

**FILED BY FAX**

ALAMEDA COUNTY

February 21, 2017

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THE SUPERIOR COURT  
By Lynn Wiley, Deputy

CASE NUMBER:  
**RG17850153**

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10 **SUPERIOR COURT FOR THE STATE OF CALIFORNIA**

11 **COUNTY OF ALAMEDA**

14 JAMES M. GANTT,  
15  
16 Plaintiff,

17 vs.

18 CITY OF OAKLAND, LIBBY SCHAAF,  
19 SABRINA LANDRETH, JOHN LOIS, and  
20 DOES 1-50;

21 Defendants.

} Case No.

} **COMPLAINT FOR DAMAGES AND  
INJUNCTIVE RELIEF**

} (Civil Rights)

} Demand for Jury Trial

23 Plaintiff JAMES MICHAEL GANTT complains against defendants CITY OF  
24 OAKLAND, LIBBY SCHAAF, SABRINA LANDRETH, JOHN LOIS, and Does 1-50 as  
25 follows:

26 **PRELIMINARY STATEMENT**

27 1. Plaintiff JAMES M. GANTT, a highly decorated Oakland Police Department  
28 ("OPD") member for nearly thirty years, brings this action against defendants CITY OF

1 OAKLAND, LIBBY SCHAAF, SABRINA LANDRETH, JOHN LOIS, and Does 1-50, for  
2 retaliation against him because he pursued the investigation of an OPD officer as a  
3 suspect in the violent death of that officer's wife.

4 2. Sgt. Gantt also complains that defendants retaliated against him for  
5 protesting racial harassment and invasions of his right to privacy in his confidential and  
6 electronic personnel records by other officers.

7 3. Sgt. Gantt brings his claim of retaliation based upon protected whistleblower  
8 conduct under California Labor Code § 1102.5. He also brings his claim for retaliation  
9 based on complaining about and opposing racist activities at OPD under California  
10 Government Code § 12940(h).

#### 11 JURISDICTION AND VENUE

12 4. Plaintiff's claims arise under the statutory law of the State of California.

13 5. The actions giving rise to this lawsuit occurred in the County of Alameda.

#### 14 PARTIES

15 6. At all times relevant to this controversy, plaintiff JAMES MICHAEL GANTT  
16 was an Oakland Police Department Detective and employee of the CITY OF OAKLAND,  
17 and a resident of Hayward, California.

18 7. At all times relevant to this controversy, defendant CITY OF OAKLAND was a  
19 charter city and public agency that operates the Oakland Police Department and was  
20 Sgt. Gantt's employer.

21 8. At all times relevant to this controversy, defendant LIBBY SCHAAF was the  
22 Mayor of the City of Oakland.

23 9. At all times relevant to this controversy, defendant SABRINA LANDRETH  
24 was the City Administrator of the City of Oakland.

25 10. At all times relevant to this controversy, defendant JOHN LOIS was a sworn  
26 police officer and an administrator within the Oakland Police Department.

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2

**STATEMENT OF FACTS**

3 11. Plaintiff JAMES MICHAEL GANTT joined the Oakland Police Department in  
4 November 1988. In February 2003, OPD promoted him to the rank of Police Sergeant.  
5 He joined the OPD Homicide Division on May 9, 2009.

6 12. Sgt. Gantt is a highly respected, decorated and honored investigator. In his  
7 nearly thirty years of service, he has received many honors, including: (1) Top Cop  
8 award from the National Association of Police Organizations; (2) Four Medals of Merit  
9 from the OPD; (3) Oakland Police Officers Association Officer of the Year (Runner Up);  
10 and (4) OPD's Captain's Certificate of Commendation.

11 13. On June 16, 2014, Sgt. Gantt and Homicide Inspector Caesar Basa, Sgt.  
12 Gantt's senior, were assigned to investigate the death of Irma Huerta Lopez, the wife of  
13 OPD Officer Brendan O'Brien.

14 14. Although Officer O'Brien reported his wife's death as a suicide, Sgt. Gantt's  
15 review of the evidence at the scene of her death led him to reasonably suspect that Ms.  
16 Huerta Lopez's death was a homicide and that O'Brien was responsible for his wife's  
17 death.

18 15. Sgt. Gantt noted many facts that led him to this conclusion. For example, the  
19 victim allegedly fired two bullets, which is unusual in a suicide. One of the bullet shells  
20 landed at her right foot rather than to her side. The bullet hole in the wall of the room  
21 where she apparently died was more consistent with a shot from the door than with a  
22 self-inflicted wound to the head from the bed where she was found. Ms. Huerta Lopez  
23 had removed her wedding ring and packed her things as if she were trying to leave.

