

**FILED**

NOV 10 2009 JOEL B.

SUPERIOR COURT OF CALIFORNIA  
COUNTY OF HUMBOLDT

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7  
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10  
11 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
12 COUNTY OF HUMBOLDT

13 TAWNIE HANSEN,

14 Plaintiff,

15 v.

16 CITY OF EUREKA, DAVID TYSON, and  
17 ROES 1 through 75, inclusive,

18 Defendants.

) CASE NO. **CV 090773**

) COMPLAINT

- ) 1. Harassment  
) 2. Failure to Prevent Harassment  
) 3. Aiding and Abetting Harassment

19 Plaintiff TAWNIE HANSEN ("Hansen") alleges as follows:

20  
21 FIRST CAUSE OF ACTION  
22 (Harassment Against Defendants CITY OF EUREKA  
23 and ROES 1 - 25)

- 24 1. Hansen, at all times relevant to this lawsuit, was a resident of Humboldt County,  
25 California and employed with the police department of the City of Eureka, California ("EPD").  
26 2. Defendant CITY OF EUREKA ("Eureka") is a municipal corporation organized under  
27 the laws of the State of California.  
28 3. Other than being employees or elected officials of Eureka, the true names and capacities  
of defendants sued as ROES 1 through 25 are unknown to Hansen, who therefore sues these

1 defendants by such fictitious names. Hansen will amend this complaint to show these defendants'  
2 true names and capacities when that information is ascertained.

3 4. Hansen is informed and believes, and based thereon alleges, that each fictitiously named  
4 defendant has engaged in conduct that legally and proximately caused the damages described below  
5 and renders that defendant liable to Hansen for those damages.

6 5. Hansen is further informed and believes, and based thereon alleges, that each defendant  
7 is the agent, employee, manager or supervisor of the remaining defendants, and that all of the acts  
8 performed by them as alleged in this complaint were performed within the course and scope of their  
9 authority in each such capacity and ratified by the remaining defendants in each of their respective  
10 capacities.

11 6. Devora Wilson ("Wilson") was, at all times relevant to this lawsuit, employed with the  
12 EPD in supervisory and management positions at the highest levels possible for non-sworn EPD  
13 employees, each such position being one step below that of Garr Nielsen ("Chief Nielsen"), the  
14 Chief of the EPD at all such times.

15 7. Prior to March 2008, Hansen was employed with the EPD in various capacities for 14  
16 years, including as a senior dispatcher and as its Communications Supervisor. All tolled, Hansen  
17 had worked for Eureka for almost 20 years.

18 8. Beginning in March 2008 and continuing on a regular basis into March 2009, Wilson, as  
19 Hansen is informed and believes and based thereon alleges, acting alone or with one or more other  
20 Eureka employees, committed or caused to be committed one or more of the following acts, each of  
21 which was intended to inflict emotional distress upon Hansen and/or defame her and each of which  
22 was done by Wilson in retaliation for what she erroneously believed were changes made by Chief  
23 Nielsen to her work assignments at Hansen's request which ruined her EPD career:

24  
25 (a) publishing false statements about Hansen in a weblog created for EPD  
26 members, which expressly or impliedly stated that (1) Hansen, a married woman,  
27 was having a sexual relationship with Chief Nielsen, a man married to another  
28 woman, (2) Hansen was receiving special work-related benefits from Chief Nielsen

1 due to this asserted relationship, and (3) Hansen had influenced Chief Nielsen to  
2 transfer, promote or demote EPD personnel according to her wishes;

3  
4 (b) sending Hansen purported gift items to her EPD office addressed to  
5 "Tawnie Nielsen," a name which combined her first name with the last of Chief  
6 Nielsen and implied that, given her asserted relationship with him, she should be  
7 referred to as if she were married to Chief Nielsen and had taken his last name; and

8  
9 (c) sending e-mails to Hansen's EPD e-mail address directed to "Tawnie  
10 Nielsen," or causing vendors of gift items and the like to do so.

11  
12 9. Each such published statement was false, unprivileged, and defamatory on its face, in  
13 that each accused Hansen of being unfaithful to her husband or tended to injure her both in her  
14 profession specifically and her reputation generally. Consequently, each of these acts, which were  
15 done with the intent to harm Hansen and cause her great emotional distress and which were entirely  
16 or substantially motivated by the fact that Hansen, a female, had befriended Chief Nielsen, a male,  
17 constituted both sex and gender harassment of Hansen under Government Code section 12940.

