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Superior Court of California  
County of Los Angeles

MAR 03 2016

Sherri R. Carter, Executive Officer/Clerk  
By Cristina Grijalva, Deputy

Attorneys for Plaintiff  
RONALD GRAY

**SUPERIOR COURT FOR THE STATE OF CALIFORNIA**

**COUNTY OF LOS ANGELES**

RONALD GRAY,

Plaintiff,

v.

CITY OF LOS ANGELES, a government  
entity; and DOES 1 through 100, inclusive,

Defendants.

CASE NO.: **BC 6 1 2 2 4 7**

**COMPLAINT FOR DAMAGES**

1. Violation of California Labor Code § 1102.5

**DEMAND FOR JURY TRIAL**

COMES NOW Plaintiff, RONALD GRAY, and hereby demands a trial by jury, and based on information and belief complains and alleges as follows:

**THE PARTIES**

1. At all times relevant hereto, Plaintiff RONALD GRAY ("Gray" or "Plaintiff") was a sworn California police officer employed with the Los Angeles Police Department ("LAPD" or "Department"), and was a competent adult.

2. Plaintiff is informed and believes and thereon alleges that, at all times relevant hereto, Defendant CITY OF LOS ANGELES ("City" or "Defendant") was a public entity violating laws within the State of California in the County of Los Angeles. At all times pertinent hereto, Defendant City owned, controlled, and operated the law enforcement agency known as the LAPD.

1           3.       Plaintiff is informed and believes and thereupon alleges that Defendants DOES 1  
2 through 100, inclusive, and each of them, at all times relevant hereto, were individuals or public,  
3 business, and/or other entities whose form is unknown committing torts in and/or engaged in  
4 purposeful economic activity within the County of Los Angeles, State of California.

5           4.       The true names and capacities of Defendants DOES 1 through 100, and each of  
6 them, whether individual, corporate, associate or otherwise, are unknown to Plaintiff at this time,  
7 therefore Plaintiff sues said Defendants by such fictitious names. Plaintiff will file DOE  
8 amendments, and/or ask leave of court to amend this complaint to assert the true names and  
9 capacities of these Defendants when they have been ascertained. Plaintiff is informed and believes,  
10 and upon such information and belief alleges, that each Defendant herein designated as a DOE was  
11 and is in some manner, negligently, wrongfully, or otherwise, responsible and liable to Plaintiff for  
12 the injuries and damages hereinafter alleged, and that Plaintiff's damages as herein alleged were  
13 proximately caused by their conduct.

14           5.       Plaintiff is informed and believes, and thereon alleges, that at all times material  
15 herein the Defendants, and each of them, were the agents, servants, or employees, or ostensible  
16 agents, servants, and employees of each other Defendant, and as such, were acting within the  
17 course and scope of said agency and employment or ostensible agency and employment, except on  
18 those occasions when Defendants were acting as principals, in which case, said Defendants; and  
19 each of them, were negligent in the selection, hiring, and use of the other Defendants.

20           6.       At all times mentioned herein, each of the Defendants was the co-tortfeasor of each  
21 of the other Defendants in doing the things hereinafter alleged.

22           7.       Plaintiff is further informed and believes that at all times relevant hereto,  
23 Defendants, and each of them, acted in concert and in furtherance of the interests of each other  
24 Defendant. The conduct of each Defendant combined and cooperated with the conduct of each of  
25 the remaining Defendants so as to cause the herein described incidents and the resulting injuries  
26 and damages to Plaintiff.

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1           15.     CTTU's primary mission was to oversee and administer the use of Urban Area  
2 Security Initiative Federal Grant funds that were for the specific purpose of purchasing and  
3 maintaining Personal Protective Equipment ("PPE") for use in weapons of mass destruction  
4 ("WMD") attacks. The funds would be used to purchase the equipment, specifically to configure  
5 trailers to house and transport the equipment, and trucks to be utilized as "prime movers"—to pull  
6 the trailers to call-outs and training. In this regard, Plaintiff and his unit would ensure the PPE was  
7 up to date and not expired, properly stored in the trailers, that the trailers were properly configured,  
8 and that department personnel were properly trained in their use. Plaintiff and CTTU would  
9 conduct training in the donning and doffing of the PPE, and respond to call-outs in order to assist  
10 in the donning and doffing of the PPE.

