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VIA PERSONAL SERVICE

March 4, 2020

Kathy Hayes, Clerk of the Board
Board of Supervisors, County of Humboldt
825 5th Street, Room 111
Eureka, CA 95501

RECEIVED
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Clerk
Board of Supervisors

RE: Claim for Damages – Rory Kalin

Dear Ms. Hayes:

Please allow this correspondence to serve as Claim for Damages against the County of Humboldt, Public Defender Marek Reavis, and Assistant Public Defender Luke Brownfield on behalf of my client, Rory Kalin. Please direct all correspondence to me at the above-referenced address.

Mr. Kalin has been employed by the County of Humboldt as a Deputy Public Defender (“Deputy PD”) since October of 2017. As a Deputy PD, Mr. Kalin has provided legal defense services to the indigent of Humboldt County when they have been charged with a crime.

Mr. Kalin suffered [REDACTED]. He was examined in the emergency room and released, but unfortunately the extent of his injuries did not manifest until June of 2019 [REDACTED], and subsequently placed on medical leave by his doctors. The County failed to provide him with any FMLA notice with regard to the April 2019 injury.

Prior to his medical leave, Mr. Kalin was a highly valued member of the County of Humboldt Public Defender’s Office. His evaluations were always “above average” and “outstanding.” This changed, however, when he was subjected to harassment and discrimination by a local judge who maintains a relationship with the Public Defender’s Office, in particular with Mr. Kalin’s immediate supervisor, Luke Brownfield. Mr. Brownfield not only ignored the harassment and discrimination but also took part in an effort to cover it up, demote Mr. Kalin, and to damage his reputation and career. In addition, the Public Defender, Mr. Reavis, took part in this effort by harassing Mr. Kalin while he was in the hospital, violating his right of privacy while

in the hospital, making false statements about Mr. Kalin to his colleagues and the Humboldt County Bench, and took steps to demote and terminate Mr. Kalin while he was on medical leave.

On May 25, 2019, at Antlers RV Park and Campground in Shasta County, California, Mr. Kalin was attacked physically and verbally by Judge Greg Elvine-Kreis, a Superior Court Judge for Humboldt County. A group had gathered at Antlers RV Park for the Memorial Day weekend. The get-together had been arranged by the wife of Mr. Kalin's Supervising Attorney, Luke Brownfield. Many of the attendees were employed in the Public Defender's Office, as well as their spouses, families, and other acquaintances.

The verbal and physical attacks occurred while I was on a boat that had been rented from the Antlers RV Park by Mr. Brownfield. The boat held approximately 25 people. Mr. Kalin observed Judge Elvine-Kreis drinking large quantities of alcohol and becoming belligerent and intoxicated. During this time, Mr. Kalin also observed Judge Elvine-Kreis acting inappropriately with women. He was making inappropriate remarks about women and flirting with other men's wives. About 30 minutes into the boat ride, Judge Elvine-Kreis began calling Mr. Kalin a "Jew Boy" and making fun of his Jewish heritage loudly, in a demeaning and unwelcome manner. He laughed loudly while making these statements. Mr. Kalin stayed silent because Judge Elvine-Kreis is a judge that he regularly appears before in Humboldt Superior Court. Even more troubling is the fact that Mr. Brownfield, Mr. Kalin's supervisor, stayed silent and did not intervene with regard to the discriminatory and harassing comments concerning Mr. Kalin's Jewish heritage.

Judge Elvine-Kreis then took his attack on Mr. Kalin a step further by shoving him into Lake Shasta off the stern side (back portion) of the boat. This was an intentional shove and Mr. Kalin had no time to react. This physical contact was offensive, unwelcome, and without warning. Mr. Kalin was fully clothed when he was shoved into the lake by Judge Elvine-Kreis - wearing full length pants, a long sleeve shirt, and shoes. Just prior to being shoved off the boat into the lake, Judge Elvine-Kreis made fun of his clothing telling him that he was "dressed like an old man."

There were witnesses from the public defender's office to Judge Elvine-Kreis' behavior and the names of those witnesses and their contact information has been provided to the appropriate investigating agencies.

Mr. Kalin was understandably shocked and embarrassed at what had just happened. When the boat arrived back at shore, Mr. Kalin went to his tent where he remained until Judge Elvine-Kreis had left the next morning. Mr. Kalin's wife was also shocked at what had just happened and began to cry. Judge Elvine-Kreis then began to harass Mr. Kalin's wife - telling her that he wanted to see Mr. Kalin, but she asked him to leave Mr. Kalin alone as he was very upset.

Mr. Kalin had personal belongings in his pockets when Judge Elvine-Kreis shoved him into the lake. His cell phone was completely ruined and he had to purchase a replacement iPhone and lost a lot of important information. This was also a phone he used for work. The Public Defender's Office uses a group text message system for communications and Mr. Kalin was without the ability to see his office communications until he could purchase a new phone. Additionally, his car keys, wallet and prescription medication were also in his pants pocket when he was attacked and those items went into the lake as well.

