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14 ALLEN SAM, WEI LEE, SUNNY KIM,
NHAT HUYNH, and VY VAN

15 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

16 **IN AND FOR THE COUNTY OF LOS ANGELES**

17
18 ALLEN SAM, an individual, WEI LEE, an) Case No.
individual, SUNNY KIM, an individual, VY)
19 VAN, an individual, and NHAT HUYNH, an)
20 individual,)

21 Plaintiffs,
22 vs.

23 SAN GABRIEL POLICE DEPARTMENT, a)
California public entity, and Does 1-20,)
24 inclusive,)

25 Defendants.)

COMPLAINT FOR DAMAGES

- 21 1. Race and National Origin Discrimination
(Gov. Code §12940, *et seq.*)
- 22 2. Race and National Origin Harassment
(Gov. Code § 12940, *et seq.*)
- 23 3. Retaliation (Gov. Code § 12940, *et seq.*)
- 24 4. Failure to Prevent and Remedy
Discrimination, Harassment, and
25 Retaliation (Gov. Code § 12940, *et seq.*)

26
27 **DEMAND FOR JURY TRIAL**

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ORIGINAL FILED
Superior Court of California
County of Los Angeles

NOV 21 2017

Sherri R. Carter, Executive Officer/Clerk
By Nancy Alvarez, Deputy

BC 6 8 4 4 1 0

1 Plaintiffs Allen Sam, Wei Lee, Sunny Kim, Vy Van, and Nhat Huynh (collectively,
2 "Plaintiffs") allege:

3 **INTRODUCTION**

4 1. Plaintiffs Allen Sam, Wei Lee (also known as Gilbert Lee), Sunny Kim, Vy
5 Van, and Nhat Huynh are police officers of Asian descent, who currently or previously
6 worked for the San Gabriel Police Department. The San Gabriel Police Department
7 serves the City of San Gabriel, a predominantly Asian-American population. Each of
8 these officers has worked for the department for nearly a decade or longer. Throughout
9 their employment, Plaintiffs have been subjected to a hostile work environment in which
10 members of the police department's management and Plaintiffs' fellow officers frequently
11 and openly disparage people of Asian descent, including Plaintiffs and San Gabriel city
12 residents. These disparagements include, among other things, using racial slurs,
13 speaking in mock, exaggerated Asian accents, and making derogatory remarks about
14 how Asians look, what they eat, and how they drive. In addition to subjecting Plaintiffs to
15 this humiliating harassment, the San Gabriel Police Department has continually
16 discriminated against Plaintiffs based on their race and national origin. Plaintiffs have
17 been denied assignments, mentorship, and promotions granted instead to non-Asian
18 officers with less education, law enforcement experience, and training than Plaintiffs. At
19 the same time, Plaintiffs have also faced greater scrutiny and harsher discipline than non-
20 Asian officers. Fearing reprisal, Plaintiffs endured this discrimination and harassment for
21 years. Recently, Plaintiffs' fears were confirmed when Plaintiffs Lee and Kim were
22 retaliated against and denied assignments because they reported discriminatory conduct.
23 Plaintiffs bring this action to finally stop the anti-Asian discriminatory animus entrenched
24 within the San Gabriel Police Department.

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1 **PARTIES AND JURISDICTION**

2 1. **Plaintiffs.** Plaintiff ALLEN SAM ("SAM") is an Asian-American man and a
3 resident of Los Angeles County, California. Plaintiff SAM has been employed as a police
4 officer by Defendant SAN GABRIEL POLICE DEPARTMENT from November 2003 to the
5 present.

6 2. Plaintiff WEI LEE, also known as Gilbert Lee ("LEE"), is an Asian-American
7 man and a resident of Los Angeles County, California. Plaintiff LEE has been employed
8 as a police officer by Defendant SAN GABRIEL POLICE DEPARTMENT from November
9 2007 to the present.

10 3. Plaintiff SUNNY KIM ("KIM") is an Asian-American man and a resident of
11 San Bernardino County, California. Plaintiff KIM was employed as a police officer by
12 Defendant SAN GABRIEL POLICE DEPARTMENT from November 2004 to October
13 2017.

14 4. Plaintiff VY VAN ("VAN") is an Asian-American man and a resident of Los
15 Angeles County, California. Plaintiff VAN has been employed as a police officer by
16 Defendant SAN GABRIEL POLICE DEPARTMENT from February 2007 to the present.

17 5. Plaintiff NHAT HUYNH ("HUYNH") is an Asian-American man and a
18 resident of Los Angeles County, California. Plaintiff NUYNH has been employed as a
19 police officer by Defendant SAN GABRIEL POLICE DEPARTMENT from December 2005
20 to the present.

21 6. **Public Entity Defendant:** Defendant SAN GABRIEL POLICE
22 DEPARTMENT ("SGPD") is a police department and public entity duly organized and
23 existing under the laws of the State of California. Defendant SGPD is, and at all relevant
24 times was, an employer pursuant to California Government Code §12926(d).

25 7. Plaintiffs were at all times relevant and material hereto employees of
26 Defendant SGPD covered by California Government Code §12940, prohibiting
27 discrimination based on race and national origin under California Government Code §
28 12940(a), et seq.; harassment based on race and national origin under California

1 Government Code § 12940(j), et seq.; retaliation for engaging in protected activity under
2 California Government Code § 12940(h), et seq.; and employer's failure to take all
3 reasonable steps necessary to prevent discrimination and harassment under California
4 Government Code § 12940, et seq.

