

BRADLEY R. WHITE, ESQ. (SBN 91450)
MARISA L. KAUTZ, ESQ. (SBN 252288)
GRANOWITZ, WHITE & WEBER
330 North "D" Street, Suite 300
San Bernardino, CA 92401
(909) 889-0366
(909) 889-0544 - Facsimile

Attorneys for Plaintiff

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
VICTORVILLE DISTRICT
MAY 20 2010
BY Rose Minnock
ROSE MINNOCK, DEPUTY

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN BERNARDINO
(Victorville Judicial District)

LYLITH COOK-COMPTON,

Plaintiff,

vs.

TOWN OF APPLE VALLEY; and DOES 1-
50, inclusive,

Defendants.

Case No.: CIVVS905745

**FIRST AMENDED COMPLAINT FOR
DAMAGES BASED ON UNLAWFUL
EMPLOYMENT PRACTICES IN
VIOLATION OF THE CALIFORNIA
FAIR EMPLOYMENT AND HOUSING
ACT [FEHA (GOVERNMENT CODE §
12900, et. seq.)]; WRONGFUL
DISCHARGE IN VIOLATION OF THE
FEHA; and WRONGFUL
TERMINATION IN VIOLATION OF
LABOR CODE § 1102.5 BASED ON THE
FEHA'S PROSCRIPTION AGAINST
DISCRIMINATION**

Plaintiff, LYLITH COOK-COMPTON (hereafter "Plaintiff"), as and for her first
amended complaint (hereafter "complaint"), alleges as follows:

PRELIMINARY ALLEGATIONS

1. Plaintiff is now, and at all material times herein mentioned was, an adult
individual and resident of the State of California, County of San Bernardino.

2. Defendant, TOWN OF APPLE VALLEY (hereafter "Defendant Town"), is now,
and at all material times herein mentioned was, a political subdivision of the State of California
(specifically, a duly constituted town), a governmental agency, and a public entity (as that term

1 is defined and construed under and pursuant to applicable provisions of the California
2 Government Code, including, without limitation, Government Code § 900, 900.4, et seq., and
3 possibly elsewhere in the law).

4 3. Plaintiff is presently unaware of the true names and capacities of Defendants sued
5 herein as DOES 1 through 50, inclusive, and therefore sues said Defendants by such fictitious
6 names. Plaintiff will amend this complaint to set forth the true names and capacities of said
7 Defendants when same have been ascertained. Plaintiff is informed and believes and based
8 thereon alleges that each of the fictiously named Defendants is responsible in some fashion or
9 manner for the occurrences herein alleged, and that Plaintiff's damages, as herein alleged, were
10 proximately caused by their conduct.

11 4. Plaintiff is informed and believes and based thereon alleges that Defendants, and
12 each of them, are now, and/or at all material times herein mentioned were, the agents, servants,
13 employees, representatives, partners, associates, and/or affiliates of each of the remaining Co-
14 Defendants and were, at all material times herein mentioned, acting within the course, scope and
15 purpose of such relationship(s), and with the permission, consent, and/or ratification of each of
16 their remaining Co-Defendants.

17 5. Plaintiff is informed and believes and based thereon alleges that Defendants,
18 Defendant Town and DOES 1 through 25, inclusive (hereinafter collectively referred to as
19 "Defendant Employer"), are entities subject to suit under the California Fair Employment and
20 Housing Act (California Government Code §§ 12900, et seq. (hereinafter referred to as "the
21 FEHA")), in that said Defendants are employers who now employ and at all material times
22 herein mentioned regularly employed five or more persons.

23 6. Defendants' unlawful, tortious, discriminatory, harassing, and retaliatory
24 employment practices and conduct complained of herein occurred within the Victorville Judicial
25 District of the County of San Bernardino, State of California.

26 7. Plaintiff was originally hired by Defendant Employer in or about 1997. Plaintiff
27 remained employed thereafter on a continuous basis through, to and including, the date of her
28 wrongful termination from employment on or about January 6, 2009, as alleged herein. At the

1 time of Plaintiff's aforementioned wrongful termination, she was employed by Defendant
2 Employer in the capacity of a Grants Specialist as a full time, regular, non-probationary
3 employee whose employment could not be terminated without good, just and lawful cause. In
4 particular, Plaintiff oversaw the process of and was responsible, in part, for securing grants for
5 the Town of Apple Valley. At all material times herein mentioned, Plaintiff performed the
6 duties, functions, and responsibilities of all positions assigned to her in a reasonably satisfactory
7 manner, if not exemplary fashion, in that she received numerous compliments regarding her
8 performance and several raises in salary and promotions throughout the duration of her
9 employment, including a raise in or about July, 2008, only six months prior to the date of her
10 wrongful termination.

11 8. Defendants' purported explanation for Plaintiff's termination from employment is
12 that despite the fact that she was on leave pursuant to a doctor's off-work order due to injuries
13 and/or aggravations of her disability (as described herein) she sustained during the course and
14 scope of her employment, she was subject to being "administratively" terminated because she
15 had at that time purportedly exhausted her FMLA/CRFA leave entitlement and/or because
16 Defendants purportedly were uncertain as to whether or not Plaintiff would return to work upon
17 the expiration of her most recent off-work order. Plaintiff, however, had no knowledge at any
18 material time that her leave was even characterized as FMLA/CFRA leave. It is Plaintiff's
19 understanding that she was not on FMLA/CRFA leave because she was off work due to her
20 having sustained an industrial injury, aggravating her pre-existing disability. Accordingly,
21 Plaintiff is informed and believes and based thereon alleges that the purported justification for
22 Plaintiff's termination from employment was nothing less than a sham and pretext to cover up a
23 wrongful termination of her employment in violation of her rights under the FEHA and/or
24 Whistleblower statutes. Plaintiff is further informed and believes and based thereon alleges that
25 no good, just or lawful cause existed to terminate her employment.

26 9. At the time of Plaintiff's wrongful termination from employment as specified
27 herein, she was forty years of age, having been born on August 24, 1968. Plaintiff is informed
28 and believes and based thereon alleges that Defendants, and each of them, at all material times

1 herein mentioned, were fully aware of Plaintiff's age.

2 10. At all material times herein mentioned Plaintiff, furthermore, was suffering from,
3 and presently suffers from, a mental disability and/or medical condition. Specifically, Plaintiff is
4 now and has, at all material times relevant to her complaint as set forth herein, been suffering
5 from a medically diagnosed condition or disability known as Social Anxiety Disorder. Such
6 condition necessitated that Plaintiff be afforded reasonable accommodations in the form of
7 permitting Plaintiff to work in a quiet and secluded atmosphere, such as by providing her with an
8 office in which to perform her duties. Plaintiff is informed and believes and based thereon
9 alleges that at all material times herein mentioned, moreover, Defendants, and each of them,
10 were fully aware of Plaintiff's disability and/or medical condition, and of her need for reasonable
11 accommodations, which Defendants could have provided without undue hardship.
12 Notwithstanding that Plaintiff's aforesaid disability and/or medical condition placed some
13 limitations on various of her major life activities, including working, with reasonable
14 accommodations Plaintiff was able to continue, and would have continued, performing the
15 essential functions of her job.

16 11. Plaintiff is informed and believes and based thereon alleges that during her
17 employment with Defendant Employer, various of her co-employees were either openly
18 homosexual and/or, at the very least, perceived to be homosexual, by Defendant Employer.
19 Plaintiff associated with such individuals during her employment. Plaintiff is informed and
20 believes and based thereon alleges that, at all material times herein mentioned, Defendant
21 Employer was aware of the fact that some of its employees were homosexual and was further
22 aware of Plaintiff's friendship with such homosexual and/or, at the very least, perceived to be
23 homosexual, co-employees.

24 12. Plaintiff's problems with respect to her employment initially arose in or about
25 September, 2007, when Defendant Employer removed its then acting Town Manager, Bruce
26 Williams, from his position. As a result, new interim management was put into place. Plaintiff
27 is informed and believes and based thereon alleges that the "new" management discriminated
28 against employees on the basis of their sexual orientation, among possibly other reasons as

1 discussed herein. In particular, Plaintiff believes homosexual employees were selectively
2 targeted and discriminated against by Defendant Employer.

3 13. Accordingly, Plaintiff herself protested, complained about, and/or reported her
4 reasonable and good faith belief that unlawful sexual orientation discrimination was taking
5 place. In particular, among other things, Plaintiff collected letters of support for those co-
6 employees whom she believed were being unfairly targeted by Defendant Employer as a result
7 of their sexual orientation. Immediately thereafter Plaintiff's work environment rapidly
8 deteriorated. Among other things, Plaintiff became subjected to an abusive, hostile, untenable
9 and virtually intolerable work environment, which continued throughout the duration of her
10 employment. Plaintiff was instantly ostracized, received the "cold shoulder" as well as negative
11 demeanor, attitude, and hostility, and was effectively informed in no uncertain terms that she had
12 made a mistake by supporting the aforementioned co-workers. Among other events not
13 described herein, Plaintiff also became, for the first time during the duration of her lengthy
14 employment with Defendant Employer, the subject of anonymous letters criticizing Plaintiff
15 and/or complaining about her performance despite the fact that she had not been subjected to any
16 formal or threatened disciplinary actions nor been advised by Defendant Employer that her
17 performance was anything less than satisfactory. This hostile work environment adversely
18 impacted Plaintiff, her ability to perform her job, and negatively affected the overall terms and
19 conditions of her employment with Defendant Employer.

