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F I L E D  
Clerk of the Superior Court

AUG 15 2014

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

AUG 15 '14 PM 3:46

F I L E D

Clerk of the Superior Court

AUG 15 2014

Attorneys for Plaintiff,  
**BENELIA SANTOS-HUNTER**

By: \_\_\_\_\_ Deputy  
**SUPERIOR COURT OF THE STATE OF CALIFORNIA**

**COUNTY OF SAN DIEGO, CENTRAL DIVISION**

10 BENELIA SANTOS-HUNTER, an individual,

Case No.: 37-2014-00027634-CU-OE-CTL

11 Plaintiff,

PLAINTIFF'S COMPLAINT FOR:

12 v.

13 THE CITY OF SAN DIEGO, a public entity;  
14 ROBERT FILNER, in his individual and  
15 official capacity; and DOES 1 through 25,  
16 Inclusive,

17 Defendants.

1. SEXUAL HARASSMENT [Cal. Gov't Code §12940(j)];
2. GENDER DISCRIMINATION [Cal. Gov't Code §12940(a)];
3. FAILURE TO PREVENT HARASSMENT [Cal. Gov't Code §12940(k)];
4. SEXUAL BATTERY [Cal. Civil Code §1708.5];
5. BATTERY;
6. NEGLIGENT SUPERVISION;
7. INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS.

[JURY TRIAL DEMANDED]

22 COMES NOW THE PLAINTIFF, alleging against Defendants as follows:

23 **GENERAL ALLEGATIONS COMMON TO ALL CAUSES OF ACTION**

- 24 1. Plaintiff, BENELIA SANTOS-HUNTER (hereinafter "Plaintiff" or "SANTOS-HUNTER"),  
25 is a natural person who is, and at all times herein mentioned was, a resident of the County of  
26 San Diego in the State of California.
- 27 2. Plaintiff believes and thereon alleges that at all times herein mentioned, Defendant CITY OF  
28 SAN DIEGO is a municipality subject to the laws of the State of California conducting

- 1 substantial business in the County of San Diego.
- 2 3. Plaintiff believes and thereon alleges that at all times herein mentioned, Defendant THE  
3 CITY OF SAN DIEGO (hereinafter "THE CITY"), employs more than five (5) employees  
4 in the State of California.
- 5 4. Plaintiff believes and thereon alleges that Defendant ROBERT ("BOB") FILNER  
6 (hereinafter "FILNER") is an individual who at all relevant times herein was a resident of  
7 the County of San Diego.
- 8 5. Plaintiff believes and thereon alleges that at all relevant times herein FILNER was the  
9 Mayor for Defendant CITY OF SAN DIEGO and as such, a managing agent of Defendant  
10 CITY OF SAN DIEGO.
- 11 6. Plaintiff is ignorant of the true names and capacities of the Defendants sued herein as DOES  
12 1 through 25, and therefore sues these Defendants by such fictitious names. Plaintiff will  
13 amend this Complaint to allege the true names and capacities when they are ascertained.
- 14 7. Plaintiff believes and thereon alleges that each fictitiously named Defendant is responsible,  
15 in some manner, for the occurrences herein alleged and Plaintiff's injuries and damages as  
16 herein alleged are directly, proximately and/or legally caused by Defendants and all of their  
17 acts.
- 18 8. Plaintiff believes and thereon alleges that each of these Defendants, named herein as DOES,  
19 are the agents, employers, representatives or employees of the other named Defendants and  
20 when performing the acts alleged herein, were acting within the scope of their agency,  
21 employment and/or representative capacity and are therefore responsible for the acts  
22 complained of herein.
- 23 9. The tortious acts and omissions alleged to have occurred herein were performed by  
24 management level employees.
- 25 10. The actions of Defendants, and each of them, against Plaintiff constitute unlawful  
26 employment practices in violation of public policy, and caused, and will continue to cause,  
27 Plaintiff loss of future earnings and employment.
- 28 11. As a further legal (proximate) result of the unlawful and intentional discriminatory actions

1 of Defendants, and each of their agents, against Plaintiff as alleged herein, Plaintiff has been  
2 harmed in that she has suffered, and continues to suffer, emotional pain, humiliation, mental  
3 anguish, loss of enjoyment of life, and emotional distress.

4 12. Defendants, and each of them, committed these acts alleged herein maliciously,  
5 fraudulently, and oppressively, and with the wrongful intention of injuring Plaintiff, and  
6 acted with an improper and evil motive amounting to malice or despicable conduct.

