

MAY 06 2013

JOHNA A. CLARKE, CLERK

BY DAWN ALEXANDER, DEPUTY

1 Bradley C. Gage, Esq., S.B. No. 117808
Milad Sadr, Esq., S.B. No. 245080
2 **LAW OFFICES OF GOLDBERG & GAGE**
A Partnership of Professional Corporations
3 23002 Victory Boulevard
Woodland Hills, California 91367
4 (818) 340-9252 Fax: (818) 340-9088

5 Attorneys for Plaintiff,
PATRICK E. MAXWELL

6
7
8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **FOR THE COUNTY OF LOS ANGELES**

11 PATRICK E. MAXWELL,
12 Plaintiff,

13 vs.

14 COUNTY OF LOS ANGELES and DOES 1 -
15 100, inclusive,
16 Defendants.

) CASE NO.: BC497305
) [Assigned for all purposes to the Hon. Michelle R.
) Rosenblatt, Dept. 40]

) **FIRST AMENDED COMPLAINT**

-) 1. Age Discrimination
) 2. Whistleblower Retaliation
) 3. Failure to Take Corrective Action

17
18
19
20 **COMPLAINT AND DEMAND FOR JURY TRIAL**

21 Plaintiff asserts the following claims and hereby demands a jury trial. The claims of the plaintiff
22 include but are not limited to the following.

23 **GENERAL ALLEGATIONS**

- 24 1. Plaintiff, PATRICK E. MAXWELL ("MAXWELL") (hereinafter collectively "Plaintiff") was at
25 all times herein, a resident of the State of California, and an employee of the COUNTY OF LOS
26 ANGELES and DOES 1 - 30 (hereinafter collectively "COUNTY" or "Defendants").
27 2. Plaintiff's address is confidential pursuant to the Penal Code. Plaintiff is a peace officer with the
28 Los Angeles County Sheriff's Department ("LASD"), a component of the COUNTY.

- 1 3. Defendants Does 31-60, and each of them (hereinafter collectively referred to as "COUNTY" or
2 "Defendants") were employees, supervisors, managers, agents, joint venturers, directors,
3 principals, or otherwise employed by or working with each of the other Defendants. The acts,
4 omissions and conduct of Defendants and each of them were authorized, ratified and/or approved
5 of by each of the other Defendants herein.
- 6 4. The true names or capacities, whether individual, corporate, associate, or otherwise of Defendants
7 Does 1 through 100, inclusive, are unknown to Plaintiffs, who therefore sues these Defendants by
8 such fictitious names pursuant to California Code of Civil Procedure Section 474. Plaintiffs will
9 amend this complaint to allege their true names and capacities when ascertained.
- 10 5. Plaintiff is informed and believes and thereon alleges that each of these fictitiously named
11 Defendants engaged in intentional, reckless, or negligent conduct, and are responsible in some
12 manner for the occurrences herein alleged, and that Plaintiff's damages as herein alleged were
13 directly and legally (proximately) caused by Defendants' conduct.
- 14 6. Reference to actions or conduct of "Defendants and each of them" or to "Defendant" shall include
15 the singular and plural and shall include all Defendants in this action, whether named or
16 designated as a Doe. Reference to any singular Defendant shall include all Doe Defendants to
17 which the facts later are shown to apply.
- 18 7. On or about November 28, 2012, MAXWELL filed a complaint with the DFEH, and subsequently,
19 received Right to Sue Letters. Attached collectively are true and correct copies of the DFEH
20 complaint as Exhibit "1"; attached collectively are true and correct copies of the Right to Sue
21 Letter as Exhibit "2".
- 22 8. On or about November 28, 2012, MAXWELL filed a government claim with the COUNTY. A
23 true and correct copy of the Government Claim is attached hereto as Exhibit "3". On or about
24 December 7, 2012, MAXWELL filed a complaint with the Labor Commissioner. A true and
25 correct copy of the Labor Commissioner Complaint is attached hereto as Exhibit "4".

26 **FACTUAL ISSUES**

- 27 9. MAXWELL is presently a Captain with the LASD. In fact, MAXWELL is the second longest-
28 tenured Captain in the LASD.

