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ELECTRONICALLY FILED
Superior Court of California,
County of San Diego
12/11/2013 at 11:18:40 AM
Clerk of the Superior Court
By Rebecca Vela, Deputy Clerk

5 Attorneys for Plaintiff Stacy McKenzie

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8 **SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO**
(Central Division)
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11 STACY MCKENZIE,
12 Plaintiff,
13 vs.
14 ROBERT FILNER; THE CITY OF SAN
DIEGO, a government entity; and DOES
15 1 to 20,
16 Defendants.

CASE NO. 37-2013-00079445-CU-DE-CTL

VERIFIED COMPLAINT FOR DAMAGES:

1. Sexual Battery;
2. Gender Violence [Civil Code § 51.7];
3. Sexual Harassment [Government Code § 12940 et seq.]; and
4. Negligent Failure to Prevent Sexual Harassment [Gov. Code, § 12940(k)].

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18 Plaintiff Stacy McKenzie alleges:

19 **GENERAL ALLEGATIONS**

- 20 1. Plaintiff Stacy McKenzie ("McKenzie") was at all material times an adult resident
21 of the County of San Diego, State of California.
- 22 2. Defendant Robert Filner ("Filner") was at all material times an adult resident of the
23 County of San Diego, State of California.
- 24 3. Defendant The City of San Diego ("The City") is a government entity.
- 25 4. The true names and capacities, whether individual or otherwise, of defendants Does
26 1 through 20 are unknown to Plaintiff who therefore sues them by such fictitious names pursuant to
27 California Code of Civil Procedure § 474. Plaintiff is informed and believes that each of the Doe
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1 defendants is responsible in some manner for the acts of omissions alleged in this complaint or cause
2 Plaintiff's damages.

3 5. At all material times, all of the defendants named in this complaint were agents,
4 employees, partners, joint-venturers, or co-conspirators of the other defendants and when doing the
5 acts alleged in this complaint they acted within the course and scope of such agency.

6 6. McKenzie is the District Manager of Mission Bay Park for the Parks and Recreation
7 Department of The City. McKenzie has worked for The City for 32 years.

8 7. On April 21, 2013, McKenzie attended the "Clairemont Days" event at North DeAnza
9 Cove in Mission Bay. Filner, the mayor of The City at the time, also attended. McKenzie introduced
10 herself to Filner, but Filner was speaking to a student reporter.

11 8. When Filner finished with the student reporter, he returned his attention to McKenzie.
12 Filner asked McKenzie if she had a boyfriend or husband. McKenzie replied that she was divorced.

13 9. Filner then told McKenzie, "Whenever I see a beautiful woman, I always have to go
14 over and talk to her."

15 10. Filner asked McKenzie if she would go to lunch with her boss, at which point Filner
16 grabbed McKenzie's hands with a firm grip and held her 8 inches away, and told her, "Just to make
17 this clear, this is not a business lunch. This is a date...I am asking you out on a date."

18 11. McKenzie wriggled away from Filner, and walked away from him across the entire
19 venue, and began speaking to two other city employees.

20 12. Filner came up behind McKenzie, and put her in a headlock; Filner put his right arm
21 all the way around McKenzie's neck and put it on her left shoulder, rubbing her left arm, while his
22 elbow rested on her breasts.

23 13. Filner asked the other two city employees, "Isn't she great?"

24 14. Filner told the other two city employees, "I am mentoring [McKenzie]. I am thinking
25 of making [McKenzie] employee of the day, what do you think?"

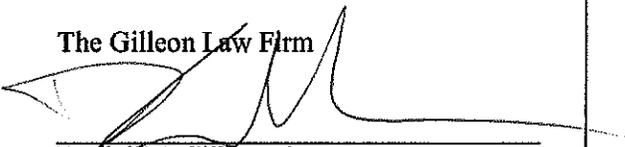
26 15. Filner then said to all three women, "Just to let you know, I like to get really close to
27 my city employees."

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41. On the Fourth Cause of Action, Negligent Failure to Prevent Sexual Harassment:
- a. General and special damages according to proof;
 - b. Costs of court; and
 - c. Such other further and proper relief as the Court deems proper.

Dated: December 11, 2013

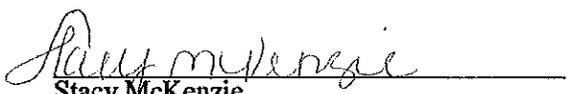
The Gilleon Law Firm

Daniel M. Gilleon, Attorneys
for Plaintiff Stacy McKenzie

Verification

I am the plaintiff in this action; the foregoing complaint is true of my knowledge, except as to the matters stated in it on my information or belief, and as to those matters I believe it to be true.

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

Dated: December 11, 2013


Stacy McKenzie



DEPARTMENT OF FAIR EMPLOYMENT & HOUSING

2218 Kausen Drive, Suite 100 | Elk Grove | CA | 95758
800-884-1684 | Videophone 916-226-5285 | TTY 800-700-2320
www.dfeh.ca.gov | email: contact.center@dfeh.ca.gov

Dec 11, 2013

Stacy McKenzie
C/O The Gilleon Law Firm 1320 Columbia St., Ste. 200
San Diego, CA 92101

RE: Notice of Case Closure and Right to Sue
DFEH Matter Number: 196175-82653
Right to Sue: McKenzie / , Robert "Bob" Filner

Dear Stacy McKenzie:

This letter informs you that the above-referenced complaint was filed with the Department of Fair Employment and Housing (DFEH) has been closed effective Dec 11, 2013 because an immediate Right to Sue notice was requested. DFEH will take no further action on the complaint.