7 Alternatively, Defendants' wrongful conduct was carried out with a conscious disregard for  
8 Plaintiff's rights.

9 13. Defendants' conduct warrants the assessment of punitive damages in an amount sufficient to  
10 punish Defendants and deter others from engaging in similar conduct.

11 14. Plaintiff seeks compensatory damages, punitive damages, costs of suit herein, and attorney's  
12 fees.

13 15. Plaintiff filed her Government Tort Claim on November 15, 2013, attached hereto as Exhibit  
14 "A."

15 16. Plaintiff filed a complaint with the California Department of Fair Employment and Housing  
16 on February 6, 2014, and thereafter received a "Right to Sue" letter from the DFEH which is  
17 attached hereto as Exhibit "B."

### 18 SPECIFIC FACTUAL ALLEGATIONS

19 17. On or about November 6, 2012, Defendant Robert "Bob" FILNER became the 35<sup>th</sup> Mayor  
20 of San Diego, serving from December 2012 until August 2013. During his political  
21 campaign, FILNER praised himself as a vehement supporter of women's rights.

22 18. On or about January 7, 2013, Plaintiff returned to work for THE CITY as an Executive  
23 Assistant to FILNER.

24 19. THE CITY had previously employed Plaintiff from 2007 until 2012. At that time, THE  
25 CITY employed Plaintiff as Scheduler/Executive Assistant to Councilman Tony Young.

26 20. Plaintiff thus had a long history of productive employment with THE CITY.

27 21. Plaintiff briefly left THE CITY as a result of a restructuring of staff. However, in  
28 recognition of Plaintiff's excellent work for THE CITY, a former colleague of Plaintiff

- 1 recommended her for the position of Executive Assistant to FILNER.
- 2 22. Plaintiff was a competent and diligent employee during her tenure with THE CITY, as  
3 recognized by THE CITY and Plaintiff's coworkers.
- 4 23. At the initiation of her employment with FILNER, Plaintiff was proud to be a member of  
5 THE CITY's staff. Plaintiff was committed to civic service. Plaintiff was loyal to THE  
6 CITY.
- 7 24. In or around early February 2013, FILNER began sexually harassing Plaintiff.
- 8 25. Over the ensuing months, FILNER persistently and repeatedly sexually harassed Plaintiff.  
9 FILNER's sexual harassment of Plaintiff was not confined to one solitary event, instead,  
10 FILNER engaged in a pattern of severe and pervasive sexual harassment of Plaintiff.
- 11 26. The first incident of sexual harassment occurred on or about February 5, 2013. FILNER  
12 kissed Plaintiff on her forehead, stared into her eyes and said, "Do you know how beautiful  
13 you are?" or words to that effect.
- 14 27. Plaintiff was shocked and confused.
- 15 28. Plaintiff expected FILNER to be a man of utmost integrity and morality. Instead, FILNER  
16 asserted his dominance over Plaintiff and embarked on an aggressive campaign of sexual  
17 harassment and intimidation.
- 18 29. On or about February 14, 2013, FILNER attempted to hug and kiss Plaintiff, without  
19 Plaintiff's consent. FILNER then told Plaintiff, "You need me as your lover" or words to  
20 that effect. FILNER told Plaintiff, "Be my Valentine" or words to that effect. Plaintiff was  
21 disgusted and humiliated.
- 22 30. On or about February 22, 2013, FILNER attempted to hug Plaintiff, without her consent.  
23 FILNER then commented on Plaintiff's legs, stating, "I want to see more" or words to that  
24 effect.
- 25 31. On or about February 25, 2013, FILNER asked Plaintiff, "Can I have a kiss?" or words to  
26 that effect. FILNER stared Plaintiff down. Plaintiff felt intimidated.
- 27 32. FILNER then attempted to touch Plaintiff's breasts. Plaintiff was appalled and petrified.  
28 FILNER's attempt to touch Plaintiff was intentional and highly offensive to her.