- 1 10. Plaintiff has outstanding qualifications, including stellar evaluations. Plaintiff was continually a
2 top candidate for Commander, but has been passed over each time.
- 3 11. MAXWELL has been passed over for promotion to Commander on multiple occasions since
4 becoming a captain, including multiple times within the past year. LASD has not followed its
5 promotional customs and past practices in connection with promotions for MAXWELL. Typically,
6 a Senior Captain is selected for promotions, but MAXWELL has been repeatedly passed over for
7 promotions by less experienced Captains, often including captains with less education, seniority,
8 and experience in fewer assignments. Since the evaluations for MAXWELL was typically
9 "outstanding," the evaluations for other Captains who were promoted to commander could not be
10 better.
- 11 12. In the few situations where Captains are not to promoted to Commander, they are given
12 outstanding, high visibility assignments, but LASD did not follow this custom and practice in
13 connection with its treatment of MAXWELL.
- 14 13. Through the years, MAXWELL found himself increasingly at odds with Paul Tanaka. For
15 instance, when he was assigned to Special Enforcement Bureau, MAXWELL sought to eliminate
16 improper conduct by personnel. Thus, MAXWELL imposed discipline against individuals who
17 violated policies, procedures, and laws. However, MAXWELL learned from knowledgeable
18 LASD personnel that his actions did not sit well with Tanaka.
- 19 14. However, this was merely the beginning. In the years to follow, MAXWELL's became
20 increasingly alarmed by Tanaka's misconduct, which began with violations of department policy
21 but soon elevated to violations of state and federal laws.
- 22 15. On or about 2007, MAXWELL was promoted to captain and assigned to Norwalk Station.
23 MAXWELL excelled as a patrol captain, earning praise from his immediate superiors as well as
24 elected officials such as city managers.
- 25 16. On or about 2010, MAXWELL made an informal complaint to Undersheriff Waldie regarding
26 then-Assistant Sheriff Tanaka.
- 27 17. On or about 2010, MAXWELL made complaints to Undersheriff Waldie and Sheriff Baca,
28 individually, about then-Assistant Sheriff Tanaka's solicitation of bribes from LASD personnel. In

1 exchange for "campaign contributions," Tanaka would either promote or transfer personnel as
2 requested. This "pay for play" system had become the primary, yet unofficial, method of
3 promotion within the department. Tanaka's actions constituted a violation of numerous state and
4 federal laws, including Penal Code § 68. The information was relayed to Tanaka.

5 18. On or about 2010, MAXWELL complained to Sheriff Baca about the use of County resources by
6 his political supporters. MAXWELL explained such a financial quid pro quo was improper and
7 illegal.

8 19. Word of MAXWELL's comments reached Tanaka, who was infuriated.

9 20. Subsequently, Tanaka's anger and threats were conveyed to MAXWELL by Chief Laing. Per
10 Laing, MAXWELL was "fucking dead" to Tanaka and MAXWELL could expect severe
11 consequences. On information and belief, Tanaka was angry about the bribery complaints, but
12 Tanaka wove pretextual reasons for his disdain.

13 21. Despite attempts by LASD officials to dissuade MAXWELL from filing his harassment/retaliation
14 complaint, MAXWELL filed a POE complaint. Based on the Bouman Decree, MAXWELL felt a
15 complaint was necessary since Tanaka was retaliating based upon MAXWELL's engagement in a
16 protected activity.

17 22. Soon thereafter, MAXWELL was verbally attacked by Sheriff Baca during a department meeting
18 for the filing the complaint. On information and belief, Baca was angry because MAXWELL
19 complained about bribery issues by Baca and Tanaka.

20 23. Baca is known to retaliate against employees who engage in protected activities. For instance, for
21 years, Baca retaliated against then-Captains Herran, Webb and Leyva after they filed complaints
22 of discrimination, harassment, and retaliation against LASD.

23 24. Yet, MAXWELL reported additional misconduct by Tanaka to other high-ranking LASD officials,
24 including Sheriff Baca, who continued to ignore his warnings and ratified Tanaka's misconduct.

25 25. In mid-2012, MAXWELL provided truthful testimony to the Citizen's Commission on Jail
26 Violence, an entity created by the Los Angeles County Board of Supervisors. MAXWELL
27 informed the Commission about Tanaka's insistence that LASD members "work in the gray area."
28 That is, Undersheriff Tanaka encouraged LASD members to operate outside the confines of the

1 law, in contravention of state and federal laws. Additionally, MAXWELL explained the "pay for
2 play" system instituted in the LASD by Tanaka.

3 26. Days later, Tanaka issued an internal memo meant to provide a post-hoc rationalization of "work
4 in the gray." However, Tanaka's comments have always advocated an "ends justify the means"
5 philosophy even if it meant LASD deputies violating state and/or federal laws.

6 27. Specifically, Tanaka advocated false arrests, excessive use of force, falsification of evidence, the
7 preparation of false police reports to justify such wrongful conduct, and the giving of false
8 testimony in trial to cover-up and conceal such wrongful conduct by officers of the Los Angeles
9 County Sheriff's Department. Some specific violations of statutes, include but not limited to,
10 Penal Code §§ 118.1, 127, 135, 136.1, 182, 243; 42 U.S.C. § 1983, 1985; Fourth, Fifth
11 Amendments to US Constitution. Additionally, Tanaka has sought to obstruct justice and interfere
12 with federal investigations, in contravention of various federal statutes such as 18 U.S.C. §§ 1509,
13 1510, 1512, 1513. Tanaka is presently the subject of multiple federal grand juries, all investigating
14 various aspects of his "work in the gray" custom or policy.