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

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

Sincerely,

Department of Fair Employment and Housing

Enclosures

cc: Elizabeth Maland, City Clerk, T The City of San Diego
Elizabeth Maland, City Clerk, T The City of San Diego



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Dec 11, 2013

RE: Notice of Filing of Discrimination Complaint

DFEH Matter Number: 196175-82653

Right to Sue: McKenzie /

To All Respondent(s):

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

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

No response to DFEH is requested or required.

Sincerely,

Department of Fair Employment and Housing

**COMPLAINT OF DISCRIMINATION UNDER THE PROVISIONS OF THE
CALIFORNIA FAIR EMPLOYMENT AND HOUSING ACT**DFEH MATTER NUMBER
196175-82653COMPLAINANT
Stacy McKenzie

NAMED IS THE EMPLOYER, PERSON, AGENCY, ORGANIZATION OR GOVERNMENT ENTITY WHO DISCRIMINATED AGAINST ME

RESPONDENT	ADDRESS	PHONE
Robert "Bob" Filner		

NO. OF EMPLOYEES	MOST RECENT DISCRIMINATION TOOK PLACE	TYPE OF EMPLOYER
0	Apr 21, 2013	Elected Official/State-Local

CO-RESPONDENT(S)	ADDRESS
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Elizabeth Maland, City Clerk, T The
City of San DiegoThe City of San Diego, Office of the City Clerk 202 C Street, 2nd
Floor San Diego CA 92101

**COMPLAINT OF DISCRIMINATION UNDER THE PROVISIONS OF THE
CALIFORNIA FAIR EMPLOYMENT AND HOUSING ACT**DFEH MATTER NUMBER
196175-82653

I ALLEGE THAT I EXPERIENCED	Harassment
ON OR BEFORE	Apr 21, 2013
BECAUSE OF MY	Sex- Gender
AS A RESULT, I WAS	Denied a work environment free of discrimination and/or retaliation, Other Sexually harassed and battered.

STATEMENT OF FACTS

1. Plaintiff Stacy McKenzie ["McKenzie"] was at all material times an adult resident of the County of San Diego, State of California. 2. Defendant Robert Filner ["Filner"] was at all material times an adult resident of the County of San Diego, State of California. 3. Defendant The City of San Diego ["The City"] is a government entity. 4. The true names and capacities, whether individual or otherwise, of defendants Does 1 through 20 are unknown to Plaintiff who therefore sues them by such fictitious names pursuant to California Code of Civil Procedure § 474. Plaintiff is informed and believes that each of the Doe defendants is responsible in some manner for the acts of omissions alleged in this complaint or cause Plaintiff's damages. 5. At all material times, all of the defendants named in this complaint were agents, employees, partners, joint-venturers, or co-conspirators of the other defendants and when doing the acts alleged in this complaint they acted within the course and scope of such agency. 6. McKenzie is the District Manager of Mission Bay Park for the Parks and Recreation Department of The City. McKenzie has worked for The City for 32 years. 7. On April 21, 2013, McKenzie attended the "Clairemont Days" event at North DeAnza Cove in Mission Bay. Filner, the mayor of The City at the time, also attended. McKenzie introduced herself to Filner, but Filner was speaking to a student reporter. 8. When Filner finished with the student reporter, he returned his attention to McKenzie. Filner asked McKenzie if she had a boyfriend or husband. McKenzie replied that she was divorced. 9. Filner then told McKenzie, "Whenever I see a beautiful woman, I always have to go over and talk to her." 10. Filner asked McKenzie if she would go to lunch with her boss, at which point Filner grabbed McKenzie's hands with a firm grip and held her 8 inches away, and told her, "Just to make this clear, this is not a business lunch. This is a date...I am asking you out on a date." 11. McKenzie wriggled away from Filner, and walked away from him across the entire venue, and began speaking to two other city employees. 12. Filner came up behind McKenzie, and put her in a headlock, Filner put his right arm all the way around McKenzie's neck and put it on her left shoulder, rubbing her left arm, while his elbow rested on her breasts. 13. Filner asked the other two city employees, "Isn't she great?" 14. Filner told the other two city employees, "I am mentoring [McKenzie]. I am thinking of making [McKenzie] employee of the day, what do you think?" 15. Filner then said to all three women, "Just to let you know, I like to get really close to my city employees." 16. Filner then said to McKenzie, "Stacy, you are turning really red." McKenzie replied, "You are really embarrassing me." Filner then walked away, laughing. 17. After her encounter with Filner, McKenzie avoided attending meetings at City Hall for two months as to avoid any contact with Filner. McKenzie also avoided answering her phone for two weeks.

**COMPLAINT OF DISCRIMINATION UNDER THE PROVISIONS OF THE
CALIFORNIA FAIR EMPLOYMENT AND HOUSING ACT**DFEH MATTER NUMBER
196175-82653

SIGNED UNDER PENALTY OF PERJURY

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

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

By submitting this complaint, I am declaring under penalty of perjury under the laws of the State of California that, to the best of my knowledge, all information contained in this complaint is true and correct, except matters stated on my information and belief, and I declare that those matters I believe to be true.

Verified by Samuel A. Clemens, Attorney for Complainant, and dated on Dec 11, 2013 at San Diego, CA