

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO	
STREET ADDRESS: 330 West Broadway	
MAILING ADDRESS: 330 West Broadway	
CITY AND ZIP CODE: San Diego, CA 92101	
BRANCH NAME: Central	
TELEPHONE NUMBER: (619) 450-7065	
PLAINTIFF(S) / PETITIONER(S): Deborah W Burger	
DEFENDANT(S) / RESPONDENT(S): City of San Diego et.al.	
BURGER VS. CITY OF SAN DIEGO	
NOTICE OF CASE ASSIGNMENT	CASE NUMBER: 37-2011-00097631-CU-OE-CTL

Judge: Joan M. Lewis

Department: C-65

COMPLAINT/PETITION FILED: 09/08/2011

CASES ASSIGNED TO THE PROBATE DIVISION ARE NOT REQUIRED TO COMPLY WITH THE CIVIL REQUIREMENTS LISTED BELOW

IT IS THE DUTY OF EACH PLAINTIFF (AND CROSS-COMPLAINANT) TO SERVE A COPY OF THIS NOTICE WITH THE COMPLAINT (AND CROSS-COMPLAINT), THE ALTERNATIVE DISPUTE RESOLUTION (ADR) INFORMATION FORM (SDSC FORM #CIV-730), A STIPULATION TO USE ALTERNATIVE DISPUTE RESOLUTION (ADR) (SDSC FORM #CIV-359), AND OTHER DOCUMENTS AS SET OUT IN SDSC LOCAL RULE 2.1.5.

ALL COUNSEL WILL BE EXPECTED TO BE FAMILIAR WITH SUPERIOR COURT RULES WHICH HAVE BEEN PUBLISHED AS DIVISION II, AND WILL BE STRICTLY ENFORCED.

TIME STANDARDS: The following timeframes apply to general civil cases and must be adhered to unless you have requested and been granted an extension of time. General civil cases consist of all civil cases except: small claims proceedings, civil petitions, unlawful detainer proceedings, probate, guardianship, conservatorship, juvenile, and family law proceedings.

COMPLAINTS: Complaints and all other documents listed in SDSC Local Rule 2.1.5 must be served on all named defendants, and a Certificate of Service (SDSC form #CIV-345) filed within 60 days of filing.

DEFENDANT'S APPEARANCE: Defendant must generally appear within 30 days of service of the complaint. (Plaintiff may stipulate to no more than 15 day extension which must be in writing and filed with the Court.) (SDSC Local Rule 2.1.6)

DEFAULT: If the defendant has not generally appeared and no extension has been granted, the plaintiff must request default within 45 days of the filing of the Certificate of Service. (SDSC Local Rule 2.1.7)

CASE MANAGEMENT CONFERENCE: A Case Management Conference will be set within 150 days of filing the complaint.

ALTERNATIVE DISPUTE RESOLUTION (ADR): THE COURT ENCOURAGES YOU TO CONSIDER UTILIZING VARIOUS ALTERNATIVES TO TRIAL, INCLUDING MEDIATION AND ARBITRATION, PRIOR TO THE CASE MANAGEMENT CONFERENCE. PARTIES MAY FILE THE ATTACHED STIPULATION TO USE ALTERNATIVE DISPUTE RESOLUTION (SDSC FORM #CIV-359).

YOU MAY ALSO BE ORDERED TO PARTICIPATE IN ARBITRATION. IF THE CASE IS ORDERED TO ARBITRATION PURSUANT TO CODE CIV. PROC. 1411.11, THE COSTS OF ARBITRATION WILL BE PAID BY THE COURT PURSUANT TO CODE CIV. PROC. 1141.28.

FOR MORE INFORMATION, SEE THE ATTACHED ALTERNATIVE DISPUTE RESOLUTION (ADR) INFORMATION FORM (SDSC FORM #CIV-730)

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JUDICIAL SUPERIOR COURT
SAN DIEGO COUNTY, CA

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11 Attorneys for Plaintiff,
12 **DEBORAH W. BURGER**

11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12 **COUNTY OF SAN DIEGO, CENTRAL DIVISION**

11 DEBORAH W. BURGER,)
12)
13 Plaintiff,)
14 vs.)
15)
16 CITY OF SAN DIEGO, SAN DIEGO)
17 POLICE DEPARTMENT; AND)
18 INDIVIDUALS, SGT. DAN CERAR;)
19 DET. CARL HERSHMAN; DET. EDWARD)
20 FLETES; and LT. RICK O'HANLON, IN)
21 THEIR OFFICIAL AND PERSONAL)
22 CAPACITIES; and DOES 1-20, inclusive,)
23 Defendants.)

CASE NO 11-2011-00007631-CU-OE-CTL
PLAINTIFF DEBORAH W. BURGER'S
VERIFIED COMPLAINT
FOR DAMAGES:
1. SEXUAL HARASSMENT -
HOSTILE WORK ENVIRONMENT
2. FAILURE TO PREVENT
DISCRIMINATION &
HARASSMENT
3. GENDER DISCRIMINATION
4. AGE DISCRIMINATION
5. RETALIATION
6. INTENTIONAL INFLICTION OF
EMOTIONAL DISTRESS

Assignment for All Purposes:
Not Yet Assigned

JURY TRIAL DEMANDED

23 **GENERAL ALLEGATIONS**

24 1. Plaintiff Deborah W. Burger ("Burger" or "Plaintiff") is and was a Detective with the
25 City of San Diego, San Diego Police Department ("Defendants" or "SDPD") Sex Crimes Unit. Det.
26 Burger has an exemplary 22-year employment history with SDPD and at all times herein mentioned
27 has worked in the City of San Diego, State of California. This complaint arises out of numerous
28 egregious instances of unlawful discrimination, harassment and retaliation, beginning in 2009 and

1 continuing to the present, within the SDPD's Sex Crimes Unit, involving Defendant male detectives
2 and supervisors who created an intimidating and hostile work environment charged with offensive
3 sexual comments, slurs, innuendos, emails, photos, and other disparate treatment based on Plaintiff's
4 gender and age (59). After reporting these unlawful issues to her supervisors, Plaintiff was further
5 harassed, intimidated, shunned, ridiculed, and retaliated against by supervision for reporting this
6 unlawful conduct. Det. Burger brings this complaint for hostile work environment, failure to
7 prevent harassment; discrimination, retaliation, and emotional distress, for which Plaintiff seeks
8 general and compensatory damages.

9 2. Defendants City of San Diego and San Diego Police Department (Collectively
10 "SDPD") are, and at all times herein mentioned were, local public entities, authorized and doing
11 business in the City of San Diego, State of California.

12 3. Defendant Sgt. Dan Cerar ("Cerar") is, and at all times herein mentioned was, an
13 individual residing in the County of San Diego, State of California, and is employed by Defendants
14 City of San Diego, SDPD, as a supervisor within the department.

