

Joel W. Baruch SBN 85903
Corey A. Hall SBN 295470
LAW OFFICE OF JOEL W. BARUCH, PC
2020 Main Street, Suite 900
Irvine, California 92614
Telephone (949) 864-9662
Facsimile (949) 851-3185

Attorneys for Plaintiff KAREN SCHATZLE

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA- SANTA ANA DIVISION

KAREN SCHATZLE,
Plaintiff,

vs.

ANTHONY RACKAUCKAS, an
individual; SUSAN KANG
SCHROEDER, an individual;
COUNTY OF ORANGE, a public
entity; COUNTY OF ORANGE
DISTRICT ATTORNEY'S OFFICE,
an agency; DOES 1 Through 20,
Inclusive

Defendants.

CASE NO.
Assigned for All Purposes to:
Dept.

Date Filed:
Trial Date:

**COMPLAINT FOR DAMAGES AND
DEMAND FOR JURY TRIAL**

COMES NOW, Plaintiff, KAREN SCHATZLE, who makes this Complaint for
Damages and Demand for Jury Trial as follows:

JURISDICTIONAL ALLEGATIONS

1. As to the federal law claims contained in this Complaint, the original
jurisdiction of the United States District Court is invoked pursuant to 42 U.S.C. §1331,

COMPLAINT FOR DAMAGES AND DEMAND FOR JURY TRIAL

1 in that these federal claims involve federal questions with amounts in controversy over
2 \$75,000.

3 2. As to the state law claims contained in this Complaint, the supplemental
4 jurisdiction of the United State District Court is invoked pursuant to 28 U.S.C. §1367, in that
5 the state law claims and the federal law claims have common questions of law and fact.

6 3. Venue of this action in the Central District of California—Santa Ana
7 Division— is sought pursuant to 28 U.S.C. §1391, in that both the state and federal law
8 claims arose in the County of Orange, State of California.

9 **GENERAL ALLEGATIONS**

10 4. Plaintiff, KAREN SCHATZLE (hereafter SCHATZLE) is, and at all times
11 herein mentioned was, a citizen of the State of California. At all times herein mentioned,
12 Plaintiff was a deputy district attorney employed by Defendant COUNTY OF ORANGE
13 DISTRICT ATTORNEY’S OFFICE, which is an agency within Co-Defendant COUNTY
14 OF ORANGE. Further, at all times herein mentioned, Plaintiff was not a “policymaker”, not
15 in management, and not in a confidential management position during the course and scope
16 of her employment as a deputy district attorney with said public entity defendants.

17 5. Defendant, ANTHONY RACKAUCKAS (hereafter RACKAUCKAS) is, and
18 at all times herein mentioned was, a citizen of the State of California. Further, at all times
19 herein mentioned, Defendant RACKAUCKAS was, and still is, the District Attorney for Co-
20 Defendant COUNTY OF ORANGE DISTRICT ATTORNEY’S OFFICE, an agency within
21 the jurisdiction of Co-Defendant COUNTY OF ORANGE.

22 6. Defendant, SUSAN KANG SCHROEDER (hereafter SCHROEDER) is, and
23 at all times herein mentioned was, a citizen of the State of California. Further, at all times
24 herein mentioned, Defendant SCHROEDER was, and still is, the Chief of Staff employed by
25 the COUNTY OF ORANGE DISTRICT ATTORNEY’S OFFICE, an agency within the
26 jurisdiction of Co-Defendant COUNTY OF ORANGE. The Chief of Staff position was
27 especially created for Defendant SCHROEDER by Co-Defendant RACKAUCKAS, and, in
28 that position, Defendant SCHROEDER is considered to be the #2 employee in the COUNTY

1 OF ORANGE DISTRICT ATTORNEY'S OFFICE.

2 7. Defendant, COUNTY OF ORANGE (hereafter OC) is, and at all times herein
3 mentioned was, a public governmental entity within the State of California.

4 8. Defendant, COUNTY OF ORANGE DISTRICT ATTORNEY'S OFFICE
5 (hereafter OCDA) is, and at all times herein mentioned was, a law enforcement agency
6 existing within Co-Defendant OC.

7 9. Plaintiff is not aware of the true names and/or capacities of those individuals
8 or entities sued herein as DOES 1 through 20, and therefore sues these defendants by their
9 fictitious names. Plaintiff will amend this complaint when the true names and/or capacities
10 of said DOE defendants are finally ascertained.

11 10. At all times herein mentioned, Defendant SCHATZLE has been employed as
12 a deputy district attorney with Defendant OCDA, which, as noted, is a law enforcement
13 agency within Defendant OC. Since in or about November, 1995, Plaintiff SCHATZLE has
14 been employed as a deputy district attorney with defendants OC/ OCDA. At the present
15 time, she is classified as a Senior Deputy District Attorney/ Turbo IV, which is a non-
16 management position within defendant OCDA. Plaintiff, who is a licensed attorney with the
17 California State Bar, is an experienced trial lawyer and is qualified for management positions
18 within defendant OCDA. Throughout her career as a deputy district attorney, she has
19 received outstanding performance reviews.