5 8. At all relevant times, Defendant SGPD was an employer subject to the
6 California Fair Employment and Housing Act, Government Code section 12940, et seq.

7 9. **Doe allegations.** Plaintiffs do not know the true names or capacities of
8 Defendants sued as Does 1 through 20, inclusive, and by reason thereof sue these
9 Defendants under fictitious names. When their true names and capacities have been
10 ascertained, Plaintiffs will amend this Complaint to reflect the same. Plaintiffs are
11 informed and believe, and on that basis allege, that each of the fictitiously named
12 Defendants is responsible in some manner for the occurrences alleged in this Complaint
13 and that Plaintiffs' damages as alleged here were legally caused by the Defendants.
14 Plaintiffs are further informed and believe that at all times mentioned, each of the
15 Defendants was the agent, servant, employee, or representative of each of the remaining
16 Defendants and was at all times acting within the scope of that agency or employment
17 and with the permission and consent of their co-defendants. In the alternative, Plaintiffs
18 are informed and believe that at all times mentioned, one or more of the Defendants were
19 acting in their own individual capacities and those Defendants' own individual benefit.

20 10. At all relevant times herein, Plaintiffs were employees of Defendants, and
21 each of them, covered by California Government Code § 12940, which prohibits
22 discrimination and harassment in employment on the basis of race and national origin
23 and retaliation and subjects Defendants to suit under Government Code section 12940.

24 11. **Venue and jurisdiction.** The acts and omissions which are the subject of
25 this Complaint occurred in the County of Los Angeles, California. The amount individually
26 demanded by each Plaintiff exceeds \$25,000.

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1 **ALLEGATIONS COMMON TO ALL CAUSES OF ACTION**

2 12. Plaintiffs are or were employed as police officers by Defendant San Gabriel
3 Police Department ("SGPD") in San Gabriel, California.

4 13. Defendant SGPD is a police department which employs Plaintiffs and
5 serves the City of San Gabriel. The City of San Gabriel is a city located northeast of Los
6 Angeles. The city is home to approximately 41,000 residents, and nearly 61% of its
7 population identifies as Asian.¹

8 14. Despite serving a city with a predominantly Asian population, only seven of
9 the approximately fifty full-time officers employed by SGPD are of Asian descent. While
10 Asian-American candidates, including candidates who were already police officers of
11 other departments in neighboring areas, have applied to SGPD in the past, most of them
12 were terminated by SGPD during field training. The last Asian-American officer hired by
13 SGPD is Plaintiff LEE, who was hired nearly ten years ago in 2007.

14 15. Asian-American officers are similarly underrepresented within SGPD's
15 leadership. The highest roles in the department are Police Chief and Captain. An Asian-
16 American police officer has not served in either role. Since September 2016, Chief Gene
17 Harris has served as SGPD's Chief. Before the hiring of Chief Harris, David Lawton
18 ("Chief Lawton") served as the SGPD Chief for nearly twenty-six years. From 2015 to
19 2016, Captain Andrew Borello ("Captain Borello") served as Chief Lawton's second in
20 command. Before he left the department in October 2016, Captain Borello had been
21 employed by SGPD for over twenty-seven years.

22 16. While the SGPD Chief and Captain make final decisions on all personnel
23 matters, SGPD's administrative sergeant and administrative lieutenant are significant
24 contributors to those decisions. None of these roles has been occupied by an Asian-
25 American police officer for over seven years.

26
27 ¹ City of San Gabriel, About Us, *Demographics*, <http://www.sangabrielcity.com/76/Demographics> (last
28 visited October 4, 2017).

1 17. SGPD also maintains about thirteen other leadership positions, which
2 include the ranks of sergeant and lieutenant. Currently, SGPD employs only one Asian-
3 American lieutenant and only one Asian-American sergeant. Only one Asian-American
4 officer has been promoted to lieutenant in over sixteen years.

5 18. Although SGPD serves a predominantly Asian population, SGPD maintains
6 a culture that is racially hostile, particularly with respect to individuals of Asian descent,
7 including Plaintiffs. SGPD's management and officers frequently make race-based jokes,
8 use racial slurs, mimic and exaggerate Asian accents, and otherwise disparage Plaintiffs
9 and Asian community residents, based on their race and national origin. This harassing
10 conduct occurs regularly and includes, but is not limited to, the following:

- 11 a. On nearly a daily basis, SGPD officers use mock Asian accents
12 when speaking to the Plaintiffs. For example, non-Asian SGPD
13 officers invoke mocking and exaggerated Asian accents,
14 pronouncing Plaintiff LEE's name as "Gilba" instead of "Gilbert", and
15 Plaintiff SAM's name as "Aween" instead of "Allen."
- 16 b. SGPD management and officers often make comments based on
17 negative and hateful Asian stereotypes, including comments about
18 Asian physical features (e.g., having flat faces, and the size and
19 shape of Asian genitalia); what Asians eat (e.g., eating dogs and
20 cats); and their behavior (e.g., excelling at math and sciences).
- 21 c. Non-Asian-American SGPD officers regularly use racial slurs in the
22 presence of Plaintiffs, including referring to Asian community
23 residents as "gook" and "nip."
- 24 d. Jokes by SGPD officers that Plaintiff LEE looked like a ninja, when
25 executing a search warrant while wearing a mask.
- 26 e. Non-Asian-American SGPD officers use mock Asian languages
27 when speaking with Plaintiffs, invoking phrases such as "Ching
28 Chow" or "Ching Chong Ding".

