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9 **UNITED STATES DISTRICT COURT**
10 **FOR THE EASTERN DISTRICT OF CALIFORNIA**

VICTORIA ZETWICK,)	Case No.
)	
Plaintiff,)	COMPLAINT FOR SEXUAL
)	HARASSMENT IN WORKPLACE
vs.)	
)	1. Sex discrimination (Title VII)
COUNTY OF YOLO; EDWARD G. PRIETO,)	2. Sexual harassment (California FEHA)
an individual; and)	3. Failure to Prevent Sexual Harassment
DOES 1 through 50, inclusive,)	(California FEHA)
)	
Defendants.)	DEMAND FOR JURY TRIAL
)	
)	
)	

17
18 Plaintiff VICTORIA ZETWICK, (“Plaintiff”) complains and alleges as follows:

19 **I. JURISDICTION**

20 1. This Complaint seeks, inter alia, damages pursuant to Title 42 U.S.C. §2000e *et seq.*, for
21 violation of Plaintiff’s civil rights. Jurisdiction is founded upon Title 28 U.S.C. §1331 and
22 §1343(a)(4). This Court also has supplemental jurisdiction over Plaintiff’s California state claims
23 pursuant to 28 U.S.C. §1367.

24 **II. VENUE**

1 California Penal Code. At all times mentioned herein PRIETO was a supervisor within the meaning of
2 Title VII of the 1964 Civil Rights Act (42 U.S.C. section 2000e et seq.) and the California's Fair
3 Employment and Housing Act (Cal. Govt. Code section 12900 et seq.). Because of PRIETO'S rank at
4 the top of the hierarchy at the Sheriff's Department, and because of his comprehensive control of the
5 day-to-day functioning and long-term planning for the Sheriff's Department, he is the proxy and/or
6 agent for the COUNTY OF YOLO such that his actions may be directly imputed to the COUNTY OF
7 YOLO. At all times described herein, PRIETO was acting within the course and scope of his
8 employment. In doing the acts and/or omissions alleged herein, PRIETO acted under color of authority
9 and/or color of state law at all relevant times.
10

11 7. The true names and identities of DOES 1 through 10 are presently unknown to Plaintiff.
12 Plaintiff alleges on information and belief that each of defendants DOES 1 through 10 were the
13 predecessors of, successors of, parent entities of, subsidiaries of, joint ventures of, or partners of,
14 Defendant COUNTY OF YOLO, and were the employers of Plaintiff. Plaintiff will seek to amend this
15 Complaint as soon as the true names and identities of DOES 1 through 10 have been ascertained.

16 8. Plaintiff is informed and believes and thereon alleges that at all times mentioned in this
17 Complaint, Defendants COUNTY OF YOLO, PRIETO, and DOES 1 through 10, and each of them,
18 were the agents, employees, servants, parent entities, subsidiaries, joint ventures, integrated
19 enterprises, joint employers, and/or partners, of the other Defendants named in this Complaint and
20 that at all times, each of the Defendants was acting within the course and scope of said relationship
21 with the other Defendants.
22

23 9. Plaintiff alleges that the DOE defendants, and each of them, is legally responsible for the
24 incidents and damages set forth here, and that each of said DOE defendants proximately caused said
25 incident, injuries and damages by reason of their intentional conduct, negligence, breach of duty, or

1 by reason of other personal, vicarious or imputed negligence, fault, or breach of duty, whether based
2 upon agency, employment, or control, whether severally or jointly, or upon any other act or
3 omission.

4 **V. EXHAUSTION OF ADMINISTRATIVE REMEDIES**

5 10. On or about February 24, 2012, Plaintiff presented her Tort Claim to the COUNTY OF
6 YOLO, pursuant to the California Tort Claims Act. In her Tort Claim, Plaintiff alleged that
7 PRIETO sexually harassed her. On or about April 11, 2012, the COUNTY OF YOLO notified
8 Plaintiff in writing that her Tort Claim had been rejected by operation of law and that she had six
9 months from the date of the letter to file a court action.

11 11. On or about April 30, 2012, Plaintiff filed a charge of discrimination with the Equal
12 Employment Opportunity Commission (“EEOC”) against COUNTY OF YOLO and EDWARD G.
13 PRIETO, alleging sexual harassment. Plaintiff received a right-to-sue notice on July 5, 2012.

14 12. On or about April 30, 2012, the EEOC filed Plaintiff’s charge of discrimination with the
15 California Department of Fair Employment and Housing (“DFEH”), against COUNTY OF YOLO
16 and EDWARD G. PRIETO. Plaintiff received a right-to-sue notice from the DFEH dated May 9,
17 2012. The notice advised Plaintiff that she had one year from the date of the notice to file suit.

18 13. Plaintiff has exhausted her administrative remedies and fulfilled all conditions precedent
19 to suit.