24 16. When Gantt began recounting these facts to Basa, Basa stated, "Don't be  
25 closed minded."

26 17. Basa told Gantt at the scene that it looked like a suicide.  
27  
28

1 18. OPD took O'Brien to the police station, where Basa and Gantt questioned him  
2 in the early hours of June 17, 2014. Deputy Alameda County district attorneys listened  
3 from another room.

4 19. Basa asked O'Brien what Gantt considered a series of "softball" questions and  
5 then asked if Gantt had any questions.

6 20. Gantt began to question O'Brien in depth at the police station. O'Brien stated  
7 that he and his wife had been arguing because O'Brien had cheated on her.

8 21. Through his interrogation, Gantt learned from O'Brien that O'Brien's alibi  
9 was that at the time of the shooting, he was walking to a store to buy cigarettes.

10 However, O'Brien stated that he did not smoke. In addition, O'Brien stated that he had  
11 walked barefoot for a mile to the store.

12 22. Gantt learned that O'Brien had left his gun and badge at the house, even  
13 though officers, especially white male officers in East Oakland, rarely leave their guns  
14 and badges behind when they go out onto the streets.

15 23. Gantt told O'Brien that people might look at what he was saying with  
16 suspicion.

17 24. At that point, Basa kicked Gantt under the table, and said, "Let's take a  
18 break."

19 25. Outside the investigation room, Basa heatedly berated Gantt, saying, "What  
20 are you doing? You're treating him like a suspect, a criminal, like a dude off the streets!"

21 26. Gantt replied that O'Brien was acting like a suspect. Gantt stated that he  
22 believed O'Brien was a suspect and that he thought that Basa could not really believe  
23 what O'Brien was saying.

24 27. Basa told Gantt to "have more compassion" for O'Brien since he had just lost  
25 his wife.

26 28. On previous occasions Basa had typically questioned suspects in a hard and  
27 forceful manner.

1 29. Gantt replied, "You ask him what you want, and I'll ask him what I want. I  
2 don't care if he's a cop, he's a suspect. If he killed his wife, he's a criminal."

3 30. Then Gantt walked away to the restroom. As he did so he saw Basa go into  
4 Homicide Lieutenant John Lois' office and shut the door.

5 31. When Gantt emerged about five minutes later, he saw that Basa was just  
6 leaving Lois' office. Basa avoided eye contact with Gantt.

7 32. Lt. Lois then gestured to Gantt through his office window and told him to  
8 close the door. Lois advised Gantt that he was removing him from the investigation of  
9 Ms. Huerta Lopez's death. When Gantt asked why, Lois said, "I just don't want you on  
10 the case." Lois told Gantt to turn over all his notes and any items related to the case to

11 Basa.

12 33. Lois stated that he was putting Officer Randy Brandwood, who had just six  
13 months of experience in homicide, on the case.

14 34. Gantt would have conducted and completed the investigation had Lois not  
15 removed him.

16 35. By removing Sgt. Gantt from the investigation of the death of Ms. Huerta  
17 Lopez, Lt. Lois improperly interfered with the homicide investigation and retaliated  
18 against Sgt. Gantt for carrying out his lawful duty to carry out his investigation as the  
19 evidence indicated, including pursuing the possibility that Officer O'Brien had killed his  
20 wife.

21 36. After Lois removed Gantt from the investigation into the death of Ms. Huerta  
22 Lopez, Lois, Basa, and Brandwood avoided any discussion of the case around Gantt,  
23 despite his history and reputation as a skilled homicide investigator whose insights  
24 would have been helpful in resolving the case.

25 37. Lois and Basa began a campaign of harassment against Gantt. For example,  
26 they would constantly call Gantt back to the station when he was at lunch or on breaks  
27 and demand immediate follow up on work items.

28 38. Lt. Lois would constantly nitpick at Sgt. Gantt.

1 39. Several times in July and August 2014, at least five Homicide Inspectors  
2 improperly obtained access to and viewed Gantt's confidential personnel records in  
3 violation of state law, his right to privacy and in retaliation for his pursuit of the  
4 investigation into the death of Ms. Huerta Lopez. Gantt did not discover their intrusion  
5 into his personnel files until several months later.

6 40. On August 6, 2014, Sgt. Gantt requested to be transferred out of the Homicide  
7 Unit because of the harassment he was experiencing from Lt. Lois, Lt. Tony Jones, and  
8 Homicide Inspectors.

9 41. OPD ruled Ms. Huerta Lopez's death a suicide.

10 42. In December 2014, Gantt complained about the intrusions into his personnel  
11 files to OPD Captain Drennan Lindsey, who immediately contacted the OPD Internal  
12 Affairs Division ("IA").