15 28. Tanaka's view and advocacy that deputies were above the law originated during his days at
16 Lynwood Station. Note surprisingly, Tanaka was a member of the "Vikings." In fact, Tanaka got
17 his "Viking" tattoo when he was a sergeant, which is odd because it is quite rare to have
18 supervisors get such a tattoo.

19 29. On or about 1989, Tanaka shot and killed an unarmed suspect in the back.

20 30. On or about 1991, the Hon. Terry Hatter found the "Vikings" were a racist group of deputies who
21 existed within the Los Angeles County Sheriff's Department and Lynwood Station. This group had
22 terrorized minority members of the general public by using unjustified force, fabricating evidence,
23 and engaging in cover-ups. On information and belief, Tanaka adopted the "Viking" brand of law
24 enforcement.

25 31. In fact, Tanaka allowed and encouraged the further development of deputy gangs within the
26 LASD. For instance, the Regulators flourished in the Department. When some high-ranking LASD
27 officials tried to stop these gangs, they were stopped and retaliated against by Tanaka. Similarly,
28 Tanaka allowed and encouraged deputy gangs in the jails. At various points in time, Tanaka

1 would recite a version of his "working in the gray" message.

- 2 32. In mid-2012, MAXWELL, after years of complaints about Tanaka's activities and advocacy of
3 unlawful conduct, went public and told the Citizen's Commission on Jail Violence, an entity
4 created by the Los Angeles County Board of Supervisors, the truth about Tanaka.
- 5 33. As a result, MAXWELL has suffered further discrimination, harassment, and retaliation.
- 6 34. At the LASD, promotions and assignments at the captain-level are greatly influenced by various
7 decisionmakers, including the Undersheriff and Assistant Sheriffs. Hence, the ultimate
8 decisionmaker (the Sheriff) is often not the *actual* decisionmaker, but rather simply ratifies the
9 choices made at lower levels. For example, if the Undersheriff or Assistant Sheriffs do not want a
10 particular promotion or assignment, then they can ensure the promotion or assignment is sabotaged
11 at their level and thus, will be ultimately unsuccessful. For instance, Undersheriff Tanaka wields
12 determinative power over promotions, assignments, and all other decisions. In fact, the
13 Undersheriff is a "but-for factor" as to who is promoted or given what assignment.
- 14 35. On numerous occasions, the career advancement of MAXWELL has been thwarted (but for cause)
15 at the Undersheriff and Assistant Sheriff levels.
- 16 36. Plaintiff suffered harm and injury that was legally (proximately) caused by the conduct of the
17 defendants and each of them. Said harm and injury includes but is not limited to special
18 (economic) damages, General (non-economic) damages, attorneys fees, litigation costs, future
19 damages, and past damages. Also increased tax liability by having recovery paid all at one time,
20 rather than over a period of time, lost interest and investment opportunities on money that is past
21 due, and such further relief as shown at time of trial and in excess of the minimum jurisdiction of
22 this court.

23 **FIRST CAUSE OF ACTION FOR AGE DISCRIMINATION**

- 24 37. Each and every allegation set forth in the preceding paragraphs is incorporated herein by this
25 reference with the same effect as if realleged herein.
- 26 38. MAXWELL has been passed over for promotion to Commander on multiple occasions since
27 becoming a captain, including multiple times within the past year. LASD has not followed its
28 promotional customs and past practices in connection with promotions for MAXWELL. Typically,

1 a Senior Captain is selected for promotions, but MAXWELL has been repeatedly passed over for
2 promotions by less experienced Captains, often including captains with less education, seniority,
3 and experience in fewer assignments. Since the evaluations for MAXWELL were typically
4 "outstanding," the evaluations for other Captains who were promoted to commander could not be
5 better.

6 39. Additionally, most individuals promoted to commander were younger than MAXWELL. At all
7 relevant times herein, MAXWELL has been over the age of forty. Similarly, Captain Sam Dacus,
8 the most-senior captain at LASD, has also been continuously passed over for promotion to
9 commander. Dacus is the oldest captain and over the age of forty.

10 40. In the few situations where Captains are not promoted to Commander, they are given
11 outstanding, high visibility assignments, but LASD did not follow this custom and practice in
12 connection with its treatment of MAXWELL. For instance, in March 2013, MAXWELL put in for
13 the captaincy of homicide bureau. Despite being more qualified than other candidates,
14 MAXWELL was passed over for the prominent position and a younger captain (by several years)
15 was selected.

16 41. MAXWELL's age has been a motivating reason for Defendant's adverse employment actions. For
17 the past several years, MAXWELL has been hounded by high-ranking LASD officials about his
18 retirement plans.

19 42. MAXWELL has been harmed and Defendant's discriminatory conduct was a substantial factor in
20 causing Plaintiff's harm as set forth above.

21 **SECOND CAUSE OF ACTION - WHISTLEBLOWER RETALIATION**

22 43. Each and every allegation set forth in the preceding paragraphs is incorporated herein by this
23 reference with the same effect as if realleged herein.