20 11. In or about March, 2015, Plaintiff SCHATZLE announced to Defendants
21 RACKAUCKAS and SCHROEDER that she was thinking of running for judicial office
22 against incumbent Judge Scott Steiner in the June, 2016 election for Seat Number 48 of the
23 Orange County Superior Court. At the time she made this announcement, Plaintiff had just
24 been promoted to the Team Leader position in the OCDA's office with a purported
25 assignment to the North Orange County Superior Court, which was the closest geographic
26 court in Orange County to her Villa Park residence.

27 12. Prior to Plaintiff's announcement to Defendants RACKAUCKAS and
28 SCHROEDER regarding her thoughts about running for judicial office, the incumbent Judge

1 Scott Steiner for Seat Number 48 had been publicly censured by the California Commission
2 for Judicial Performance on or about September 3, 2014 for engaging in sexual relations with
3 female law students and a practicing attorney in chambers. Further, Judge Steiner had
4 previously been employed as a deputy district attorney with Defendant OCDA/ OC under the
5 supervision of Co-Defendant RACKAUCKAS. Further, it was well known that incumbent
6 Judge Steiner's father was Bill Steiner, a former member of the Orange County Board of
7 Supervisors who had considerable political clout. The actual date of the election for Seat
8 Number 48 was June 7, 2016.

9 13. Upon being informed by Plaintiff that she was considering running for judicial
10 office against incumbent Judge Steiner in the June, 2016 election, Defendants
11 RACKAUCKAS and SCHROEDER directed Plaintiff to not run for judicial office against
12 incumbent Judge Steiner in the June, 2016 election. Among other things, Plaintiff was told as
13 follows:

14 A) The OCDA's office, under the leadership of Defendant
15 RACKAUCKAS, had an "unwritten policy" that deputy district attorneys should not run for
16 judicial office against incumbent judges.

17 B) Plaintiff was also informed that DA RACKAUCKAS and
18 SCHROEDER supported incumbent Judge Steiner in his election bid, and that it would not
19 be "appropriate" and/or "it would not look good" for one of "his" deputy district attorneys to
20 run for judicial office against a candidate that Defendant RACKAUCKAS supported.

21 C) Plaintiff was also informed that, if she did not run for election against
22 incumbent Judge Steiner as he instructed, the OCDA's office would throw its support behind
23 her if and when she ran for a vacant judicial seat in the Orange County Superior Court.

24 D) Plaintiff was also informed that, if she did ignore their direction to not
25 run against incumbent Judge Steiner, her career in the OCDA's office would be "destroyed".
26 Plaintiff was not specifically told what "career being destroyed" meant, but she is
27 experiencing it since she lost the judicial election in June, 2016.

28 14. On or about March 9, 2016, Plaintiff SCHATZLE officially and publicly

1 announced her candidacy against incumbent Superior Court Judge Scott Steiner for Seat No.
2 48 of the Orange County Superior Court.

3 15. The local bar association— Orange County Bar Association— rated Plaintiff
4 SCHATZLE as “qualified”, whereas incumbent Judge Steiner received an “unqualified”
5 rating from the same organization.

6 16. On or about April 26, 2016, having already publically announced her
7 candidacy, Plaintiff SCHATZLE posted a truthful public comment on the North Orange
8 County Bar Association Facebook Page as follows: “Scott Steiner uses his office for sex and
9 yet many aren’t concerned, crazy politics.”

10 17. On or about the same date of April 26, 2016, Jeff Ferguson, a former employee
11 of Defendants OC/ OCDA, and then an Orange County Superior Court judge, posted
12 back on the same Facebook page of the North Orange County Bar Association as follows:
13 “Karen Shatzle (sic) has sex with defense lawyer whike (sic) shw (sic) is a DA on his cases
14 and nobody cares...interesting politics”. This comment was a knowingly false statement of
15 fact by Judge Jeff Ferguson, or was recklessly posted by him without knowing, or caring to
16 know, the true facts. The true facts were that Plaintiff SCHATZLE had never engaged in any
17 type of sexual relations with a criminal defense lawyer while she was prosecuting cases
18 against his client(s). Although Judge Ferguson took down this post later, the damage was
19 done to Plaintiff SCHATZLE, and the comment itself has been republished on numerous
20 occasions since that time. The California Commission on Judicial Performance in fact
21 publicly admonished Judge Ferguson for making this public comment about Plaintiff
22 SCHATZLE on or about May 31, 2017.

23 18. Contemporaneous with the filing of this action in the United States District
24 Court, Plaintiff SCHATZLE will file a separate action in the Superior Court of the State of
25 California against Judge Jeff Ferguson for the aforesaid defamatory comment(s) while acting
26 in an individual outside the course and scope of his employment.

27 19. On or about May 24, 2016, the Orange County Register published an article
28 shortly before the election with this headline: “Prosecutor: My Run Against Judge Scott

1 Steiner Has Been Career Suicide”. Plaintiff was interviewed for this article. Among other
2 things, she told the Register reporter that she had already been “disciplined” by
3 disadvantageous re-assignments and failure to promote her to available management
4 positions for which she was qualified. She also told the Register reporter about the aforesaid
5 “unwritten policy” of the OCDA office under the leadership of District Attorney
6 Rackauckas— i.e. that his deputy district attorneys should not run for judicial office against
7 incumbent judges in general and incumbent Judge Steiner, in particular.

