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FILED
ALAMEDA COUNTY

MAR 20 2012

CLERK OF THE SUPERIOR COURT

Attorneys for Plaintiff
JANE DOE

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF ALAMEDA

JANE DOE, an individual,
Plaintiff,

vs.

THE COUNTY OF ALAMEDA;
DAVID MUHAMMAD, an individual; and
DOES 1-50 inclusive,

Defendants.

Case No. **PG12621985**

UNLIMITED JURISDICTION

COMPLAINT FOR DAMAGES:

(1) SEXUAL HARASSMENT - FEHA

JURY TRIAL DEMANDED

BY FAX

COMPLAINT

1 Plaintiff alleges as follows:

2 **INTRODUCTION**

3 1. This is an action for damages as to: (1) Sexual Harassment – Hostile Work
4 Environment – FEHA.

5 2. This action arises out of events involving Plaintiff JANE DOE and Defendants
6 THE COUNTY OF ALAMEDA, DAVID MUHAMMAD, and DOES 1 -50.

7 **THE PARTIES**

8 3. Plaintiff JANE DOE (hereinafter “DOE” or “Plaintiff”) has been employed by
9 THE COUNTY OF ALAMEDA (hereinafter “Defendant” or “ALAMEDA”) from
10 approximately March 2007 through present.

11 4. Named Plaintiff is pled as “JANE DOE” in this action in conformity with California
12 and Federal Ninth Circuit precedent stemming from cases such as *Cherrigan v. City of San*
13 *Francisco*, (1968) 262 Cal.App.2d 643, 652-653 (allowing to prosecute in surname to avoid prejudice);
14 *Doe v. City of Los Angeles* (2007) 42 Cal.4th 531 (allowing use of Doe pleading to protect plaintiffs’
15 identities in sexual assault); *Doe v. Saenz* (2006) 140 CalApp.4th 960 (allowing rehabilitated
16 criminal to litigate as Doe to challenged state agency’s action based upon prior criminal
17 conviction); *Johnson v. Superior Court* (2000) 80 Cal.App.4th 1050, 1072 (sperm donor’s identity
18 protected in deposition); *Does I thru MU v. Advanced Textile Corp.*, 214 F.3d 1058 (9th Cir. 2000)
19 (garment worker plaintiffs’ identity protected based on retaliation concerns); and *US EEOC v.*
20 *4BM Industries Inc.*, 2008 WL 2872407 (2008) (permitting doe pleading in sexual harassment case
21 but allowing defendants to depose plaintiffs with restrictions).

22 5. Naming the Plaintiff as “JANE DOE” is appropriate at this stage in the proceeding
23 because her need for anonymity outweighs any prejudice to the opposing parties as well as the
24 public’s interest in knowing any party’s identity. In particular, Plaintiff should be identified here
25 only as DOE because the matters alleged are of a highly sensitive and personal nature.

26 6. Defendant does not require knowledge of the identity of the Plaintiff at this stage of
27 the proceeding. Any future need for her names can be resolved by the Court through pretrial
28 management procedures, including the issuance of protective orders limiting disclosure of a party’s

1 name to the greatest extent possible without prejudicing the opposing party's ability to litigate and
2 conduct discovery in this case. As noted by the Ninth Circuit, "it may never be necessary, however,
3 to disclose the anonymous parties' identities to nonparties to the suit."

4 7. Defendant DAVID MUHAMMAD (hereinafter "MUHAMMAD") was at all
5 times relevant herein the Chief Probation Officer of the Alameda County Probation Department.
6 MUHAMMAD was at all times relevant herein an employee and supervisor of ALAMEDA.

7 8. Plaintiff is ignorant of the true names and capacities of the Defendants sued
8 herein as DOES 1 through 50 therefore sues them by such fictitious names. Plaintiff is informed
9 and believes and thereon alleges that said Defendants are in some manner legally responsible for
10 the activities and damages alleged herein. Plaintiff will amend this Complaint to allege their true
11 names and capacities when ascertained.

12 9. Plaintiff is informed and believes and thereon alleges that at all times herein
13 mentioned each of the Defendants was acting as the partner, agent, servant, and employee of
14 each of the remaining Defendants, and in doing the things alleged herein was acting within the
15 course and scope of such agency and with the knowledge of the remaining Defendants.

16 GENERAL ALLEGATIONS

17 10. Plaintiff incorporates by reference the factual allegations set forth in paragraphs 1
18 through 9 herein.

19 11. MUHAMMAD is responsible for overseeing 20,000 people on probation, a staff
20 of 600 and a \$90 million budget. David Muhammad is quoted in several newspapers as stating
21 that prior to being named Alameda County Chief Probation Officer, as a teenager growing up in
22 Oakland under the name David Lee Gaither he was arrested three times, including once for
23 attempted murder.