- 1 33. On or about March 2, 2013, FILNER told Plaintiff, "You are such a beauty" and "Let's  
2 spend a passionate time together" or words to that effect.
- 3 34. On or about March 4, 2013, FILNER again attempted to kiss and hug Plaintiff, without her  
4 consent. FILNER made constant comments about Plaintiff's legs and looks.
- 5 35. FILNER then told Plaintiff, "Let's go in the back and make love right now" or words to that  
6 effect. Plaintiff was flabbergasted, shocked and humiliated.
- 7 36. During the week of March 18, 2013, FILNER continuously asked Plaintiff to hug and kiss  
8 him.
- 9 37. During the week of March 18, 2013, FILNER made continuous and persistent comments  
10 about Plaintiff's body.
- 11 38. During the week of March 18, 2013, FILNER consistently called Plaintiff, "beauty" or  
12 words to that effect.
- 13 39. On or about March 23, 2013, FILNER approached Plaintiff on THE CITY's parking lot and  
14 told her, "Can I see your legs?" or words to that effect.
- 15 40. During the week of March 25, 2013, FILNER asked Plaintiff, "Can I have some kisses?" or  
16 words to that effect.
- 17 41. During the week of March 25, 2013, FILNER attempted to hug Plaintiff.
- 18 42. On or about March 26, 2013, FILNER approached Plaintiff, stared at her, forcefully grabbed  
19 her hand and attempted to place her hand on his penis. FILNER's behavior was repugnant  
20 and revolting. FILNER's actions were intentional and highly offensive to Plaintiff.
- 21 43. On or about April 2, 2013, FILNER asked Plaintiff "to make love" or words to that effect.  
22 FILNER told Plaintiff, "Take off your dress," or words to that effect. FILNER asked  
23 Plaintiff, "Can I see your breasts?" or words to that effect. Plaintiff responded, "No."  
24 Plaintiff was repulsed, shocked and humiliated by FILNER's misconduct.
- 25 44. FILNER put his hands on Plaintiff's behind, without Plaintiff's consent. This incident  
26 traumatized Plaintiff.
- 27 45. On or about April 2, 2013, FILNER continuously asked Plaintiff to hug and kiss him.
- 28 46. During the week of April 8, 2013, FILNER continuously asked Plaintiff to hug and kiss him.

- 1 47. On or about April 8, 2013, FILNER told Plaintiff, "I am so good at sex," or words to that  
2 effect. FILNER then invited Plaintiff to join him on a trip to Mexico. Filner told Plaintiff,  
3 "We will stay in the same room," or words to that effect.
- 4 48. During the week of April 22, 2013, FILNER continuously asked Plaintiff to hug and kiss  
5 him.
- 6 49. During the week of April 29, 2013, FILNER continuously asked Plaintiff to hug and kiss  
7 him.
- 8 50. On or about April 29, 2013, FILNER commented on Plaintiff's body and stated that her  
9 body is "of a sexual nature" or words to that effect.
- 10 51. During the week of May 6, 2013, FILNER continuously asked Plaintiff to hug and kiss him.
- 11 52. On or about May 6, 2013, FILNER falsely imprisoned Plaintiff by locking her into his office  
12 kitchen. FILNER then asked Plaintiff to "make love" or words to that effect. Plaintiff was  
13 scared and feared for her safety.
- 14 53. During the week of May 13, 2013, FILNER continuously asked Plaintiff to hug and kiss  
15 him.
- 16 54. On or about May 14, 2013, FILNER approached Plaintiff in THE CITY's conference room,  
17 forcefully grabbed her head and held her in a headlock. FILNER did not let Plaintiff escape.  
18 Plaintiff was afraid and traumatized. Plaintiff was finally able to wiggle away from  
19 Plaintiff.
- 20 55. During the week of May 20, 2013, FILNER continuously asked Plaintiff to hug and kiss  
21 him.
- 22 56. On or about May 20, 2013, FILNER told Plaintiff, "Let's have sex on the conference table,"  
23 or words to that effect.
- 24 57. On or about May 24, 2013, FILNER told Plaintiff, "Let's make love on the conference  
25 table," or words to that effect.
- 26 58. During the week of May 27, 2013, FILNER continuously asked Plaintiff to hug and kiss  
27 him.
- 28 59. During the week of June 3, 2013, FILNER continuously asked Plaintiff to hug and kiss him.

