides in the City of State of .

24 3. Complainant alleges that on or about **March 28, 2018**, respondent took the  
25 following adverse actions:

26 **Complainant was harassed** because of complainant's sex/gender, sexual  
27 harassment- hostile environment.

1 **Complainant was discriminated against** because of complainant's sex/gender and  
2 as a result of the discrimination was denied hire or promotion, denied equal pay,  
3 denied a work environment free of discrimination and/or retaliation, denied any  
4 employment benefit or privilege.

5 **Additional Complaint Details:** The actions of Alfaro's male managers and  
6 coworkers, including without limitation the unwelcome sexual and sexually  
7 objectifying comments, noises and gestures, romantic pursuit, sexual contact,  
8 exposure of male genitalia, misogynist and male chauvinist remarks, and other lude  
9 behavior, created a hostile sexual environment that materially altered Alfaro's  
10 working conditions and which constitutes sexual harassment in violation of Gov't  
11 Code § 12940(j)(1).

12 This harassing conduct was severe and pervasive. A reasonable person in Alfaro's  
13 position would consider the environment to be hostile or abusive and Alfaro  
14 considered and considers the environment to be hostile and abusive. SDFD and the  
15 City knew or should have known of these violations, and took no steps to bring an  
16 end to the harassment Alfaro faced. Instead, these violations have continued  
17 throughout Alfaro's employment and constitute a continuing violation. Alfaro has  
18 suffered economic damages including back pay, front pay, equity, benefits and other  
19 compensation, emotional distress, humiliation, shame, and embarrassment. SDFD  
20 and the City discriminated against Alfaro on the basis of her sex in violation of  
21 Government Code § 12940(a) by denying her promotions and assignments,  
22 stripping her of her PAT title, paying her less than similarly-situated men, subjecting  
23 her to higher standards and a higher level of scrutiny than it does men, and  
24 subjecting her to other inequitable terms and conditions of employment.

25 SDFD and the City knew or should have known of these violations, and took no  
26 steps to bring an end to them. Instead, these violations have continued throughout  
27 Alfaro's employment and constitute a continuing violation.

28 On multiple occasions, Alfaro opposed, reported, and took part in the investigation of  
the sexual harassment, discrimination, and retaliation she experienced. In response,  
SDFD and the City subjected her to further harassment, exacerbated by the refusal  
to keep these complaints and investigations private, denied her promotions and  
assignments, denied her emergency leave request, and subjected her to other  
employment adverse actions, in violation of § 12940(h), in violation of Cal. Gov't  
Code §§ 8547.3 and 8547.8 and in violation of Labor Code §§ 98.6 and 1102.5(a)  
through (d).

The harassment, discrimination, and retaliation Alfaro experienced was open and  
conspicuous such that SDFD and the City knew or should have known it was  
occurring. Moreover, SDFD and the City received multiple complaints about this  
misconduct. They did not take reasonable to steps to end or to prevent these  
violations. Instead, they publicized the complaints and investigation of the  
harassment. SDFD and the City failed to adequately investigate this misconduct

1 behavior when warned and failed to take all reasonable steps to prevent this  
2 discrimination, harassment, and retaliation.

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1 VERIFICATION

2 I, **Manuel Corrales, Jr.**, am the **Attorney** in the above-entitled complaint. I have read  
3 the foregoing complaint and know the contents thereof. The matters alleged are  
4 based on information and belief, which I believe to be true.

5 On April 20, 2018, I declare under penalty of perjury under the laws of the State of  
6 California that the foregoing is true and correct.

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**San Diego, CA**