1 f. Nearly every time SGPD officers are called to the scene of a car
2 accident, Plaintiffs hear stereotypical comments from SGPD officers
3 about “their people” (referring to Asians) being poor drivers and
4 causing accidents.

5 g. SGPD management and officers use race-based nicknames to refer
6 to Asian American officers, such as referring to Asian SGPD
7 Lieutenant Riki Nakamura as “Little Jap.”

8 19. These derogatory remarks are often made in the presence of SGPD
9 management. Some members of SGPD management, including Captain Borello,
10 Lieutenant Jeff Whitney (“Sergeant Whitney”), Lieutenant Quijada, and Lieutenant Kott,
11 regularly participate in this harassing behavior. Members of SGPD management
12 regularly engage in demeaning conduct that includes, but is not limited to, the following:

- 13 a. Casually referring to community residents as “fucking gooks”;
- 14 b. Stating that the mask worn by Plaintiff LEE makes his face “look
15 flatter”;
- 16 c. Teasing Plaintiff HUYNH with comments about how a dog was
17 nervous because the dog “found out [he is] Vietnamese and [he]
18 might eat him”;
- 19 d. Openly laughing and joking that Plaintiff KIM is North Korean, after
20 Plaintiff KIM disclosed his Korean descent to a community resident;
- 21 e. Commentary about Asian women having “flat faces,” “small nipples,”
22 and bush-like pubic hair.

23 20. Because SGPD management engages in this harassing and demeaning
24 behavior, SGPD officers learn, from the time they start as new trainee officers, that
25 degrading people of Asian descent, including Plaintiffs and city residents, is a practice
26 condoned, if not encouraged, by SGPD. New trainee officers are emboldened to imitate
27 the conduct of more senior officers and members of management. SGPD’s culture of
28 dehumanizing and humiliating Asian people has persisted throughout Plaintiffs’ careers.

1 21. Defendant SGPD also discriminates against Plaintiffs by treating them
2 differently than their non-Asian American colleagues. Among other things, SGPD's non-
3 Asian American officers receive preferential treatment, face less scrutiny than Plaintiffs,
4 receive recognition and praise from SGPD management for actions that Plaintiffs do not,
5 and are disciplined more leniently than Plaintiffs. In addition, SGPD management
6 scrutinizes Plaintiffs more closely than non-Asian American officers, disproportionately
7 disciplines Plaintiffs as compared to non-Asian American SGPD officers, and
8 unnecessarily escalates minor issues or disciplinary matters up the chain of command for
9 incidents involving Plaintiffs, but not in incidents involving non-Asian American SGPD
10 officers. This discriminatory treatment limits Plaintiffs' ability to receive assignments and
11 other opportunities to develop professionally. As a result, SGPD handicaps Plaintiffs'
12 ability to compete for promotion.

13 22. Defendant SGPD has repeatedly refused to promote Plaintiffs because of
14 their race and national origin. Despite serving a predominantly Asian population,
15 Defendant SGPD has not promoted an officer of Asian descent to sergeant since 2001.

16 23. Plaintiffs SAM, LEE, KIM, and HUYNH have all applied for promotion at
17 least once. SGPD has denied their attempts to promote every time they have applied.
18 Instead, Defendant SGPD promoted non-Asian American officers with less education and
19 experience than Plaintiffs.

20 24. In the years that Plaintiffs LEE, KIM, SAM, and HUYNH applied for
21 promotion, SGPD promoted non-Asian American officers less qualified than Plaintiffs in a
22 number of ways. SGPD denied Plaintiffs promotion, but promoted non-Asian American
23 officers with less law enforcement experience, training, and skills. Unlike the SGPD
24 officers promoted, Plaintiffs LEE, KIM, SAM, and HUYN each speak a second language
25 that enhances their ability to serve the predominantly Asian community of San Gabriel.
26 Plaintiffs also had better disciplinary records than some of the officers promoted, and at
27 least one of the officers promoted over Plaintiffs was under investigation by another
28 police department when promoted.

1 25. Defendant SGPD repeatedly promoted non-Asian American officers with
2 less education than Plaintiffs. Before 2014, SGPD required an Associate of Arts degree
3 in order to be eligible for promotion. As a means of promoting non-Asian American
4 officers with less education than Plaintiffs, this policy was not enforced in 2014 and 2016,
5 allowing the SGPD to promote non-Asian American officers rather than Plaintiffs LEE,
6 KIM, SAM, and HUYNH, who have all earned at least a bachelor's degree.

7 26. SGPD's discriminatory practices also extend to promotional examinations.
8 Members of SGPD management who have participated in discriminatory and harassing
9 conduct, including Captain Borello, have worked with a third-party company to create,
10 and ultimately approve the promotional examination. Captain Borello specifically helped
11 create the promotional examination for 2016. During these same time-frames, Captain
12 Borello provided consulting services, private coaching and study tips to police officers,
13 including SGPD officers, giving these officers an unfair advantage for promotional exams,
14 which was not provided to Plaintiffs.