- 1 60. On or about June 3, 2013, FILNER called Plaintiff "my Filipina" or words to that effect.
- 2 61. On or about June 7, 2013, FILNER was standing in THE CITY's main lobby and yelled,  
3 "Where is my Filipina? I have a Filipina!" or words to that effect.
- 4 62. During the week of June 10, 2013, FILNER continuously asked Plaintiff to hug and kiss  
5 him.
- 6 63. The above instances of heinous sexual harassment occurred at THE CITY's jobsite, during  
7 work hours.
- 8 64. In addition, these instances of sexual harassment occurred in the presence of Plaintiff's  
9 coworkers, including Barbara Hensen, employed by the CITY as Director of Scheduling,  
10 Lena Lewis, Lee Burdick, Vince Hall, as well as others.
- 11 65. In addition to FILNER's repeated sexual harassment of Plaintiff, FILNER was verbally  
12 aggressive towards Plaintiff.
- 13 66. On or about July 17, 2013, FILNER threatened Plaintiff to discontinue her employment.  
14 FILNER demanded Plaintiff to book his business trip to China. FILNER approached  
15 Plaintiff and brought his face mere inches from Plaintiff's face. FILNER yelled at Plaintiff  
16 and stated she would be "out of a job" or words to that effect, if she did not book this trip.
- 17 67. As a result of FILNER's sexual harassment and verbal aggression, Plaintiff felt intimidated,  
18 humiliated, frightened and threatened.
- 19 68. Later that day, Plaintiff met with Scott Chadwick, THE CITY's Assistant Chief Operating  
20 Officer. Plaintiff recounted FILNER's aggressive outbursts towards her. In response,  
21 Chadwick stated, "It is not illegal to be an asshole. Is there anything else?" or words to that  
22 effect.
- 23 69. On or about October 29, 2013, THE CITY promoted Chadwick to Chief Operating Officer.
- 24 70. Over the course of Plaintiff's employment with THE CITY, THE CITY learned that  
25 FILNER was a serial sexual harasser. Multiple victims of FILNER's campaign of sexual  
26 harassment took the brave step of coming forward and accused FILNER of sexually  
27 harassing them.
- 28 71. THE CITY knew, or should have known, that FILNER could not be trusted around women,

1 because he had sexually harassed and hurt other women.

2 72. THE CITY failed to prevent FILNER's sexual harassment of Plaintiff. THE CITY did not  
3 protect Plaintiff. To the contrary, THE CITY failed to address Plaintiff's concerns and  
4 failed to take Plaintiff's allegations seriously. In effect, THE CITY ratified, and thus  
5 condoned, FILNER's behavior.

6 73. Moreover, THE CITY failed to adequately supervise FILNER. THE CITY failed to  
7 discipline FILNER. THE CITY also failed to properly train FILNER to ensure he would not  
8 sexually harass women at work.

9 74. Plaintiff was frustrated that THE CITY failed to take action to remedy FILNER's sexual  
10 misconduct. Plaintiff lost her trust in THE CITY.

11 75. As a result, Plaintiff suffered physical and mental injuries. THE CITY and FILNER's  
12 unlawful actions caused Plaintiff to suffer mood disorders and to deteriorate Plaintiff's  
13 indigestive problems.

14 76. FILNER also caused Plaintiff to suffer humiliation, embarrassment and shame. Plaintiff is  
15 reluctant to be alone with men.

16 77. On or about August 8, 2013, Plaintiff requested medical leave. Plaintiff's disability and  
17 medical conditions were directly caused by THE CITY and FILNER's unlawful actions  
18 towards her. Plaintiff frequented the hospital to address her health concerns.

19 78. Because of THE CITY and FILNER's unlawful actions towards Plaintiff, Plaintiff has been  
20 unable to return to work because she is stressed and traumatized.

21 79. Plaintiff is currently suffering physical and mental injuries and emotional distress.

22 **FIRST CAUSE OF ACTION**

23 **SEXUAL HARASSMENT v. All Defendants**

24 **[Cal. Gov't Code §12940(a)]**

25 80. Plaintiff re-alleges and incorporates by reference each and every allegation contained in the  
26 preceding paragraphs as though fully set forth herein.

27 81. At all times mentioned herein, California Government Code section 12940 et seq. was in full  
28 force and effect and was binding on Defendants. This section requires Defendants, as



- 1 employers, to refrain from sexually harassing any employee.
- 2 82. Plaintiff believes and thereon alleges that she was sexually and pervasively harassed by  
3 FILNER. Such actions are unlawful, harassing, and in violation of Cal. Gov't Code §12940  
4 et seq., and have resulted in damage and injury to Plaintiff, as alleged herein.
- 5 83. As a proximate result of Defendants' willful, knowing, and intentional harassment against  
6 Plaintiff, Plaintiff has sustained and continues to sustain substantial losses in earnings,  
7 bonuses, and other employment benefits and opportunities.
- 8 84. As a proximate result of Defendants' willful, knowing, and intentional harassment of  
9 Plaintiff, Plaintiff has suffered and continues to suffer humiliation, emotional distress, loss  
10 of reputation, and mental and physical pain and anguish, all to her damage in a sum to be  
11 established according to proof.
- 12 85. As a result of Defendants' deliberate, outrageous, and despicable conduct, plaintiff is entitled  
13 to recover punitive and exemplary damages in an amount commensurate with each of  
14 Defendants' wrongful acts and sufficient to punish and deter future similar reprehensible  
15 conduct.
- 16 86. In addition to such other damages as may properly be recovered herein, Plaintiff is entitled  
17 to recover prevailing party attorney fees and costs pursuant to Cal. Gov't Code §12965.