20 14. In fact, the harassment, retaliation, hostility, and abuse to which Plaintiff was
21 subjected ultimately became so intense, pervasive and severe, as to seriously aggravate her
22 aforesaid disability and/or medical condition. Plaintiff's physical, mental, and emotional health
23 was thereby adversely impacted to such an extent that the work related stress and exacerbation of
24 her disability being suffered by her ultimately caused her to seek medical attention, caused an
25 industrial injury, and caused her to ultimately suffer from further emotional and mental
26 disabilities (severe stress, anxiety, and depression, among possibly others).

27 15. Accordingly, as a result of the industrial injuries Plaintiff sustained, she filed a
28 worker's compensation claim in or about July, 2008. Immediately thereafter, Plaintiff was

1 subjected to further forms of harassment, retaliation, hostility, and abuse by Defendant Employer
2 in the form of revoking Plaintiff's pre-existing modified duty schedule, as well as having the
3 police "watch" Plaintiff despite the fact that she had not been apprised of any wrongdoing or
4 criminal conduct, among other acts not alleged herein. Furthermore, Defendant Employer
5 removed Plaintiff from her office and physically relocated her to a cubicle in a noisy and
6 crowded area, blatantly and/or purposefully disregarding Plaintiff's needs for reasonable
7 accommodations of her disability and/or medical condition in the form of allowing her to work
8 in a quiet, reasonably secluded environment. Although Plaintiff requested reasonable
9 accommodations of her disability in the form of permitting her to work in an office, Plaintiff's
10 request was unreasonably denied by Defendant Employer and, in fact, Defendant Employer
11 refused to even discuss the subject with Plaintiff.

12 16. On or about June 25, 2009, Plaintiff duly presented to Defendants a timely Claim
13 Against Public Entity for the claims alleged by her as set forth herein. A true and correct copy of
14 same is attached hereto as Exhibit "A". On or about July 14, 2009, Defendants rejected said
15 claim in its entirety pursuant to that letter notice of July 15, 2009, a true and correct copy of
16 which is attached hereto as Exhibit "B". Pursuant to such notice, Defendants advised Plaintiff
17 that she had six (6) months from the date the notice was transmitted within which to file a court
18 action on her claim. Plaintiff thereafter timely filed the instant action. Accordingly, Plaintiff has
19 fully exhausted her administrative remedies prerequisite to suit as against said Defendants.

20 **FIRST CAUSE OF ACTION**

21 ***(Wrongful Termination in Violation of Labor Code § 1102.5 Based on the FEHA's***
22 ***Proscription against Discrimination)***

23 17. Plaintiff refers to the allegations of paragraphs 1 through 16, inclusive, of the
24 preliminary allegations of this complaint and incorporates same herein by this reference as
25 though said paragraphs were set forth in full hereat.

26 18. California statutory law prohibits employers, including public employers, such as
27 Defendant Employer, from disciplining, discriminating against, retaliating against, or taking any
28 adverse personnel actions against any employee (including terminating any such employee) for

1 complaining about, protesting, reporting, discussing, or attempting to rectify what is reasonably
2 and in good faith believed to be unlawful sexual orientation discrimination. Such laws are
3 reflected by the California Fair Employment and Housing Act, Government Code § 12900, et
4 seq., and possibly elsewhere in the law.

5 19. California statutory law further prohibits employers, including public employers,
6 such as Defendant Employer, from disciplining, discriminating against, retaliating against, or
7 taking any adverse personnel actions against any employee (including terminating any such
8 employee) for complaining about, protesting, reporting, discussing, or attempting to rectify what
9 is reasonably and in good faith believed to be unlawful disability or age discrimination. Such
10 laws are reflected by the California Fair Employment and Housing Act, Government Code §
11 12900, et seq., and possibly elsewhere in the law.

12 20. California Labor Code § 1102.5 further prohibits employers, including public
13 employers such as Defendant Employer, from making, adopting, or enforcing any rule,
14 regulation, practice or policy preventing an employee from disclosing information to a
15 government agency, including any such agency which employs any such employee, where the
16 employee has reasonable cause to believe that the information disclosed constitutes a violation of
17 state or federal statute or a violation of or a non-compliance with a state or federal rule or
18 regulation. Said code provision further prohibits any such employer from retaliating against any
19 such employee for making any such disclosures, or for refusing to participate in any activities
20 that would result in a violation of state or federal statute or a violation or non-compliance with a
21 state or federal rule or regulation.

22 21. Labor Code § 1104 further provides that an employer is responsible for the acts of
23 its managers, officers, agents, and employees with reference to the prohibitions set forth in Labor
24 Code § 1102.5. Labor Code § 1105 furthermore authorizes any employee to bring an action to
25 recover damages from her employer for injuries suffered as the result of a violation of Labor
26 Code § 1102.5. For purposes of Labor Code § 1102.5, furthermore, employees include any
27 individuals employed by any City, including a town such as Defendant Employer (Labor Code §
28 1106).

1 22. Beginning in or about 2007, as aforesaid, Plaintiff herself protested and reported
2 to Defendant Employer, various improprieties occurring within Defendant Employer's
3 management that she reasonably and in good faith believed constituted sexual orientation
4 discrimination and a violation of the FEHA, among possibly other state laws. Additionally,
5 Plaintiff also disclosed, protested, and/or reported to Defendant Employer her belief that
6 Defendant Employer was illegally discriminating against Plaintiff, herself, on the basis of her
7 association with protected persons, disability/medical condition, her whistleblowing activities
8 and requests for reasonable accommodations of her disability, among possibly other complaints.

9 23. Accordingly, as a result of the foregoing, Plaintiff disclosed, reported, protested
10 and/or complained to a governmental agency, Defendant Employer itself, about conduct she
11 reasonably and in good faith believed constituted unlawful discrimination in violation of the
12 FEHA.

13 24. Additionally, due to the ongoing harassment, retaliation, discrimination and unfair
14 treatment to which Plaintiff was subjected, which she believes was due, at least in part, to her
15 ongoing complaints and attempts to rectify what she reasonably and in good faith believed to be
16 unlawful conduct undertaken by Defendants, including unlawful discrimination in violation of
17 the FEHA, the work-related stress suffered by Plaintiff exacerbated her preexisting disability.
18 Thereafter, the work related stress and exacerbation of Plaintiff's disability ultimately caused her
19 to seek medical attention, caused an industrial injury, and caused her to ultimately suffer from
20 further emotional and mental disabilities (severe stress, anxiety, and depression, among possibly
21 others).

22 25. Plaintiff is informed and believes and based thereon alleges that she was, in fact,
23 thereafter terminated, at least in part, for complaining about, protesting, reporting, discussing,
24 and/or attempting to rectify what she reasonably believed to be unlawful discrimination in
25 violation of the FEHA. Plaintiff is further informed and believes and based thereon alleges that
26 she was also ultimately terminated herself, at least in part, as a result of her protests and
27 complaints relative to her reasonable and good faith belief that Defendant Employer was
28 retaliating against her due to and/or based on, at least in part, her association with protected

1 persons, her disability, her requests for reasonable accommodations, and/or her whistle blowing
2 activities.

3 26. Defendants' violation of the prohibitions set forth in the FEHA, and its aforesaid
4 retaliatory conduct in general, which Plaintiff is informed and believes and based thereon alleges
5 was due, at least in part, to her disclosures relative to her reasonable and good faith belief that
6 Defendant Employer was engaging in unlawful discrimination, constitutes a violation of Labor
7 Code § 1102.5, thereby authorizing the prosecution of this cause of action.

8 27. The aforesaid conduct of Defendants was not conduct normally or ordinarily
9 occurring within the workplace, was not within the scope of the compensation bargain, did not
10 fall within any reasonably anticipated condition of the workplace, did not constitute a
11 foreseeable or reasonable risk of Plaintiff's employment, served no useful, proper, or legitimate
12 business purposes of Defendants, or any of them, whatsoever, and was, in fact, extreme,
13 outrageous, and contrary to standards of decent conduct normally expected of and from
14 governmental entities and their agents in a civilized society.

15 28. As a direct and proximate result of Plaintiff's retaliatory termination in violation
16 of Labor Code § 1102.5, Plaintiff has suffered, and is continuing to suffer, economic damages
17 for, among other things, past and projected future economic losses, wages, income (both back
18 and front pay), benefits, and possibly other items, all in an amount as yet unascertained, but to be
19 shown according to proof at the time of trial. The amount of such damages is, however, within
20 the jurisdictional limits of this court and is believed to be no less than the sum of one hundred
21 and fifty thousand dollars (\$150,000.00), together with prejudgment interest thereon at the legal
22 rate for all proper times.

23 29. As a further direct and proximate result of the foregoing, Plaintiff has suffered
24 and is continuing to suffer damages for, among other things, impaired and lost quality of life,
25 anxiety, worry, nervousness, sleeplessness, irritability, agitation, annoyance, fear, frustration,
26 despair, depression, hopelessness, inconvenience, embarrassment, humiliation, anger, mental
27 anguish, psychological pain and suffering, and severe and extreme mental and emotional
28 distress. The exact amount of such damages has not yet been ascertained, but shall be shown

1 according to proof at the time of trial in an amount believed to be not less than that set forth in
2 the Statement of Damages to be served concurrently with this complaint.