15 27. In addition to these discriminatory practices, no police officer of Asian
16 descent has been chosen to serve on the panel administrating the examination during
17 any of the years Plaintiffs applied for promotion. Members of SGPD management who
18 participated in or condoned the harassment and discrimination of Plaintiffs also
19 contributed to the decisions to deny Plaintiffs promotion.

20 **Plaintiff Allen Sam**

21 28. Plaintiff SAM has been employed by SGPD since 2003, and he has
22 been a police officer since 2001. Plaintiff SAM has extensive law enforcement experience
23 and training, including as a Criminal Investigator, Homicide Investigator, and Robbery
24 Investigator. Plaintiff SAM also holds a Bachelor of Arts in Criminal Justice. He earned an
25 Advanced Certificate through the State of California's Commission on Peace Officer
26 Standards and Training, and he has been the recipient of multiple awards, including the
27 Community Policing Award from Monrovia Police Department for providing mutual
28 assistance in gang suppression and the Officer of the Month award.

1 29. Plaintiff SAM is an Asian-American man of Chinese descent, and he speaks
2 Cantonese.

3 30. Plaintiff SAM has and continues to be subjected to workplace discrimination
4 and harassment from SGPD management and officers on account of his race and
5 national origin.

6 31. Plaintiff SAM applied for promotion in 2014 and 2016, and was denied
7 promotion on each occasion. Each time, SGPD promoted a non-Asian officer with less
8 law enforcement experience and qualifications. And, in 2016, the non-Asian American
9 officer promoted over Plaintiff SAM had ethical and disciplinary concerns. Like the other
10 Plaintiffs, Plaintiff SAM was denied the advantage of special tutoring and insight offered
11 by then Captain Borello, as provided to other non-Asian American officers taking the
12 promotional examination.

13 32. Because this unlawful conduct has and continues to occur in the presence
14 of SGPD's management, Plaintiff has been reluctant to voice his complaints. Plaintiff
15 SAM has never been advised of any investigation being initiated or any corrective action
16 being taken in response to the harassment. Plaintiff SAM's fears of reprisal were recently
17 confirmed when Plaintiffs LEE and KIM were retaliated against for complaining of
18 disparate treatment and racially hostile actions.

19 **Plaintiff Wei (Gilbert) Lee**

20 33. Plaintiff LEE has been employed by SGPD from November 2007 to the
21 present. Since November 2012, Plaintiff LEE has been a Senior Officer in the Patrol
22 Division. Plaintiff LEE has extensive law enforcement experience. He has worked
23 multiple assignments, including Secret Service Liaison, and he has served as a Detective
24 since May 2014. Plaintiff LEE holds a Bachelor of Arts in Criminal Justice, and has
25 earned an Advanced Certificate through the State of California's Commission on Peace
26 Officer Standards and Training. He is a certified instructor in a number of areas, including
27 Defensive Tactics and Arrest & Control, and he trains SGPD personnel as a Use of Force
28 Instructor.

1 34. Plaintiff LEE is an Asian-American man of Chinese descent. He is the only
2 full-time police officer certified by the City of San Gabriel as a Mandarin translator. The
3 SGPD routinely uses his language skills to assist in investigations.

4 35. Plaintiff LEE has and continues to be subjected to workplace discrimination
5 and harassment from SGPD management and officers on account of his race and
6 national origin.

7 36. Plaintiff LEE applied for promotion within the SGPD, in 2014, 2016, and
8 2017, and has been denied promotion on each occasion. Each time, SGPD promoted a
9 non-Asian officer with less law enforcement experience and qualifications. In 2016, the
10 non-Asian officer promoted over Plaintiff LEE had ethical and disciplinary concerns. Like
11 the other Plaintiffs, Plaintiff SAM was denied the advantage of special tutoring and insight
12 offered by then Captain Borello, as provided to other non-Asian officers taking the
13 promotional examination.

14 37. Because this unlawful conduct has and continues to occur in the presence
15 of SGPD's management, Plaintiff LEE has been reluctant to voice his complaints.
16 Plaintiff LEE has never been advised of any investigation being initiated or any corrective
17 action being taken in response to the harassment. Plaintiff LEE's fears of reprisal were
18 recently confirmed when he and Plaintiff KIM were retaliated against for complaining of
19 disparate treatment and racially hostile actions. In 2017, Plaintiff LEE interviewed for a
20 promotion to sergeant. Shortly after his application, he filed a grievance complaining
21 about receipt of unequal treatment from Sergeant Whitney. Within a few weeks of
22 Plaintiff LEE's complaint, SGPD announced that a non-Asian American officer less
23 qualified than Plaintiff LEE was selected for promotion.

24 38. Plaintiff LEE understood that the promotion of this non-Asian officer over
25 him was an act of discrimination and retaliation for his complaint, and because of his race
26 and national origin. This SGPD act of retaliation affirmed the fear of reprisal Plaintiff LEE
27 had long held and which discouraged him from complaining in the past. Members of
28 SGPD's management and SGPD officers continue their unlawful conduct as of this date.