15 4. Defendant Det. Carl Hershman ("Hershman") is, and at all times herein mentioned
16 was, an individual residing in the County of San Diego, State of California, and is employed by
17 Defendants City of San Diego, SDPD, as a detective within the department.

18 5. Defendant Det. Edward Fletes ("Fletes") is, and at all times herein
19 mentioned was, an individual residing in the County of San Diego, State of California, and is
20 employed by Defendants City of San Diego, SDPD, as a detective within the department.

21 6. Defendant Lt. Rick O'Hanlon ("O'Hanlon") is, and at all times herein mentioned
22 was, an individual residing in the County of San Diego, State of California, and is employed by
23 Defendants City of San Diego, SDPD, as a supervisor within the department.

24 7. Plaintiff is unaware of the true names and capacities of the Defendants designated as
25 DOES 1 through 20, inclusive, and therefore sues such Defendants by their fictitious names.
26 Plaintiff will seek leave of this Court, if required, to amend this complaint to allege their true names
27 and capacities when the same has been ascertained. Plaintiff is informed and believes, and thereon
28 alleges, that each and every Defendant designated herein as a DOE is in some manner liable or

1 responsible for the acts, occurrences and omissions hereinafter set forth, and the damages
2 proximately caused thereby.

3 8. In doing the acts and things described in this Complaint, each said Defendant was
4 acting, in part, within the course and scope of his/ her /their /its respective agency and/or
5 employment with Defendant(s) City of San Diego, San Diego Police Department and in part, for his
6 /her /their /its own benefit and personal gain. At all times mentioned herein, City of San Diego, San
7 Diego Police Department authorized and ratified the conduct complained of herein.

8 9. On September 9, 2010, Plaintiff exhausted her external administrative remedies and
9 filed discrimination, harassment, and retaliation complaints with the California Department of Fair
10 Employment and Housing (“DFEH”), case numbers: E201011D5175-00 through E201011D5175-
11 04, against SDPD and each of the individual Defendants. Plaintiff requested and received Right-to-
12 Sue Notices dated September 9, 2010, which were all personally served on October 8, 2010. (True
13 and correct copies of Plaintiff’s 09/09/10 DFEH Complaints against each of the Defendants with
14 Right-to-Sue Notices are attached hereto as **Exhibit “A.”**)

15 10. On November 4, 2010, Plaintiff complied with the Tort Claims Act by giving notice
16 to City of San Diego and the San Diego Police Department of Plaintiff’s claims pursuant to
17 Government Code sections 912.6(a), 912.4(c), including Plaintiff’s DFEH Complaints filed and
18 served on SDPD as set forth in paragraph 9 above. (True and correct copies of Plaintiff’s 11/04/10
19 Tort Claim with Exhibits filed with the City of San Diego are attached hereto as **Exhibit “B.”**) The
20 Board for the City of San Diego did not respond to Plaintiff’s claim and as such, is treated as a
21 rejection of Plaintiff’s claim.

22 **FACTS COMMON TO ALL CAUSES OF ACTION**

23 11. Det. Burger began working with SDPD as a civilian in February 1989 and soon
24 earned praise and expertise, that was second to none, demonstrating superior skills by being
25 meticulous in crime scene protection and collections. Requests were made by specialized units and
26 other agencies and divisions for Burger to process complex crime scenes due to her excellent
27 reputation. During this time, Det. Burger worked in the Crime Laboratory processing homicide
28 scenes and officer involved shootings.

1 12. In November 1993, Det. Burger attended the Police Academy and became a sworn
2 officer, I.D. #5024, working patrol in North Eastern Division. In September 1996, Det. Burger was
3 assigned to Central Division and as a patrol officer steadfastly established an excellent reputation
4 with her peers and supervisors for having an exemplary work ethic while demonstrating the highest
5 integrity and modeling excellent interpersonal skills. During Det. Burger's patrol assignments she
6 was always praised by Detectives and Sergeants for being thorough and flawless with her skills,
7 especially report writing. In 1997, Det. Burger had the pleasure of having Officer Donna Mauzy as
8 a partner for two years. Officer Mauzy was killed by a drunk driver. Det. Burger unselfishly
9 volunteered numerous hours of support to the Mauzy family and friends during a lengthy criminal
10 trial, and was a spokesperson at Officer Mauzy's honorary freeway dedication.

11 13. Between 1999 and 2003, Det. Burger received numerous commendations, citations
12 and awards for her dedication to duty and service to the citizens of San Diego. In 2002 and 2003,
13 Det. Burger was given the Blue Knight and Spirit of Courage Awards for exceptional valor and
14 courage when she and another officer observed and reported a fully engulfed burning building in the
15 early morning hours of May 31, 2002. After being told that there were still people inside the
16 burning building, Det. Burger ran into the house and first carried a 5-year old child to safety and
17 then re-entered the house pulling another disoriented female to safety.

18 14. In 2002, Det. Burger was promoted to Detective in the Domestic Violence Unit.
19 Because of Det. Burger's calm, caring, sensitive and effective communication and interpersonal
20 skills, she was assigned by her Sergeant to the highly sensitive sexual assault crimes of women and
21 children. Det. Burger was also selected to the department's team of trainers for the Advanced
22 Communication and Tactics training program because of the effectiveness in communicating with
23 the mentally challenged population.

24 15. In March 2005, Det. Burger advanced to the SDPD's Sex Crimes Unit which has
25 been nationally recognized for their contributions in the field of sexual assault. In May 2006, Det.
26 Burger received an Honors Award For Outstanding Work in the Fight Against Crime. At this time,
27 Det. Burger was reporting to Sergeants Judy Woods, Chuck Kaye, Mark Sullivan and Lt. Carolyn
28 Kendrick.

1 16. In late 2008, Sgt. Dan Cerar came into the Sex Crimes Unit, followed by Lt. Rick
2 O'Hanlon in January 2009, who replaced Lt. Carolyn Kendrick. Det. Burger was reporting directly
3 to Sgt. Cerar and Sgt. Sullivan for the most part. Prior to Sgt. Cerar and Lt. O'Hanlon coming into
4 the Sex Crimes Unit, the Unit closely adhered to SDPD policy and procedure and cases were
5 assigned by supervision fairly with some consideration for department seniority, knowledge and
6 experience.

