

# CITY OF SACRAMENTO CLAIM FORM

\*\*\*\*PLEASE READ INSTRUCTIONS ON OTHER SIDE FIRST\*\*\*\*

Name of Claimant: Estrellita Ilee Muller

Home Address: [REDACTED]

City, State, Zip: [REDACTED]

Date of Birth: [REDACTED]

Daytime: [REDACTED]

Evening: [REDACTED]

DL#: [REDACTED]

RECEIVED  
CITY CLERK'S OFFICE  
915 I STREET, 5TH FLOOR  
CITY OF SACRAMENTO  
7-15P01:37 RCVD

Type of Loss:  Personal Injury  Other Sexual Harassment Police Report # N/A

Property Damage  Indemnity-Date complaint served

When did injury or damage occur? 12/26/13 to 01/07/14

Where did the injury or damage occur? (Street address, intersecting streets, or other location) City Hall

How did the injury or damage occur? (Describe accident or occurrence) See Addendum 1 attached hereto.

What action or inaction of City employee(s) caused your injury or damage? See Addendum 2 attached hereto.

What injury or damage did you suffer? Severe and extended physical, mental and emotional distress, medical expenses, lost wages and additional out of pocket loss.

Name of any witnesses: Randi Knott, Tom Sugawara (SPD Officer).

Name of City employee(s) involved? Kevin Johnson, Mayor; Kenneth Fleming, Human Resources Manager.

Amount of Claim: Personal Injury \$ \_\_\_\_\_ Property Damage \$ \_\_\_\_\_ Other \$200,000.00

Limited Civil Case: Yes \_\_\_\_\_ No X

State the amount of your claim if the total amount is \$10,000.00 or less. If it is over \$10,000.00, no dollar amount shall be stated, but you are required to state whether the claim would be a limited civil case (total amount of claim does not exceed \$25,000.00)

## ALL NOTICES AND/OR COMMUNICATIONS SHOULD BE SENT TO:

Name: Etan Rosen; Beyer, Pongratz & Rosen

Daytime Phone: 916-369-9750

Address: (Street, City, State, Zip) 3230 Ramos Circle, Sacramento, CA 95827

**Warning:** It is unlawful to knowingly present or cause to be presented any false or fraudulent claim for payment of a loss or injury (P.C.550(a)). Every person who violates this paragraph is guilty of a felony punishable by imprisonment in state prison for two, three or five years and by a fine not exceeding fifty thousand dollars (\$50,000) (P.C.550(c)(1)).

Signature: [Signature] Relationship: Attorney

Date: 04/12/2015

## ADDENDUM 1 TO CITY OF SACRAMENTO CLAIM (MULLER)

Initial Incident on or about December 26, 2013: Kevin Johnson, Mayor of Sacramento ("Mr. Johnson"), had inappropriate and unwelcomed physical contact with the claimant in the Mayor's private library at the City Hall of Sacramento. The incident included, without limitation, that Mr. Johnson's security officer, Tom Sugawara, told claimant that Mr. Johnson was looking for her. When she went to him, Mr. Johnson asked claimant into his library, then closed the door. He gave claimant an unwelcome and close hug, pressing his body against claimant, then felt her along her torso. He pressed his body against hers and asked her if she "felt it." He then attempted to kiss claimant. Claimant was forced to push herself away. He asked her to sit on the couch, which she did, feeling coerced. He sat in front of her and continued to make advances. Mr. Johnson informed claimant that he had "had a thing" for her for the past four years. Claimant informed him she was married. Mr. Johnson proposed that claimant enter into a sexual relationship with him, asking claimant if she was "game." When claimant responded in the negative, Mr. Johnson persisted; he requested that claimant not give him an immediate answer but think about it. He stated that he would swing by her desk in the next few weeks and if the answer was "yes" claimant was to give him a thumbs up and if the answer was "no," a thumbs down.

The City failed to take appropriate action to protect claimant from this incident or the subsequent incidents of harassment referred to below.