18 **SECOND CAUSE OF ACTION**

19 **GENDER DISCRIMINATION v. All Defendants**

20 **[Cal. Gov't Code §12940(b)]**

- 21 87. Plaintiff re-alleges and incorporates by reference each and every allegation contained in the  
22 preceding paragraphs as though fully set forth herein.
- 23 88. At all times mentioned herein, California Government Code section 12940 et seq. was in full  
24 force and effect and was binding on Defendants. This section provides that it is unlawful for  
25 Defendants, as employers, to discriminate against an employee on the basis of gender.
- 26 89. Plaintiff performed work for Defendants, as an employee, as stated herein.
- 27 90. In taking the adverse actions against Plaintiff as alleged herein, Defendants have violated  
28 this statute.

1 91. As a direct, foreseeable, and proximate result of Defendants' conduct, Plaintiff has sustained  
2 and continues to sustain substantial loss in earnings, employment benefits, employment  
3 opportunities, and Plaintiff has suffered economic losses in an amount to be determined at  
4 trial. Plaintiff has sought to mitigate these damages.

5 92. As a proximate result of Defendants' willful, knowing, and intentional discrimination of  
6 Plaintiff, Plaintiff has suffered and continues to suffer humiliation, emotional distress, loss  
7 of reputation, and mental and physical pain and anguish, all to her damage in a sum to be  
8 established according to proof.

9 93. As a result of Defendants' deliberate, outrageous, and despicable conduct, plaintiff is entitled  
10 to recover punitive and exemplary damages in an amount commensurate with each of  
11 Defendants' wrongful acts and sufficient to punish and deter future similar reprehensible  
12 conduct.

13 94. In addition to such other damages as may properly be recovered herein, Plaintiff is entitled  
14 to recover prevailing party attorney fees and costs pursuant to Cal. Gov't Code §12965.

15 **THIRD CAUSE OF ACTION**

16 **FAILURE TO PREVENT HARASSMENT v. Defendant THE CITY**

17 **[Cal. Gov't Code §12940(k)]**

18 95. Plaintiff re-alleges and incorporates by reference each and every allegation contained in the  
19 preceding paragraphs as though fully set forth herein.

20 96. At all times mentioned herein, California Government Code section 12940 et seq. was in full  
21 force and effect and was binding on Defendants. This section provides that it is unlawful for  
22 Defendants, as employers, to fail to take all reasonable steps necessary to prevent  
23 discrimination and harassment from occurring.

24 97. Plaintiff was subject to unwanted harassing conduct on the basis of her sex, as set forth  
25 herein.

26 98. Defendants failed to take reasonable steps to prevent the harassment as described herein.

27 99. Plaintiff has sustained and continues to sustain substantial losses in earnings, employment  
28 benefits, employment opportunities, and Plaintiff has suffered other economic losses in an

1 amount to be determined at time of trial. Plaintiff has sought to mitigate these damages.

2 100. As a further direct, foreseeable, and proximate result of Defendants' conduct, Plaintiff has  
3 suffered and continues to suffer humiliation, emotional distress, loss of reputation, and  
4 mental and physical pain and anguish, all to her damage in a sum to be established according  
5 to proof.

6 101. As a result of Defendants' deliberate, outrageous, despicable conduct, Plaintiff is entitled to  
7 recover punitive and exemplary damages in an amount commensurate with Defendant's  
8 wrongful acts and sufficient to punish and deter future similar reprehensible conduct.

9 102. In addition to such other damages as may properly be recovered herein, Plaintiff is entitled  
10 to recover prevailing party attorney fees and costs pursuant to Cal. Gov't Code §12965.

11 **FOURTH CAUSE OF ACTION**

12 **SEXUAL BATTERY v. Defendant FILNER**

13 **[Cal. Civil Code §1708.5]**

14 111. Plaintiff re-alleges and incorporates herein by reference each and every allegation contained  
15 in the proceeding paragraphs as though fully set forth herein.

16 112. As set forth above, Defendant acted with the intent to cause a harmful or offensive contact  
17 with an intimate part of Plaintiff, offending Plaintiff's reasonable sense of personal dignity  
18 and resulting directly in a sexually offensive contact with Plaintiff.