11           16.     Beginning in 2010, and on a continuing and ongoing basis up to and including the  
12 present date, Plaintiff has been retaliated against for challenging and reporting what he reasonably  
13 believed to be various violations of law, including but not limited to the misappropriation and/or  
14 misuse by certain members of the Los Angeles Police Department, by Command Staff, and by  
15 certain people within the Special Operations Bureau of federal grant money that was earmarked for  
16 specific anti-terrorism purposes.

17           17.     Sometime in or around October 2010, while performing his duties as the OIC of  
18 CTTU, Plaintiff became aware that CTSOB requested that one of the grant purchased Ford F-350  
19 trucks be reassigned to the Incident Command Post Unit ("ICPU") of Emergency Operations  
20 Division ("EOD"), and be made available as necessary for deployments of command post  
21 equipment and personnel transportation. Plaintiff soon after became aware that the truck was in  
22 fact released to ICPU, presumably under the authority of Captain Philip Fontanetta, the  
23 Commanding Officer of EOD. The Department was reassigning a grant purchased truck to a  
24 division other than that specified in the grant itself, and co-opting CTTU grant specified equipment  
25 in direct violation of the grant. Such cannot be done.

26           18.     On at least two occasions in or around December 2010, Plaintiff reported his  
27 concerns about these unlawful practices to his supervisors up the chain of command—Captain  
28 Michelle Veenstra, the Commanding Officer of Training Division, and Commander Stuart Maislin,

1 the Assistant Commanding Officer of Personnel and Training Bureau. Specifically, Plaintiff  
2 reported his reasonable belief that reassigning grant-specified trucks to ICPU was a direct violation  
3 of the grant and Fiscal Operations Division's ("FOD") approved justification for the grant.  
4 Plaintiff reported that the Ford trucks were all assigned to Training Division and not to ICPU, and  
5 that they were specifically purchased for the specific and limited purpose of being used by CTTU  
6 personnel as prime movers for the trailers and to support WMD training—the trucks were not  
7 purchased for the purpose of supporting Command Post missions. Plaintiff reasonably believed  
8 that he was reporting a violation of state and/or federal statutes, rules, and/or regulations, including  
9 but not limited to the misappropriation and misuse of public funds in violation of California Penal  
10 Code §§ 424(a)(1) and (a)(2), the Federal Grant itself, as well as the LAPD's own policies and  
11 procedures.

12 19. As a result of Plaintiff's reporting, an audit was conducted in or around September  
13 2011 to ensure compliance with the Federal Grant program. In the end, after many months, the  
14 Department absolved itself of the transfer and continued on. No corrective action was taken.

15 20. The Department's failure to take any corrective action allowed the unlawful conduct  
16 to continue. In or around April 2013, Plaintiff became aware that a second grant purchased truck  
17 had been reassigned to ICPU (presumably under Captain Fontanetta's authority), again in direct  
18 violation of the grant.

19 21. Furthermore, sometime in or around May or June 2014, Plaintiff became aware of  
20 facts that indicated one of the grant trailers ("Trailer #8") was configured in a manner that did not  
21 meet the specifications set forth in the grant for housing and transporting the PPE. There was a  
22 very specific, precise configuration that needed to be met. The interior of Trailer #8 was not  
23 configured as such; it was not configured to carry and house PPE for WMD situations, but was  
24 instead modified to haul things like Command Post ATVs. This enabled the misconfigured trailer  
25 to be used for a purpose entirely outside of the grant. Plaintiff reported what he reasonably  
26 believed to be a further misappropriation and/or misuse of federal grant money, including his  
27 concerns about the unapproved trailer modification, to Lieutenant Dana Berns and Lieutenant  
28 Michelle Richards. Plaintiff also later voiced his concerns about the unapproved trailer

1 modification to FOD. Plaintiff was again reporting violations of law, or what he reasonably  
2 believed to be violations of law.

3         22. In or around April 2015, Plaintiff was advised that CTTU would be shifted over to  
4 Emergency Services Division ("ESD"). ESD was within CTSOB. That meant that CTTU and  
5 Plaintiff and his colleagues would be transferred to a different Bureau in the LAPD, the same  
6 Bureau that controls METRO Division (recently noted in a media story on or about February 11,  
7 2016, to be undertrained, without proper equipment, and not ready for the "big one" despite the  
8 Department's and Chief Beck's repeated statements to the contrary). No reason was given to  
9 CTTU personnel for the transfer; however, Plaintiff had reason to believe that the transfer was  
10 done to acquire the equipment and grant money mandated for his unit. Plaintiff was soon  
11 thereafter notified by ESD personnel, including Captain Rolando Solano, the Captain of ESD, that  
12 CTTU personnel would no longer be able to work the grant-funded instructor based overtime.  
13 CTTU had been working such overtime since June 2005, and CTTU personnel applied for  
14 positions within the unit and went through extensive training with the understanding that overtime  
15 would be a guaranteed benefit. In violation of the federal grant, the Department was redirecting  
16 grant funds away from CTTU that were specifically allocated for overtime WMD PPE training by  
17 CTTU, and using such funds for other overtime funding outside of CTTU.