3 **SECOND CAUSE OF ACTION**

4 ***(Wrongful Discharge from Employment in Violation of the FEHA)***

5 30. Plaintiff refers to the allegations of paragraph 17 and to paragraphs 22 through 25,
6 inclusive, of the first cause of action of this complaint and incorporates same herein by this
7 reference as though said paragraphs were set forth in full hereat.

8 31. Government Code § 12940(a) specifically provides that it is an unlawful
9 employment practice “[f]or an employer, because of the race, religious creed, color, national
10 origin, ancestry, physical disability, mental disability, medical condition, sex, age, or sexual
11 orientation of any person, to refuse to hire or employ the person ... or to bar or to discharge the
12 person from employment or from a training program leading to employment ...”

13 32. Accordingly, in addition to various other unlawful acts taken by Defendant
14 Employer as against Plaintiff, as set forth in further detail herein, Defendant Employer
15 wrongfully discharged Plaintiff from her employment in violation of her rights protected by the
16 FEHA (in particular, Government Code § 12940(a)).

17 33. As a direct and proximate result of Plaintiff’s wrongful discharge from
18 employment, Plaintiff has suffered and is continuing to suffer damages for, among other things,
19 past and future economic losses, lost wages, lost income, lost benefits and possibly other items
20 to be shown according to proof together with prejudgment interest thereon, all in an amount as
21 yet unascertained, but to be shown according to proof at the time of trial. The amount of such
22 damages, however, is believed to be not less than the sum of one hundred and fifty thousand
23 dollars (\$150,000.00), plus interest thereon at the legal rate for all proper times.

24 34. As a further direct and proximate result of the foregoing, Plaintiff has suffered
25 and is continuing to suffer damages for, among other things, impaired and lost quality of life,
26 anxiety, worry, nervousness, sleeplessness, irritability, agitation, annoyance, fear, frustration,
27 despair, depression, hopelessness, inconvenience, embarrassment, humiliation, anger, mental
28 anguish, psychological pain and suffering, and severe and extreme mental and emotional

1 distress. The exact amount of such damages has not yet been ascertained, but shall be shown
2 according to proof at the time of trial in an amount believed to be not less than that set forth in
3 the Statement of Damages to be served concurrently with this complaint.

4 35. Government Code § 12965(b) provides that a private plaintiff prevailing in an
5 action brought under the FEHA may be awarded her attorney's fees incurred in bringing and
6 prosecuting such an action. In such regard, Plaintiff has incurred and will continue to incur
7 attorney's fees in the filing, prosecution, and maintenance of this action, as well as other
8 litigation expenses and court costs. The exact amount of such attorney's fees, costs, and
9 expenses is not presently known but will be shown according to proof at the time of trial in an
10 amount believed to be not less than the sum of one hundred thousand dollars (\$100,000.00).

11 36. On or about July 2, 2009, Plaintiff filed an administrative complaint with the
12 California Department of Fair Employment and Housing (DFEH) as against Defendant
13 Employer, generally setting forth the aforementioned facts. A true and correct copy of same is
14 attached hereto as Exhibit "C" and is incorporated herein by this reference as though set forth in
15 full hereat.

16 37. On or about July 3, 2009, the DFEH issued to Plaintiff a Notice of Case Closure
17 (Statutory Right to Sue Letter), as against Defendant Employer based on the charges set forth in
18 her aforesaid administrative complaint. A true and correct copy of same is attached hereto as
19 Exhibit "D" and is incorporated herein by this reference as though set forth in full hereat.
20 Accordingly, Plaintiff has fully exhausted her administrative remedies prerequisite to suit.

21 **THIRD CAUSE OF ACTION**

22 ***(Unlawful Retaliation in Violation of the FEHA)***

23 38. Plaintiff refers to the allegations of paragraph 30 of the second cause of action of
24 this complaint and incorporates same herein by this reference as though said paragraph was set
25 forth in full hereat.

26 39. Beginning in or about 2007 and continuing thereafter through, to, and until the
27 date of Plaintiff's wrongful termination from employment, Plaintiff was subjected by
28 Defendants, and each of them, to an ongoing, systematic pattern and campaign of deliberate and

1 intentional retaliation in violation of her rights under the FEHA for, due to and/or based on her
2 (a) opposing, reporting and/or disclosing what she reasonably believed to be unlawful sexual
3 orientation discrimination; (b) association with homosexual and/or, at the very least, perceived to
4 be homosexual co-employees; (c) filing disability claims, including, without limitation, claims
5 for worker's compensation benefits; (d) disability and/or medical condition; (e) age; (f) having
6 sought or having needed various remedies associated with or relating to her disability and/or
7 medical condition, including her aforesaid requests or needs for reasonable accommodations,
8 including taking time off, and for seeking to engage in an interactive process with Defendants to
9 develop such accommodations; and/or (g) for asserting and/or attempting to assert her rights
10 under the FEHA and/or CFRA.

11 40. The foregoing retaliation generally and typically consisted, among other things, of
12 ongoing abusive, belittling, humiliating, and debilitating conduct, speech and commentary
13 directed at, to or about Plaintiff. It also included threats, undeserved criticisms, and negative
14 "attitude" and demeanor (manifested verbally, physically, and by mannerisms). Plaintiff was
15 isolated, ostracized, and was effectively given the "cold shoulder" by Defendant Employer.
16 Further, out of the blue, anonymous letters were circulated raising complaints about Plaintiff
17 when Plaintiff had never been informed, even once, during her lengthy career, that her
18 performance was problematic and/or deficient in any way.

19 41. By both words and actions, Defendant Employer systematically destroyed
20 Plaintiff's previously untarnished work reputation. Plaintiff was removed from her office and
21 forced to work, despite her disability and need for reasonable accommodations, at a small
22 cubicle in a crowded room. Defendant Employer revoked Plaintiff's modified work schedule,
23 which such schedule had been in place for years, which was necessary to accommodate
24 Plaintiff's disability and/or medical condition and/or the serious medical condition of her spouse,
25 and which had never before been an issue. Defendant Employer also had the police department
26 "watch" Plaintiff as if she had committed a crime, although she had not been charged with any
27 criminal conduct nor had she been advised that she was suspected to have committed any
28 criminal or illegal acts. Moreover, while Plaintiff was out on leave pursuant to her doctor's off-

1 work order, Defendant Employer cancelled Plaintiff's health care coverage, although she was
2 still an employee at the time, forcing Plaintiff to expend substantial sums out of pocket to cover
3 her health care expenses. All the foregoing occurred even though Plaintiff never deserved, nor
4 received, any justifiable, formal discipline or formal negative performance evaluations or
5 reviews. To the contrary, Plaintiff received a raise only six months prior to the date of her
6 wrongful termination from employment, as alleged herein.

7 42. Even though Plaintiff was out on a doctor's off work order, her employment was
8 threatened by Defendant Employer, who threatened to terminate Plaintiff's employment because
9 she had purportedly exhausted her leave entitlements. Despite the fact that Plaintiff continued to
10 remain subject to her doctor's off work order, Defendant Employer did, in fact, terminate
11 Plaintiff effective January 6, 2009. Such conduct constituted a further form of unlawful
12 retaliation.

13 43. Further acts of retaliation have consisted of the failure by Defendants, and each of
14 them, to engage in an interactive process with Plaintiff to develop reasonable accommodations
15 for her disability and/or medical condition, Defendants' failure to provide any effective or
16 ongoing reasonable accommodations for such, and Defendants' failure to provide any
17 satisfactory or reasonable explanations to Plaintiff as to why she had been subjected to ongoing
18 mistreatment in such fashion or as otherwise alleged hereinabove.

19 44. The primary conduct of Defendant Employer about which complaint is made
20 herein occurred within one (1) year of the date Plaintiff filed her administrative complaints with
21 the DFEH as alleged herein. To the extent some of such conduct occurred prior thereto, it
22 constituted a continuing violation of her rights under the FEHA in that such earlier acts were
23 similar to those which had occurred within one year of the date of filing such complaints, and
24 had occurred with reasonable, if not ongoing frequency, but had not acquired such a degree of
25 permanence as to make it clear to a reasonable employee such as Plaintiff that further efforts at
26 informal conciliation would be futile.

27 45. Plaintiff is informed and believes and based thereon alleges that the factors
28 described herein have all influenced and been motivating factors in each and all of the acts of

1 retaliation about which Plaintiff presently complains. All of the unlawful retaliation to which
2 Plaintiff was subjected, moreover, is and has been intentional, and would not have occurred but
3 for the existence of the aforesaid factors mentioned herein.

4 46. The various aforesaid unlawful actions taken by Defendants and as against
5 Plaintiff were based upon and constituted deliberate and unlawful retaliation against her in
6 violation of her rights protected by the FEHA and, in particular, Government Code § 12940(h).