19 113. As set forth above, Defendant acted to cause an imminent apprehension of a harmful or  
20 offensive contact with an intimate part of Plaintiff, offending Plaintiff's reasonable sense of  
21 personal dignity and resulting directly in a sexually offensive contact with Plaintiff.

22 114. As a direct, foreseeable, and proximate result of Defendant's conduct, Plaintiff has sustained  
23 and continues to sustain substantial losses in reputation, promotions, and other employment  
24 opportunities.

25 115. As a direct, foreseeable, and proximate result of Defendant's conduct, Plaintiff has suffered  
26 and continues to suffer humiliation, emotional distress, loss of reputation, and mental and  
27 physical pain and anguish, all to her damage in a sum to be established according to proof.

28 116. As a result of Defendant's deliberate, outrageous, despicable conduct, Plaintiff is entitled to

1 recover punitive and exemplary damages in an amount commensurate with each of  
2 Defendant's wrongful acts and sufficient to punish and deter future similar reprehensible  
3 conduct.

4 103. Plaintiff has incurred and continues to incur legal expenses and attorney's fees. In addition  
5 to such other damages as may properly be recovered herein, Plaintiff is entitled to recover  
6 prevailing party attorney fees.

7 **FIFTH CAUSE OF ACTION**

8 **BATTERY v. Defendant FILNER**

9 117. Plaintiff re-alleges and incorporates herein by reference each and every allegation contained  
10 in the preceding paragraphs as though fully set forth herein.

11 118. As set forth above, Defendant acted with the intent to cause a harmful or offensive contact  
12 with Plaintiff, offending Plaintiff's reasonable sense of personal dignity and resulting  
13 directly in offensive contact with Plaintiff.

14 119. Defendant touched Plaintiff with the intent to harm or offend her.

15 120. Plaintiff did not consent to the touching.

16 121. As set forth above, Defendant acted to cause an imminent apprehension of a harmful or  
17 offensive contact with an intimate part of Plaintiff, offending Plaintiff's reasonable sense of  
18 personal dignity and resulting directly in offensive contact with Plaintiff.

19 122. As a direct, foreseeable, and proximate result of Defendant's conduct, Plaintiff has sustained  
20 and continues to sustain substantial losses in reputation, promotions, and other employment  
21 opportunities.

22 123. As a direct, foreseeable, and proximate result of Defendant's conduct, Plaintiff has suffered  
23 and continues to suffer humiliation, emotional distress, loss of reputation, and mental and  
24 physical pain and anguish, all to her damage in a sum to be established according to proof.

25 124. As a result of Defendant's deliberate, outrageous, despicable conduct, Plaintiff is entitled to  
26 recover punitive and exemplary damages in an amount commensurate with each of  
27 Defendant's wrongful acts and sufficient to punish and deter future similar reprehensible  
28 conduct.

1 104. Plaintiff has incurred and continues to incur legal expenses and attorney's fees. In addition  
2 to such other damages as may properly be recovered herein, Plaintiff is entitled to recover  
3 prevailing party attorney fees.

4 **SIXTH CAUSE OF ACTION**

5 **NEGLIGENT SUPERVISION v. Defendant THE CITY**

6 105. Plaintiff re-alleges and incorporates by reference each and every allegation contained in the  
7 preceding paragraphs as though fully set forth herein.

8 106. Plaintiff performed work for Defendant, as an employee, as stated herein.

9 107. One of Defendant's employees sexually harassed Plaintiff.

10 108. Defendant knew of the employee's illegal conduct.

11 109. Defendant failed to correct the unlawful and unethical conduct of its supervisory employee.

12 110. As a direct, foreseeable, and proximate result of Defendant's conduct, Plaintiff has sustained  
13 and continues to sustain substantial losses in earnings, employment benefits, employment  
14 opportunities, and Plaintiff has suffered other economic losses in an amount to be  
15 determined at time of trial. Plaintiff has sought to mitigate these damages.

16 111. As a direct, foreseeable, and proximate result of Defendant's conduct, Plaintiff has suffered  
17 and continues to suffer humiliation, emotional distress, loss of reputation, and mental and  
18 physical pain and anguish, all to her damage in a sum to be established according to proof.

19 112. As a result of Defendant's deliberate, outrageous, despicable conduct, Plaintiff is entitled to  
20 recover punitive and exemplary damages in an amount commensurate with Defendant's  
21 wrongful acts and sufficient to punish and deter future similar reprehensible conduct.