24 44. Pursuant to various statutes including but not limited to *Labor Code* § 1102.5, if an employee
25 complains of violations of law (including but not limited to discrimination, political coercion,
26 harassment, etc.), they are protected and cannot be retaliated against.

27 45. On or about 2010, MAXWELL filed a Policy of Equality ("POE") complaint against then-
28 Assistant Sheriff Paul Tanaka.

- 1 46. On or about 2010, MAXWELL complained to Sheriff Baca about the use of County resources by
2 his political supporters. MAXWELL explained such a financial quid pro quo was improper and
3 illegal.
- 4 47. On or about 2010, MAXWELL made complaints to Undersheriff Waldie and Sheriff Baca,
5 individually, about then-Assistant Sheriff Tanaka's solicitation of bribes from LASD personnel. In
6 exchange for "campaign contributions," Tanaka would either promote or transfer personnel as
7 requested. This "pay for play" system had become the primary, yet unofficial, method of
8 promotion within the department. Tanaka's actions constituted a violation of numerous state and
9 federal laws, including Penal Code § 68.
- 10 48. Word of MAXWELL's comments reached Tanaka, who was infuriated.
- 11 49. Subsequently, Tanaka's anger and threats were conveyed to MAXWELL by Chief Laing. Per
12 Laing, MAXWELL was "fucking dead" to Tanaka and MAXWELL could expect severe
13 consequences. On information and belief, Tanaka was angry about the bribery complaints, but
14 Tanaka wove pretextual reasons for his disdain.
- 15 50. Soon thereafter, MAXWELL was verbally attacked by Sheriff Baca during a department meeting
16 for the filing the complaint. On information and belief, Baca was angry because MAXWELL
17 complained about bribery issues by Baca and Tanaka.
- 18 51. Baca is known to retaliate against employees who engage in protected activities. For instance, for
19 years, Baca retaliated against then-Captains Herran, Webb and Leyva after they filed complaints
20 of discrimination, harassment, and retaliation against LASD.
- 21 52. Moreover, MAXWELL reported additional misconduct by Tanaka to other high-ranking LASD
22 officials, including but not limited to, Sheriff Leroy Baca, who continued to ignore his warnings
23 and ratified Tanaka's misconduct.
- 24 53. In mid-2012, MAXWELL provided truthful testimony to the Citizen's Commission on Jail
25 Violence, an entity created by the Los Angeles County Board of Supervisors. MAXWELL
26 informed the Commission about Tanaka's insistence that LASD members "work in the gray area."
27 That is, Undersheriff Tanaka encouraged LASD members to operate outside the confines of the
28 law, in contravention of state and federal laws. Additionally, MAXWELL explained the "pay for

1 play” system instituted in the LASD by Tanaka.

2 54. Specifically, Tanaka advocated false arrests, excessive use of force, falsification of evidence, the
3 preparation of false police reports to justify such wrongful conduct, and the giving of false
4 testimony in trial to cover-up and conceal such wrongful conduct by officers of the Los Angeles
5 County Sheriff’s Department. Some specific violations of statutes, include but not limited to,
6 Penal Code §§ 118.1, 127, 135, 136.1, 182, 243; 42 U.S.C. § 1983, 1985; Fourth, Fifth
7 Amendments to US Constitution. Additionally, Tanaka has sought to obstruct justice and interfere
8 with federal investigations, in contravention of various federal statutes such as 18 U.S.C. §§ 1509,
9 1510, 1512, 1513. Tanaka is presently the subject of multiple federal grand juries, all investigating
10 various aspects of his “work in the gray” custom or policy.

11 55. After his whistleblower activities, MAXWELL was continuously passed over for promotion, better
12 assignments, oral boards, and other forms of career advancement. For instance, in March 2013,
13 MAXWELL put in for the captaincy of homicide bureau. Despite being more qualified than other
14 candidates, MAXWELL was passed over for the prominent position. Moreover, MAXWELL was
15 treated differently than other captains and deprived of certain benefits associated with command of
16 a patrol station.

17 56. MAXWELL’s whistleblower activities were a motivating reason behind Defendants’ adverse
18 employment actions.

19 57. Plaintiff has been harmed and Defendants’ retaliatory conduct was a substantial factor in causing
20 Plaintiff’s harm as set forth above.

21 **THIRD CAUSE OF ACTION**

22 **FOR FAILURE TO TAKE CORRECTIVE ACTION**

23 **AGAINST DEFENDANT COUNTY ONLY**

24 58. Each and every allegation set forth in the preceding paragraphs is incorporated herein by this
25 reference with the same effect as if realleged herein.

26 59. Defendant had an obligation to take corrective action to prevent further harassment of Plaintiff, but
27 failed to do so in violation of Cal. Gov. Code Sections 12940(k) and 12940(j)(1). Defendants
28 failed to conduct proper investigations, implement proper policies to prevent discrimination,

1 harassment or retaliation, and failed to properly punish those who engaged in misconduct to deter
2 further such actions in the future.