7 17. Beginning in or about March 2009, the Sex Crimes Unit began to markedly change
8 under the supervision of Lt. O'Hanlon and Sgt. Cerar. Sgt. Cerar treated the female detectives in the
9 Unit less favorably than the male detectives. Sgt. Cerar also began to form a "click" of certain
10 favorite male detectives who would take long breaks with Sgt. Cerar and were allowed to dress
11 down on certain work days while female detectives were told they could not. Det. Burger and others
12 in the Unit also noticed an increase in lewd comments, jokes, emails, and photos of a sexual nature
13 in the Unit. Additionally, inappropriate photos began to appear in Det. Fletes' and Det. Hershman's
14 cubicles, at first there were only one or two photos and then the photographs began to take up a wall
15 of Det. Fletes' and Det. Hershman's cubicles depicting photos of women and men in suggestive and
16 sexual poses and/or performing mock sexual acts.

17 18. In 2009, Det. Burger was one of the older females in the Unit at age 57 and prior had
18 received many high profile and special assignments from previous supervisors. After Sgt. Cerar
19 arrived, he began to assign Det. Burger to desk jobs doing paperwork. By September 2009, when
20 Det. Burger was held back by Sgt. Cerar on a Narcotics Unit special assignment, Det. Burger began
21 to inquire about Sgt. Cerar's favoritism toward other less senior male detectives. One male detective
22 advised Det. Burger, that Sgt. Cerar played favorites with males and that he knew it sounded bad,
23 "but I'm glad I am one of them." On another occasion, when Sgt. Cerar allowed Det. Burger's male
24 partner to go out on a raid and made her stay behind, she commented to Det. Hershman about the
25 fairness of Sgt. Cerar's decisions and he replied, "What do you expect? He hates women."

26 19. In late 2009 / early 2010, Lt. O'Hanlon asked Sgt. Cerar to gather the detectives for a
27 lunch. Det. Burger then observed Sgt. Cerar go to all the male detectives in the office and invite
28 them to lunch leaving the female detectives behind. During this same period, Sgt. Cerar also took

1 the male detectives out of the Unit for shooting practice and allowed them to dress down, while not
2 allowing the female detectives to do the same.

3 20. In late 2009 / early 2010, comments were being made about the inappropriate photos
4 in Det. Fletes' and Det. Hershman's cubicles by individuals from the Center for Community
5 Solutions ("CCS") Advocates who appeared offended by the photos. Representatives with the
6 Center for Community Solutions Advocates work closely with Sex Crimes Unit detectives on behalf
7 of victims. These photos were also in plain sight of other officers who came in from the field to
8 assist the Sex Crimes Unit with cases, as well as, other outside agencies such as the FBI and NCIS.
9 Notwithstanding comments regarding the inappropriateness of these photos by CCS, they remained.

10 21. Following comments from CCS, Sgt. Cerar stopped allowing CCS Advocates from
11 coming into the Unit's office. Sgt. Cerar also advised the CCS manager that she was no longer
12 welcome to attend meetings which had been custom and practice for years. Prior to Sgt. Cerar's
13 arrival to the Sex Crimes Unit, the detectives and the advocates of CCS shared a relationship of
14 respect and confidence in the services they proved to sexual assault victims. The Advocates
15 regularly attended the Unit's Tuesday Meeting once a month to share information and answer any
16 questions. Sgt. Cerar also advised the CCS supervisor that the Unit meetings were not only closed
17 to CCS, but that they would need to schedule appointments as needed in advance to meet with
18 detectives and that they were limited to staying in the waiting area for victims and no longer free to
19 come into the Unit offices.

20 22. In February 2010, Det. Fletes generated a highly offensive email to detectives in the
21 Sex Crimes Unit, sergeants and Lt. O'Hanlon entitled, "The Man Test." The email was also sent to
22 detectives outside of the Sex Crimes Unit. Several female detectives, including but not limited to
23 Det. Burger, were highly offended by the email. The email specifically targeted gays and used
24 epithets such as "fag," "FLAMING homo," "queer," "Gaylord," "ass-pirate," "dying to tune a meat
25 whistle," "pole smoker," and "keep that gay shit to yourself!"

26 23. During early 2010, Det. Burger noticed an increase in inappropriate comments by
27 male detectives, sergeants and even the lieutenant in Sex Crimes. Specifically, Det. Burger heard
28 Sgt. Cerar refer to female victims of sexual assault cases as, "whores, sluts and liars," which other

1 male detectives began to repeat. Detectives Hershman and Fletes also became more emboldened
2 with similar comments by referring to female detectives as “sugar tits” and/or commenting on the
3 “racks” of female victims, co-workers, and advocates. Even Lt. O’Hanlon seemed to share the anti-
4 female sentiment in the Unit by openly stating that the Sex Crimes Unit had a “chromosome”
5 problem which Det. Burger and other female detectives understood was in reference to the number
6 of female detectives then in the Unit.

7 24. By May 2010, the work environment had become so hostile that Det. Burger
8 requested to meet with Capt. Guy Swanger to report numerous instances of gender bias, disparate
9 treatment, and sexual harassment by male detectives and supervisors within SDPD’s Sex Crimes
10 Unit. Det. Burger specifically reported: the sexually offensive photos posted in Det. Fletes’ and
11 Det. Hershman’s cubicles; Sgt. Dan Cerar’s frequent reference to victims of crimes as “whores, sluts
12 and liars;” exclusion of female detectives from the male “dress down” Thursday shooting practice;
13 preferential assignments to male detectives; the pattern and practice by male detectives (Fletes and
14 Hershman) of referring to female detectives as “sugar tits” and/or commenting on the “racks” of
15 female victims, co-workers, and advocates; reference by Lt. Rick O’Hanlon that the Sex Crimes unit
16 has a “chromosome problem”, and the inappropriate emails being generated and especially Det.
17 Fletes’ “Man Test,” which was intended to be offensive toward gays.

18 25. Det. Burger subsequently filed a formal internal EEO complaint after reporting
19 further specific issues to Lt. Brian Ahearn of the Internal Affairs / EEO Unit on May 5, 2010. Det.
20 Burger specifically reported that a few of the offensive photos in Det. Fletes’ and Det. Hershman’s
21 cubicles appeared to be of underage girls which were disturbing. One particular photo showed
22 young girls on what appears to be a school bus wearing short shorts and tank tops. One of the young
23 girls who appears to be 14 or 15 years old, is depicted with her legs spread open and pointing to her
24 genital area with a caption that reads: “EXHIBIT A” - “The proof that she was asking for it your
25 Honour.” Det. Burger was advised that the matter would be investigated and the photos would be
26 removed.

27 26. On May 6, 2010, Det. Burger noticed that Det. Fletes’ photos were removed during
28 the morning from his cubicle, but Det. Hershman’s were not removed until the afternoon. Det.

1 Flete's was angry that "his property" was removed and wanted them back. Det. Hershman only
2 commented that his photos were not as bad as Flete's.