24 12. Plaintiff began working at ALAMEDA on approximately March 26, 2007 as
25 Deputy Probation Officer I. Plaintiff routinely received positive employee evaluations
26 throughout the years and was promoted to Deputy Probation Officer II in approximately August
27 2008.

1 13. Despite her positive work performance, she was subjected to sexual harassment,
2 sexual assault, sexual battery, assault, battery, false imprisonment, gender violence and
3 intentional infliction of emotional distress by her supervisor MUHAMMAD. The sexual
4 harassment, assault and other unlawful conduct to which Plaintiff was subjected and which
5 ALAMEDA failed to protect her from caused her significant emotional distress.

6 14. MUHAMMAD engaged in both severe and pervasive hostile and abusive conduct
7 such that Plaintiff's working conditions were significantly altered.

8 15. Plaintiff was initially subjected to a hostile work environment based on sex
9 approximately May 15, 2011, during a Hayward, California office field operation.
10 MUHAMMAD made multiple comments regarding a discoloration on the back of Plaintiff's
11 neck. He then touched her neck and said, "What's this?" He laughed and joked about it calling
12 it a hickey throughout the evening, making Plaintiff uncomfortable.

13 16. In addition, while walking down steps on one of the visits, MUHAMMAD
14 grabbed Plaintiff's arm or waist pretending to help her walk down the stairs, even though
15 Plaintiff did not need help. Furthermore, while in the elevator, MUHAMMAD reached his arms
16 out and forcefully grabbed Plaintiff, causing her to cry out. When they walked out of the
17 elevator, Plaintiff turned to her co-worker and exclaimed, "Did you see that? He grabbed me!"

18 17. MUHAMMAD asked Plaintiff to pick him up from the Oakland Airport at 10:10
19 a.m. on May 19, 2011 because he had a "special assignment" for her. After Plaintiff picked him
20 up from the airport, he told her he wanted her to drive him to a speaking engagement in Oakland,
21 California, but instructed her to take him to the San Leandro Marina first.

22 18. They arrived at the Marina at approximately 10:45 a.m. The Marina was mostly
23 empty. While in Plaintiff's car, MUHAMMAD began to make casual conversation with
24 Plaintiff. He then inexplicably asked Plaintiff if she had any cameras in her car, and then began
25 rapidly searching throughout her car, looking under the mats, center console, under and behind
26 seats, in the glove compartment and in the side panels of the door looking for a camera. He even
27 tried to look inside Plaintiff's purse. But she was able to snatch her purse away from him before
28 he could look inside.

1 19. While in Plaintiff's car at the Marina, MUHAMMAD suddenly grabbed her head
2 and started kissing her, telling her, "We would make some pretty babies." Plaintiff tried to pull
3 back, but MUHAMMAD became very aggressive and pinned her down with his elbow.
4 MUHAMMAD then sexually assaulted Plaintiff. Plaintiff was horrified and shocked. She kept
5 telling him to stop and eventually pushed him off. Frustrated, MUHAMMAD said, "Now I have
6 blue balls." He fixed his clothes and instructed Plaintiff to drive him to his speaking engagement
7 in Oakland.

8 20. On May 20, 2011, MUHAMMAD called Plaintiff and sent her text messages
9 multiple times asking her to meet with him. Plaintiff was worried about her job and what
10 MUHAMMAD might do to her as the Chief Probation Officer for ALAMEDA if she continued
11 to ignore him and refused to meet with him. She informed MUHAMMAD that she would not
12 meet with him alone, and he stated that he was with his brother.

13 21. Plaintiff met MUHAMMAD and his brother at a restaurant in Hayward,
14 California. While at the restaurant, MUHAMMAD's brother made comments to Plaintiff
15 regarding her appearance, telling her that she was pretty, that she had a nice chest, and nice feet.
16 He also told MUHAMMAD, "You should create a special position and promote her."
17 MUHAMMAD laughed at his brother's comment, which made Plaintiff very uncomfortable. In
18 addition, MUHAMMAD grabbed Plaintiff's cardigan and said you need to cover those things up,
19 referring to her breasts.

20 22. Toward the end of the night, MUHAMMAD went to the bathroom and his brother
21 turned to Plaintiff and said, "You need to let my brother hit that one time. Just to let him get a
22 taste of that."