18 10. Given Wilson's supervisory ranking within the EPD at the time she committed this  
19 harassment, any such act by Wilson effectively constituted an act of Eureka itself for which Eureka  
20 is strictly liable.

21 11. As a legal and proximate result of this harassing conduct, Hansen has been rendered  
22 totally disabled insofar as EPD employment is concerned. Thus, she has and will continue to suffer  
23 a loss of income and benefits for the remaining 21 years of the working life she otherwise would  
24 have enjoyed at the EPD in the approximate sum of \$1,470,000.

25 12. In addition, Hansen has suffered and will continue to suffer mental anguish due to this  
26 harassing conduct, including anxiety, anger, depression, irritability and loss of sleep. Therefore,  
27 Hansen has been further damaged in this regard in an amount according to proof.

28 13. Hansen also has been damaged by this harassing conduct in the form of expenses

1 incurred for attorneys fees to pursue this action in an additional amount according to proof.

2 14. Hansen is likewise entitled to an award of prejudgment interest, at the maximum rate  
3 and period of time permitted by law, on each component of her damages as alleged above.

4 15. In April 2008, Hansen submitted a grievance to Eureka regarding this harassing  
5 conduct. Eureka did not conclude its investigation of this grievance until May 2009 and – despite  
6 never refuting that the harassing conduct occurred – failed to find anyone responsible for it.

7 16. After that point, Hansen participated in an additional administrative proceeding with  
8 Eureka to determine whether other employment opportunities existed for her with Eureka in light  
9 of her above-described disability. This effort concluded in June 2009 with no suitable employment  
10 for which Hansen was qualified having being offered to her.

11 17. Thereafter, but prior to filing this complaint, Hansen timely filed a harassment claim  
12 with the California Department of Fair Employment & Housing as a result of the events alleged  
13 above. This claim was not resolved at that administrative level, and a “right to sue” letter with  
14 respect to it was issued by the department on September 17, 2009.

15  
16 SECOND CAUSE OF ACTION  
17 (Failure To Prevent Harassment Against Defendants CITY OF EUREKA,  
18 DAVID TYSON and ROES 26 - 50)

19 18. Hansen hereby incorporates, as though fully set forth herein, the above allegations  
20 contained in paragraphs 1, 2 and 4 - 17.

21 19. Other than being employees or elected officials of Eureka, the true names and  
22 capacities of defendants sued as ROES 26 through 50 are unknown to Hansen, who therefore sues  
23 these defendants by such fictitious names. Hansen will amend this complaint to show these  
24 defendants’ true names and capacities when that information is ascertained.

25 20. Defendant DAVID TYSON (“Tyson”) was, at all times relevant to this lawsuit, the City  
26 Manager for Eureka and the person with the highest authority of any non-elected Eureka official.

27 21. The investigation into Hansen’s grievance was transformed into a global investigation  
28 into any and all complaints any EPD personnel might have, regardless of whether such matters had  
anything to do with Hansen’s grievance and even though, as Hansen is informed and believes and

1 based thereon alleges, at that point there were no pending grievances by any other member of the  
2 EPD. Thus, rather than address Hansen's specific grievance in the focused and expeditious manner  
3 required by law, the investigation of her grievance was instead delayed unreasonably and stretched  
4 out to a full year's effort, during most of which the harassing conduct of which she had complained  
5 continued unabated.

6 22. Hansen is also informed and believes, and based thereon alleges, that Tyson – despite  
7 being aware of Eureka's obligation to have Hansen's grievance promptly investigated – made the  
8 decision to broaden the scope of her grievance's investigation as described above for the purpose of  
9 delaying any finding as to the person or persons responsible for her harassment because he desired  
10 that it continue and cause ongoing harm both to her and to Chief Nielsen.