3 27. Directly following the filing of her EEO report, the work environment became more
4 hostile and divisive. The male detectives gathered together and treated Det. Burger with open
5 hostility and resentment. In particular, Sgt. Cerar, Det. Hershman, and Det. Fletes discussed Det.
6 Burger's complaint openly in the Unit and attempted to turn others in the Unit against her. Det.
7 Hershman would aggressively stare at Det. Burger as if trying to intimidate her and then boast
8 openly to others in the department that nothing could be done to him, because his wife worked in the
9 City Attorneys office and that Chief Lansdowne was in his "pocket." Later in May 2009, Sgt. Cerar
10 transferred out of the Sex Crimes Unit and the male detectives blamed Det. Burger and treated her
11 with open hostility. Many of the female detectives alienated themselves from Det. Burger fearful
12 that they too would become a target for retaliation like Det. Burger had become.

13 28. In the next several months following Det. Burger's report, she heard nothing from Lt.
14 Ahearn or the Internal Affairs / EEO Unit regarding the status of her EEO report. While Det.
15 Burger's report was allegedly being investigated, the same male individuals who's inappropriate
16 conduct she had reported became emboldened. For example, Det. Fletes and Det. Hershman would
17 openly discuss how they would pull sexual assault victim's CDL photos so that they could bid on
18 who would get the more attractive victim. Det. Fletes would also state loud enough for others in the
19 Unit to hear that if a sex crime victim is a "stripper" that she would get his "special attention." On
20 another occasion Det. Burger heard several sergeants in the Unit discussing that they intended to use
21 their retiree medical benefits to get their wives "boob jobs."

22 29. On August 19, 2010, Det. Hershman approached Det. Burger at work and described
23 how he had told another female detective in the Unit, Det. Botsford, that he had a sex dream about
24 her because he wanted to see her reaction. Det. Burger told Det. Hershman that his doing that was
25 wrong and she walked away offended. Later that same day, Det. Burger watched Det. Hershman
26 approach Det. Botsford's cubicle and heard him describe in graphic detail to all in the Unit, how he
27 and Det. Botsford had a sexual encounter in his dream and were, "exchanging" and "mixing body
28 fluids" in his "dream." Det. Botsford appeared upset and told Det. Hershman to stop, but Det.

1 Hershman continued as if enjoying Det. Botsford's discomfort. Det. Burger was also offended.
2 Later, Det. Botsford told Det. Burger that she too was very offended with Det. Hershman's sex
3 dream remarks and that Det. Hershman made her feel uncomfortable.

4 30. According to SDPD's Equal Employment Opportunity Unit's procedures, "a priority
5 objective of the EEO Unit is to complete formal investigations within 90 days from the receipt of the
6 complaint by the EEO Unit." Although another sergeant, Sgt. Goldberg, advised Det. Burger her
7 reports about the conduct in the Sex Crimes Unit was, "one of the most egregious cases I have ever
8 heard of" at SDPD, by August 2010 nothing was done to remedy the gender bias and openly hostile
9 work environment.

10 31. On August 23, 2010, Det. Burger contacted Lt. Ahearn again at SDPD's EEO Unit
11 via email and expressed her concern about the latest incidents in the Sex Crimes Unit and the delay
12 in their investigation of her reported concerns over 90 days ago. A meeting was scheduled the
13 following day to interview Det. Burger as it was her request to file another EEO report on the
14 Hershman incident.

15 32. On August 24, 2010, Det. Burger met with Lt. Ahearn in his office. Det. Burger
16 reported the latest incident involving Det. Hershman and his relaying in detail a sex dream with Det.
17 Botsford. Det. Burger also reported her concern that she was being retaliated against by male
18 supervisors and detectives in the Unit. Lt. Ahearn advised Det. Burger that they were still
19 investigating and that he would take her recent report to the "chiefs" and get back to her.
20 Subsequently, Det. Burger was advised by Det. Botsford that she wanted to file a formal complaint
21 but was fearful of being retaliated against like Det. Burger.

22 33. On August 26, 2010, following Det. Burger's second report to Lt. Ahearn, Det.
23 Burger observed Capt. Swanger take Det. Botsford into the Sex Crimes Unit's Interview and
24 Interrogation Room. Det. Burger thought this was unusual and became concerned for Det. Botsford.
25 The interview and interrogation room is equipped with video and audio equipment and any meeting
26 could have easily been seen and heard by Unit detectives who have easy access to the control room.
27 Det. Botsford later shared with Det. Burger that she felt intimidated during this meeting and felt that
28 Capt. Swanger was attempting to make her drop the latest incident involving Det. Hershman.

1 34. On September 2, 2010, Lt. Rick O’Hanlon called Det. Burger into his office. Lt.
2 O’Hanlon advised Det. Burger that since she was a reporting party in the latest incident involving
3 Det. Botsford and Det. Hershman, that he wanted her to know that, “Hershman is sorry for the
4 remarks he made to Botsford.” Lt. O’Hanlon also stated that Det. Hershman would be apologizing
5 to them as well. Det. Burger did not feel that Lt. O’Hanlon took the matter seriously and expressed
6 her concern to Lt. O’Hanlon that EEO policy was seemingly being violated on a daily basis.

7 35. On September 2, 2010, Sgt. Bill Albrektsen advised Det. Burger, that Det. Botsford
8 and another female detective were going to be moved to the far East side of the office to windowless
9 cubicles, but that Det. Hershman would be staying in his window cubicle. Det. Burger protested that
10 she felt the move was retaliatory and asked why they were being moved. Det. Albrektsen advised
11 that the decision came from the “7th floor” which indicated that it was a decision from the chiefs’
12 office.

13 36. On September 9, 2010, Det. Burger filed an external discrimination, harassment and
14 retaliation complaint with the California Department of Fair Employment & Housing because the
15 SDPD’s EEO Unit appeared to be doing nothing. Det. Burger only received vague responses to her
16 emails requesting the status of its investigation from Lt. Ahearn who would only confirm that the
17 investigation was still pending. Lt. Ahearn did inquire, however, when Det. Burger intended to
18 “retire.” Concurrently, Lt. O’Hanlon was communicating to the Sex Crimes Unit that the
19 investigation was “long over,” while Det. Hershman continued to brag that nothing was going to be
20 done as he continued to “dog stare” Det. Burger in an attempt to intimidate her.

21 37. The atmosphere in the Sex Crimes Unit became so intolerable that several female
22 detectives, including Det. Burger, felt ill, reported trouble sleeping, and stomach problems. Det.
23 Burger suffered increased high blood pressure, anxiety, and other stress related symptoms. Det.
24 Burger continued to be shunned by most of the male detectives and a few of the female detectives in
25 the department who appeared upset with Det. Burger for bringing the issues in the Sex Crimes Unit
26 to EEO which seemed to worsen the situation. Most of the male detectives in the department, with a
27 few exceptions, refused to speak to Det. Burger. It seemed that Det. Burger received the brunt of all
28 complaints in the Sex Crimes Unit and received the worst cases and frequent administrative tasks

1 that less senior and inexperienced detectives were generally assigned. Det. Burger was frequently
2 asked by supervision when she intended to retire and felt pressured every day that she was being
3 forced out for her compliance with SDPD's express policies and procedures.