20 **VI. FACTUAL ALLEGATIONS**

21 14. Plaintiff is a 48 year-old married female who is a correctional officer with the COUNTY
22 OF YOLO Sheriff’s Department (hereinafter “Sheriff’s Department”). Plaintiff is married to a
23 COUNTY OF YOLO Sheriff’s Deputy. Plaintiff began her employment with the Sheriff’s
24 Department in 1988 as a correctional officer.
25

1 15. In 1998, Defendant EDWARG G. PRIETO (hereinafter “PRIETO”) was elected Sheriff
2 of the COUNTY OF YOLO. From 1998 to the present, Plaintiff saw PRIETO hug and kiss several
3 dozen female employees. During times that Plaintiff saw PRIETO present with a male employee
4 and a female employee, Plaintiff saw PRIETO hug the female employee, but give a handshake to
5 the male employee.

6 16. PRIETO subjected Plaintiff to unwelcome hugs and kisses. Plaintiff estimates that over
7 the course of 14 years with the Sheriff’s Department, with PRIETO as Sheriff, he has hugged her at
8 least a hundred times. Each time was awkward, unsolicited, and unwelcome for Plaintiff.

9 17. In the early years, PRIETO would hug and kiss Plaintiff on the cheek. As an example,
10 at an employee awards ceremony in May 2003, PRIETO kissed Plaintiff on the lips. Plaintiff was
11 shocked and told her husband, whom she had just recently married.

12 18. Plaintiff’s husband was upset by PRIETO’S conduct. Plaintiff told her co-workers and
13 supervising lieutenants that PRIETO had kissed her on the lips and that she was offended by his
14 conduct. Although Plaintiff’s lieutenants were authorized to receive, report, and forward complaints
15 of harassment, under the Sheriff’s Department’s policies, none of Plaintiff’s supervising lieutenants
16 forwarded her complaints for investigation or resolution.

17 19. After the May 2003 incident, Plaintiff was discouraged from making a formal complaint
18 because she had just been promoted to Sergeant and was still on her probationary period for that
19 promotion. Plaintiff feared that PRIETO would retaliate against her by taking away her promotion.
20 In addition, even though Plaintiff told her supervisors about PRIETO’S sexual harassment, the
21 supervisors never offered to document it, and they seemed to be too intimidated by PRIETO to do
22 anything about it. Furthermore, Plaintiff knew that PRIETO and an upper-level member of the
23 COUNTY OF YOLO’S Human Resources Department were friends and had socialized together on
24 a boat excursion to the Bay Area. Plaintiff was afraid that if she went to the Human Resources
25

1 Department with a complaint, she would not be believed and/or the Human Resources Department
2 would take PRIETO'S side.

3 20. On another occasion, in 2007, at a promotional ceremony, Plaintiff and a female
4 sergeant were approached by PRIETO. PRIETO asked the female sergeant how much she weighed.
5 The female sergeant answered that she had lost 20 pounds. PRIETO kept asking her how much she
6 weighed and finally the female sergeant answered. Plaintiff, who witnessed this exchange, felt
7 demeaned as a woman. In 14 years, she had never seen PRIETO ask a male employee about weight.

8 21. On another occasion, in 2010, PRIETO was in the booking area with Plaintiff (who, at
9 that point, was a sergeant) and another female correctional officer. PRIETO approached Plaintiff
10 and reached to hug her but stopped and stated that people had complained and so he could not give a
11 hug. But then PRIETO hugged Plaintiff and the female correctional officer anyway. Plaintiff was
12 offended by the hug. PRIETO told them that he hugged everyone, including male employees.
13 However, Plaintiff has never seen PRIETO hug a male employee when PRIETO had the opportunity
14 to do so. Instead, Plaintiff saw PRIETO give handshakes to male employees.

15 22. Over the years, Plaintiff's co-workers and supervising lieutenants would tease Plaintiff
16 that PRIETO was going to kiss her on the lips. The supervisors who teased her were the same
17 persons who had the authority to receive, report, and forward a sexual harassment complaint to the
18 Sheriff's Department management.

19 23. As time wore on, PRIETO'S hugs were not accompanied by a kiss on the cheek, but
20 nevertheless the unwelcome hugging continued for Plaintiff. The most recent incident in which
21 PRIETO hugged Plaintiff was on December 5, 2011, at a new-hires ceremony and then again at a
22 General Educational Development (GED) graduation at the jail. Plaintiff was offended by this hug.

23 24. PRIETO'S conduct created a hostile working environment that permanently altered the
24 workplace and unreasonably interfered with Plaintiff's ability to do her job. Plaintiff found it
25 difficult to concentrate at work when PRIETO was nearby, her work was made inefficient during

1 times she tried to avoid contact with PRIETO, and she grew anxious and upset when PRIETO was
2 nearby or was said to be on his way.