23 23. At the end of the night, MUHAMMAD walked Plaintiff to her car and then asked
24 her to drive him to his car which was curiously parked on the other side of the restaurant. While
25 in Plaintiff's car, MUHAMMAD leaned over and started to kiss her, saying how much he
26 wanted her. He then assaulted Plaintiff again. MUHAMMAD grabbed Plaintiff's breast from
27 under the top of her shirt. Plaintiff backed up immediately and told him to stop and get out of
28 her car. He then put his hands between her legs, and she pushed him away. She repeatedly told

1 him to stop and that she just wanted to be friends. He then grabbed her hand and placed it on his
2 groin area and said, "Look how hard you have me." She immediately pulled her hand away.
3 Plaintiff reiterated that she just wanted to be friends. MUHAMMAD eventually exited her car
4 angry and upset.

5 24. The next day, on May 21, 2011, MUHAMMAD sent Plaintiff a text message after
6 1:00 a.m. saying he wanted to see her. Plaintiff responded, "NO." MUHAMMAD sent Plaintiff
7 several more text messages that day to which she did not respond. At one point, MUHAMMAD
8 sent her a text message stating, "Why don't you want to see me?"

9 25. Between approximately late May 2011 and September of 2011, MUHAMMAD
10 sent Plaintiff sporadic text messages, sending her comments including but not limited to the
11 following: I want to see you, I can't stop thinking about you, I want you so bad and what are you
12 doing? During that time, MUHAMMAD also called Plaintiff multiple times asking her to meet
13 with him, which made Plaintiff feel further sexually harassed. Plaintiff would tell him that she
14 was busy and refused to meet with him.

15 26. Plaintiff felt objectified by MUHAMMAD's text messages and phone calls,
16 knowing that he only wanted to have sex with her and was treating her like a piece of meat. She
17 was also fearful regarding her personal safety and her job, in addition to feeling humiliated and
18 ashamed.

19 27. In addition, in September 2011, Plaintiff attended the California Probation, Parole
20 and Correctional Association (CPPCA) conference in Los Angeles, California. MUHAMMAD
21 was attending the chiefs' portion of the conference, which was held two days before Plaintiff was
22 scheduled to arrive. He sent her text messages asking her to come to the conference earlier. She
23 said, "No."

24 28. In approximately September 2011 or October 2011, the County Probation
25 Department was preparing to reassign deputies as a result of MUHAMMAD's reorganization
26 plan. Plaintiff sent MUHAMMAD a text message asking him to please ensure that she was
27 transferred to the adult division. He texted her back and said that he thought it was too late and
28 that he had not seen the draft of assignments yet, but that others had been putting it together.

1 Plaintiff told him that since he was the Chief, he could probably have her transferred to the adult
2 division.

3 29. On approximately October 18, 2011, MUHAMMAD called Plaintiff and said,
4 "I'm going into a meeting, but I called to tell you that you are going to Adult and you owe me
5 one." and then hung up the telephone. Plaintiff was shocked by the call because she believed
6 that he expected a sexual favor as a result of transferring her.

7 30. All of MUHAMMAD's conduct was unwelcome, but he persisted.

8 31. Due to the sexual harassment, sexual assault, and hostile work environment to
9 which she was subjected, Plaintiff has suffered significant emotional distress.

10 32. MUHAMMAD apparently has two sides to his persona – a public one and a dark
11 side. At least one other prior subordinate female employee ("female employee") was sexually
12 harassed by MUHAMMAD when he was Chief of Committed Services at the Department of
13 Youth Rehabilitation Services (DYRS) in Washington, D.C. She referred to him as "the Chief"
14 as did JANE DOE. The female employee was walking her dog at 6 a.m. outside of her
15 apartment when she saw MUHAMMAD sitting in a truck staring at her, which made her feel
16 uncomfortable. MUHAMMAD also called her on her personal cell phone and she had no idea
17 how he obtained it. MUHAMMAD would call the same female employee into his office under
18 the pretense of discussing cases, but would reach over, grab her breasts and put his hands on her
19 legs in her crotch area as he did with JANE DOE. MUHAMMAD grabbed the female
20 employee's breasts and crotch against her wishes as he did with JANE DOE approximately 5-6
21 times. The female employee repeatedly pushed him away as JANE DOE did with
22 MUHAMMAD.

23 33. The female employee reported MUHAMMAD for sexual harassment to the
24 Deputy Director of DYRS. The Deputy Director transferred her immediately to another division
25 under a different supervisor. MUHAMMAD does not appear to hold women in high regard and
26 referred to them as "bitches" and "hos" in the female employee's presence. MUHAMMAD
27 further stated he had been kicked out of clubs for fighting. MUHAMMAD made several
28 misrepresentations to the juveniles he served as well as his employees. The female employee

1 was also warned by other DYRS employees not to rely on MUHAMMAD's representations.
2 MUHAMMAD was not considered to be someone who could be trusted to have his employees'
3 backs in the workplace, which significantly lowered morale. MUHAMMAD was also
4 apparently pursuing so many subordinate female employees in an inappropriate manner, as the
5 Chief, that one of the female correctional officers at DYRS wrote a letter complaining about him
6 to Washington, D.C. Mayor Adrian Fenty.