4 38. By late 2010, Det. Burger continued to observe Det. Fletes being placed in interim
5 supervisory roles and Det. Hershman was allowed to train new officers at the police academy and
6 speak at functions as an apparent model of the Unit. Det. Hershman also continued to boast that he
7 "has [Chief] Lansdowne in my pocket because my wife is a City Attorney and she'll sue the
8 department." Det. Burger was also told that Sgt. Cerar was being considered for an "elite" position,
9 while Capt. Swanger and Lt. O'Hanlon continued to advise the Unit that Det. Burger's EEO report
10 has, "all been taken care of." Finally, Sgt. Albrektsen moved to a larger office area in the Unit so
11 that he could keep an eye on the female detectives - specifically, Det. Burger.

12 39. In October 2010, Det. Burger, through counsel, wrote a letter to Chief Lansdowne at
13 SDPD requesting that these issues be looked into, which was ignored.

14 40. On November 4, 2010, Det. Burger then filed a Tort Claim with the City of
15 San Diego which included her EEO reported issues as well. The City of San Diego also ignored
16 Det. Burger's claims.

17 41. Det. Burger has an impeccable 22 year employment history with the San Diego
18 Police Department and is the proud recipient of numerous awards, citations and commendations
19 during the course of her career, including but not limited to: an Outstanding Job Performance,
20 Dedication to Duty and Service to the Citizens of San Diego (1999-2000); Commanding Officer's
21 Citations (2000, 2001, 2002, 2003); the Blue Knight Award for saving several lives (2002); the
22 Spirit of Courage Award (2003); and Honors for Outstanding Work in the Fight Against Crime, a
23 San Diego County Crime Stoppers Award (2006). Notwithstanding her service and dedication to
24 SDPD, she has been treated as an outcast by her male peers and supervisors for protesting the
25 aforementioned conduct and exercising her protected rights and for having the courage to stand up
26 for the rights of other female detectives, the City's victims and their advocates. Det. Burger's entire
27 career and professional accomplishments have been summarily diminished and she has been reduced
28 and treated as a whistleblowing "whiner" by her male peers and SDPD's supervision.

1 42. In December 2010, Det. Burger met with Lt. Ahearn of the Internal Affairs / EEO
2 Unit and was advised that her complaints had been "sustained" and that "department policies and
3 procedures had been violated." Lt. Ahearn would not look at Det. Burger during this meeting. Det.
4 Burger requested copies of the reports of SDPD's investigation and was told by Lt. Ahearn that she
5 could not have copies of anything.

6 43. Following this meeting, Sgt. Cerar and Det. Hershman continued to advise other
7 members of the Sex Crimes Unit and SDPD that Det. Burger's complaints were unfounded which
8 further created a conflicting, confusing, intimidating, hostile and offensive work environment which
9 interfered with the overall performance of the Sex Crimes Unit and created further hostility and
10 resentment toward Det. Burger by her peers and supervision. Det. Burger continues to be treated
11 differently than others similarly situated and is only assigned menial cases and duties that are usually
12 assigned to less senior members of the department. Det. Burger feels as if she has been effectively
13 demoted to a lesser position within her department as the direct result of her reporting the unlawful
14 conduct of others in her department.

15 44. Det. Burger has suffered damage to her personal and professional reputation,
16 economic and emotional damages which continue to accrue to this date. Det. Burger is outraged by
17 the lack of accountability, support and oversight by supervision in this matter and is grossly
18 offended by the lack of respect for the City of San Diego's victims who have become the brunt of
19 offensive sexual banter by male detectives and supervisors of the Sex Crimes unit.

20 **FIRST CAUSE OF ACTION**

21 **Sexual Harassment - Hostile Work Environment**

22 **California Govt. Code §§ 12940, et seq.**

23 **(Against All Defendants)**

24 45. Plaintiff incorporates by reference paragraphs 1 through 44 of this Complaint as
25 though fully set forth herein.

26 46. Defendants, and each of them, discriminated against Plaintiff, and harassed her as
27 alleged herein above, on the basis of gender and sex, and then further harassed and retaliated against
28 Det. Burger for protesting same to her supervisors, the San Diego Police Department, and the

1 California Department of Fair Employment and Housing in violation of California Government
2 Code sections 12940 (a) and 12940(j), et seq.

3 47. The harassment by Defendants adversely affected Plaintiff's employment and created
4 an offensive, hostile and intimidating work environment.

5 48. As a direct and proximate result of Defendants' discriminatory and harassing actions
6 toward Plaintiff as alleged herein above, Plaintiff has been harmed in that Plaintiff has suffered the
7 loss of the reputation, promotional opportunities, earnings, income, benefits, and additional amounts
8 of money Plaintiff would have received if Plaintiff had not been harassed, discriminated and
9 retaliated against.

10 49. As a further direct and proximate result of Defendants' unlawful conduct, Plaintiff has
11 suffered extreme and severe anguish, humiliation, emotional distress, nervousness, high blood
12 pressure, anxiety and depression, the extent of which is not fully known at this time, and the amount
13 of damages caused thereby is not yet fully ascertained, but is in an amount in excess of \$25,000.00,
14 the precise amount to be proven at trial. Plaintiff claims the amount, together with prejudgment
15 interest pursuant to Civil Code section 3287, or any other provision of law providing for
16 prejudgment interest.

17 50. Defendants acted in a despicable manner and subjected Plaintiff to cruel and unjust
18 hardship. Such despicable actions by Defendants have caused irreparable damage to Plaintiff's
19 career and professional reputation. Such actions by Defendants and each of them, were in flagrant
20 and conscious disregard of Plaintiff's rights under state law. This oppressive conduct was committed
21 by Defendants and each of them. As a result, Plaintiff has been required to retain legal counsel and
22 therefore requests that the Defendants be required to pay the Plaintiff's attorney fees and costs
23 necessary to pursue his legal and just claims.

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1 **SECOND CAUSE OF ACTION**

2 **Failure to Investigate and Prevent Discrimination and Harassment in**
3 **Violation of Govt. Code § 12940(k)**
4 **(Against Defendants City of San Diego, San Diego Police Department)**

5 51. Plaintiff re-alleges and incorporates by reference the allegations in paragraphs 1
6 through 50, as if set forth fully herein.

7 52. The actions of Defendants, through its officers, agents and employees, in encouraging
8 and/or condoning a hostile workplace, failing to investigate Plaintiff's claims, and failing to act to
9 prevent such acts, as alleged herein, created a situation so intolerable that Plaintiff suffered severe
10 emotional injuries. Defendants had a duty to investigate and prevent discrimination, harassment and
11 retaliation of Plaintiff after she reported the male Defendant Supervisors' and detectives' unlawful
12 conduct and Defendants failed to investigate and prevent further harm to Plaintiff.