Several hours later, after returning to shore, Judge Elvine-Kreis asked Mr. Kalin's wife, "where is your girlfriend?" referring to Mr. Kalin as "girlfriend," when he was looking for Mr. Kalin at a gathering later that day. Despite being advised by Mr. Kalin's wife not to address Mr. Kalin further, Judge Elvine-Kreis approached Mr. Kalin's tent and tried to offer him money for the personal property that had been ruined. Mr. Kalin did not exit the tent and politely declined, given the fact that he was concerned about taking money from a judge that he appears before regularly.

After Mr. Kalin and the public defenders who attended the Memorial Day get-together all returned to work, Mr. Kalin was treated differently by his office management, including Mr. Brownfield, for ignoring Judge Elvine-Kreis' behavior and the offer of money to replace the personal items he had lost in the lake. Mr. Kalin also was not treated with the same respect among his colleagues the following work week - his colleagues and management distanced themselves from him. Within weeks of Judge Elvine-Kreis verbally and physically attacking Mr. Kalin, his supervisor Luke Brownfield (a close personal friend of Judge Elvine-Kreis), along with other management, made false accusations against Mr. Kalin that allegedly came from the bench that Judge Elvine-Kreis sits on. These accusations resulted in an adverse employment action against Mr. Kalin without any due process, despite his consistent objection and in direct contrast to his excellent performance reviews and recent promotion.

In addition, just weeks after Judge Elvine-Kreis threw Mr. Kalin off the boat, [REDACTED]

[REDACTED]

During Mr. Kalin's hospitalization, Mr. Reavis texted him continually demanding information about his medical condition. Mr. Reavis' contact exacerbated Mr. Kalin's medical condition. The contact became harassing and he had to contact County Human Resources to get them to intervene on Mr. Kalin's behalf.

Despite Mr. Reavis being contacted by Mr. Kalin about his hospitalization, Mr. Reavis failed to inform the County Department of Human Resources and thus, no FMLA notice was timely provided to Mr. Kalin. This failure was admitted by Human Resources in a July 1, 2019 email to Mr. Reavis.

In addition, while out on medical leave Mr. Reavis and Mr. Brownfield undermined Mr. Kalin and damaged his reputation in his office by spreading misinformation and a false narrative about Mr. Kalin concerning communication he had while on leave. Mr. Kalin kept excellent communication with Human Resources liaison; however, Mr. Reavis told the Public Defender's Office in a group office text that he had not heard from Mr. Kalin. Mr. Reavis also damaged Mr. Kalin's reputation in the Public Defender's Office by talking openly and publicly about Mr. Kalin in the office while he was out on leave. Mr. Reavis and Mr. Brownfield, without Mr. Kalin's knowledge, started an investigation while Mr. Kalin was on medical leave and questioned Mr. Kalin's colleagues in an attempt to punish Mr. Kalin for being out on medical leave (and for Mr. Kalin's request that Human Resources get involved to stop Mr. Reavis' harassing behavior while Mr. Kalin was in the hospital) in order to create false accusations concerning Mr. Kalin's work performance. This was all done so that Mr. Reavis and Mr. Brownfield could cover up their failure

to abide by the Memorandum of Understanding between the County of Humboldt & County Attorneys Association ("MOU") medical leave requirements contained within Section 29 of the MOU; their failure to provide Mr. Kalin with due process before an adverse employment action was taken (also a FMLA violation); their retaliation for Mr. Kalin being out on medical leave; and, their creation of a hostile work environment and harassment in connection with the Memorial Day incident.

This harassment and retaliation has unfortunately continued upon Mr. Kalin's return to work on January 13, 2020. Mr. Reavis and Mr. Brownfield have created a hostile work-place, including discriminatory harassment, and has exacerbated Mr. Kalin's medical condition.

Mr. Kalin returned to work on January 13, 2020 upon the approval of his doctors. On that day Mr. Kalin was prescheduled to meet with Mr. Brownfield, the Assistant Public Defender, to discuss his new assignment. In addition, Mr. Kalin was also looking forward to speaking to Mr. Brownfield and Mr. Reavis about clearing up a serious error on his last PPAF wherein his reclassification to his previous step and level was erroneously and accidentally processed as a demotion instead of a reclassification.

Previous to his return, the County failed to communicate with Mr. Kalin about his needs for an accommodation with regard to his work performance. Despite the known reason for his medical leave, no one at the County Department of Human Resources made an inquiry as to Mr. Kalin's needs upon his return to work due to his injury – i.e., no reasonable accommodations were offered in violation of the Americans with Disabilities Act (ADA).