1 **Plaintiff Sunny Kim**

2 39. Plaintiff KIM was employed by SGPD from November 2004 to November
3 2017. During his tenure at SGPD, he worked assignments as a Motor Officer, Traffic
4 Investigator, and Field Training Officer. Plaintiff KIM holds a Master of Arts in
5 Organizational Leadership and a Bachelor of Arts degree. He is completing a Master of
6 Arts in Public Administration, which would be his second post-graduate degree. Plaintiff
7 KIM has completed a number of trainings, including a Supervisory Course conducted by
8 the Orange County Sheriff's Department and Field Training Officer and Academy
9 Instructor Certifications courses. In addition to his considerable law enforcement
10 experience and education, Plaintiff KIM served as a Sergeant in the United States Army
11 Reserves for eight years and is a combat veteran who served in support of Operation
12 Iraqi Freedom.

13 40. Plaintiff KIM is an Asian-American man of Korean descent, and he speaks
14 fluent Korean.

15 41. Plaintiff KIM was subjected to workplace discrimination and harassment
16 from SGPD management and officers on account of his race and national origin.

17 42. Plaintiff KIM applied for promotion in 2014 and 2016, and was denied
18 promotion on each occasion. Each time, SGPD promoted a non-Asian officer with less
19 law enforcement experience and qualifications. In 2016, the non-Asian officer promoted
20 over Plaintiff KIM had ethical and disciplinary concerns. Like the other Plaintiffs, Plaintiff
21 KIM was denied the advantage of special tutoring and insight offered by then Captain
22 Borello, as provided to other non-Asian officers taking the promotional examination.

23 43. Because this unlawful conduct has and continues to occur in the presence
24 of SGPD's management, For many years Plaintiff KIM was reluctant to voice his
25 complaints due to fear of retaliation and reprisal. During his employment with SGPD,
26 Plaintiff KIM was never advised of any investigation being initiated or any corrective
27 action being taken in response to the harassment. Plaintiff KIM's fears of reprisal were
28 recently confirmed when he and Plaintiff KIM were retaliated against for complaining of

1 disparate treatment and racially hostile actions.

2 44. In October 2016, Plaintiff KIM complained to SGPD management after a
3 fellow officer used the term “nigger” during a shift. Following his complaint, Plaintiff KIM
4 was sent to Chief Harris to discuss his allegation. Chief Harris claimed that the offending
5 officer would be confronted about using the racial slur, but then incongruously threatened
6 Plaintiff KIM that he would be terminated if he told anyone else about the incident.

7 45. Months later, in 2017, Plaintiff KIM applied for a K-9 handler position. After
8 Plaintiff KIM passed the relevant examination, the K-9 selection panel reported that he
9 was the most intelligent candidate. Plaintiff KIM then interviewed with Chief Harris for the
10 position, at which time Chief Harris raised Plaintiff KIM’s complaint from a few months
11 earlier regarding the officer who used the racial slur “nigger”, in the context of questioning
12 Plaintiff KIM’s decision making skills. Chief Harris challenged Plaintiff KIM’s handling of
13 the complaint, chastising Plaintiff KIM for not personally confronting the officer in lieu of
14 making a formal report, and asking to work a different shift than the officer reported for
15 using the racial slur. Later the same day, Chief Harris notified Plaintiff KIM that another
16 officer had been selected for the assignment.

17 46. Chief Harris’s criticisms made it clear that Plaintiff KIM was being retaliated
18 against for complaining about racially hostile language, which was similar to the racially
19 hostile slurs, comments, and actions Plaintiffs have endured throughout their
20 employment. SGPD’s retaliation affirmed the long held fear of reprisal that had
21 discouraged Plaintiff KIM from complaining in the past. Members of SGPD’s
22 management and SGPD officers continue their unlawful conduct.

23 47. As a result of this incessant discrimination, harassment, and retaliation,
24 Plaintiff KIM was forced to seek alternative employment with another law enforcement
25 agency, resulting in the construction termination of his employment with SGPD, in
26 October 2017.

27 48. In his resignation letter to Chief Harris, Plaintiff KIM explained the
28 discrimination, harassment, and retaliation to which he was subjected by the SGPD had

1 endured throughout his employment with SGPD, had forced Plaintiff KIM to seek
2 alternative employment. Instead of investigating Plaintiff KIM's complaints, Chief Harris,
3 Sergeant Fabian Valdez ("Valdez"), and Sergeant Rebecca Gomez ("Gomez") retaliated
4 against Plaintiff KIM by spreading false statements about him in the SGPD workplace,
5 and contacting Plaintiff KIM's new employer to lodge false complaints about him there.

6 **Plaintiff Vy Van**

7 49. Plaintiff VAN has been employed by SGPD from February 2007 to the
8 present. Before joining SGPD, he worked as a police officer for over three years. Plaintiff
9 VAN holds a Bachelor of Science degree, and he has completed extensive training,
10 including significant training in the area of traffic collisions. He currently works as a Traffic
11 Investigator with SGPD's detective bureau.

12 50. Plaintiff VAN is an Asian-American man of Chinese and Vietnamese
13 descent, and he speaks fluent Cantonese.

14 51. Plaintiff VAN has and continues to be subjected to workplace discrimination
15 and harassment from SGPD management and officers on account of his race and
16 national origin.

17 52. When Plaintiff VAN joined SGPD, he was assigned to work with Sergeant
18 Whitney, one of the members of SGPD management who regularly uses racial slurs and
19 makes derogatory comments about Asians. During the time he supervised Plaintiff VAN,
20 Sergeant Whitney repeatedly disciplined Plaintiff VAN, but did not similarly discipline non-
21 Asian SGPD officers for comparable actions. Sergeant Whitney's time as Plaintiff Van's
22 supervisor culminated in Plaintiff VAN being issued an unwarranted and discriminatory
23 negative performance evaluation.