13 43. In January 2015, IA contacted Gantt, and he told the IA officers about both  
14 the right to privacy violations and a number of racist text messages he had received  
15 from Lt. Tony Jones and others in 2014. These text messages included images of the Ku  
16 Klux Klan.

17 44. IA apparently did very little to investigate Sgt. Gantt's complaints. Sgt. Gantt  
18 repeatedly asked for updates, specifically from the investigating officers Oliver Mildred,  
19 Tynan Smalls, and Eric Lewis, but they failed to respond to him.

20 45. On May 21, 2015, OPD denied Gantt an assignment with the Alcoholic  
21 Beverage Abatement Team, although he had more seniority and experience than the  
22 other candidates.

23 46. On August 15, 2015, Chief Sean Whent and Assistant Chief Paul Figueroa  
24 transferred Lt. Tony Jones into Internal Affairs even though Jones had a Class One  
25 complaint, the most serious level of complaint, filed against him in IA. Jones was only in  
26 IA for thirty days.

27 47. At the end of 2015, IA issued a letter closing Sgt. Gantt's IA complaint.  
28

1 48. On December 22, 2015, OPD denied Gantt an assignment as a background  
2 and recruitment Sergeant, although he had more seniority and experience than the  
3 other candidates.

4 49. On September 25, 2015, O'Brien committed suicide. He revealed in his suicide  
5 note that he and many other OPD officers had sexually exploited an underage woman.

6 50. OPD is under federal receivership. Court-appointed federal monitor Robert  
7 Warshaw oversees OPD.

8 51. In or around February 2016, Warshaw finally learned of the O'Brien suicide  
9 and the sex abuse allegations. Before this, OPD had not investigated these issues.

10 ~~52. Warshaw and the federal court demanded an investigation, leading to the~~  
11 finding that dozens of police officers from seven Bay Area law enforcement agencies had  
12 exploited this woman.

13 53. In March 2016, Captain Nishant Joshi told Gantt he wanted to transfer Gantt  
14 to Acting Special Resource Officer Lieutenant. Assistant Chief Figueroa cancelled the  
15 promotion.

16 54. On April 13, 2016, Gantt and his spouse became involved in an argument at  
17 their home in Hayward. Gantt called the Alameda County Sheriff's Department. Neither  
18 Gantt nor his wife was injured.

19 55. On April 15, 2016, then Chief of Police Sean Whent suspended Sgt. Gantt's  
20 peace officer status and placed him on paid administrative leave.

21 56. Although OPD claimed the leave was based on the argument between Gantt  
22 and his wife, there were no charges filed by either party. OPD named only Gantt's wife  
23 for review of possible charges by the Alameda County District Attorney.

24 57. The City of Oakland has failed and refuses to complete the investigation of  
25 this domestic dispute to this day and has prolonged Gantt's status as being on leave for  
26 far longer than is reasonably justified. The investigation and leave should have  
27 reasonably been completed in no longer than 60 days, that is, no later than June 14,  
28 2014.

1 58. Gantt reasonably believes that the leave was imposed to discredit and silence  
2 him because he disclosed that O'Brien was a suspect in his wife's killing and because  
3 OPD feared that Gantt would disclose that OPD covered up the killing.

4 59. In May 2016, Gantt took his complaints about race-based harassment to the  
5 United States Equal Employment Opportunity Commission.

6 60. On June 12, 2016, Oakland Mayor Libby Schaff and City Administrator  
7 Sabrina Landreth held a press conference at which they recklessly and falsely accused  
8 Gantt of improperly allowing an acquaintance to review and transcribe confidential  
9 materials relating to homicide investigations. They referred this issue to the Alameda  
10 County District Attorney for investigation.

11 61. The materials in question were not confidential at all but simply audio  
12 recordings of jail conversations that Gantt had asked an acquaintance to transcribe.

13 62. The Alameda County District Attorney cleared Gantt of criminal wrongdoing  
14 in this transcription matter on June 23, 2016.

15 63. Sgt. Gantt reasonably believes that these officials accused him of wrongdoing  
16 because they suspected he would speak out regarding allegations that multiple Oakland  
17 police officers had sexually exploited an underage girl, and in order to distract attention  
18 from their failures to properly investigate the sex abuse scandal.

19 64. The City continues to pursue administrative sanctions against Gantt.

20 65. On June 22, 2016, the media published a report that Schaff and Landreth had  
21 opened an internal investigation to identify whistleblowers and leaks within the police  
22 department.