Upon entering the Public Defender's Office, he first saw Mr. Reavis. Much to Mr. Kalin's surprise, Mr. Reavis was extremely unprofessional, threatened him, intimidated him, showed actual bias against him, retaliated against him, and bullied him several times. Mr. Reavis had absolutely no interest in asking how Mr. Kalin was or welcoming him back to the office at all and immediately started intimidating and harassing him, belittling Mr. Kalin in front of Mr. Brownfield while Mr. Brownfield remained silent. When Mr. Kalin arrived at the Public Defender's Office that morning at 8:30 a.m. Mr. Reavis started the meeting with Mr. Kalin by ridiculing him in an unprofessional and nasty tone of voice. Mr. Reavis bullied him and talked down to Mr. Kalin, falsely accusing him of not staying in good contact with the office while he was out on medical leave. This is was a false statement – Mr. Kalin has been in consistent communication with his office when he was initially hospitalized and remained in consistent contact with Human Resources, and in particular with his Human Resources Liaison during the pendency of his medical leave. Mr. Reavis not only falsely accused Mr. Kalin in front of his supervisor, Mr. Brownfield, but also damaged Mr. Kalin's reputation by sharing this false information with other staff in the Public Defender's Office. Mr. Brownfield again joined in the treatment of Mr. Kalin through his silence.

Mr. Kalin was then surprised to learn that Mr. Reavis would not be giving Mr. Kalin his office back but would be placing him at a secretarial station. Mr. Reavis went on to further bully Mr. Kalin and intimidate him by stating that "you're not a valued member of our team" and "you have a misconception about your confidence levels." All of this occurred within the first fifteen minutes of Mr. Kalin's arrival back to work from medical leave on January 13, 2020.

It did not end there. Mr. Reavis then handed Mr. Kalin a document entitled Performance Improvement Plan ("PIP"). Mr. Kalin was given the PIP despite the undisputed fact that his performance reviews have all been "outstanding" or "above average." While Mr. Kalin was on medical leave, Mr. Reavis did submit a PPAF reclassification and addendum that Mr. Kalin had objected to and was given no opportunity to refute.¹ Mr. Reavis only gave Mr. Kalin approximately one minute to look at the PIP and sign it. Mr. Reavis threatened Mr. Kalin to sign the letter stating if "you do not sign it then he would be talking to his lawyers." Mr. Kalin did not agree with the false narrative provided by Mr. Reavis, which came only after the humiliation he suffered on Memorial Day at the hands of Judge Elvine-Kreis and after his medical leave. Mr. Reavis persisted in insisting that Mr. Kalin sign the document immediately and without any of the rights of due process as outlined in the MOU.

This encounter with Mr. Reavis and Mr. Brownfield severely exacerbated Mr. Kalin's medical condition and he left the office immediately to speak with Human Resources about his rights under the circumstances. Human Resources advised Mr. Kalin that they would look into the situation. Mr. Kalin provided a copy of the PIP to Human Resources and noted his objection.

Human Resources advised Mr. Kalin to contact his doctor. After speaking with his doctor about the conditions he had returned to, Mr. Kalin was immediately placed on medical leave.

After speaking with his doctor and notifying Human Resources of the extension to his medical leave, Mr. Kalin immediately informed Mr. Reavis via email and copied Human Resources. Mr. Kalin then went back to the Public Defender's Office to grab his rain jacket and orally advise Mr. Reavis that the office conditions he was subjected to upon his return had exacerbated his medical condition and that his medical leave had been extended effective immediately.

Upon Mr. Kalin's entry into the office, Mr. Reavis stated he just read his email and stated that "we no longer need your services" and demanded Mr. Kalin's keys to the office returned. Mr. Kalin understood Mr. Reavis' statement to mean that he had been terminated – despite the fact that Mr. Kalin was now again on medical leave and protected under not only under the MOU but also under the law.

Mr. Reavis then continued his threats against Mr. Kalin by threatening to call the police on him, telling Mr. Kalin that he had to exit the waiting room of the Public Defender's Office or he would have him arrested.

Mr. Kalin, fearing for his safety and concerned that he would be arrested, exited the Public Defender's Office and called Human Resources to document what had just occurred.

Since Mr. Kalin has been on medical leave, the County has also denied him reimbursement for his mandatory continuing education as a licensed attorney pursuant to the MOU. In addition, the County has violated the MOU by intentionally miscalculating the one year period for medical leave by cutting his one year medical leave protection short.

¹ County Human Resources has continually failed to look into this issue despite Mr. Kalin's repeated requests.

Mr. Kalin has also repeatedly requested the return of his personal property from his office. Such requests have been ignored by County staff.

The actions by the County are a violation of Mr. Kalin's rights as an employee of the County of Humboldt including, but not limited to, the ADA, FMLA, County ordinances, the MOU, and discrimination and harassment ordinances and laws based on his protected categories. In addition, the actions of the Public Defender and Assistant Public Defender in order to cover up the behavior of a local Superior Court Judge and their own failures to follow County policy and the law have also interfered with Mr. Kalin's rights as a County of Humboldt employee. As a result of the actions taken by County personnel, Mr. Kalin has suffered damages, including intentional and negligent infliction of emotional distress, in an amount to be determined in excess of \$100,000.00. Such amounts will include without limitation:

1. Front pay;
2. Back pay;
3. Loss of pension;
4. Emotional distress damages;
5. Harm to reputation and damage to career;
6. Loss of his student loan forgiveness plan;
7. Attorneys' fees and costs.

I look forward to hearing from you.

Sincerely,



Cyndy Day-Wilson, Esq.

cc: Client