7 47. As a direct and proximate result of Defendant Employer's unlawful retaliation,
8 including its wrongful termination of Plaintiff, Plaintiff has suffered and is continuing to suffer
9 damages for, among other things, past and future economic losses, lost wages, lost income, lost
10 benefits and possibly other items to be shown according to proof together with prejudgment
11 interest thereon, all in an amount as yet unascertained, but to be shown according to proof at the
12 time of trial. The amount of such damages, however, is believed to be not less than the sum of
13 one hundred and fifty thousand dollars (\$150,000.00), plus interest thereon at the legal rate for
14 all proper times.

15 48. As a further direct and proximate result of the foregoing, Plaintiff has suffered
16 and is continuing to suffer damages for, among other things, impaired and lost quality of life,
17 anxiety, worry, nervousness, sleeplessness, irritability, agitation, annoyance, fear, frustration,
18 despair, depression, hopelessness, inconvenience, embarrassment, humiliation, anger, mental
19 anguish, psychological pain and suffering, and severe and extreme mental and emotional
20 distress. The exact amount of such damages has not yet been ascertained, but shall be shown
21 according to proof at the time of trial in an amount believed to be not less than that set forth in
22 the Statement of Damages to be served concurrently with this complaint.

23 49. Plaintiff refers to the allegations of paragraphs 35 through 37, inclusive, of the
24 second cause of action of this complaint and incorporates same herein by this reference as
25 though said paragraphs were set forth in full hereat.

26 **FOURTH CAUSE OF ACTION**

27 ***(Unlawful Harassment in Violation of the FEHA)***

28 50. Plaintiff refers to the allegations of paragraph 38 of the third cause of action of

1 this complaint and incorporates same herein by this reference as though said paragraph was set
2 forth in full hereat.

3 51. Beginning in or about 2007 and continuing thereafter through, to, and until the
4 date of her termination from employment as herein alleged, Plaintiff was subjected by
5 Defendants, and each of them, to an ongoing, systematic pattern and campaign of deliberate and
6 intentional harassment in violation of her rights under the FEHA for, due to and/or based on her
7 (a) opposing, reporting and/or disclosing what she reasonably believed to be unlawful sexual
8 orientation discrimination; (b) association with homosexual and/or, at the very least, perceived to
9 be homosexual co-employees; (c) filing disability claims, including, without limitation, claims
10 for worker's compensation benefits; (d) disability and/or medical condition; (e) age; (f) having
11 sought or having needed various remedies associated with or relating to her disability and/or
12 medical condition, including her aforesaid requests or needs for reasonable accommodations,
13 including taking time off, and for seeking to engage in an interactive process with Defendants to
14 develop such accommodations; and/or (g) for asserting and/or attempting to assert her rights
15 under the FEHA, FMLA and/or CFRA.

16 52. The foregoing harassment generally and typically consisted, among other things,
17 of ongoing, abusive, belittling, humiliating, and debilitating conduct, speech and commentary
18 directed at, to or about Plaintiff. It also included threats, undeserved criticisms, and negative
19 "attitude" and demeanor (manifested verbally, physically, and by mannerisms). Further,
20 Plaintiff's authority was deliberately undermined. Plaintiff was also subjected to hostility, and to
21 unreasonable and unfair expectations. She was treated in a disrespectful, belligerent, and, in
22 many cases, inhumane fashion. By both words and actions, Defendant Employer systematically
23 destroyed Plaintiff's previously untarnished work reputation. Defendant Employer also sought
24 to undermine Plaintiff's authority. All the foregoing occurred even though Plaintiff never
25 deserved, nor received, any justifiable, formal discipline or formal negative performance
26 evaluations or reviews.

27 53. Plaintiff is informed and believes and based thereon alleges that all of the
28 foregoing harassment was perpetrated against her pursuant to a concerted effort to break

1 Plaintiff's spirit, to humiliate and embarrass Plaintiff, and ultimately to force her to resign or set
2 her up for failure. All of the foregoing harassment ultimately became so intense and pervasive it
3 ultimately adversely impacted and altered the terms, conditions, privileges, and nature of
4 Plaintiff's employment and created for Plaintiff what was tantamount to a hostile and abusive
5 work environment. Notwithstanding Plaintiff's protests complaints about the foregoing
6 harassment, it continued unabated and, in fact, Plaintiff's complaints ultimately resulted in
7 further unlawful harassment and retaliation against Plaintiff as alleged herein.

8 54. The conduct of Defendants about which complaint is made herein occurred within
9 one (1) year of the date Plaintiff filed her administrative complaints with the DFEH as alleged
10 herein and, to the extent some of such conduct occurred prior thereto, constituted a continuing
11 violation of her rights under the FEHA in that such earlier acts were similar to those which had
12 occurred within one year of the date of filing such complaints, and had occurred with reasonable,
13 if not ongoing frequency, but had not acquired such a degree of permanence as to make it clear
14 to a reasonable employee such as Plaintiff that further efforts at informal conciliation would be
15 futile.

16 55. Defendants' aforesaid conduct taken as against Plaintiff constituted unlawful
17 harassment and was in violation of her rights under the FEHA (in particular, Government Code §
18 12940(j)).

19 56. As a direct and proximate result of the aforesaid conduct engaged in by
20 Defendants and taken as against Plaintiff, Plaintiff has suffered, and is continuing to suffer,
21 economic damages for, among other things, past and projected future economic losses, wages,
22 income (both back and front pay), benefits, and possibly other items, all in an amount as yet
23 unascertained, but to be shown according to proof at the time of trial. The amount of such
24 damages is, however, within the jurisdictional limits of this court and is believed to be no less
25 than the sum of one hundred and fifty thousand dollars (\$150,000.00), together with prejudgment
26 interest thereon at the legal rate for all proper times.

27 57. As a further direct and proximate result of the aforesaid conduct engaged in by
28 Defendants and taken as against Plaintiff, Plaintiff has suffered and is continuing to suffer

1 damages for, among other things, impaired and lost quality of life, anxiety, worry, nervousness,
2 sleeplessness, irritability, agitation, annoyance, fear, frustration, despair, depression,
3 hopelessness, inconvenience, embarrassment, humiliation, anger, mental anguish, psychological
4 pain and suffering, and severe and extreme mental and emotional distress. The exact amount of
5 such damages has not yet been ascertained, but will be shown according to proof at the time of
6 trial in an amount believed to be not less than that set forth in the Statement of Damages to be
7 served concurrently with this complaint.

8 58. Plaintiff refers to the allegations of paragraphs 35 through 37, inclusive, of the
9 second cause of action of this complaint and incorporates same herein by this reference as
10 though said paragraphs were set forth in full hereat.

11 **FIFTH CAUSE OF ACTION**

12 ***(Unlawful Discrimination in Violation of the FEHA)***

13 59. Plaintiff refers to the allegations of paragraph 50 of the fourth cause of action of
14 this complaint and incorporates same herein by this reference as though said paragraph was set
15 forth in full hereat.

16 60. Plaintiff is informed and believes and based thereon alleges that the mistreatment
17 she was subjected to by Defendants, and each of them, including her wrongful termination from
18 employment, as alleged herein, was due to and/or based on, at least in part, her affiliation and/or
19 association with homosexual persons, her disability and/or medical condition, and/or her age.

20 61. As a direct and proximate result of Defendants' aforesaid conduct taken as against
21 Plaintiff, Defendants, and each of them, discriminated against Plaintiff on the basis of her
22 perceived sexual orientation, her affiliation and/or association with homosexual persons, her
23 disability and/or medical condition, and/or her age in violation of the FEHA (in particular
24 Government Code § 12940(a)).

25 62. As a further direct and proximate result of the aforesaid conduct engaged in by
26 Defendants and taken as against Plaintiff, Plaintiff has suffered, and is continuing to suffer,
27 economic damages for, among other things, past and projected future economic losses, wages,
28 income (both back and front pay), benefits, and possibly other items, all in an amount as yet

1 unascertained, but to be shown according to proof at the time of trial. The amount of such
2 damages is, however, within the jurisdictional limits of this court and is believed to be no less
3 than the sum of one hundred and fifty thousand dollars (\$150,000.00), together with prejudgment
4 interest thereon at the legal rate for all proper times.

5 63. As a further direct and proximate result of the aforesaid conduct engaged in by
6 Defendants and taken as against Plaintiff, Plaintiff has suffered and is continuing to suffer
7 damages for, among other things, impaired and lost quality of life, anxiety, worry, nervousness,
8 sleeplessness, irritability, agitation, annoyance, fear, frustration, despair, depression,
9 hopelessness, inconvenience, embarrassment, humiliation, anger, mental anguish, psychological
10 pain and suffering, and severe and extreme mental and emotional distress. The exact amount of
11 such damages has not yet been ascertained, but will be shown according to proof at the time of
12 trial in an amount believed to be not less than that set forth in the Statement of Damages to be
13 served concurrently with this complaint.

14 64. Plaintiff refers to the allegations of paragraphs 35 through 37, inclusive, of the
15 second cause of action of this complaint and incorporates same herein by this reference as
16 though said paragraphs were set forth in full hereat.

17 **SIXTH CAUSE OF ACTION**

18 ***(Unlawful Failure to Make Reasonable Accommodations or to Engage in an Interactive***
19 ***Process in Violation of the FEHA)***

20 65. Plaintiff refers to the allegations of paragraph 59 of the fifth cause of action of
21 this complaint and incorporates same herein by this reference as though said paragraph was set
22 forth in full hereat.