7 34. It should also be noted that MUHAMMAD attempted to intimidate the female
8 employee by telling her that another female he was pursuing was trying to contact his wife and
9 he "was thinking about getting [his] boys to mess her up." MUHAMMAD's comment alarmed
10 the female employee. Plaintiff's counsel is aware of at least two additional potential complaints
11 by subordinate female employees, which are currently being investigated. Another person stated
12 that MUHAMMAD was given "a pass" on the two prior sexual harassment complaints because
13 of his position in management. MUHAMMAD has apparently been protected for a long time
14 because people wanted so much to hold him up as an example of a successful African American
15 male who had overcome a difficult background.

16 35. MUHAMMAD has stated publicly that, "I realize moral character is the
17 predominant factor of leadership. Integrity is important – if you can cheat on your wife, lying to
18 the public will come easy." However, MUHAMMAD's former wife filed for divorce against
19 him due to adultery. The divorce was granted in November 2010. MUHAMMAD's former wife
20 is a struggling single parent of MUHAMMAD's three young minor children. MUHAMMAD
21 has further stated publicly that his "proudest accomplishment is being a father to his three
22 children." However, his former wife had to garnish MUHAMMAD's wages through his
23 employer due to his failure to pay child support. MUHAMMAD has subsequently disputed the
24 amount the court ordered him to pay.

FIRST CAUSE OF ACTION
SEXUAL HARASSMENT - HOSTILE WORK ENVIRONMENT
FEHA - CAL. GOVT. CODE § 12940 et seq.
AGAINST ALL DEFENDANTS

1
2
3 36. Plaintiff incorporates by reference the factual allegations set forth in paragraphs 1
4 through 35 herein.

5 37. The above conduct was unwelcome, directed towards Plaintiff, and was part of an
6 ongoing and continuing pattern of conduct.

7 38. The above conduct caused Plaintiff to perceive her work environment as
8 intimidating, hostile, abusive or offensive, and a reasonable woman in Plaintiff's position would
9 perceive the work environment as intimidating, hostile, abusive or offensive.

10 39. Complaints and/or information regarding much of the harassing conduct were
11 made to Defendant MUHAMMAD. After the complaints, the harassment continued.

12 40. Plaintiff filed timely complaints against the Defendants with the DFEH alleging
13 sexual harassment and failure to prevent sexual harassment. Thereafter, Plaintiff received from
14 the DFEH notification of her right to sue in the Courts of the State of California, the Defendants
15 against which complaints had been filed.

16 41. Defendants' acts were malicious, oppressive or fraudulent with intent to vex,
17 injure, annoy, humiliate and embarrass Plaintiff, and in conscious disregard of the rights or
18 safety of Plaintiff and other employees of Defendants, and in furtherance of Defendants'
19 ratification of the wrongful conduct of the employees and managers of Defendants.
20 Accordingly, Plaintiff is entitled to recover punitive damages from Defendants.

21 42. By reason of the conduct of Defendants and each of them as alleged herein,
22 Plaintiff has necessarily retained attorneys to prosecute the within action. Plaintiff is therefore
23 entitled to reasonable attorney's fees and litigation expenses, including expert witness fees and
24 costs, incurred in bringing the within action.

25 43. As a result of Defendants and each of their actions, Plaintiff sustained economic
26 damages to be proven at trial. As a further result of Defendants' and each of their actions,
27 Plaintiff suffered non-economic losses including but not limited to emotional distress; resulting
28 in damages to be proven at trial.

1 44. The above harassing conduct violates Government Code §§ 12940 et seq. and
2 California public policy and entitles Plaintiff to all categories of damages, including exemplary
3 or punitive damages.
4


5 **PRAYER FOR RELIEF**

6 WHEREFORE, PLAINTIFF prays for relief as follows:

- 7 1. For general damages according to proof, however, no less than the jurisdictional limit
8 of this court;
- 9 2. For special damages in amounts according to proof;
- 10 3. For exemplary and punitive damages in amounts according to proof;
- 11 4. For actual, consequential and incidental losses and damages, according to proof;
- 12 5. For attorneys' fees as provided by law;
- 13 6. For interest as provided by law;
- 14 7. For cost of suit incurred herein; and
- 15 8. For such other and further relief as the court may deem just and proper.

16 Dated: March 20, 2012

THE ARMSTRONG LAW FIRM

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20 KELLY ARMSTRONG
21 Attorneys for Plaintiff
22 JANE DOE
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