24 53. This negative performance review has prevented Plaintiff VAN from
25 obtaining assignments throughout his career. The most recent assignment denied to
26 Plaintiff VAN was instead given to a non-Asian SGPD officer with less law enforcement
27 experience than Plaintiff VAN. Based on these denials and SGPD's continued refusal to
28 promote officers of Asian descent, including Plaintiffs SAM, LEE, KIM, and HUYNH,

1 Plaintiff VAN has recognized that any attempt to promote would be futile, which has
2 deterred Plaintiff VAN from applying for promotion.

3 54. Because this unlawful conduct has and continues to occur in the presence
4 of SGPD's management, Plaintiff VAN has been reluctant to voice his complaints due to
5 fear of retaliation and reprisal. Plaintiff VAN has never been advised of any investigation
6 being initiated or any corrective action being taken in response to the harassment.
7 Plaintiff VAN's fears of reprisal were recently confirmed when Plaintiffs LEE and KIM
8 were retaliated against for complaining of disparate treatment and racially hostile actions.

9 **Plaintiff Nhat Huynh**

10 55. Plaintiff HUYNH has been employed by SGPD from December 2005 to the
11 present. He has worked as Field Training Officer. Since 2013, he has worked as a
12 Detective. Plaintiff HUYNH holds a Bachelor of Arts degree. During his extensive law
13 enforcement career, Plaintiff HUYNH has participated in numerous trainings, earned
14 multiple certifications, and received awards throughout his time at SGPD, including two
15 Letters of Commendation from neighboring police departments.

16 56. Plaintiff HUYNH is an Asian-American man of Vietnamese descent, and he
17 speaks fluent Vietnamese.

18 57. Plaintiff HUYNH has and continues to be subjected to workplace
19 discrimination and harassment from SGPD management and officers on account of his
20 race and national origin.

21 58. Plaintiff HUYNH applied for promotion in 2012, 2014, and 2016, but was
22 denied promotion on each occasion. Each time, SGPD promoted a non-Asian officer
23 with less law enforcement experience and qualifications. In 2016, the non-Asian officer
24 promoted over Plaintiff HUYNH had ethical and disciplinary concerns. Like the other
25 Plaintiffs, Plaintiff HUYNH was denied the advantage of special tutoring and insight
26 offered by then Captain Borello, as provided to other non-Asian officers taking the
27 promotional examination.

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1 59. Because this unlawful conduct has and continues to occur in the presence
2 of SGPD's management, Plaintiff HUYNH has been reluctant to voice his complaints due
3 to fear of retaliation and reprisal. Plaintiff HUYNH has never been advised of any
4 investigation being initiated or any corrective action being taken in response to the
5 harassment. Plaintiff HUYNH's fears of reprisal were recently confirmed when Plaintiffs
6 LEE and KIM were retaliated against for complaining of disparate treatment and racially
7 hostile actions.

8 **All Plaintiffs**

9 60. The acts of harassment and discrimination against Plaintiffs have persisted
10 throughout their employment because SGPD management fails to stop SGPD officers
11 from engaging in discriminatory and harassing behavior, and joins in this behavior. For
12 these same reasons, discriminatory treatment towards Plaintiffs has gone unchecked.
13 SGPD has failed to take timely or appropriate corrective action to stop the conduct. This
14 long tradition of failing to prevent discrimination and harassment towards Asian officers,
15 and specifically Plaintiffs, has continued under Chief Harris. It has also been under Chief
16 Harris's tenure that Plaintiffs LEE and KIM have been retaliated against for complaining
17 about unlawful actions they have endured.

18 61. Through its unlawful treatment of Plaintiffs, SGPD has helped to foster an
19 atmosphere of entrenched discrimination in the workplace. The conduct described above
20 is part of an ongoing, pattern and practice of discrimination and harassment which began
21 before the statute of limitations period. The aforementioned conduct has been allowed to
22 persist as a result of policies and practices in effect at SGPD which tolerated and
23 condoned discrimination against Plaintiffs.

24 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

25 62. Plaintiffs have fully exhausted all relevant administrative remedies with the
26 California Department of Fair Employment and Housing ("DFEH"). Plaintiff SAM received
27 a right to sue letter from the DFEH on April 24, 2017. Plaintiff LEE initially received a right
28 to sue letter from the DFEH on April 25, 2017. Plaintiff LEE amended his DFEH complaint

1 and obtained an amended right to sue letter on July 24, 2017. Plaintiff KIM initially
2 received a right to sue letter on April 25, 2017. Plaintiff KIM amended his DFEH
3 complaint and obtained an amended right to sue letter on July 24, 2017. On November
4 20, 2017, Plaintiff KIM filed another charge of discrimination, harassment, and retaliation
5 and obtained a right to sue letter that day. Plaintiff VAN received a right to sue letter from
6 the DFEH on April 25, 2017. Plaintiff VAN amended his DFEH complaint and obtained an
7 amended right to sue letter on July 24, 2017. Plaintiff HUYNH received a right to sue
8 letter on April 25, 2017. Plaintiffs have therefore exhausted all administrative remedies.