23 66. At all material times herein mentioned Plaintiff was suffering from, and presently
24 suffers from, a mental disability and/or medical condition, more specifically; Plaintiff suffers
25 from a condition known as social anxiety disorder. Plaintiff is informed and believes and based
26 thereon alleges that at all material times herein mentioned, moreover, Defendants, and each of
27 them, were fully aware of Plaintiff's disability and/or medical condition and of her need for
28 reasonable accommodations.

1 67. Plaintiff is informed and believes and based thereon alleges that Defendants, and
2 each of them, could have granted Plaintiff's requests for reasonable accommodations as
3 specified herein without undue hardship, but Plaintiff's requests were unreasonably denied. As a
4 consequence, Plaintiff was deprived of benefits, opportunities, and conditions of employment
5 enjoyed by her non-disabled co-workers.

6 68. Not only did Defendant Employer fail and refuse to provide Plaintiff with any
7 reasonable accommodations as set forth hereinabove, Defendant Employer failed and refused to
8 even provide Plaintiff any reasonable explanations for not accommodating Plaintiff.
9 Accordingly, despite the fact that Plaintiff was able to perform the essential functions of her job,
10 at least with reasonable accommodations, and despite the fact that such facts were conveyed to
11 Defendant Employer by Plaintiff, Defendant Employer effectively failed and refused to discuss
12 the matter with her, failed and refused to explore with Plaintiff any possible alternative solutions
13 to Plaintiff's medical problems and disabilities and, ultimately, rejected Plaintiff's requests by
14 arbitrarily and capriciously dismissing same without proper consideration or concern.

15 69. As a direct and proximate result of the aforesaid conduct engaged in by
16 Defendants, and each of them, and taken as against Plaintiff, Defendants failed to engage in a
17 timely, good faith, interactive process with Plaintiff to determine whether or not any reasonable
18 accommodations in response to her requests existed or could be created or developed, in
19 violation of the FEHA, in particular, Government Code § 12940(n).

20 70. As a further direct and proximate result of the aforesaid conduct engaged in by
21 Defendants, and each of them, and taken as against Plaintiff, Defendants have failed and refused
22 to make reasonable accommodations for Plaintiff's known disabilities in violation of the FEHA
23 (in particular, Government Code § 12940(m)).

24 71. As a direct and proximate result of the aforesaid conduct engaged in by
25 Defendants and taken as against Plaintiff, Plaintiff has suffered, and is continuing to suffer,
26 economic damages for, among other things, past and projected future economic losses, wages,
27 income (both back and front pay), benefits, and possibly other items, all in an amount as yet
28 unascertained, but to be shown according to proof at the time of trial. The amount of such

1 damages is, however, within the jurisdictional limits of this court and is believed to be no less
2 than the sum of one hundred and fifty thousand dollars (\$150,000.00), together with prejudgment
3 interest thereon at the legal rate for all proper times.

4 72. As a further direct and proximate result of the foregoing, Plaintiff has suffered
5 and is continuing to suffer damages for, among other things, impaired and lost quality of life,
6 anxiety, worry, nervousness, sleeplessness, irritability, agitation, annoyance, fear, frustration,
7 despair, depression, hopelessness, inconvenience, embarrassment, humiliation, anger, mental
8 anguish, psychological pain and suffering, and severe and extreme mental and emotional
9 distress. The exact amount of such damages has not yet been ascertained, but shall be shown
10 according to proof at the time of trial in an amount believed to be not less than that set forth in
11 the Statement of Damages to be served concurrently with this complaint.

12 73. Plaintiff refers to the allegations of paragraphs 35 through 37, inclusive, of the
13 second cause of action of this complaint and incorporates same herein by this reference as
14 though said paragraphs were set forth in full hereat.

15 WHEREFORE, plaintiff prays for judgment against defendants as follows:

- 16 1. For general, special and compensatory damages according to proof;
 - 17 2. For prejudgment interest as allowed by law for all proper times;
 - 18 3. For costs of suit incurred herein;
 - 19 4. For reasonable attorney's fees as allowed by law and/or statute according to
20 proof; and
 - 21 5. For such other and further relief as the court may deem just and proper.
- 22
23

24 Dated: May 3, 2010

GRANOWITZ, WHITE AND WEBER

25
26 By: 

27 BRADLEY R. WHITE
MARISA L. KAUTZ
28 Attorneys for Plaintiff

Stuart F. Cooper Co. www.sfcooper.com
Los Angeles 800-421-8703 · Atlanta 800-325-7580



Mixed Sources
www.fsc.org Cert no. SW-COC-002980
© 1996 Forest Stewardship Council



CLAIM AGAINST PUBLIC ENTITY

To: Town of Apple Valley
14955 Dale Evans Pkwy
Apple Valley, CA 92307

Attn: Town Clerk, Town Council

Claimant, LYLITH COOK-COMPTON, hereby makes a claim, pursuant to applicable provisions of the California Government Code §900, et seq., against the Town of Apple Valley (hereinafter referred to as "the Town"). The following information is submitted in support of the instant claim:

(a) The name of the Claimant is Lylith Cook-Compton. Claimant's mailing address is P.O. Box 3553, Apple Valley, California 92307.

(b) Notices concerning this Claim should be sent to Claimant in care of her attorney, Bradley R. White, Esq., Granowitz, White and Weber, 330 North "D" Street, Suite #300, San Bernardino, California, 92401.

(c) The date, place, and other circumstances giving rise to the instant Claim, briefly and generally, are as set forth herein.

Claimant, Lylith Cook-Compton, a former employee of the Town, generally makes a claim against the Town for damages she sustained as a result of the unlawful harassment, retaliation, and discrimination she was forced to endure due to the Town's actions which such conduct eventually culminated in her wrongful termination from employment on January 6, 2009. Claimant was initially employed by the Town of Apple Valley in or about 1998. She remained so employed throughout the duration of her employment from in or about 1998 through the date of her wrongful termination from employment as specified hereinabove. As of the date of her wrongful termination from employment, Claimant was employed as a Grants Specialist and as a full time, regular, non-probationary employee whose employment could not be terminated without good, just and lawful cause.

Claimant's problems with respect to her employment, as discussed herein, initially arose in or about September, 2007, after Bruce Williams was removed from his position as the Town Manager. Immediately thereafter, Claimant was treated differently, and in an unlawful fashion, by the Town and/or its managing/supervisory agents and/or other employees for which such actions the Town is vicariously liable.

At all material times herein mentioned, Claimant suffered from, and continues to suffer from, a mental disability and/or medical condition, in particular, social anxiety disorder. Despite Claimant's disability and/or medical condition, prior to her wrongful termination, she was able to, and did, satisfactorily perform the essential functions and duties of her position, at least with reasonable accommodations.

Additionally, Claimant associated with and/or became friends with other female co-employees of the Town who are either openly (and/or perceived to be) homosexual. Claimant believes she has been discriminated against, harassed, and/or retaliated against, in part, as a result of her affiliation with such homosexual individuals, and/or due to the Town's erroneous perception that Claimant is also homosexual; and/or due to Claimant's complaints and/or protests pertaining to her reasonable and good faith belief that the Town was illegally discriminating against its employees on the basis of sexual orientation and/or perceived sexual orientation. Immediately after making the foregoing complaints, Claimant was subjected to an abusive, hostile, untenable and intolerable work environment.

As a result of the increasing hostility, harassment, retaliation and/or discrimination to which Claimant was subjected, Claimant's disability and/or medical condition was severely aggravated, requiring that she take time off work. This environment adversely affected Claimant, her ability to perform her job, and negatively affected the overall terms and conditions of her employment with the Town. The work related stress suffered by Claimant ultimately caused an industrial injury for which she sought redress through the worker's compensation statutory scheme. Despite the fact that Claimant was temporarily placed off-work pursuant to a doctor's off-work order, as a result of the severe stress and aggravation of her disability caused by the Town's illegal actions, Claimant was advised via a letter authored by Frank Robinson, the Town Manager, on or about January 6, 2009 that her employment was being terminated effective immediately. The only purported explanation given to Claimant for her termination was that she had exhausted her FMLA/CFRA leave entitlements and that "[her] history of producing a new off-work order upon the expiration of an old one leads me to believe that there is no certainty that you will be able to return to work following the expiration of this latest off-work order." Although Claimant was advised that she may request a hearing before the Town Council to appeal her "administrative" termination, Claimant ultimately chose, instead, to seek legal redress for the wrongs she has suffered by instituting a civil claim.