22 113. Plaintiff has incurred and continues to incur legal expenses and attorney's fees. In addition  
23 to such other damages as may properly be recovered herein, Plaintiff is entitled to recover  
24 prevailing party attorney fees.

25 **SEVENTH CAUSE OF ACTION**

26 **INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS v. Defendant FILNER**

27 114. Plaintiff re-alleges and incorporates by reference each and every allegation contained in the  
28 preceding paragraphs as though fully set forth herein.

1 115. Defendant's intentional conduct, as set forth herein, was extreme and outrageous.  
2 116. Defendant intended to cause Plaintiff to suffer extreme emotional distress. Plaintiff suffered  
3 extreme emotional distress.  
4 117. As a direct, foreseeable, and proximate result of Defendant's conduct, Plaintiff has suffered  
5 and continues to suffer humiliation, emotional distress, loss of reputation, and mental and  
6 physical pain and anguish, all to her damage in a sum to be established according to proof.  
7 118. Plaintiff has incurred and continues to incur legal expenses and attorney's fees. In addition  
8 to such other damages as may properly be recovered herein, Plaintiff is entitled to recover  
9 prevailing party attorney fees.

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1 **PLAINTIFF BENELIA SANTOS-HUNTER** demands a jury trial on all issues in this case.

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4 DATED: August 15, 2014

LAW OFFICE OF JOSHUA D. GRUENBERG

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A handwritten signature in blue ink, appearing to be "Joshua D. Gruenberg", written over a horizontal line.

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JOSHUA D. GRUENBERG

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SUSAN M. SWAN

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DAPHNE A.M. DELVAUX

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Attorneys for Plaintiff,

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**BENELIA SANTOS-HUNTER**

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**EXHIBIT A**

**PLAINTIFF BENELIA SANTOS-HUNTER'S  
GOVERNMENT TORT CLAIM**





2013 NOV 15 PM 4:03

**CLAIM AGAINST THE CITY OF SAN DIEGO**  
(FOR DAMAGES TO PERSONS OR PERSONAL PROPERTY)

R.M.S.D.

Present claim by personal delivery or mail to the City of San Diego, Risk Management Dept., 1200 Third Ave., Suite 1000, San Diego, CA 92101.

Received via:

**TIME STAMP**

- U.S. Mail
- Inter-Office Mail
- Over-the-Counter

BSM

FILE No. \_\_\_\_\_

TO THE HONORABLE MAYOR AND CITY COUNCIL, the City of San Diego, California

I, Benelia Santos-Hunter, hereby make a claim against the City of San Diego and make the following statements in support of the claim:

**1. CLAIMANT INFORMATION**

- a. Claimant's Name: Benelia Santos-Hunter
- b. Post Office Address of Claimant: C/O Vaughn & Vaughn 501 West Broadway, Suite 750, San Diego, CA 92101  
(CITY) (STATE) (ZIP)
- c. Claimant's Home Phone No.: C/O Vaughn & Vaughn 619-237-1717
- d. Claimant's Business Phone No.: C/O Vaughn & Vaughn 619-237-1717
- e. Post Office address to which the person presenting the claim desires notices to be sent, if different than above: \_\_\_\_\_
- f. Social Security No.: N/A
- g. Date of Birth: October 11, 1963
- h. Driver's License No.: C0810837

**2. CIRCUMSTANCES GIVING RISE TO THE CLAIM**

- a. Date of the occurrence or transaction which gave rise to the claim: Various from Jan 7, 2013 to Present
- b. Time of the occurrence or transaction which gave rise to the claim: Multiple
- c. Place of occurrence or transaction (please be specific): Mayor's office, Executive kitchen, other locations

- d. Other circumstances of the occurrence or transaction giving rise to the claim: \_\_\_\_\_  
I was Bob Filner's Executive Assistant and the events giving rise to this claim occurred  
while I was acting in that capacity.