9 **FIRST CAUSE OF ACTION**

10 **Race and National Origin Discrimination**

11 **California Government Code § 12940, et seq.**

12 (By Plaintiffs Against Defendants SGPD and Does 1-20)

13 63. Plaintiffs repeat, reallege, and incorporate by reference the allegations
14 contained in all previous paragraphs as though fully set forth at length herein.

15 64. Plaintiffs SAM, LEE, KIM, VAN, and HUYNH are Asian-American men.

16 65. Defendant SGPD discriminated against Plaintiffs based on their race and
17 national origin and subjected Plaintiffs to adverse employment actions by treating
18 Plaintiffs less favorably than similar situated non-Asian American officers. These acts of
19 discrimination include but are not limited to: denying Plaintiffs assignments and
20 promotions; subjecting Plaintiffs to greater scrutiny than non-Asian American officers;
21 denying Plaintiffs deserved recognition for the same or similar conduct for which non-
22 Asian American officers are given recognition by SGPD management; disciplining Asian
23 American Officers more severely, and non-Asian American officers less leniently than
24 Plaintiffs; and placing Plaintiffs at a disadvantage by refusing to provide Plaintiffs with the
25 mentoring and coaching provided to non-Asian American officers receive to help them
26 receive assignments and promotions.

27 66. Defendant SGPD took discriminatory actions against Plaintiffs based on
28 Plaintiffs' race and national origin.

1 67. Plaintiffs are informed and believe, and based thereon allege, that in
2 addition to the practices enumerated above, Defendants, and each of them, have
3 engaged in other discriminatory and harassing practices against them which are not yet
4 fully known. At such time, as said discriminatory and harassing practices become known
5 to them, Plaintiffs may seek leave of Court to amend this Complaint.

6 68. As a direct and proximate result of the conduct of Defendants as set forth
7 above, Plaintiffs have suffered and will continue to suffer economic and non-economic
8 damages and general and special damages in a sum according to proof, in an amount
9 exceeding the jurisdictional limits of this Court. In addition, Defendants SGPD and Does
10 1-20 are responsible for interest, penalties, costs, and attorney fees related to this cause
11 of action.

12 **SECOND CAUSE OF ACTION**

13 **Race and National Origin Harassment**

14 **California Government Code § 12940, et seq.**

15 (By Plaintiffs Against Defendants SGPD and Does 1-20)

16 69. Plaintiffs repeat, reallege, and incorporate by reference the allegations
17 contained in all previous paragraphs as though fully set forth at length herein.

18 70. Plaintiffs were subjected to unwanted harassment because of their race and
19 national origin. The harassment was severe or pervasive, and included, but was not
20 limited to, SGPD management and officers using racial slurs, exaggerated Asian accents,
21 mock Asian languages, and negative, degrading and demeaning stereotypes directed
22 toward people of Asian descent, including Plaintiffs. Even when this conduct was not
23 personally directed at Plaintiffs, they witnessed and/or were subjected to this insulting
24 and demeaning harassment, in their immediate work environment.

25 71. Defendant SGPD created a hostile work environment for Plaintiffs, and
26 Plaintiffs considered the work environment to be both hostile and abusive. A reasonable
27 person in Plaintiffs' circumstances would have considered the work environment to be
28 hostile or abusive.

1 72. Multiple supervisors engaged in and caused the harassing conduct. Due to
2 their positions, Defendant SGPD knew or should have known of the harassing conduct.
3 Defendant SGPD failed to take immediate and appropriate corrective action to stop this
4 conduct.

5 73. Plaintiffs are informed and believe, and based thereon allege, that in
6 addition to the practices enumerated above, Defendants, and each of them, have
7 engaged in other discriminatory and harassing practices against them which are not yet
8 fully known. At such time, as said discriminatory and harassing practices become known
9 to them, Plaintiffs may seek leave of Court to amend this Complaint.

10 74. As a direct and proximate result of the conduct of Defendants as set forth
11 above, Plaintiffs have suffered and will continue to suffer economic and non-economic
12 damages and general and special damages in a sum according to proof, in an amount
13 exceeding the jurisdictional limits of this Court. In addition, Defendants SGPD and Does
14 1-20 are responsible for interest, penalties, costs, and attorney fees related to this cause
15 of action.

THIRD CAUSE OF ACTION

Retaliation

California Government Code § 12940, et seq.

16
17
18 (By Plaintiffs LEE and KIM Against Defendants SGPD and Does 1-20)

19
20 75. Plaintiffs LEE and KIM repeat, reallege, and incorporate by reference the
21 allegations contained in all previous paragraphs as though fully set forth at length herein.

22 76. Plaintiffs LEE and KIM engaged in protected activity.

23 a. Plaintiff LEE protested the unequal treatment to which he was
24 subjected by Sergeant Whitney.

25 b. Plaintiff KIM complained about (1) racial slurs contributing to a
26 hostile work environment; (2) discrimination and harassment based
27 on race and national origin; and (3) retaliation based on his
28 complaints of unlawful activity.

1 77. In response to and because of Plaintiffs LEE's and KIM's protected
2 activity, Defendant SGPD engaged in adverse actions against Plaintiffs LEE and KIM,
3 including but not limited to continued discrimination of Plaintiffs; refusing to promote
4 Plaintiff LEE; denying Plaintiff KIM a special assignment; and spreading false statements
5 about Plaintiff KIM to his colleagues and new employer.

