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5 AMY THULAM LE

6 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
7 COUNTY OF SANTA CLARA  
8

9 AMY THULAM LE,  
10 Plaintiff  
11 vs.  
12 COUNTY OF SANTA CLARA; and DOES 1 to 10,  
13 Defendants.

Case No.: 19CV358475

**COMPLAINT**

**OVERVIEW OF ACTION**

15 1. Plaintiff Amy Thulam Le (“Plaintiff” or “Le”) brings this lawsuit against her former  
16 employer, Defendant County of Santa Clara (“Defendant” or the “County”), for creating a hostile work  
17 environment, retaliation, and for forcing Le to resign her employment as a Sheriff’s Correctional  
18 Captain after more than thirty years of exemplary service to the County, in retaliation for Plaintiff  
19 reporting a claim of sexual harassment against her supervisor and based on Plaintiff’s race, national  
20 origin, age, and gender.

**PARTIES**

22 2. Le is Asian, female, over the age of forty years old, and resides in the County of Santa  
23 Clara, California.

24 3. Defendant County is a county of the State of California. The County employed  
25 Plaintiff at the Elmwood Correctional Facility located at 701 S. Abel Street, Milpitas, California  
26 95035.

27 4. The true names and capacities, whether individual, corporate, or otherwise of the  
28 Defendants sued herein as Does 1 through 10 (the “Doe Defendants”) are unknown to Plaintiff at this

1 time, and for that reason Plaintiff sues the Doe Defendants by fictitious names. Plaintiff will seek  
2 leave to amend this Complaint to allege the true names and capacities of said Doe Defendants when  
3 they have been ascertained.

4 5. At all times mentioned, and unless otherwise stated, each of the Defendants was the  
5 agent and/or employee of each and every co-Defendant, and in performing the things, acts, and/or  
6 omissions, hereinafter more fully alleged, was acting within the scope and authority of said agency  
7 and/or employment. Each of the Defendants herein authorized, ratified, knew about or should have  
8 known about, and/or condoned the actions and omission of each and every other Defendant.

### 9 **JURISDICTION AND VENUE**

10 6. The Court has jurisdiction over the Defendants because each Defendant is either  
11 resident in the State of California, has a place of business in California, or did business in the State of  
12 California.

13 7. Venue is proper in the County of Santa Clara pursuant to Code of Civil Procedure §  
14 394.

### 15 **FACTUAL ALLEGATIONS**

#### 16 **Le's Personal Background**

17 8. In late 1978, Le left her homeland, Vietnam, with her parents, younger brother, and  
18 baby sister, and journeyed across the Pacific Ocean to Malaysia in search of freedom. Le and her  
19 family were locked up in a Kuala Lumpur refugee camp for one year. In November 1979, Le and her  
20 family were able to immigrate to the United States because her father had served in the South Vietnam  
21 Airborne Army Division fighting alongside with the United States Army Airborne Division. At the  
22 age of eleven, Le was one of the "refugee boat people."

#### 23 **Le's Employment History at the County**

24 9. On September 11, 1989, Le began her career with the Santa Clara County Sheriff's  
25 Office – Custody Bureau, as a Law Enforcement Clerk.

26 10. In September 1991, Le graduated second in her class from the Correctional Officer  
27 Academy.

28 11. Following her graduation from the Correctional Officer Academy, Le worked as a

1 Correctional Officer, Academy and Jail Training Officer, Sergeant and Lieutenant for the County.

2 12. On December 3, 2018, Le was promoted to Sheriff's Correctional Captain at the  
3 County's Elmwood Correctional Facility. Le was the first female Asian to ever achieve the position of  
4 Captain at the County.

5 **The Hostile Working Environment at the County**

6 13. Shortly after Le was promoted, her supervisor, Assistant Sheriff Eric Taylor ("Taylor")  
7 cancelled her vacation which had been scheduled and planned months earlier.

8 14. Taylor acted in a hostile manner to Le based on her race, age, nationality, and gender.  
9 Taylor told Le's peers that Le was "unethical." He accused Le of undermining him. Taylor falsely  
10 stated to Le that she did "not know to follow the direction of the higher ranking official ... the  
11 Undersheriff."

12 15. On February 24, 2019, Le informed Undersheriff Rick Sung ("Sung") and Captain  
13 Michael Doty ("Doty") that she "would like to file a formal complaint against A.S. Taylor" stating: "I  
14 cannot work for a supervisor who creates hostile/unharmonious working environment, dishonest,  
15 unsupportive and constantly setting me up to fail. From the first day I was promoted, A.S. Taylor  
16 treated me differently, belittled me and held me to standards that he did not require of other Captains."