13 53. Plaintiff is informed and believes and thereon alleges that the actions of Defendants
14 following Plaintiff's complaints regarding violations of policies, procedures, and the law, failing to
15 investigate, and failing to remedy the situation, were done in retaliation for having brought her
16 complaints to the attention of the Internal Affairs / EEO Unit and outside agencies and demonstrates
17 the condonation and/or ratification of the acts of Defendants, and each of them.

18 54. Plaintiff is further informed and believes and thereon alleges that her discrimination
19 and harassment complaints both internally and externally were a substantial and determining factor
20 in Defendants' decision to further harass and retaliate against Plaintiff and take adverse action
21 against her in the form of changing the terms and conditions of her employment and the essential
22 functions of her job after she reported unlawful conduct in the Sex Crimes Unit.

23 55. As a direct and proximate result of Defendant's unlawful conduct as alleged in the
24 Complaint, Plaintiff has lost substantial employment benefits with Defendant, including lost wages
25 and other losses, in an amount to be established at trial.

26 56. As a further direct and proximate result of the conduct of Defendants, and each of
27 them, Plaintiff suffered feelings of anger, embarrassment, violation, sickness, betrayal and
28 humiliation, leading to physical symptoms, loss of sleep, anxiety, headaches, nervousness and

1 increase / decrease of appetite, and stress, all to her general damage, in an amount to be proven at
2 trial. Plaintiff claims this amount, together with prejudgment interest, pursuant to Civil Code
3 Section 3287.

4 57. Plaintiff has also been required to retain legal counsel and therefore requests that
5 Defendant be required to pay the Plaintiff's attorneys' fees and costs necessary to pursue her legal
6 and just claims, pursuant to Government Code Section 12965.

7 **THIRD CAUSE OF ACTION**

8 **Discrimination Based on Gender / Sex**

9 **Violation of Govt. Code § 12940(k)**

10 **(Against Defendants City of San Diego, San Diego Police Department)**

11 58. Plaintiff incorporates by reference paragraphs 1 through 57 of this Complaint as
12 though fully set forth herein.

13 59. Defendants discriminated against Plaintiff, and then harassed her as alleged herein
14 above, on the basis of gender and sex, and then further harassed and retaliated against Det. Burger
15 for protesting same to her supervisors, the San Diego Police Department, and the California
16 Department of Fair Employment and Housing in violation of California Government Code sections
17 12940, et seq.

18 60. The discrimination and harassment by Defendants adversely affected Plaintiff's
19 employment and created an offensive, hostile and intimidating work environment.

20 61. As a direct and proximate result of Defendants' discriminatory and harassing actions
21 toward Plaintiff as alleged herein above, Plaintiff has been harmed in that Plaintiff has suffered the
22 loss of the reputation, promotional opportunities, earnings, income, benefits, and additional amounts
23 of money Plaintiff would have received if Plaintiff had not been harassed, discriminated and
24 retaliated against.

25 62. As a further direct and proximate result of Defendants' unlawful conduct, Plaintiff has
26 suffered extreme and severe anguish, humiliation, emotional distress, nervousness, high blood
27 pressure, anxiety and depression, the extent of which is not fully known at this time, and the amount
28 of damages caused thereby is not yet fully ascertained, but is in an amount in excess of \$25,000.00,

1 the precise amount to be proven at trial. Plaintiff claims the amount together with prejudgment
2 interest pursuant to Civil Code section 3287 or any other provision of law providing for prejudgment
3 interest.

4 63. Defendants acted in a despicable manner and subjected Plaintiff to cruel and unjust
5 hardship. Such despicable actions by Defendants have caused irreparable damage to Plaintiff's
6 career and professional reputation. Such actions by Defendants and each of them, were in flagrant
7 and conscious disregard of Plaintiff's rights under state law. This oppressive conduct was committed
8 by Defendants and each of them. As a result, Plaintiff has been required to retain legal counsel and
9 therefore requests that the Defendants be required to pay the Plaintiff's attorney fees and costs
10 necessary to pursue his legal and just claims.

11 **FOURTH CAUSE OF ACTION**

12 **Discrimination Based on Age**

13 **Violation of Govt. Code § 12940, et seq.**

14 **(Against Defendants City of San Diego, San Diego Police Department)**

15 64. Plaintiff incorporates by reference paragraphs 1 through 63 of this Complaint as
16 though fully set forth herein.

17 65. Defendants discriminated against Plaintiff, and then harassed her as alleged herein
18 above, on the basis of Det. Burger's age (59), and then further harassed and retaliated against Det.
19 Burger for protesting same to her supervisors, the San Diego Police Department, and the California
20 Department of Fair Employment and Housing in violation of California Government Code sections
21 12940, et seq.

22 66. The discrimination and harassment by Defendants adversely affected Plaintiff's
23 employment and created an offensive, hostile and intimidating work environment and instead of
24 providing a remedy for Det. Burger after she protested Defendants' unlawful conduct, Defendants
25 attempted to force Plaintiff out of her position and into retirement because of her age and seniority in
26 the department. Plaintiff is given menial cases and tasks akin to administrative work and Defendants
27 have treated Plaintiff as if she is already retired. Plaintiff is in the DROP program and has at least
28 three (3) more years of work at SDPD in this program.

1 67. As a direct and proximate result of Defendants' discriminatory and harassing actions
 2 toward Plaintiff as alleged herein above, Plaintiff has been harmed in that Plaintiff has suffered the
 3 loss of the her personal and professional reputation, promotional opportunities, earnings, income,
 4 benefits, and additional amounts of money Plaintiff would have received if Plaintiff had not been
 5 harassed, discriminated and retaliated against because she is an older female worker.

6 68. As a further direct and proximate result of Defendants' unlawful conduct, Plaintiff has
 7 suffered extreme and severe anguish, humiliation, emotional distress, nervousness, high blood
 8 pressure, anxiety and depression, the extent of which is not fully known at this time, and the amount
 9 of damages caused thereby is not yet fully ascertained, but is in an amount in excess of \$25,000.00,
 10 the precise amount to be proven at trial. Plaintiff claims the amount together with prejudgment
 11 interest pursuant to Civil Code section 3287 or any other provision of law providing for prejudgment
 12 interest.

13 69. Defendants acted in a despicable manner and subjected Plaintiff to cruel and unjust
 14 hardship. Such despicable actions by Defendants have caused irreparable damage to Plaintiff's
 15 career and professional reputation. Such actions by Defendants and each of them, were in flagrant
 16 and conscious disregard of Plaintiff's rights under state law. This oppressive conduct was committed
 17 by Defendants and each of them. As a result, Plaintiff has been required to retain legal counsel and
 18 therefore requests that the Defendants be required to pay the Plaintiff's attorney fees and costs
 19 necessary to pursue his legal and just claims.