18         23. On or about May 11, 2015, the Los Angeles Police Protective League ("LAPPL")  
19 filed a class action Grievance on behalf of Plaintiff and other members of CTTU. The Grievance  
20 concerned the misappropriation of overtime funds, as indicated above—specifically, that the  
21 relocation to ESD punished CTTU by eliminating their ability to train on an overtime basis as  
22 funded by the federal grant. The Grievance requested that the Department restore CTTU to an  
23 overtime rotation for training, restore lost overtime compensation, provide an acceptable work  
24 environment, and asked to conduct a full audit of the Department's allocation of funds provided by  
25 grants applicable to the CTTU. During the grievance process, Captain Solano advised that the  
26 decision to eliminate CTTU overtime came from the Bureau level, including Commander Horace  
27 Frank, and that Captain Solano was unable to take any corrective action.

1           24.     In or around May 2015, Plaintiff reported what he reasonably believed to be a  
2 further misappropriation and/or misuse of federal grant money to Captain Solano; first the trucks,  
3 then the trailer, now the overtime. Captain Solano informed Plaintiff that CTTU would be  
4 transferred to EOD, advising him “with the bodies goes all the equipment”—an attempt to relieve  
5 himself of the misappropriation issues Plaintiff reported. CTTU was officially shifted over to EOD  
6 on or about July 12, 2015.

7           25.     For reporting these violations of law and continuing to speak out against the  
8 Department’s unlawful practices, and/or refusing to participate in such violations, and for the  
9 Grievance (which also reported violations of law), Plaintiff was harassed and retaliated against and  
10 subjected to adverse employment actions. Specifically, Plaintiff was ordered by Sergeant James  
11 MacDonald to immediately seize the truck assigned to Officer Stuart Guidry of CTTU, empty it,  
12 and prepare it to be picked by EOD personnel. Plaintiff was then ordered to deliver all CTTU  
13 trucks and trailers to EOD by on or about July 7, 2015.

14           26.     In further retaliation for his protected activity, in or around July 2015 Plaintiff was  
15 advised by Lieutenant Richard Smith that CTTU personnel would no longer be able to workout on  
16 duty. The Department had previously allowed CTTU personnel to workout on duty at Training  
17 Division, and even at ESD, yet revoked this privilege immediately after the transfer to ESD. The  
18 decision to revoke this privilege was in direct retaliation for Plaintiff’s protected activity, including  
19 the filing of the Grievance by CTTU personnel.

20           27.     Moreover, on or about July 7, 2015, Plaintiff was forced to go off work Injured-On-  
21 Duty (“IOD”) for stress and hypertension related issues arising from the retaliation. In or around  
22 September 2015, while Plaintiff was still off IOD, Lt. Smith met Plaintiff at Plaintiff’s doctor’s  
23 office and served him with an unwarranted Notice to Correct Deficiencies for an alleged neglect of  
24 duty related to managing and supervising the WMD program (which, ironically, is what Plaintiff  
25 was reporting the entire time.) In further retaliation for his protected activity, a Personnel  
26 Complaint was later initiated against Plaintiff for this alleged neglect of duty.

27           28.     On or about November 2, 2015, Plaintiff returned to work from being off IOD, and  
28 the retaliation against him continued. The very same day he returned to work, Plaintiff was

1 ordered to meet with Captain Fontanetta, and was then served with his annual rating and a Request  
2 for Downgrade and Administrative Transfer. Plaintiff was immediately downgraded in rank from  
3 Sergeant II to Sergeant I, relieved of his supervisory position within CTTU, and administratively  
4 transferred from ESD. Plaintiff was assigned to a non-supervisory position within the Pursuit  
5 Review Unit pending the Personnel Complaint initiated against him. Such adverse actions were  
6 done in further retaliation for Plaintiff's protected activity, including uncovering the Department's  
7 potential misappropriation and misuse of federal grant money.