6 78. Plaintiffs are informed and believe, and based thereon allege, that in
7 addition to the practices enumerated above, Defendants, and each of them, have
8 engaged in other discriminatory, harassing, and retaliatory practices against them which
9 are not yet fully known. At such time, as said discriminatory, harassing, and retaliatory
10 practices become known to them, Plaintiffs may seek leave of Court to amend this
11 Complaint.

12 79. As a direct and proximate result of the conduct of Defendants as set forth
13 above, Plaintiffs have suffered and will continue to suffer economic and non-economic
14 damages and general and special damages in a sum according to proof, in an amount
15 exceeding the jurisdictional limits of this Court. In addition, Defendants SGPD and Does
16 1-20 are responsible for interest, penalties, costs, and attorney fees related to this cause
17 of action.

18 **FOURTH CAUSE OF ACTION**

19 **Failure to Prevent Discrimination, Harassment, and Retaliation**

20 **California Government Code § 12940, et seq.**

21 (By Plaintiffs Against Defendants SGPD and Does 1-20)

22 80. Plaintiffs repeat, reallege, and incorporate by reference the allegations
23 contained in all previous paragraphs as though fully set forth at length herein.

24 81. Plaintiffs SAM, LEE, KIM, VAN, and HUYNH were subjected to
25 discrimination and harassment in the course of their employment with Defendant SGPD
26 as described above. In addition, Plaintiffs LEE and KIM were subjected to retaliation in
27 the course of their employment with Defendant SGPD as described above. Defendants
28 failed to take all reasonable steps to prevent the discrimination, harassment, and

1 retaliation.

2 82. Plaintiffs are informed and believe, and based thereon allege, that in
3 addition to the practices enumerated above, Defendants, and each of them, have
4 engaged in other discriminatory practices against them which are not yet fully known. At
5 such time, as said discriminatory, harassing, and retaliatory practices become known to
6 them, Plaintiffs may seek leave of Court to amend this Complaint.

7 83. As a direct and proximate result of the conduct of Defendants as set forth
8 above, Plaintiffs have suffered and will continue to suffer economic and non-economic
9 damages and general and special damages in a sum according to proof, in an amount
10 exceeding the jurisdictional limits of this Court. In addition, Defendants SGPD and Does
11 1-20 are responsible for interest, penalties, costs, and attorney fees related to this cause
12 of action.

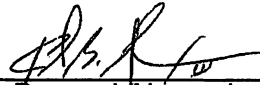
13 **PRAYER FOR RELIEF**

14 Plaintiffs pray for relief as follows:

- 15 1. For economic and special damages according to proof at trial;
16 2. For payment of all statutory obligations and penalties as required by law;
17 3. For pre-judgment and post-judgment interest at the legal rate;
18 4. For attorney's fees and costs; and
19 5. For such further relief as the Court may deem just and proper.

20
21 DATED: November 21, 2017

ALEXANDER KRAKOW + GLICK LLP
SHIELD LITIGATION, LLP
LAW OFFICE OF TOM YU, APC

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24 
25 _____
26 J. Bernard Alexander, III
27 Attorneys for Plaintiffs
28 ALLEN SAM, WEI LEE, SUNNY KIM, VY VAN,
and NHAT HUYNH

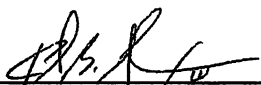
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DEMAND FOR JURY TRIAL

Plaintiffs demand trial by jury.

DATED: November 21, 2017

ALEXANDER KRAKOW + GLICK LLP
SHIELD LITIGATION, LLP
LAW OFFICE OF TOM YU, APC



J. Bernard Alexander, III
Attorneys for Plaintiffs
ALLEN SAM, WEI LEE, SUNNY KIM, VY VAN,
and NHAT HUYNH

**SUMMONS
(CITACION JUDICIAL)**

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

**NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):**

SAN GABRIEL POLICE DEPARTMENT, a California public entity,
and Does 1-20, inclusive

**YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):**

ALLEN SAM, an individual, WEI LEE, an individual, SUNNY KIM, an
individual, VY VAN, an individual, and NHAT HUYNH, an individual

CONFORMED COPY
ORIGINAL FILED
Superior Court of California
County of Los Angeles

NOV 21 2017

Sherri R. Carter, Executive Officer/Clerk
By Nancy Alvarez, Deputy

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

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

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

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

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

The name and address of the court is:
(El nombre y dirección de la corte es): Stanley Mosk Courthouse
111 N. Hill Street,
Los Angeles, CA 90012

CASE NUMBER:
(Número del Caso):

BC 684 410

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
J. Bernard Alexander, 310-394-0888; Paul W. Nguyen, 714-728-3385; Tom Yu, 844-998-1033
401 Wilshire Blvd. Suite 1000, Santa Monica, CA 90401

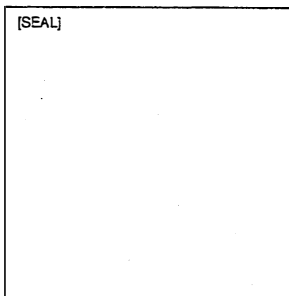
DATE: 11/21/2017
(Fecha)

NOV 21 2017

Clerk by:
(Secretario)

Deputy
(Adjunto)

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



NOTICE TO THE PERSON SERVED: You are served

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