23 66. On July 25, 2016, Landreth informed Gantt that she intended to suspend him  
24 without pay because of his involvement in sending allegedly offensive text messages to  
25 other members of the Homicide Unit more than two years earlier in 2014. These were  
26 related to the same messages Gantt had complained about.

27 67. Gantt reasonably believes this baseless investigation was part of the campaign  
28 to retaliate against him and stigmatize him.



1 68. During the ten months Gantt has been on leave, the City of Oakland has  
2 pursued several baseless investigations against him.

3 69. It appears that the City is combing through Gantt's completed homicide  
4 investigation files to find alleged misconduct to intimidate and harass Sgt. Gantt.

5 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

6 70. Plaintiff disputes that any Government Torts Claim Act administrative  
7 remedies are necessary to his claims. Nevertheless, plaintiff has exhausted  
8 administrative remedies by filing a Government Torts Claim Act claim on November 1,  
9 2016. The City rejected the claim on December 16, 2016.

10 71. The California Department of Fair Employment and Housing issued plaintiff a  
11 right to sue letter with respect to his retaliation claims on February 7, 2017.

12 **FIRST CLAIM - VIOLATION OF**

13 **CALIFORNIA LABOR CODE § 1102.5**

14 **(against defendants CITY OF OAKLAND, LIBBY SCHAAF, SABRINA**  
15 **LANDRETH, JOHN LOIS, and DOES 1-50)**

16 (Cal. Lab. Code § 1102.5)

17 72. Plaintiff incorporates by reference paragraphs 1-71 above as though fully set  
18 forth herein.

19 73. By virtue of the foregoing, defendants CITY OF OAKLAND, LIBBY SCHAAF,  
20 SABRINA LANDRETH, JOHN LOIS, and DOES 1-50 retaliated against plaintiff for  
21 disclosing what he reasonably believed were violations of the law and because OPD  
22 suspected he would disclose violations of the law.

23 **SECOND CLAIM - VIOLATION OF**

24 **CALIFORNIA GOVERNMENT CODE § 12940(h)**

25 **(against defendant CITY OF OAKLAND)**

26 (Cal. Govt. Code § 12940(h))

27 74. Plaintiff incorporates by reference paragraphs 1-73 above as though fully set  
28 forth herein.

1 75. By virtue of the foregoing, defendant CITY OF OAKLAND retaliated against  
2 plaintiff for complaining about acts of racial harassment against him.

3 **DAMAGES**

4 76. As a result of the actions of defendants, plaintiff has been injured and has  
5 suffered damages as follows:

6 a. He has lost compensation and other employment-related benefits to which he  
7 has been entitled and will lose such compensation and benefits in the future;

8 b. He has suffered from emotional distress, embarrassment and humiliation,  
9 and has suffered damage to his professional reputation and standing;

10 c. He has incurred out-of-pocket expenses for health care benefits.

11 **PUNITIVE DAMAGES**

12 77. In taking the actions described above, defendants Schaaf, Landreth, Lois, and  
13 Does 1-50 acted maliciously and oppressively, for the purposes of punishing Sgt. Gantt  
14 because he pursued a homicide investigation into the actions of OPD Officer O'Brien  
15 and because he accused fellow officers of racial harassment and of breaching the  
16 confidentiality of his personnel files. They also sought to make Sgt. Gantt a scapegoat for  
17 their failure to investigate the sexual exploitation of a minor by OPD officers and to  
18 divert public attention from their failures to properly supervise and effectively control  
19 OPD. For these reasons Sgt. Gantt seeks punitive damages against said defendants.

20 WHEREFORE, plaintiff Gantt requests that this Court grant him relief as follows:

21 (1) Injunctive relief to require defendant CITY OF OAKLAND to reinstate  
22 plaintiff together with all pay, benefits, seniority, and emoluments of that position; and  
23 treat him without retaliation;

24 (2) Compensatory damages for past and future lost wages and benefits, in an  
25 amount to be determined;

26 (3) Interest at the legal rate;

27 (4) General damages for emotional distress, pain and suffering, in an amount  
28 to be determined;

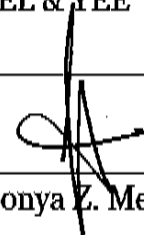
- (5) Special damages for out-of-pocket expenses;
- (6) Punitive damages, in an amount to be determined;
- (7) Attorneys' fees;
- (8) Costs of suit; and
- (9) Such other and further relief as the Court may deem proper.

**DEMAND FOR JURY TRIAL**

Plaintiff JAMES M. GANTT hereby demands a jury trial.

Dated: February 21, 2017

SIEGEL & YEE

By:   
 Sonya Z. Mehta

Attorneys for Plaintiff  
JAMES M. GANTT

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