17 16. Sung dissuaded Le from filing a formal complaint against Taylor.

18 **The Elmwood Gratitude Garden**

19 17. As a Captain at the Elmwood Correctional Facility, one of Le's goals was to express her  
20 gratitude for the many opportunities made available to her throughout her years at the Sheriff's Office.  
21 She also wanted to create a peaceful and relaxing break area for officers and staff. In addition, she felt  
22 this project would provide an opportunity for female inmates to learn new skills. With these goals in  
23 mind, she planned the construction of a Zen garden named the "Elmwood Gratitude Garden" at the  
24 Elmwood Correctional Facility. The Elmwood Gratitude Garden was to be 23 feet long and 12 feet  
25 wide, and was to have plants, flowers, trees, a barbecue area, and an arbor with benches.

26 18. In order to fund the construction of the Elmwood Gratitude Garden, Le received  
27 donations from her husband, the Santa Clara County Correctional Peace Officer Association, and  
28 several individuals. Le paid the remainder of the expenses herself.

1           19.     The Elmwood Gratitude Garden was constructed by a volunteer inmate crew. The crew  
2 viewed the project as therapeutic and appreciated the opportunity to learn new skills. Le sent a letter  
3 to each of the crew to personally thank them for their excellent work in helping to construction the  
4 Elmwood Gratitude Garden.

5           20.     The construction of the Elmwood Gratitude Garden was completed in time to celebrate  
6 National Correctional Officers Week. On Monday, May 6, 2019, an event was planned to have  
7 Assemblymember Evan Low and Santa Clara County Supervisor Cindy Chavez come to the Elmwood  
8 Correctional Facility to recognize the correctional staff and their work. Sheriff Laurie Smith,  
9 Undersheriff Sung and Assistant Sheriff Taylor prohibited Le from conducting the ribbon cutting  
10 ceremony for the Elmwood Gratitude Garden and directed her not to take Assemblymember Low and  
11 Supervisor Chavez to see the Elmwood Gratitude Garden.

12           21.     On May 17, 2019, Captain Timothy Davis (“Davis”), acting at the behest of Sung and  
13 Taylor, “red tagged” the Elmwood Gratitude Garden. Notably, Davis had previously built arbors at the  
14 Elmwood Correctional Facility that were similar to the Elmwood Gratitude Garden, and there had been  
15 no issue with them.

16     **Le’s Reporting of a Sexual Harassment Complaint**

17           22.     On May 28, 2019, Le reported to Doty a sexual harassment complaint made by a female  
18 lieutenant against Taylor.

19           23.     On May 30, 2019, Doty told Le to have the sexual harassment complainant meet with  
20 him regarding the sexual harassment complaint.

21     **The County’s Placement of Le on Administrative Leave**

22           24.     On May 31, 2019, the County hand-delivered a letter to Le informing her that she was  
23 being placed on Administrative Leave. The letter directed Le to “surrender all of [her] issued County  
24 property” and “to stay away from all Sheriff’s Office property, facilities and functions ...” The letter  
25 stated: “(1) It’s alleged that Captain Le knowingly made false statements to a superior officer when  
26 questioned about soliciting donations to complete a construction project at the Elmwood Correctional  
27 Facility from county employees and outside agency contractors. [¶] (2) It’s alleged that Captain Le  
28 knowingly made false statements to an on-duty county employee in an effort to persuade the employee

1 to violate agency policy.” The letter stated, “Captain Le is hereby ordered to respond to the Office of  
2 Internal Affairs at 2460 North First Street, Suite 280, San Jose, California, 95131, on Wednesday, June  
3 12, 2019, at 1330 hours to discuss these allegations.”

4 25. When Le requested an extension of the June 12, 2019 date for the investigative meeting  
5 with the Officer of Internal Affairs, she was told that no extension would be provided and that she  
6 would be fired for insubordination if she failed to attend the investigative meeting.

7 26. Le was escorted out of the workplace while crying about the false allegations made by  
8 the County against her to sully her previously immaculate reputation.

9 **Le’s Forced Resignation**

10 27. On June 11, 2019, the County announced that it was promoting a male Caucasian  
11 named Thomas Duran to fill Le’s position as a Sheriff’s Correctional Captain.