Claimant contends that her termination from employment was wrongful, illegal, and in violation of statute. In particular, Claimant is informed and believes and based thereon asserts her termination from employment was in retaliation for various whistle blowing activities on her part, or in retaliation for engaging in activities protected by statute, including her filing of a worker's compensation action and/or for requesting reasonable accommodations of her disability. Alternatively, or additionally, she asserts her termination was discriminatory in nature and based, in part, on Claimant's disability and/or medical condition, age, perceived sexual orientation and/or her association with individuals perceived to be homosexual. Claimant's belief that her termination from employment was illegal, as aforesaid, is based on not only the foregoing, but also on the following facts and factors:

- (1) Claimant performed the duties and responsibilities of her job in a reasonably satisfactory if not superior fashion at all material times;

- (2) No good, just, or lawful cause existed for the termination of Claimant's employment;
- (3) Claimant was never advised of any serious performance deficiencies or advised that if her performance did not improve in some fashion, she would be terminated or even disciplined. In fact, to the contrary, Claimant received a raise in or about July, 2008;
- (4) At the time of Claimant's termination from employment, she was forty years of age, which such fact Claimant believes was known to the Town;
- (5) At the time of Claimant's termination from employment, she suffered from and continues to suffer from a mental disability and/or medical condition, in particular, social anxiety disorder, requiring that she be provided with reasonable accommodations, which such disability and requirements were known to the Town;
- (6) Claimant was friends with various co-employees of the Town who were either openly gay and/or perceived to be gay. Claimant's friendship in that regard was known to and resented by the Town;
- (7) Shortly after the Town underwent management changes in or about September 2007, Claimant became the subject of increasing hostility which she believes was based, at least in part, on her friendship with co-employees of the Town who are either openly gay and/or perceived to be gay by the new Town management, and/or because she protested and/or complained about what she reasonably perceived to be unlawful sexual orientation discrimination;
- (8) The Town's previous accommodations of Claimant's disability and/or medical condition in the form of allowing her to work in a quiet, secluded area were arbitrarily revoked by the Town when Claimant's job duties and functions were transferred to the Finance Department;
- (9) Claimant thereafter requested reasonable accommodations of her disabilities in the form of allowing her to move back to her former location and/or providing her with a reasonably secluded office within which to perform her work, which such accommodations could have been provided by the Town without undue hardship, but which were not provided;
- (10) The Town unilaterally revoked Claimant's modified work schedule without providing any legitimate explanations therefore or any

non-discriminatory/non-retaliatory reasons for taking such action against Claimant;

- (11) Claimant's disability and/or medical condition was greatly aggravated as a result of the Town's illegal conduct as well as its failure and refusal to provide Claimant with reasonable accommodations for her disability and/or medical condition, for which she sustained further aggravation and severe stress requiring that she take time off-work as a result;
- (12) While Claimant was subject to the off-work orders as discussed herein, she believes she was unlawfully deprived by the Town of her health insurance coverages and forced to pay substantial out-of-pocket expenses to cover her COBRA premiums;
- (13) Claimant was terminated shortly after complaining about the fact that she believed she was being harassed, discriminated and/or retaliated against due to her relationship with co-employees who were either openly gay and/or perceived to be gay, and/or due to her disability, and/or due to her requests for reasonable accommodations;
- (14) Claimant was terminated shortly after attempting to discuss with her co-employees various work related issues;
- (15) After Claimant reported, complained about and/or discussed her concerns as specified herein, the Town reacted by thereafter maintaining "attitude", hostility, and a negative and hostile demeanor towards her of a type and nature that did not exist before such complaints and/or concerns were aired;
- (16) Claimant's access to Town buildings and functions was suddenly restricted to business hours only despite the fact that her position required that she have access during non-business hours;
- (17) Claimant's activities were monitored by the Town's police department, although she had not been informed of any wrongdoing or illegal conduct on her part, subjecting her to further forms of harassment, retaliation, and/or discrimination; and
- (18) Despite the fact that Claimant was off-work pursuant to a Doctor's off-work order, the Town administratively terminated her effective January 6, 2009, citing Claimant's failure to return to work as the purported reason for her termination.

The Town's conduct, in sum, gives rise to various claims including, without limitation, claims for unlawful harassment, discrimination and retaliation in violation of the Fair Employment and Housing Act (FEHA), as well as for failure to accommodate

her disabilities and/or failure to enter into a good faith interactive process pursuant to the abovementioned statutory scheme. Additionally, as a result of the Town's unlawful conduct, Claimant has claims for wrongful termination in violation of the FEHA, and in violation of applicable whistle blower statutes, as well as for intentional infliction of emotional distress. Such statutes include, without limitation, *Government Code* § 12940, et. seq., *Labor Code* §§ 1102.5, and 232, *Business and Professions Code* § 2056, and possibly others.

The foregoing conduct of the Town constitutes part of an ongoing pattern, practice, and/or policy of systematic, pervasive harassment, retaliation and/or discrimination against Claimant and constitutes a continuing violation of her rights under the FEHA in that the Town's unlawful acts were sufficiently similar in kind, occurred with reasonable frequency, and did not acquire a degree of permanence until the date of her termination.

(d) The exact amount of Claimant's damages suffered as a result of the foregoing has not yet been ascertained, but is within the jurisdiction of the Superior Court of the State of California in an unlimited civil action. Claimant's damages consist, among other things, of past and projected future economic damages including, without limitation, job search expenses, lost wages, lost income (both back and front pay), lost benefits and possibly other items, according to proof, together with prejudgment interest thereon. Claimant's damages are ongoing and will continue until such time as she is able to secure reasonably comparable alternative employment providing to her the same level of pay and benefits she would have had enjoyed had the Town not committed the acts mentioned herein.

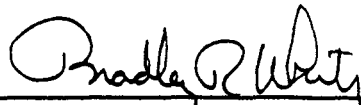
In addition, Claimant has suffered substantial and significant aggravation of her disability and/or medical condition, emotional distress, mental anguish, psychological pain and suffering, and related items such as humiliation, embarrassment, nervousness, sleeplessness, irritability, agitation, annoyance, fear, anger, anxiety, frustration, hopelessness, despair, depression, difficulty with concentration, and similar items. The amount of damages suffered by claimant for such items is not presently known but, again, is in an amount within the jurisdiction of the Superior Court of the State of California in an unlimited civil action.

(e) The names of the public employees causing Claimant's injuries, damages and losses, as presently known to Claimant, include, primarily, Frank Robinson, Town Manager, as well as possibly others whose full involvement and potential responsibility is not presently known to Claimant.

Dated this 25 day of June, 2009.

GRANOWITZ, WHITE AND WEBER

By:



BRADLEY R. WHITE, Esq.

Attorneys for Claimant, Lylith Cook-Compton

DECLARATION OF SERVICE

I, April Hulsey, declare that I am employed in the County of San Bernardino, State of California, that I am over the age of eighteen (18) years and am not a party to the within action, that my business address is 330 North "D" Street, Suite #300, San Bernardino, California, 92401, that on June 25, 2009, I served the foregoing document(s) described below as:

CLAIM AGAINST PUBLIC ENTITY

By the method of service described below:

_____ **First Class Mail.** I declare that I placed a true copy of the item(s) in a sealed envelope, that I am readily familiar with this firm's practice for the collection and processing of correspondence for mailing with the United States Postal Service, that, pursuant to this firm's ordinary course of business, correspondence will be deposited with the United States Postal Service the same day that mail is placed for collection and mailing, and that, following ordinary business practices, I deposited the envelope(s) in the place at 330 N. "D" Street, Suite #300, San Bernardino for collection and mailing.

—✓— **Certified Mail, Return Receipt Requested.** I declare that I placed a true copy of the item(s) in a sealed envelope with the designation "Certified Mail, Return Receipt Requested," that I am readily familiar with this firm's practice for the collection and processing of correspondence for mailing with the United States Postal Service, that, pursuant to this firm's ordinary course of business, correspondence will be deposited with the United States Postal Service the same day that mail is placed for collection and mailing, and that, following ordinary business practices, I deposited the envelope(s) in the place at 330 N. "D" Street, Suite #300, San Bernardino for collection and mailing.

_____ **Facsimile Transmittal.** I declare that on the date shown at _____ am/pm, I sent by facsimile machine a true copy of the item(s) to the person(s) and at the facsimile number(s) indicated below, that the telephone number of the sending machine is (909) 889-0544, that the transmission was reported as complete and without error, and that the transmission report was properly issued by the sending machine. A true copy of the transmission report is attached to this declaration.

_____ **Personal Service.** I declare that I handed a true copy of the item(s) described above to each person indicated below.

_____ **Overnight Delivery/Federal Express.** I declare that I caused a true copy of the items, enclosed in a sealed envelope, with delivery charges pre-paid, addressed as indicated below, to be delivered to Overnight Delivery/Federal Express for delivery by next day air.

To the person(s) and at the address(es) indicated below as:

Cynthia M. Germano
Best Best & Krieger, LLP
3750 University Ave., Suite 400
PO Box 1028
Riverside, CA 92502

I declare under penalty of perjury under the laws of the State of California, that the foregoing is true and correct and that this declaration was executed at San Bernardino, California.

DATED: _____

6/25/09

SIGNED: _____

APRIL HULSEY

Stuart F. Cooper Co. www.sfcooper.com
Los Angeles 800-421-8703 · Atlanta 800-325-7580



Mixed Sources

www.fsc.org Cert no. SW-COC-002980
© 1996 Forest Stewardship Council





Town of Apple Valley

14955 Dale Evans Parkway • Apple Valley, California 92307

July 15, 2009

Bradley R. White, Esq.
Granowitz, White & Weber
330 North "D" Street, Suite #300
San Bernardino, CA 92401

RECEIVED
JUL 17 2009

LAW OFFICES OF
GRANOWITZ, WHITE AND WEBER

Re: Claim Against Town

Notice is hereby given that the claim for Lylith Cook-Compton that you presented to the Town of Apple Valley on June 29, 2009, was rejected on July 14, 2009.