3 60. For several years, Plaintiff complained about unlawful conduct. For several years, Plaintiff express
4 his surprise and displeasure that younger captains were being promoted to commander. Plaintiff
5 argue to superiors that his seniority, experience and qualifications were superior to those of
6 younger captains.

7 61. After Plaintiff complained about and opposed the harassing, discriminatory, and retaliatory
8 conduct set forth above, Defendant COUNTY failed to conduct proper investigations, implement
9 proper policies to prevent discrimination, harassment or retaliation, and failed to take corrective
10 action or to properly punish those who engaged in misconduct, to deter further such actions.

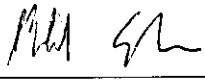
11 62. As a direct and legal result of the conduct by Defendants towards Plaintiff, Plaintiff has suffered
12 economic and non-economic damages in a sum according to proof at time of trial, and in excess of
13 the minimum jurisdiction of this Court.

14 WHEREFORE, Plaintiff prays for the following:

- 15 1. Loss of earnings and back pay including any increased tax liability thereon;
 - 16 2. Loss of future earnings, promotions, opportunities to promote, front pay and all other employment
17 benefits, such as pension rights;
 - 18 3. All other lost pension, insurance and other employment benefits;
 - 19 4. Medical, hospital and psychological bills, including past, present and future bills;
 - 20 5. General damages (pain, suffering, emotional distress and other non economic damages);
 - 21 6. Litigation costs;
 - 22 7. Attorneys fees;
 - 23 8. Civil Penalties as authorized by statutes set out herein above;
 - 24 9. Interest;
 - 25 10. Damages for increased income tax payments; and
 - 26 11. Any other relief or damages allowed by law, or statutes not set out above and such further relief as
27 the Court deems just and proper at conclusion of trial.
- 28

1 Dated: May 3, 2013

Respectfully Submitted,
Law Offices of Goldberg & Gage
A Partnership of Professional Law Corporations

3 By 
4 _____
Bradley C. Gage
Milad Sadr
Attorneys for Plaintiff

6 O:\M\MAXWELL, PATRICK v. COUNTY OF LOS ANGELES\PLEADINGS\COMPLAINT\05-03-13 FAC.wpd

7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

05/03/13

11

05/07/13



DEPARTMENT OF FAIR EMPLOYMENT & HOUSING

DIRECTOR PHYLLIS W. CHENG

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

November 29, 2012

RE: 66298-31336 - Maxwell Patrick - Right To Sue

Notice of Filing of Discrimination Complaint

Enclosed is a copy of a complaint that has been filed with the Department of Fair Employment and Housing (DFEH) in accordance with Government Code section 12960. This constitutes service of the complaint pursuant to Government Code section 12962. Complainant has requested an authorization to file a lawsuit. This complaint is not being investigated and is being closed immediately. A copy of the closing letter and right to sue is enclosed for your records.

NO RESPONSE TO DFEH IS REQUESTED OR REQUIRED.

Please see the next page for the Respondent(s) name and address

Ex 1



STATE OF CALIFORNIA - STATE AND CONSUMER SERVICES AGENCY

GOVERNOR EDMUND G. BROWN JR.

DEPARTMENT OF FAIR EMPLOYMENT & HOUSING

DIRECTOR PHYLLIS W. CHENG

2218 Kausen Drive, Suite 100 | Elk Grove | CA | 95758
(800) 884-1664 | Videophone (916) 226-5285 | TDD (800) 700-2320
www.dfeh.ca.gov | email: contact.center@dfeh.ca.gov

November 29, 2012

RE: 66298-31336 - Maxwell Patrick - Right To Sue

Notice of Filing of Discrimination Complaint

Leroy Baca Agent for Service for Los Angeles
County Sheriff's Department

4700 Romano Blvd.

Monterey Park CA 91754

6578743



CALIFORNIA DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING
EMPLOYMENT

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

DFEH INQUIRY NUMBER:
66298-31336

COMPLAINANT NAME
Patrick Maxwell

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

RESPONDENT NAME:
Los Angeles County Sheriff's
Department

AGENT FOR SERVICE NAME:
Leroy Baca

TELEPHONE NUMBER:

ADDRESS (AGENT FOR SERVICE)
4700 Romano Blvd.

CITY/STATE/ZIP:
Monterey Park, CA 91754

NO. OF EMPLOYEES/MEMBERS:
500

DATE MOST RECENT DISCRIMINATION TOOK PLACE:
Nov 29, 2012

TYPE OF EMPLOYER:
State/Local Govt

CO-RESPONDENT(S):

NAME

ADDRESS

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

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

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

DATED: November 29, 2012 At Woodland Hills

VERIFIED BY: Pat Maxwell

DFEH-300-030 (07/12)
DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING

DATE FILED: Nov 29, 2012
MODIFIED: Nov 29, 2012

STATE OF CALIFORNIA



CALIFORNIA DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING
EMPLOYMENT

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

I ALLEGE THAT I EXPERIENCED:
Discrimination, Harassment, Retaliation

ON OR BEFORE: Nov 29, 2012

BECAUSE OF MY Age - 40 and over, Engagement in Protected Activity
ACTUAL OR
PERCEIVED:

AS A RESULT, I WAS: Denied a work environment free of discrimination and/or retaliation, Denied promotion, Other
Denied assignments, denied oral boards, denied advancement opportunities, treated differently
than others

STATE WHAT YOU BELIEVE TO BE THE REASON(S) FOR DISCRIMINATION.