20 **FIFTH CAUSE OF ACTION**

21 **Retaliation in Violation of Gov. Code § 12940 (h)**

22 **(Against Defendants City of San Diego, San Diego Police Department)**

23 70. Plaintiff re-alleges and incorporates by reference the allegations in paragraphs 1
 24 through 69 as if set forth fully herein.

25 71. Defendants, as Plaintiff's employer, had the duty to take all reasonable steps
 26 necessary to prevent discrimination and harassment from occurring to Plaintiff during her
 27 employment.

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1 72. Defendants failed to properly and timely investigate Plaintiff's protests of
2 discrimination and harassment and to take the necessary steps to prevent such discrimination and
3 harassment from occurring and instead permitted further harassment and retaliation against Plaintiff
4 in violation Government Code §12940 (h). It is an illegal employment practice for any employer, or
5 person to discharge or otherwise discriminate against any person because the person has opposed
6 any practices forbidden under this part or because the person has filed a complaint or otherwise
7 exercised rights under the FEHA. It is also an illegal employment practice for any person to aid,
8 abet, incite, compel, or coerce the doing of any of the acts forbidden under the FEHA.

9 73. Det. Burger engaged in activity which is protected under the FEHA. After having
10 engaged in this protected activity, Plaintiff was subjected to numerous adverse actions as set forth
11 herein above, which eventually culminated in an effective constructive demotion within her Sex
12 Crimes Unit. Plaintiff is given menial cases and tasks akin to administrative work and Defendants
13 have treated Plaintiff as an outcast within her department by supervision and her peers and as if she
14 were already retired. Defendants and each of them, materially and adversely affected and altered the
15 terms, conditions, and privileges of Plaintiff's employment in the Sex Crimes Unit, in direct
16 retaliation against her for protesting Defendants' unlawful conduct and exercising her protected
17 rights.

18 74. As alleged throughout this Complaint, Defendants' retaliatory conduct and adverse
19 actions continued to the present. Plaintiff is informed and believes that the Defendants increased
20 their discrimination and harassment against her in retaliation for her reports that Defendant
21 Supervisors and detectives were engaged in unlawful conduct as alleged herein above.

22 75. At all times, Defendant SDPD was placed on notice of the retaliatory conduct of its
23 supervisors and detectives in the Sex Crimes Unit as herein alleged above, and knowingly incited,
24 aided and abetted the continuing harassment, discrimination and retaliatory conduct against Det.
25 Burger because she protested and reported Defendants' unlawful conduct.

26 76. As a direct and proximate result of Defendants' discriminatory acts, Plaintiff
27 has suffered severe emotional distress, anxiety attacks, anger, and depression, with symptoms
28 including, but not limited to, disruption in eating and sleeping patterns, helplessness, high blood

1 pressure, headaches, lethargy, and nightmares. Because of Defendants' wrongful actions, Plaintiff
2 has been forced to seek medical care, and thus is suffering substantial damage, including, but not
3 limited to, medical expenses, and loss of benefits and wages. The amount of damages caused
4 thereby is not yet fully ascertained, but is in excess of the jurisdictional limit, the exact amount to be
5 proven at trial. Plaintiff claims such damages, together with prejudgment interest pursuant to Civil
6 Code Section 3287, or any other provision of law providing for prejudgment interest.

7 77. Defendants acted in a despicable manner and subjected Plaintiff to cruel and
8 unjust hardship. Such despicable actions by Defendants have caused irreparable damage to
9 Plaintiff's health, career and reputation. Such actions by Defendants, and each of them, were in
10 flagrant and conscious disregard of Plaintiff's rights under both state and federal law. This
11 oppressive conduct was committed by Defendants and each of them.

12 78. As a direct and proximate result of Defendant's wrongful actions, Plaintiff has
13 also been required to retain legal counsel and therefore requests that Defendant be required to pay
14 Plaintiff's attorney fees and costs necessary to pursue these legal and just claims.

15 **SIXTH CAUSE OF ACTION**

16 **Intentional Infliction of Emotional Distress**

17 **(By Against All Defendants)**

18 79. Plaintiff re-alleges and incorporates by reference the allegations in paragraphs 1
19 through 78 as if set forth fully herein.

20 80. Plaintiff alleges above, that the Defendants, and each of them, intentionally engaged
21 in the conduct of harassing, intimidating, discriminating, coercing, and retaliating against Plaintiff
22 without good cause and by falsely justifying such wrongful conduct even though the Defendants
23 knew, or should have known, that such wrongful conduct would cause Plaintiff to suffer
24 embarrassment, humiliation, anger and other mental anguish and emotional distress. Defendants
25 engaged in a pattern of continuing violations that were discriminatory and harassing in nature and

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1 which fall outside of the normal part of the employment environment. Defendants' conduct was
2 outrageous, intentional, malicious, and done with reckless disregard for the fact that Defendants'
3 actions would certainly cause Plaintiff to suffer severe emotional distress, and was so extreme as to
4 exceed all bounds usually tolerated in a civilized community.

5 81. As a direct and proximate result of the conduct of Defendants, Plaintiff suffered
6 feelings of anger, embarrassment, sickness, betrayal and humiliation, leading to physical and
7 emotional symptoms including but not limited to: loss of sleep, anxiety, nervousness, and loss of
8 appetite, headaches, high blood pressure, and other related medical problems, all to her general
9 damage, in an amount to be proven at trial.

10 82. As a further direct and proximate result of the conduct of Defendants, Plaintiff
11 has been forced to seek medical treatment to combat her nervousness, anxiety and loss of sleep, and
12 high blood pressure, all to her special damage in an amount in excess of the jurisdictional limit, in an
13 amount to be proven at trial.

14 83. The conduct of Defendants was despicable, malicious, and undertaken with a
15 conscious disregard for Plaintiff's rights and safety. Plaintiff is therefore entitled to an award of
16 punitive damages (as allowed) in an amount appropriate to punish and make an example of
17 Defendants and in an amount to be proven at trial.

18 **WHEREFORE**, Plaintiff prays for judgment against Defendants, and each of them, as
19 follows:

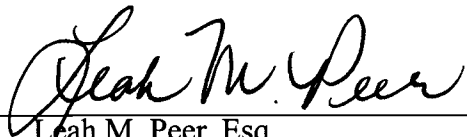
- 20 1. For all general and/or compensatory damages in a sum according to proof at time of
21 trial;
- 22 2. For all special, medical, and incidental damages, expenses, and costs incurred, and to
23 be incurred in the future, according to proof at time of trial;
- 24 3. For attorneys' fees, expenses, and costs attendant to enforcing her rights under the
25 applicable statutes;
- 26 4. For costs of suit incurred herein;
- 27 5. For prejudgment interest according to law;
- 28 6. For Injunctive relief;

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- 7. For further relief as the Court deems just and proper, and
- 8. Request for a jury trial.