After the December 2013 incident described above, claimant experienced significant anxiety at the prospect of continued interactions with Mr. Johnson. She attempted to avoid all interactions with Mr. Johnson but was not able to. Mr. Johnson commonly visited the office of her supervisor, the City Manager. On these occasions, claimant would try to leave her desk or make a phone call or put her head down. Claimant was extremely anxious and uncomfortable in Mr. Johnson's presence. On several occasions subsequent to the December incident Mr. Johnson made, or attempted to make, eye contact with claimant and shook his head or smirked.

Claimant complained to several representatives of the City regarding the conduct of Mr. Johnson on several separate occasions. She informed City representatives that she was experiencing a hostile work environment and that she feared she would be the subject of retaliation and further harassment. These City representatives offered no helpful advice and took no action in response to receiving the information. Plaintiff alleges on information and belief that Mr. Johnson had acted inappropriately with respect to other City employees and representatives in the past and that representatives of the City knew, or had reason to know, of facts establishing this. Notwithstanding this, City representatives did nothing to effectively deal with the situation or to protect Plaintiff and similarly situated employees.

The harassment continued. On or about July 8, 2014, Mr. Johnson stated to claimant "Hey lady ... you are avoiding me." On or about August 1, 2014 as claimant was seated at her desk, Mr. Johnson asked to see claimant's hands. He then took both claimants' hands in his and pulled them over her desk. He then manipulated her hands so her thumbs would go up and then down and said that he wanted to see if her thumbs worked saying "some people's thumbs are funny." Claimant told Mr. Johnson that her thumbs worked fine but that they would never go up. After each of these incidents, claimant informed her superiors of the interaction.

On September 24, 2014, claimant complained to City Attorney, Jim Sanchez, regarding Mr. Johnson's conduct. Mr. Sanchez sent her the City's internal discrimination complaint resolution guide and sexual harassment policy.

On or about October 1, 2014, claimant was required to attend a meeting with Mr. Johnson, during which time he made a point of establishing eye contact with her.

On or about October 7, 2014, claimant accepted a job with the City Human Resources Department in order to more successfully avoid Mr. Johnson. Claimant's career was impacted by these incidents. Claimant turned

down a job opportunity with the City with higher pay and flexibility because she did not feel comfortable working in proximity to Mr. Johnson.

On October 10, 2014, claimant filed a formal discrimination complaint with the City of Sacramento. Upon information and belief, City Human Resources Manager Kenneth Fleming investigated the complaint. Mr. Fleming informed claimant on October 15, 2014 or December 22, 2014 that he had never lost a case in his career with the City and implied that if his investigation resulted in a negative finding claimant would not have a chance of prevailing in her case. He never informed claimant that she was required to file a claim with the City to preserve her right to proceed in this matter. He treated claimant like the aggressor not the victim. Claimant felt attacked. Claimant cried uncontrollably at their December 22, 2014 meeting.

On January 7, 2015, claimant was informed in writing that her complaint was denied as it was determined there was insufficient evidence to establish "probable cause."

## **ADDENDUM 2 TO CITY OF SACRAMENTO CLAIM (MULLER)**

See Addendum 1 attached hereto. Said conduct represents sexual harassment and discrimination by Kevin Johnson, attributable to the City under Government Code §§815.2 and 820. Violation of Civil Code §52.1, Violations of the Fourteenth Amendment of the U.S. Constitution and the California Constitution, of Title VII of the Civil Rights Act of 1964, 42 U.S.C. Section 2000 et seq. of Title I of the Civil Rights Act of 1964, 42 U.S.C. Section 1981(a), of the California Fair Employment and Housing Act, Government Code §12940 et seq., including failure to prevent sexual harassment, aiding and abetting (§12940(g)), and failure to maintain an environment free of harassment (§12940(i)), sexual harassment (hostile work environment and quid pro quo), conspiracy to violate civil rights (42 U.S.C. 1985), 42 U.S.C. 1983 (Monell Claims), sex discrimination, assault (§240), battery (Penal Code §242), sexual battery (CC §1708.5), intentional infliction of emotional distress.