11 23. Hansen is further informed and believes, and based thereon alleges, that Tyson made  
12 that decision due to the following:

13  
14 (a) the hiring of Chief Nielsen in April 2007 resulted in a significant  
15 controversy among members of the EPD, as a result of which there have long  
16 existed two opposing groups within its ranks – one that supports the policies  
17 implemented by Chief Nielsen and the other that fiercely opposes them;

18  
19 (b) Tyson had a personal friendship and aligned himself with Wilson, a  
20 member of the anti-Chief Nielsen group who Tyson was aware had publicly  
21 criticized Chief Nielsen at a City Council meeting and who he also knew was an  
22 adversary to Hansen;

23  
24 (c) at the same time, Tyson, who spoke openly to Hansen of his potential  
25 sexual encounter with an elected Eureka official, had previously flirted with Hansen  
26 in public – including touching her in a suggestive manner – and intimated to her that  
27 he would be desirous of her performing a specific sexual act with him;

1 (d) Hansen rejected Tyson's sexually aggressive overtures and never did or  
2 said anything to convey to Tyson that she was open to them;

3  
4 (e) Tyson, having been rebuffed by Hansen in this regard, was both angry  
5 with Hansen and jealous of Chief Nielsen when he learned of the above-described  
6 defamatory statements regarding Hansen's purported affair with Chief Nielsen,  
7 which statements Tyson apparently believed were true; and

8  
9 (f) given these misplaced beliefs and his alignment with Wilson, Tyson had  
10 no desire to take any steps to have the defamatory publications stop or to bring an  
11 end to the harassing conduct to which Hansen was being subjected.

12  
13 24. Because Tyson, as the City Manager, had the authority to and did decide to broaden the  
14 investigation into Hansen's harassment grievance to an unlimited scope in the manner alleged  
15 above – and thereby unreasonably delay the investigation into her specific grievance – both he and  
16 Eureka violated Government Code section 12940 and are liable, jointly and severally, for the  
17 damages she alleges were caused as a result.

18 25. Moreover, because Tyson's above-alleged acts were done by him with the intent to  
19 injure Hansen, he has acted maliciously towards her. As a result, Hansen is further entitled to an  
20 award of punitive damages against Tyson.

21  
22 THIRD CAUSE OF ACTION  
23 (Aiding And Abetting Harassment Against Defendants CITY OF EUREKA,  
24 DAVID TYSON and ROES 51 - 75)

25 26. Hansen hereby incorporates, as though fully set forth herein, the above allegations  
26 contained in paragraphs 1, 2, 4 - 17 and 20 - 23.

27 27. Other than being employees or elected officials of Eureka, the true names and  
28 capacities of defendants sued as ROES 51 through 75 are unknown to Hansen, who therefore sues  
these defendants by such fictitious names. Hansen will amend this complaint to show these

1 defendants' true names and capacities when that information is ascertained.

2 28. Tyson, by deciding to cause the investigation into Hansen's harassment grievance to be  
3 broadened to an unlimited scope in the manner alleged above – and thereby unreasonably delay the  
4 investigation into her specific grievance – effectively aided and abetted the harassment to which  
5 Hansen was being subjected. Therefore, both he and Eureka violated Government Code section  
6 12940 and are liable, jointly and severally, for the damages she alleges were caused as a result.

7 29. In addition, because Tyson's above-alleged act were designed to injure Hansen, he has  
8 acted maliciously towards her. As a result, Hansen is further entitled to an award of punitive  
9 damages against Tyson.

10

11 WHEREFORE, Hansen prays for judgment as follows:

- 12 1. For general damages, including those for her emotional distress, in an amount according  
13 to proof;
- 14 2. For special damages for his lost earnings and related employment benefits, both past and  
15 future, all in an amount according to proof, but not less than \$1,400,000;
- 16 3. For attorneys fees in an amount according to proof;
- 17 4. For the assessment of prejudgment interest, at the maximum rate and period of time  
18 permitted by law, on each component of his damages;
- 19 5. For an award of punitive damages in an amount according to proof;
- 20 6. For costs of suit; and
- 21 7. For such other relief as the court may deem proper.

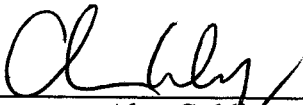
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23 DATED: November 9, 2009

LAW OFFICE OF ALAN GOLDBERG

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BY:   
Alan Goldberg  
Attorney for Plaintiff  
TAWNIE HANSEN

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