**3. DESCRIPTION OF CLAIM**

- a. General description of the indebtedness, obligation, injury, damage or loss incurred:  
Severe emotional distress, upset, worry, anxiety, sleeplessness, physical symptoms, and  
work - related disability, medical expenses (past and future), wage loss, general and special  
damages.
- b. The name or names of the public employee or employees causing the claimant's injury,  
damage, or loss, if known, are: \_\_\_\_\_  
Bob Filner and other City employees who acted to protect and insulate him, and who did not  
act to remedy, address, or ameliorate his conduct.
- c. Damages [please choose one]:  
 The amount claimed is less than \$10,000.  
The amount of the claim as of the date of this claim is \$ 1,500,000.00. This figure is  
based on the following: Because I am currently disabled from working, it is impossible for me to know the  
full extent of future damages. This sum is selected because it ought to cover my damages which, as yet, are not fully known.  
 The amount claimed is more than \$10,000.  
Please state if the claim would be a limited civil case<sup>1</sup>. \_\_\_\_\_
- d. Please provide any additional information that might be helpful in considering your  
claim, including names of witnesses, treating physicians, and hospitals: Kaiser Hospital  
A letter has been written which contains this information, with regard to witnesses. My medical treatment has been through  
the Kaiser system.
- e. Please attach and/or provide any additional information that may be helpful in considering  
your claim including proof of damages such as invoices, receipts, and estimates.

**WARNING:** It is a criminal offense to file a false claim (Cal. Penal Code § 72).

I have read the matters and statements made in the above claim and I know the same to be true of my own knowledge, except as to those matters stated upon information or belief and as to such matters, I believe the same to be true. I certify under penalty of perjury that the foregoing is true and correct.

Dated: Nov. 15, 2013

[Signature] attorney  
Signature of Claimant or Person Acting On Behalf  
of Claimant for  
Claimant

<sup>1</sup> Limited civil cases are discussed in California Code of Civil Procedure § 85.

**EXHIBIT B**

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(1) PLAINTIFF BENELIA SANTOS-HUNTER'S DFEH  
COMPLAINT

(2) PLAINTIFF BENELIA SANTOS-HUNTER'S RIGHT  
TO SUE LETTER



**DEPARTMENT OF FAIR EMPLOYMENT & HOUSING**

2218 Kaiser Drive, Suite 100 | Elk Grove, CA 95758  
800-884-1684 | Videophone 916-228-5285 | TTY 800-700-2320  
www.dfeh.ca.gov | email: contact.center@dfeh.ca.gov

Feb 06, 2014

**RE: Notice of Filing of Discrimination Complaint**  
DFEH Number: 214630-90622  
Right to Sue: HUNTER / City of San Diego

To All Respondent(s):

Enclosed is a copy of an 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. 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 NUMBER  
214630-90622COMPLAINANT  
BENELIA HUNTER

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

RESPONDENT	ADDRESS	PHONE
City of San Diego BOB FILNER	202 C ST. 11TH FLOOR SAN DIEGO CA 92101	

NO. OF EMPLOYEES	MOST RECENT DISCRIMINATION TOOK PLACE	TYPE OF EMPLOYER
10000	Jun 28, 2013	State/Local Govt

CO-RESPONDENT(S) ADDRESS

BOB FILNER

SEE ABOVE

**COMPLAINT OF DISCRIMINATION UNDER THE PROVISIONS OF THE  
CALIFORNIA FAIR EMPLOYMENT AND HOUSING ACT**DFEH NUMBER  
214630-90622

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I ALLEGE THAT I EXPERIENCED	Discrimination, Harassment, Retaliation
ON OR BEFORE	Jun 28, 2013
BECAUSE OF MY	Engagement in Protected Activity, Race, Sex- Gender
AS A RESULT, I WAS	Asked impermissible non-job-related questions, Denied a work environment free of discrimination and/or retaliation

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**STATEMENT OF FACTS**

As executive assistant for then – San Diego Mayor Bob Filner, I was subjected to inappropriate sexually based comments and advances, including physical touching, confinement, hostility, outrageous demands and threats, screaming, and a variety of other behaviors which are inappropriate in the workplace. This has caused me severe and extreme emotional distress, which has manifested [among other ways] in physical symptoms rising to the level of hospitalization and disability from working.

**COMPLAINT OF DISCRIMINATION UNDER THE PROVISIONS OF THE  
CALIFORNIA FAIR EMPLOYMENT AND HOUSING ACT**DFEH NUMBER  
214630-90622

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**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 DONALD VAUGHN, Attorney for Complainant, and dated on Feb 06, 2014 at SAN DIEGO, CA.



**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

Feb 06, 2014

BENELIA HUNTER  
3910 Via romaya  
National City, CA 91950

RE: **Notice of Case Closure and Right to Sue**  
DFEH Matter Number: 214630-90622  
Right to Sue: HUNTER / City of San Diego, BOB FILNER

Dear BENELIA HUNTER:

This letter informs you that the above-referenced complaint was filed with the Department of Fair Employment and Housing (DFEH) has been closed effective Feb 06, 2014 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: City of San Diego  
BOB FILNER