Dated: September 8, 2011

DONALD R. HOLBEN & ASSOCIATES, APC

By: 
Leah M. Peer, Esq.
Attorneys for Plaintiff,
DEBORAH W. BURGER

VERIFICATION

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I, DEBORAH W. BURGER, declare that I am the Plaintiff in the above-entitled action. I have read the foregoing Verified Complaint for Damages and know the contents thereof. The facts alleged in the above Verified Complaint are true of my own knowledge, except as to those matters which are therein alleged on information and belief, and as to those matters, I believe them to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on September 8, 2011, at San Diego, California.


DEBORAH W. BURGER

**SUMMONS
(CITACION JUDICIAL)**

SUM-100

**NOTICE TO DEFENDANT: CITY OF SAN DIEGO, SAN DIEGO
(AVISO AL DEMANDADO): POLICE DEPARTMENT; AND
INDIVIDUALS, SGT. DAN CERAR; DET. CARL HERSHMAN; DET.
EDWARD FLETES; and LT. RICK O'HANLON, IN THEIR
OFFICIAL AND PERSONAL CAPACITIES; AND DOES 1-20,
INCLUSIVE**

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)
CIVIL BUSINESS OFFICE
CENTRAL DIVISION

2011 SEP -8 PM 2:08

SUPERIOR COURT
SAN DIEGO COUNTY, CA

**YOU ARE BEING SUED BY PLAINTIFF: DEBORAH W. BURGER
(LO ESTÁ DEMANDANDO EL DEMANDANTE):**

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

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

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **¡AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación

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

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

The name and address of the court is:
(El nombre y dirección de la corte es):

SUPERIOR COURT, COUNTY OF SAN DIEGO
HALL OF JUSTICE-CENTRAL DIVISION
330 WEST BROADWAY
SAN DIEGO, CA 92101

CASE NUMBER:
(Número **072011-00007631-CU-OE-CTL**)

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

LEAH M. PEER, Esq. 619/220-5555 619/220-0033
DONALD R. HOLBEN & ASSOCIATES, APC
5030 Camino de la Siesta, Suite 350
San Diego, CA 92108

DATE: **SEP 08 2011**
(Fecha)

Clerk, by J. Walters, Deputy
(Secretario) J. Walters (Adjunto)

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

NOTICE TO THE PERSON SERVED: You are served

1. as an individual defendant.
2. as the person sued under the fictitious name of (specify):
3. on behalf of (specify):
 - under: CCP 416.10 (corporation) CCP 416.60 (minor)
 - CCP 416.20 (defunct corporation) CCP 416.70 (conservatee)
 - CCP 416.40 (association or partnership) CCP 416.90 (authorized person)
 - other (specify):
4. by personal delivery on (date):



ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):

LEAH M. PEER, Esq.
DONALD R. HOLBEN & ASSOCIATES, APC
5030 Camino de la Siesta, Suite 350
San Diego, CA 92108

FOR COURT USE ONLY

FILED
CIVIL BUSINESS OFFICE
CENTRAL DIVISION

2011 SEP -8 PM 2:08

TELEPHONE NO.: 619/220-5555 FAX NO.: 619/220-0033

ATTORNEY FOR (Name): Deborah W. Burger

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO
STREET ADDRESS: 330 WEST BROADWAY
MAILING ADDRESS: 330 WEST BROADWAY
CITY AND ZIP CODE: SAN DIEGO, CA 92101
BRANCH NAME: CENTRAL DIVISION-HALL OF JUSTICE

FILED
SUPERIOR COURT
SAN DIEGO COUNTY, CA

CASE NAME: BURGER vs CITY OF SAN DIEGO, SAN DIEGO
POLICE DEPARTMENT, ET AL.

CASE NUMBER:
37-2011-00007631-CU-OE-CTL

CIVIL CASE COVER SHEET
 Unlimited (Amount demanded exceeds \$25,000) Limited (Amount demanded is \$25,000 or less)

Complex Case Designation
 Counter Joinder
Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)

JUDGE:
DEPT:

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

Auto Tort

- Auto (22)
- Uninsured motorist (46)

Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

- Asbestos (04)
- Product liability (24)
- Medical malpractice (45)
- Other PI/PD/WD (23)

Non-PI/PD/WD (Other) Tort

- Business tort/unfair business practice (07)
- Civil rights (08)
- Defamation (13)
- Fraud (16)
- Intellectual property (19)
- Professional negligence (25)
- Other non-PI/PD/WD tort (35)

Employment

- Wrongful termination (36)
- Other employment (15)

Contract

- Breach of contract/warranty (06)
- Rule 3.740 collections (09)
- Other collections (09)
- Insurance coverage (18)
- Other contract (37)

Real Property

- Eminent domain/Inverse condemnation (14)
- Wrongful eviction (33)
- Other real property (26)

Unlawful Detainer

- Commercial (31)
- Residential (32)
- Drugs (38)

Judicial Review

- Asset forfeiture (05)
- Petition re: arbitration award (11)
- Writ of mandate (02)
- Other judicial review (39)

Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403)

- Antitrust/Trade regulation (03)
- Construction defect (10)
- Mass tort (40)
- Securities litigation (28)
- Environmental/Toxic tort (30)
- Insurance coverage claims arising from the above listed provisionally complex case types (41)

Enforcement of Judgment

- Enforcement of judgment (20)

Miscellaneous Civil Complaint

- RICO (27)
- Other complaint (not specified above) (42)

Miscellaneous Civil Petition

- Partnership and corporate governance (21)
- Other petition (not specified above) (43)

2. This case is is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:

- a. Large number of separately represented parties
- b. Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve
- c. Substantial amount of documentary evidence
- d. Large number of witnesses
- e. Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
- f. Substantial postjudgment judicial supervision

3. Remedies sought (check all that apply): a. monetary b. nonmonetary; declaratory or injunctive relief c. punitive

4. Number of causes of action (specify): SIX (6)

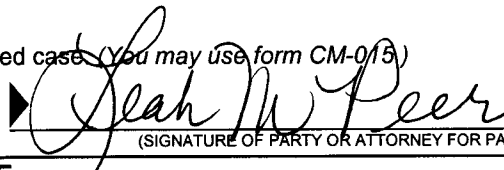
5. This case is is not a class action suit.

6. If there are any known related cases, file and serve a notice of related cases (You may use form CM-015)

Date: SEPTEMBER 8, 2011

LEAH M. PEER, Esq.

(TYPE OR PRINT NAME)



(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.