Harassed, discriminated, and retaliated against because of protected characteristics and activities.

67/28/12

11



85/07/13



DEPARTMENT OF FAIR EMPLOYMENT & HOUSING

DIRECTOR PHYLLIS W. CHENG

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

Nov 29, 2012

Patrick Maxwell

C/O: Law Offices of Goldberg and Gage 23002 Victory Blvd
Woodland Hills, CA 91367

RE: 66298-31336 - Maxwell Patrick - Right To Sue

Notice of Case Closure and Right to Sue

Dear Patrick Maxwell:

This letter informs you that the above-referenced complaint that was filed with the Department of Fair Employment and Housing (DFEH) has been closed effective Nov 29, 2012 because an immediate Right to Sue notice was requested. DFEH will take no further action on the complaint.

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

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

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,

Department of Fair Employment and Housing

cc: Leroy Baca, Agent for Service for Los Angeles County Sheriff's Department

11



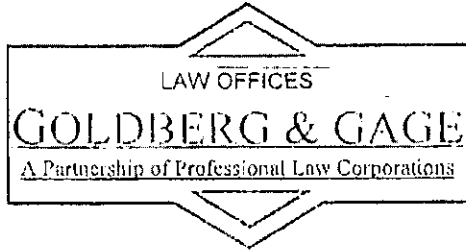
05/07/13

1

Terry M. Goldberg*

Milad Sadr

*A PROFESSIONAL LAW CORPORATION



Bradley C. Gage*

*A PROFESSIONAL LAW CORPORATION

23002 VICTORY BOULEVARD ~ WOODLAND HILLS, CA 91367 ~ (818) 340-9252 ~ FAX (818) 340-9088

Email: tgoldberg@goldberggage.com

Email: bgage@goldberggage.com

November 28, 2012

Via Certified Mail. Return Receipt Requested

7012 0470 0001 4964 7332

County of Los Angeles
 Executive Officer, Board of Supervisors
 500 West Temple St.
 Attn: Claims, Room 383
 Kenneth Hahn Hall of Administration
 Los Angeles, California 90012

Re: **Government Claim Patrick Maxwell**

Dear Sir or Madam:

Please consider this a notice of governmental claim, and to the extent any such claims are more than six months old, as an application for a late claim pursuant to California Government Code, Section 911.4. To the extent applicable, please also consider this a supplemental governmental claim.

A. NAME OF THE CLAIMANTS:

Patrick Maxwell

B. ADDRESS TO SEND ALL NOTICES:

Law Offices of Goldberg & Gage, 23002 Victory Blvd., Woodland Hills, CA 91367.

C. THE DATE, PLACE AND OTHER CIRCUMSTANCES OF THE OCCURRENCE OR TRANSACTIONS WHICH GIVE RISE TO THE CLAIMS ASSERTED:

Retaliation, discrimination, harassment under the Fair Employment and Housing Act
 Whistle Blower Retaliation
 Violation of Police Officer's Bill of Rights.
 Failure to take corrective action.

Plaintiff is believed to be second-most senior Captain on the Sheriff's Department. Yet, despite his more seniority and stellar job performance, Plaintiff has continuously been passed over for promotion to commander.

On or about 2010, Maxwell filed a Policy of Equality Complaint against then-Assistant Sheriff Paul Tanaka. However, contrary to policy and practice, no investigation was undertaken.

EX-3

0000000000

Instead, Maxwell has been continuously targeted for retaliation. Moreover, high-ranking LASD officials openly attacked Maxwell because he filed a POE against Tanaka.

Subsequently, Maxwell reported additional misconduct by Tanaka to other high-ranking LASD officials, who continued to ignore his warnings and ratified Tanaka's misconduct. Additionally, in mid-2012, Maxwell provided truthful testimony to the Citizen's Commission on Jail Violence, an entity created by the Los Angeles County Board of Supervisors. Maxwell informed the Commission about Tanaka's insistence that LASD members "work in the gray area." That is, Undersheriff Tanaka encouraged LASD members to operate outside the confines of the law, in contravention of state and federal laws. Additionally, Maxwell explained the "pay for play" system instituted in the LASD by Tanaka.

After his whistleblower activities, Maxwell was continuously passed over for promotion, better assignments, oral boards, and other forms of career advancement. Moreover, Maxwell was treated differently than other captains and deprived of certain benefits associated with command of a patrol station.