WARNING

Subject to certain exceptions, (including but not limited to Federal causes of action which may or may not have shorter or longer statute of limitations), you have only six (6) months from the date of this notice was personally delivered or deposited in the United States mail to file a court action in a Municipal or a Superior Court of the State of California on this claim. (See Government Code Section 945.6)

You may seek the advice of an attorney of your choice in connection with this matter. If you desire to consult an attorney, you should do so immediately.

Sincerely,

LaVonda M. Pearson, CMC
Town Clerk

STATE OF CALIFORNIA)
COUNTY OF SAN BERNARDINO)

On July 15, 2009, I served the NOTICE OF REJECTION OF CLAIM to the Attorney of Lylith Cook-Compton by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the United States mail at Apple Valley, California addressed as follows:

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

Executed on July 15, 2009, at Apple Valley, California:

LaVonda M-Pearson, CMC
Town Clerk

Stuart F. Cooper Co. www.sfcooper.com
Los Angeles 800-421-8703 • Atlanta 800-325-7580



Mixed Sources

www.fsc.org Cert no. SW-COC-002980
© 1996 Forest Stewardship Council



COMPLAINT OF DISCRIMINATION UNDER
THE PROVISIONS OF THE CALIFORNIA
FAIR EMPLOYMENT AND HOUSING ACT

EMPLOYMENT

DFEH # 200910-K-0010-00c

DFEH USE ONLY

CALIFORNIA DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING

YOUR NAME (indicate Mr. or Ms.)

Ms. Lylyth Cook-Compton

TELEPHONE NUMBER (INCLUDE AREA CODE)

(760) 946-3266

ADDRESS

P.O. Box 3553

CITY/STATE/ZIP

Apple Valley

COUNTY
San Bernardino

COUNTY CODE

NAMED IS THE EMPLOYER, PERSON, LABOR ORGANIZATION, EMPLOYMENT AGENCY, APPRENTICESHIP COMMITTEE, OR STATE OR LOCAL GOVERNMENT
AGENCY WHO DISCRIMINATED AGAINST ME:

NAME

Town of Apple Valley

TELEPHONE NUMBER (Include Area Code)

(760) 240-7000

ADDRESS

14955 Dale Evans Parkway

DFEH USE ONLY

CITY/STATE/ZIP

Apple Valley, CA 92307

COUNTY
San Bernardino

COUNTY CODE

NO. OF EMPLOYEES/MEMBERS (if known)

Over 50

DATE MOST RECENT OR CONTINUING DISCRIMINATION

TOOK PLACE (month, day, and year) January 6, 2009

RESPONDENT CODE

THE PARTICULARS ARE:

I allege that on Jan. 6, 2009, the
following conduct occurred:

<input checked="" type="checkbox"/> termination	<input checked="" type="checkbox"/> denial of employment	<input checked="" type="checkbox"/> denial of family or medical leave
<input type="checkbox"/> lay-off	<input type="checkbox"/> denial of promotion	<input type="checkbox"/> denial of pregnancy leave
<input type="checkbox"/> demotion	<input type="checkbox"/> denial of transfer	<input type="checkbox"/> denial of equal pay
<input checked="" type="checkbox"/> harassment	<input checked="" type="checkbox"/> denial of accommodation	<input type="checkbox"/> denial of right to wear pants
<input type="checkbox"/> genetic characteristics testing	<input checked="" type="checkbox"/> failure to prevent discrimination or retaliation	<input type="checkbox"/> denial of pregnancy accommodation
<input type="checkbox"/> constructive discharge (forced to quit)	<input checked="" type="checkbox"/> retaliation	
<input type="checkbox"/> impermissible non-job-related inquiry	<input checked="" type="checkbox"/> other (specify) Failure to enter into an interactive process	

by Frank Robinson - Town Manager

Name of Person

Job Title (supervisor/manager/personnel director/etc.)

because of:

<input type="checkbox"/> sex	<input type="checkbox"/> national origin/ancestry	<input checked="" type="checkbox"/> disability (physical or mental)	<input checked="" type="checkbox"/> retaliation for engaging in protected activity or requesting a protected leave or accommodation
<input checked="" type="checkbox"/> age	<input type="checkbox"/> marital status	<input checked="" type="checkbox"/> medical condition (cancer or genetic characteristic)	
<input type="checkbox"/> religion	<input checked="" type="checkbox"/> sexual orientation	<input checked="" type="checkbox"/> other (specify) Perceived sexual orientation and/or association with protected persons	
<input type="checkbox"/> race/color	<input type="checkbox"/> association		

State what you believe to be the
reason(s) for
discrimination

See attached addendum.

I wish to pursue this matter in court. I hereby request that the Department of Fair Employment and Housing provide a right-to-sue notice. I understand that if I want a federal notice of right-to-sue, 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," 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."

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct of my own knowledge except as to matters stated on my information and belief, and as to those matters I believe it to be true.

Dated 7-1-09

Lylyth J. Cook-Compton

COMPLAINANT'S SIGNATURE

At SAN BERNARDINO

City

RECEIVED
CA DEPT. OF FAIR EMPLOYMENT & HOUSING

JUL 02 2009

SANTA ANA DISTRICT OFFICE
STATE OF CALIFORNIA

DATE FILED:

7/2/09

DFEH-300-03 (04/08)

DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING

ADDENDUM TO COMPLAINT

I am an adult, female individual, 40 years of age (having been born on August 24, 1968). I was previously employed by the Town of Apple Valley (the "Town") for approximately eleven years, from 1997 through the date of my wrongful termination from employment on or about January 6, 2009. At the time of my wrongful termination from employment, I was employed in the capacity of a Grants Specialist and was a full time, regular, non-probationary employee whose employment could not be terminated without good, just and lawful cause.

At all times material to this complaint, I have suffered from, and am presently suffering from, a mental disability and/or medical condition. In particular, I suffer from social anxiety disorder. Notwithstanding my disability and/or medical condition, prior to my termination, I was able to, and did, satisfactorily perform the essential functions and duties of my job, at least with reasonable accommodations. Additionally, during my employment, I was affiliated with co-employees who were known by the Town, and/or at the very least perceived by the Town, to be homosexual.

The purported explanation for my wrongful severance was that despite I was on leave pursuant to a doctor's off-work order, I was subject to being administratively terminated because I had exhausted my FMLA/CFRA leave and/or due to the Town's belief that I would not return to work upon the expiration of such leave. However, because I had suffered an industrial injury, it was my belief that I was not at that point even on FMLA/CFRA leave. Regardless, such an explanation was nothing less than a sham and pretext to cover up a wrongful termination of my employment in violation of my rights under the FEHA and/or related whistleblower statutes.

It is my contention that I was, in fact, terminated because of my association with and support for various of my gay co-employees, my age, my disability, in retaliation for having previously requested accommodations, and/or for attempting to enter into an interactive process to determine whether reasonable accommodations for my medical condition and/or disability existed and/or could be provided (which such accommodations or similar accommodations were previously provided and then subsequently revoked, constituting further acts of harassment, discrimination and/or retaliation), and/or for asserting my rights under the FEHA, and/or CFRA,

1 including without limitation, complaining about and/or protesting unlawful sexual orientation
2 discrimination, and/or taking time off to attend to my own medical condition/disability, as well
3 as that of my spouse, among possibly other acts inadvertently omitted herein.

4 My belief that I have been the subject of unlawful harassment, discrimination, and/or
5 retaliation, and that my severance from employment was unlawful, is based, in part, on not only
6 the above but the following factors:

- 7 (1) At the time of my termination I was 40 years of age, a fact of which my employer
8 and all of the above-mentioned individuals were fully aware;
- 9 (2) At the time of my termination, my employer was fully aware that I was suffering
10 from a disability and/or medical condition, in particular, social anxiety disorder;
- 11 (3) My affiliation and/or friendship with and support for known (and/or at least
12 perceived to be) homosexual female individuals was known by my former
13 employer, the Town, at all material times herein mentioned;
- 14 (4) I performed my job in a satisfactory, if not exemplary, fashion, and no good cause
15 existed for the termination of my employment;
- 16 (5) I had no problems at work until or about the time I supported various of my gay
17 female co-employees who were known or perceived by the Town to be gay, and
18 who I believed were being mistreated. Immediately thereafter, I became
19 ostracized and was subjected to further forms of harassment, retaliation, hostility,
20 and abuse, which exacerbated my disability, caused me severe stress, and caused
21 me to suffer an industrial injury, all of which ultimately led to my termination;
- 22 (6) I was never advised of any serious performance deficiencies or advised that if my
23 performance did not improve in some fashion, I would be terminated or even
24 disciplined. In fact, to the contrary, I received a raise in or about July, 2008.
- 25 (7) Shortly after the Town underwent management changes in or about September
26 2007, I became the subject of increasing hostility which I believe was based, at
27 least in part, on my friendship and perceived association with co-employees of the
28 Town who are either openly gay and/or were perceived to be gay by the new