8         29. In or around February 2016, Employee Relations Group ("ERG") granted the class  
9 action Grievance only in part, permitting CTTU to continue to train personnel on an overtime basis  
10 at the discretion of the Commanding Officer of EOD, which allows the retaliation to continue.  
11 ERG did not restore any lost overtime compensation, nor did they conduct an audit of the  
12 Department's allocation of funds. ERG justified this decision by stating that Department rules  
13 concerning an audit are not disputable and are not pertinent to the grievance, thereby not a  
14 grievable matter.

15         30. Plaintiff's career has been materially and adversely affected, and irreparably harmed  
16 and damaged by the conduct of the Defendants. Plaintiff was retaliated against for engaging in  
17 protected activity, including standing up for his rights and the rights of others, and opposing the  
18 improper conduct by supervisors and command staff. Plaintiff spoke out about what he believed to  
19 be the potential misappropriation and misuse of federal grant money and public funds, and reported  
20 such conduct to people above him in the chain of command. As a direct and proximate  
21 consequence of reporting such misconduct and testifying honestly about such misconduct—which  
22 constituted a protected activity under state and federal law—Defendants, and each of them,  
23 retaliated against Plaintiff and subjected Plaintiff to adverse employment actions. Those adverse  
24 employment actions include but are not limited to: being downgraded in rank from Sergeant II to  
25 Sergeant I, being issued an unwarranted Notice to Correct, having a Personal Complaint initiated  
26 against him for alleged neglect of duty (which, ironically, is what he was reporting the whole time),  
27 being administratively transferred, being relieve of his supervisory position within CTTU, being  
28



1 marginalized and ostracized within the Division, damage to his reputation, and an attempt to make  
2 Plaintiff's work environment so difficult that he simply goes away and retires.

3 31. Plaintiff has suffered both general and special damages in the past and present and  
4 will continue to suffer such damages in the future for an unknown period of time. Plaintiff has also  
5 suffered and continues to suffer losses in earnings and other employment benefits, as well as past  
6 and future non-economic injury. This has caused damage to his professional reputation, his ability  
7 to promote, his ability to be selected for other units, his ability to work, has caused negative  
8 ratings, will cause him to have to take a different retirement path, has caused him to lose overtime  
9 opportunities and pay, and will adversely affect his income and his pension and other benefits.  
10 Moreover, it has adversely affected his personal physical health and well being, including medical  
11 expenses that are anticipated into the future and may force an early retirement.

12 32. Plaintiff has also suffered extensive general damages in the form of anxiety,  
13 anguish, and mental suffering. Plaintiff's damages are continuing and in an amount not yet  
14 determined, but in excess of \$25,000.

15 33. The conduct of Defendants, and each of them, was a violation of Plaintiff's rights,  
16 as described above, as well as his rights under both state and federal law, including but not limited  
17 to the Public Safety Officer's Procedural Bill of Rights Act (CAL. GOV'T C. §§ 3300, *et seq.*) and  
18 California Labor Code § 1102.5. Therefore, Defendants, and each of them, are liable under Labor  
19 Code § 1102.5, are liable for retaliation in violation of public policy as identified in *Tameny v.*  
20 *Atlantic Richfield Co.* (1980) 27 Cal.3d 167 and its progeny, and may be liable for constructive  
21 discharge. The wrongful conduct of Defendants, and each of them, is continuing and ongoing as of  
22 the present date.

23 **FIRST CAUSE OF ACTION**

24 **BY PLAINTIFF AGAINST ALL DEFENDANTS**

25 **VIOLATION OF CALIFORNIA LABOR CODE SECTION 1102.5**

26 34. Plaintiff re-alleges and incorporates by reference each and every allegation  
27 contained in paragraphs 1–33 of this complaint as though fully set forth herein again.  
28

1           35.     At all times herein mentioned, California Labor Code section 1102.5 was in full  
2 force and effect and was binding on the Defendants, and each of them.

3           36.     Defendants, and each of them, made, adopted, and/or enforced rules, regulations,  
4 and/or policies designed to prevent employees from disclosing information to a government or law  
5 enforcement agency, which Plaintiff had reasonable cause to believe disclosed violations of state or  
6 federal statutes, or state or federal rules and regulations, as identified herein.

7           37.     All of the complaints mentioned above were made by Plaintiff to the Los Angeles  
8 Police Department, a law enforcement agency within the meaning of California Labor Code section  
9 1102.5, and Plaintiff had reasonable cause to believe that the allegations disclosed violations of  
10 state or federal statutes, or state or federal rules and regulations, as identified herein.