D. GENERAL DESCRIPTION OF THE INJURY, DAMAGE OR LOSS INCURRED.

General, special (economic and non economic) damages and punitive including without limitations: damages for potential medical treatment; psychological treatment; psychiatric treatment; loss of earnings opportunities and future earning opportunities; loss of reputation; embarrassment and humiliation. Attorneys fees, and future attorneys fees, litigation costs and experts charges all in a sum to be proven at time of trial and such other damages as presented at trial. Plaintiff also suffered job loss, lost opportunities, retaliation preventing him from other job opportunities. Lost reputation, damages to reputation, and lost interest and such other damages as determined at time of trial.

E. NAME OF PUBLIC EMPLOYEES CAUSING THE INJURY, DAMAGE OR LOSS TO COMPLAINANTS INCLUDE BUT ARE NOT LIMITED TO THE FOLLOWING:

Sheriff Baca; Undersheriff Tanaka; numerous members of LASD command staff

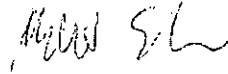
F. THE AMOUNT OF CLAIMED DAMAGES EXCEEDS \$10,000 AND JURISDICTION WILL BE PROPER IN LOS ANGELES SUPERIOR COURT.

If you contend this is not the proper location for a Governmental Claim, please advise of the proper address. Further, if County contends there are any administrative claims or remedies not pursued by complainant, please advise so that we can fulfill any administrative remedy requirements now. Thank you.

///

Governmental Claim
November 28, 2012
Page 3

Very truly yours,
Law Offices of Goldberg & Gage
A Partnership of Professional Law Corporations



By Milad Sadr

O:\MMAXWELL, PATRICK v. COUNTY OF LOS ANGELES\GOVERNMENT CLAIM\11-28-12 govt claim.wp

7012 0470 0001 4964 7332

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only, No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com

Postage	\$ 45	Postmark Here
Certified Fee	2.95	
Return Receipt Fee (Insurance Required, Postnet Safety Fee (Insurance Required))	2.35	
Total postage & fees	\$ 5.75	

Send to:
 Name: **MAKER SHAW**
 Street No.: **50019 TEMPLE ST, RM. 383**
 or PO Box No.:
 City, State, ZIP+4: **Los Angeles (A 90012)**

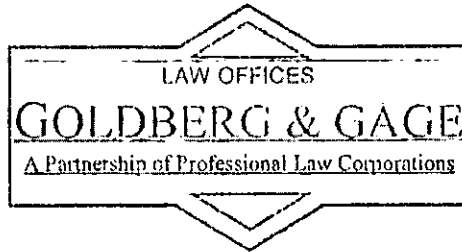
PS Form 3800, June 2006 See Reverse for Instructions

ST/20/52

Terry M. Goldberg*

Milad Sadr

*A PROFESSIONAL LAW CORPORATION



Bradley C. Gage*

*A PROFESSIONAL LAW CORPORATION

23002 VICTORY BOULEVARD ~ WOODLAND HILLS, CA 91367 ~ (818) 340-9252 ~ FAX (818) 340-9088
E-Mail: tgoldberg@goldbergandgage.com E-Mail: bgage@goldbergandgage.com

December 7, 2012

VIA CERTIFIED MAIL - RETURN RECEIPT REQUESTED

7010 1670 0000 4399 9916

Division of Labor Standards Enforcement
Retaliation Complaint Investigation Unit
2031 Howe Ave., Ste. 100
Sacramento, CA 95825

Re: *Claim of Patrick Maxwell v. County of Los Angeles*

Dear Madam or Sir:

Please consider this a notice of claim for exhaustion of any potential jurisdictional requirements.

A. NAME OF THE CLAIMANT: Patrick Maxwell c/o Law Offices of Goldberg and Gage, 23002 Victory Blvd., Woodland Hills, CA 91367

B. ADDRESS TO SEND ALL CLAIMS:

Law Offices of Goldberg & Gage, 23002 Victory Blvd., Woodland Hills, CA 91367.

C. THE DATE, PLACE AND OTHER CIRCUMSTANCES OF THE OCCURRENCE OR TRANSACTIONS WHICH GIVE RISE TO THE CLAIMS ASSERTED:

On or about 2010, MAXWELL filed a Policy of Equality ("POE") complaint against then-Assistant Sheriff Paul Tanaka. Moreover, MAXWELL reported additional misconduct by Tanaka to other high-ranking LASD officials, who continued to ignore his warnings and ratified Tanaka's misconduct.

In mid-2012, MAXWELL provided truthful testimony to the Citizen's Commission on Jail Violence, an entity created by the Los Angeles County Board of Supervisors. MAXWELL informed the Commission about Tanaka's insistence that LASD members "work in the gray area." That is, Undersheriff Tanaka encouraged LASD members to operate outside the confines of the law, in contravention of state and federal laws. Additionally, MAXWELL explained the "pay for play" system instituted in the LASD by Tanaka.

Ex 4

After his whistleblower activities, MAXWELL was continuously passed over for promotion, better assignments, oral boards, and other forms of career advancement. Moreover, MAXWELL was treated differently than other captains and deprived of certain benefits associated with command of a patrol station. MAXWELL's whistleblower activities were a motivating reason behind Defendants' adverse employment actions.