3 25. From 1998 through December 2011, PRIETO subjected Plaintiff to severe or pervasive
4 sexual harassment that created a hostile work environment. The hugging incident that occurred on
5 December 5, 2011 between PRIETO and Plaintiff, was made possible by PRIETO'S inappropriate
6 conduct towards Plaintiff that began in 1998. That is, all incidents of sexual harassment are related
7 to one another, made possible by virtue of PRIETO'S continuing misconduct towards Plaintiff
8 gained through years of acting with impunity and increasing boldness. All of the sexual harassment
9 that occurred between 1998 through 2011 constitutes an intertwined pattern of continuing sexual
10 harassment.

11 26. PRIETO'S harassment constitutes oppression, malice, and conscious disregard for
12 Plaintiff's rights in the workplace.

13 27. The COUNTY OF YOLO employed PRIETO with knowledge of his unfitness for the
14 position and in conscious disregard for Plaintiff's rights in the workplace. The COUNTY OF
15 YOLO authorized or ratified PRIETO'S wrongful conduct towards Plaintiff.

16 **VII. CLAIMS FOR RELIEF**

17 **FIRST CLAIM FOR RELIEF**

18 **Discrimination—Sexual Harassment**

19 (Title VII of the 1964 Civil Rights Act; 42 U.S.C. §2000e *et seq.*)
(Against Defendant COUNTY OF YOLO and DOES 1 through 50)

20 28. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 27, as though
21 fully set forth herein.

22 29. The acts and/or omissions of Defendant alleged herein subjected Plaintiff to a hostile
23 work environment in violation of her rights under Title VII of the 1964 Civil Rights Act of 1964, 42
24 U.S.C. §2000e *et seq.*
25

1 30. Plaintiff was subjected to unwelcome, severe or pervasive physical, and verbal conduct
2 because of her sex. The conduct was severe or pervasive and created an intimidating, hostile, or
3 abusive work environment.

4 31. As a direct and proximate result of Defendants' conduct, Plaintiff has suffered and will
5 continue to suffer mental anguish and emotional distress. Plaintiff is entitled to general and
6 compensatory damages in amounts to be proven at trial.

7 **SECOND CLAIM FOR RELIEF**

8 **Sexual Harassment**

9 (Fair Employment and Housing Act; Cal. Gov. Code §12900 *et seq.*)

(Against all Defendants)

10 32. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 27, as though
11 fully set forth herein.

12 33. The acts and/or omissions of all named Defendant and DOES 1 through 50 alleged
13 herein subjected Plaintiff to a hostile work environment in violation of her rights under the
14 California Fair Employment and Housing Act (Cal. Gov. Code §12940).

15 34. Plaintiff was subjected to unwelcome, severe and pervasive physical, verbal and visual
16 conduct because of her sex. The conduct was severe or pervasive and created an intimidating,
17 hostile, or abusive work environment.

18 35. As a direct and proximate result of Defendants' conduct, Plaintiff has suffered and will
19 continue to suffer mental anguish and emotional distress. Plaintiff is entitled to general and
20 compensatory damages in amounts to be proven at trial.

21 **THIRD CLAIM FOR RELIEF**

22 **Failure to Prevent Sexual Harassment**

23 (Fair Employment and Housing Act; Cal. Gov. Code §12940(k))

24 (Against Defendant COUNTY OF YOLO and DOES 1 through 50)

25 36. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 27, as though
fully set forth herein.

1 37. The acts and/or omissions of Defendant alleged herein including, but not limited to,
2 failing to prevent and/or end PRIETO'S harassment subjected Plaintiff to sexual harassment in
3 violation of the California Fair Employment and Housing Act, Cal. Gov. Code §12940(k).

4 38. As a direct and proximate result of said acts and/or omissions by Defendant, Plaintiff
5 suffered unreasonable interference with her personal liberty.

6 39. As a direct and proximate result of Defendant's conduct, Plaintiff has suffered and will
7 continue to suffer mental anguish and emotional distress. Plaintiff is entitled to general and
8 compensatory damages in amounts to be proven at trial.

9
10 **VIII. PRAYER FOR RELIEF**

11 WHEREFORE, Plaintiff prays for the following relief:

- 12 1. For compensatory, general, and special damages against each Defendant, jointly and
13 severally, in the amount proven at trial;
- 14 2. For punitive and exemplary damages against each Defendant, only as allowed by law, in
15 an amount appropriate to punish Defendants and deter others from engaging in similar
16 conduct;
- 17 3. For costs and reasonable attorneys' fees pursuant to Title 42 U.S.C. § 2000e-5(k),
18 California Government Code §12965(b), and as otherwise authorized by statute or law;
- 19 4. For such other relief, including injunctive and/or declaratory relief.

20 **JURY TRIAL DEMAND:** Plaintiff VICTORIA ZETWICK demands trial by jury.

21 Dated: October 3, 2012

22 Respectfully submitted,

23 /s/ Johnny L. Griffin, III
24 JOHNNY L. GRIFFIN, III
25 Attorney for Plaintiff VICTORIA ZETWICK