11          38.     Defendants, and each of them, retaliated against Plaintiff for disclosing information  
12 to the Los Angeles Police Department and/or refusing to engage in the illegal activity, which the  
13 Plaintiff had reasonable cause to believe disclosed violations of state or federal statutes, or  
14 violations or noncompliance with state or federal rules or regulations, as identified herein.

15          39.     As a direct, foreseeable and proximate result of reporting such misconduct and  
16 testifying honestly about such misconduct, Plaintiff was subject to adverse employment actions  
17 including but not limited to: being downgraded in rank from Sergeant II to Sergeant I, being issued  
18 an unwarranted Notice to Correct, having a Personal Complaint initiated against him for alleged  
19 neglect of duty, being administratively transferred, being relieve of his supervisory position within  
20 CTTU, being marginalized and ostracized within the Division, damage to his reputation, and an  
21 attempt to make Plaintiff's work environment so difficult that he simply goes away and retires.

22          40.     A motivating factor for the Defendants to engage in the foregoing adverse  
23 employment actions against Plaintiff was to retaliate for the Plaintiff's refusal to engage in illegal  
24 activity and his engaging in the protected activities of disclosing information to the City of Los  
25 Angeles and the Los Angeles Police Department, which Plaintiff had reasonable cause to believe  
26 disclosed violations of state or federal statutes, or violations or noncompliance with state or federal  
27 rules or regulations, as identified herein.

1           41. Defendants, and each of them, allowed, permitted, condoned, ratified, and/or  
2 enabled the retaliation and/or other wrongful conduct as described herein.

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

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

13           44. As a further legal result of the above-described conduct of Defendants, and each of  
14 them, Plaintiff was and/or will be hindered, prevented, and/or precluded from performing Plaintiff's  
15 usual activities, namely the position of a full-time Sergeant II employed by the Los Angeles Police  
16 Department, causing the Plaintiff to sustain damages for loss of income, wages, earnings, and  
17 earning capacity, and other economic damages, in an amount to be ascertained according to proof.  
18 Plaintiff claims such amount as damages together with prejudgment interest pursuant to California  
19 Civil Code section 3287 and/or any other provision of law providing for prejudgment interest.

20           45. As a further legal result of the above-described conduct of Defendants, and each of  
21 them, Plaintiff suffered incidental, consequential, and/or special damages, in an amount according  
22 to proof.

23           46. As a further legal result of the above-described conduct of Defendants, and each of  
24 them, Plaintiff has and will continue to incur attorneys' fees and costs in an amount according to  
25 proof.

26           47. Finally, as a direct and proximate result of the aforesaid unlawful acts of  
27 Defendants, and each of them, Plaintiff suffered stress-related health consequences. Plaintiff  
28 claims general damages for such health problems in an amount to be proven at time of trial.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff seeks judgment against all Defendants, and each of them, on all Causes of Action for:

1. Physical, mental, and emotional injuries, pain, distress, suffering, anguish, fright, nervousness, grief, anxiety, worry, shame, mortification, injured feelings, shock, humiliation and indignity, as well as other unpleasant physical, mental, and emotional reactions, damages to reputation, and other non-economic damages, in a sum to be ascertained according to proof;
2. Health care, services, supplies, medicines, health care appliances, modalities, and other related expenses in a sum to be ascertained according to proof;
3. Loss of wages, income, earnings, earning capacity, support, domestic services, benefits, and other economic damages in a sum to be ascertained according to proof;
4. Other actual, consequential, and/or incidental damages in a sum to be ascertained according to proof;
5. Attorney fees and costs of suit pursuant to statute;
6. Costs of suit herein incurred;
7. Pre-judgment interest; and
8. Such other and further relief as the Court may deem just and proper.

Dated: March 3, 2016

McNICHOLAS & McNICHOLAS, LLP

By: \_\_\_\_\_

Matthew S. McNicholas  
Douglas D. Winter  
Justin D. Nussen  
Attorneys for Plaintiff  
RONALD GRAY

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**DEMAND FOR JURY TRIAL**

Plaintiff hereby demands a jury trial.

Dated: March 3, 2016

McNICHOLAS & McNICHOLAS, LLP

By: 

Matthew S. McNicholas

Douglas D. Winter

Justin D. Nussen

Attorneys for Plaintiff

RONALD GRAY