- 1 Town management, and/or because I later protested and/or complained about
2 what I reasonably perceived to be unlawful sexual orientation discrimination;
- 3 (8) The Town's previous accommodations of my disability and/or medical condition
4 in the form of allowing me to work in a quiet, secluded area were arbitrarily
5 revoked by the Town when my job duties and functions were transferred to the
6 Finance Department, purportedly because "Grants" functions were being moved
7 to Finance, however, initially, I was the only one in the Grants Department so
8 moved;
- 9 (9) I thereafter requested reasonable accommodations of my disabilities in the form
10 of allowing me to move back to my former location and/or providing me with a
11 reasonably secluded office within which to perform my work, which such
12 accommodations could have been provided by the Town without undue hardship,
13 but which were not provided;
- 14 (10) The Town unilaterally revoked my modified work schedule without providing any
15 legitimate explanations or non-discriminatory/non-retaliatory reasons for taking
16 such action against me;
- 17 (11) My disability and/or medical condition was greatly aggravated as a result of the
18 Town's illegal conduct as well as its failure and refusal to provide me with
19 reasonable accommodations for my disability and/or medical condition, for which
20 I sustained further aggravation and severe stress requiring that I take time off-
21 work as a result;
- 22 (12) While I was subject to the off-work orders as discussed herein, I believe I was
23 unlawfully deprived by the Town of my health insurance coverages and forced to
24 pay substantial out-of-pocket expenses to cover my COBRA premiums;
- 25 (13) I was terminated shortly after attempting to discuss with my co-employees
26 various work related issues and after turning in some medically based off work
27 notes;
- 28 (14) After I reported, complained about and/or discussed my concerns as specified

1 herein, the Town reacted by thereafter maintaining "attitude", hostility, and a
2 negative and hostile demeanor towards me of a type and nature that did not exist
3 before such complaints and/or concerns were aired;

4 (15) My access to Town buildings and functions was suddenly restricted to business
5 hours only despite the fact that my position required that I have access during
6 non-business hours;

7 (16) My activities suddenly became monitored by the Town's police department,
8 although I had not been informed of any wrongdoing or illegal conduct on my
9 part, subjecting me to further forms of harassment, retaliation, and/or
10 discrimination; and

11 (17) Despite the fact that I was off-work pursuant to a Doctor's off-work order, the
12 Town administratively terminated me effective January 6, 2009, citing my failure
13 to return to work as the purported reason for my termination.

14 The foregoing conduct of my former employer, the Town, constituted part of an ongoing
15 pattern, practice, and/or policy of systematic, pervasive harassment, retaliation and/or
16 discrimination against myself and constituted a continuing violation of my rights under the
17 FEHA in that my employer's unlawful acts were sufficiently similar in kind, occurred with
18 reasonable frequency, and did not acquire a degree of permanence until my termination.



PRIVACY NOTIFICATION

The Information Practices Act of 1977 requires this Department to provide the following information to persons who are asked by the Department of Fair Employment and Housing (DFEH) to supply information:

- The principal purpose for requesting information is to receive, investigate, and resolve complaints of discrimination.
- California Government Code section 12900, ex seq. and California Civil Code section 51 et seq. require persons seeking to file complaints with DFEH to provide sufficient information for the Department to establish jurisdiction and conduct an investigation of the allegations.
- The submission of requested information by those against whom a complaint is filed (respondent) is voluntary. However, all respondents should be aware that DFEH has the authority to subpoena those records and witnesses it deems necessary to complete the investigation.
- As authorized by law, information furnished may be transferred to the U.S. Equal Employment Opportunity Commission, the National Labor Relations Board, the U.S. Department of Labor, the U.S. Department of Housing and Urban Development, the U.S. Department of Health and Human Services, the U.S. Department of Education, the U.S. Department of Justice, or any branch of the California State Government, or any other local or Federal agency with similar jurisdiction.
- Information furnished would also be released pursuant to a valid subpoena.
- For the purpose of seeking a determination on a complaint, the information provided may be disclosed to members of the California Fair Employment and Housing Commission and an Administrative Law Judge at a public hearing.
- As permitted by the Information Practices Act, unless compelled by a subpoena, we do not release information in complaint files relating to open cases other than non-personal information on the complaint form itself. Once a complaint is closed, individuals have the right of access to records containing personal information about them which are maintained by the Department of Fair Employment and Housing. Non-personal information, including the allegations in the complaint document itself, are disclosable to the public when a case has been closed. The official responsible for maintaining the information is the District Administrator of the office where the complaint was filed.

Stuart J. Cooper Co. www.sfcooper.com
Los Angeles 800-421-8703 · Atlanta 800-325-7580



Mixed Sources
www.fsc.org Cert no. SW-COC-002980
© 1996 Forest Stewardship Council



DEPARTMENT OF FAIR EMPLOYMENT & HOUSING

2101 East 4th Street, Suite 255-B, Santa Ana, CA 92705

(714) 558-4266 TTY (800) 700-2320 Fax (714) 558-6461

www.dfeh.ca.gov



July 3, 2009

LYLITH COOK-COMPTON

P.O. Box 3553

Apple Valley, CA 92307

RE: E200910K0010-00-arc
COOK-COMPTON/TOWN OF APPLE VALLEY

Dear LYLITH COOK-COMPTON:

NOTICE OF CASE CLOSURE

This letter informs that the above-referenced complaint that was filed with the Department of Fair Employment and Housing (DFEH) has been closed effective July 2, 2009 because an immediate right-to-sue notice was requested. DFEH will take no further action on the complaint.

This letter is also the 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.

If a federal notice of Right-To-Sue is wanted, the U.S. Equal Employment Opportunity Commission (EEOC) must be visited 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.

Notice of Case Closure
Page Two

DFEH does not retain case files beyond three years after a complaint is filed, unless the case is still open at the end of the three-year period.

Sincerely,

A handwritten signature in black ink, appearing to read 'Steve White', with a stylized 'S' and 'W'.

Steve White
District Administrator

cc: Case File

Executive Officer
TOWN OF APPLE VALLEY
14955 Dale Evans Parkway
Apple Valley, CA 92307

1 **PROOF OF SERVICE**

2 STATE OF CALIFORNIA)

) ss.

3 COUNTY OF SAN BERNARDINO)

4 I am employed and reside in the County of San Bernardino in the State of California.
5 I am over the age of eighteen years and am not a party to this action. My business address is 330
6 North "D" Street, Suite #300, San Bernardino, California, 92401.

6 On May 3, 2010, I served the foregoing document(s) described as:

7 **SUMMONS ON FIRST AMENDED COMPLAINT**
8 **AND FIRST AMENDED COMPLAINT FOR DAMAGES**

9 by the method of service described below on all interested parties in this action as listed below
10 on the attached mailing list:

10 ✓ **First Class Mail.** I declare that I placed a true copy of the item(s) in a sealed envelope, that I am readily
11 familiar with this firm's practice for the collection and processing of correspondence for mailing with the
12 United States Postal Service, that, pursuant to this firm's ordinary course of business, correspondence will be
13 deposited with the United States Postal Service the same day that mail is placed for collection and mailing,
14 and that, following ordinary business practices, I deposited the envelope(s) in San Bernardino, California for
15 collection and mailing.

14 — **Certified Mail, Return Receipt Requested.** I declare that I placed a true copy of the item(s) in a sealed
15 envelope with the designation "Certified Mail, Return Receipt Requested," that I am readily familiar with
16 this firm's practice for the collection and processing of correspondence for mailing with the United States
17 Postal Service, that, pursuant to this firm's ordinary course of business, correspondence will be deposited
18 with the United States Postal Service the same day that mail is placed for collection and mailing, and that,
19 following ordinary business practices, I deposited the envelope(s) in San Bernardino, California for
20 collection and mailing.

18 — **Facsimile Transmittal.** I declare that on the date shown I sent by facsimile machine a true copy of the
19 item(s) to the person(s) and at the facsimile number(s) indicated below, that the transmission was reported as
20 complete and without error, and that the transmission report was properly issued by the sending machine. A
21 true copy of the transmission report is attached to this declaration.

20 — **Personal Service.** I declare that I handed a true copy of the item(s) described above to each person indicated
21 below.

22 — **Overnight Delivery/Federal Express.** I declare that I caused a true copy of the item(s), enclosed in a sealed
23 envelope, with delivery charges pre-paid, addressed as indicated below, to be delivered to Overnight
24 Delivery/Federal Express for delivery by next day.

24 — **Electronic Transmission or E-Mail.** Based on a court order or an agreement by the parties to accept
25 service by e-mail or electronic transmission, I caused the documents to be sent to the person(s) at the e-mail
26 address listed below. I did not receive, within a reasonable time after the transmission, any electronic
27 message or other indication that the transmission was unsuccessful.

26 I declare under penalty of perjury pursuant to the laws of the State of California and
27 pursuant to the laws of the United States that the foregoing is true and correct and that this
28 declaration was executed on May 3, 2010, in San Bernardino, California.


ELAINE NUNLEY

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

SERVICE LIST

Lylith Cook-Compton v. Town of Apple Valley., et al.
San Bernardino Superior Court Case No. CIVVS905745

Jeffrey P. Thompson, Esq.
Jennifer K. Berneking, Esq.
Declues, Burkett & Thompson, LLP
17011 Beach Blvd., Ste. 400
Huntington Beach, CA 92647-7455

Attorneys for Defendant, Town of Apple Valley (a public entity)