12 28. On June 12, 2019, Le involuntarily resigned her position as a Sheriff’s Correctional  
13 Captain, rather than suffer through an investigative meeting that she firmly expected would result in  
14 the County terminating her employment based on the false allegations leveled against her.

15 **Right To Sue Notice**

16 29. On November 11, 2019, Plaintiff filed a complaint of discrimination against the County  
17 with the Department of Fair Employment and Housing (“DFEH”) pursuant to the California Fair  
18 Employment and Housing Act, Government Code section 12900 et seq., in DFEH Matter Number  
19 201911-08238311, and obtained a Right to Sue notice.

20 **FIRST CAUSE OF ACTION**

21 **Race Discrimination – Constructive Discharge - Govt. Code § 12940, subd. (a)**

22 **Against County**

23 30. Plaintiff incorporates by reference the foregoing paragraphs of this Complaint as though  
24 fully set forth herein.

25 31. Plaintiff was employed by the County as a Sheriff’s Correctional Captain.

26 32. The County constructively discharged Plaintiff on June 12, 2019.

27 33. Plaintiff is Asian.

28 34. Plaintiff’s race was a substantial motivating reason for her constructive discharge.



1 48. Plaintiff incorporates by reference the foregoing paragraphs of this Complaint as though  
2 fully set forth herein.

3 49. Plaintiff was employed by the County as a Sheriff's Correctional Captain.

4 50. The County constructively discharged Plaintiff on June 12, 2019.

5 51. Plaintiff is a female.

6 52. Plaintiff's gender was a substantial motivating reason for her constructive discharge.

7 53. Plaintiff was harmed, and the gender discrimination was a substantial factor in causing  
8 her harm.

9 **FIFTH CAUSE OF ACTION**

10 **Constructive Discharge in Violation of Public Policy**

11 **Against County**

12 54. Plaintiff incorporates by reference the foregoing paragraphs of this Complaint as though  
13 fully set forth herein.

14 55. Plaintiff was employed by the County as a Sheriff's Correctional Captain.

15 56. Plaintiff was subjected to working conditions that violated public policy, namely  
16 harassment based on her race, national origin, age, and gender.

17 57. The County intentionally created or knowingly permitted the harassment.

18 58. The harassment was so intolerable that a reasonable person in Plaintiff's position would  
19 have had no reasonable alternative except to resign.

20 59. Plaintiff resigned because of the harassment.

21 60. Plaintiff was harmed, and the harassment was a substantial factor in causing her harm.

22 **SIXTH CAUSE OF ACTION**

23 **Hostile Work Environment Harassment**

24 **Against County**

25 61. Plaintiff incorporates by reference the foregoing paragraphs of this Complaint as though  
26 fully set forth herein.

27 62. Plaintiff was employed by the County as a Sheriff's Correctional Captain.

28 63. Plaintiff was subjected to working conditions that violated public policy, namely

1 harassment based on her race, national origin, age, and gender.

2 64. The harassing conduct was severe and pervasive.

3 65. A reasonable person in Plaintiff's circumstances would have considered the work  
4 environment to be hostile.

5 66. The County encouraged the harassing conduct.

6 67. Plaintiff was harmed, and the harassment was a substantial factor in causing her harm.

7 **SEVENTH CAUSE OF ACTION**

8 **Retaliation - Govt. Code § 12940, subd. (h)**

9 **Against County**

10 68. Plaintiff incorporates by reference the foregoing paragraphs of this Complaint as though  
11 fully set forth herein.

12 69. Plaintiff was employed by the County as a Sheriff's Correctional Captain.

13 70. The County constructively discharged Plaintiff on June 12, 2019.

14 71. Plaintiff's reporting of a harassment complaint against Taylor on February 24, 2019 and  
15 a sexual harassment complaint by a female lieutenant against Taylor on May 28, 2019, were  
16 substantial motivating reasons for the County's decision to constructively discharge Plaintiff.

17 72. Plaintiff was harmed, and the county's decision to retaliate against Plaintiff and  
18 constructively discharge Plaintiff was a substantial factor in causing her harm.

19 **PRAYER FOR RELIEF**

20 WHEREFORE, Plaintiff prays for judgment against the County as follows:

21 1. For a money judgment in an amount no less than \$1,500,000, representing  
22 compensatory damages including lost wages, earnings, retirement benefits, and other employee  
23 benefits, according to proof;

24 2. For a money judgment in an amount no less than \$3,500,000 for mental pain and  
25 anguish and emotional distress;

26 3. For attorney's fees;

27 4. For costs of suit;

28 5. For pre-judgment and post-judgment interest;