D. GENERAL DESCRIPTION OF THE INJURY, DAMAGE OR LOSS INCURRED.

General and special damages, the full specifics of which are not yet fully known, but may include without limitation: medical treatment; loss of earnings and future earnings; loss of promotions; and other disabilities, and losses; attorneys fees, and future attorneys fees, litigation costs and experts' charges all in a sum to be proven at time of trial and other damages. Plaintiff may also suffer job loss, and lost opportunities.

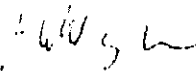
E. NAME OF PUBLIC EMPLOYEES CAUSING THE INJURY, DAMAGE OR LOSS TO PLAINTIFFS INCLUDE BUT ARE NOT LIMITED TO THE FOLLOWING:

See above information. Discovery continues.

F. THE AMOUNT OF CLAIMED DAMAGES EXCEED \$10,000, AND JURISDICTION WILL BE PROPER IN LOS ANGELES SUPERIOR COURT.

If you contend this is not the proper location for a Governmental Claim, please advise of the proper address. Further, if defendants contend there are any required administrative remedies not pursued by plaintiff, please advise so that we can fulfill any internal administrative remedy requirements now. Thank you.

Very truly yours,
Law Offices of Goldberg & Gage
A Partnership of Professional Law Corporations


Milad Sadr

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only, No Insurance Coverage Provided)

For delivery information visit www.usps.com

9574
444
434
424
414
404
394
384
374
364
354
344
334
324
314
304
294
284
274
264
254
244
234
224
214
204
194
184
174
164
154
144
134
124
114
104
94
84
74
64
54
44
34
24
14
4
0

Postage	\$ 45
Certified Fee	1.95
Return Receipt Fee (Endorsement Required)	2.35
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$9.75

Postmark
Hub

TO: *Div. Silver Star Enters. Ret. Comp. Ins. Unit*
PO Box No. *209 Howe Ave. SE 100*
Sacramento, CA 95805

9574

1 **PROOF OF SERVICE**

2 STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

3 I am employed in the County of Los Angeles, State of California. I am over the age of 18 years
4 and not a party to the within action; my business address is 23002 Victory Blvd., Woodland Hills,
California, 91367.

5 On **May 6, 2013**, I served the foregoing document described as **FIRST AMENDED**
6 **COMPLAINT** on the interested parties in this action by placing ___ the original X a true copy thereof in
sealed envelopes addressed as follows:

7 Maria Tuason, Esq.
8 Natalie Luongo, Esq.
9 Peterson · Bradford · Burkwitz
10 Attorneys At Law
11 100 North First Street, Suite 300
Burbank, California 91502
12 Tel: (818) 562-5800 · Fax: (818) 562-5810
13 Attorneys for Defendant, COUNTY OF LOS ANGELES

14 X **BY MAIL:** I am "readily familiar" with the firm's practice for collecting and processing
15 correspondence for mailing with the United States Postal Service. Under that practice, it would be
16 deposited with the United States Postal Service that same day in the ordinary course of business.
17 Such envelope(s) were placed for collection and mailing with postage thereon fully prepaid at
18 Woodland Hills, California, on that same day following ordinary business practices.

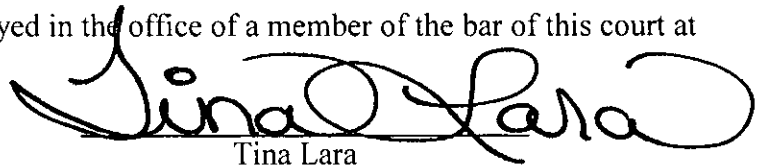
19 ___ **BY FACSIMILE:** At or before 6:00 p.m., I caused said document(s) to be transmitted by
20 facsimile. The telephone number of the sending facsimile machine was (818) 340-9088. The
21 name(s) and facsimile machine telephone number(s) of the person(s) served are set forth in the
22 service list. The document was transmitted by facsimile transmission, and the sending facsimile
23 machine properly issued a transmission report confirming that the transmission was complete and
24 without error.

25 ___ **BY OVERNIGHT DELIVERY:** I deposited such document(s) in a box or other facility regularly
26 maintained by the overnight service carrier, or delivered such document(s) to a courier or driver
27 authorized by the overnight service carrier to receive documents, in an envelope or package
28 designated by the overnight service carrier with delivery fees paid or provided for, addressed to the
person(s) being served.

Executed on **May 6, 2013** at Woodland Hills, California.

X (STATE) I declare under penalty of perjury that the foregoing is true and correct.

___ (FEDERAL) I declare that I am employed in the office of a member of the bar of this court at
whose direction the service was made.


Tina Lara

0:\M\MAXWELL, PATRICK V. COUNTY OF LOS ANGELES\PLEADINGS\COMPLAINT\05-03-13 FAC.wpd