8 20. At the time of the aforesaid Register article in the previous paragraph,
9 Defendants RACKAUCKAS and SCHROEDER had already publicly supported incumbent
10 Judge Steiner’s candidacy. In a recorded statement to incumbent Judge Steiner’s campaign
11 website, Defendant RACKAUCKAS was quoted as follows: “There is no debate that he was
12 a great prosecutor and that he has a superior intellect and work ethic as a judge...I accept his
13 apology for his failings on the bench and believe he deserves a second chance.”

14 21. On June 6, 2016, one day before the election, the Los Angeles Daily Journal
15 published an article with this headline: “OC Prosecutor Challenges Judge Sanctioned For
16 Sex”. Plaintiff was interviewed for this article. Appearing in the article were these
17 comments about her:

18 A) “Schatzle feels she already has a backup if she loses to Superior Court
19 Judge Steiner on Tuesday. She’s worked in the Orange County district attorney’s office
20 since 1995, for the last 10 years as a senior deputy district attorney. But she also fears
21 retaliation for challenging the only sitting judge up for reelection in Orange County this year,
22 and her campaign, recently sparked a terse response from her boss, District Attorney J.
23 Rackauckas.”

24 B) “Responding to claims by Schatzle that her supervisors blocked a
25 promotion plan for her after they learned that she was challenging Steiner, Rackauckas
26 reiterated his endorsement of Steiner and said he accepts Steiner’s apology and believes he
27 deserves a second chance for his failings on the bench.”

28 C) “Rackauckas also said Schatzle was mischaracterizing what happened

COMPLAINT FOR DAMAGES AND DEMAND FOR JURY TRIAL

1 during her employment”. The article then took this direct statement from DA Rackauckas:
2 “I was disappointed that one of my prosecutors running to be judge would make a false
3 statement about her employment status...this confirms that I made the right choice of joining
4 judges, elected officials, law enforcement officers and their victims in supporting Judge
5 Steiner.” In other words, Defendant RACKAUCKAS called Plaintiff a “liar” when she
6 discussed with the press she had committed “career suicide”.

7 D) “Schatzle also said that colleagues in the district attorney’s office and
8 others in the county have told her they can’t publicly support her because they fear
9 retaliation.”

10 22. On June 7, 2016, Plaintiff SCHATZLE lost her election bid for Orange County
11 Superior Court Judge Seat No. 48. Judge Steiner won the election.

12 23. In January, 2017, newly-elected Judge Steiner made a campaign contribution of
13 \$500 to Defendant RACKAUCKAS for his re-election bid for District Attorney of Orange
14 County in June, 2018. Plaintiff contends this campaign contribution was *quid pro quo* for
15 Defendant RACKAUCKAS public support and disparagement of Plaintiff in his judicial
16 election against one of “his” deputy district attorneys.

17 24. Between June 7, 2016, and December 5, 2016, Plaintiff SCHATZLE went
18 back to work in her former position.

19 25. Between December 6, 2016 and June 11, 2017, Plaintiff SCHATZLE was
20 taken off work by her physician for a disability.

21 26. Upon returning from disability leave, on or about June 15, 2017, Plaintiff
22 SCHATZLE applied to be promoted to an available Assistant Head of Court position. The
23 Assistant Head of Court position was one step above her current Team Leader position and,
24 further, in order to be promoted to a Head of Court position in the OCDA’s office, qualified
25 candidates had to first work in the Assistant Head of Court position. If she were to be
26 promoted to an Assistant Head of Court position in the OCDA’s office, the position carried
27 with it greater job responsibility, however, it would not involve a raise in pay. Nevertheless,
28 as indicated, Plaintiff was required by OCDA office policy to first become an Assistant Head

1 of Court before being promoted to the Head of Court position, which position was
2 considered to be management (Level V) and which would have involved a substantial pay
3 increase and increase in retirement benefits. In other words, according to official OCDA
4 promotional policies, the person promoted to Head of Court had to first work in the capacity
5 of an Assistant Head of Court; and, further, the person promoted to an Assistant Head of
6 Court position had to first work in the Team Leader position.

7 27. At all times herein mentioned, Plaintiff was eminently qualified to assume the
8 Assistant Head of Court position and, if successful, then the Head of Court management
9 position. Plaintiff did not receive the requested promotion to the Assistant Head of Court
10 position, even though she was at least as qualified, and in some cases more qualified, with
11 respect to seniority, knowledge, and skills than those other deputy district attorneys who
12 applied for the same position. In fact, the deputy district attorney who received an Assistant
13 Head of Court position instead of Plaintiff was promoted to that position without first having
14 been a Team Leader. At the time, the Assistant Head of Court position required some prior
15 tenure as Team Leader, a position which Plaintiff had been working with excellent
16 performance reviews since in or about March, 2015.

17 28. Plaintiff SCHATZLE will continue to apply for promotional opportunities
18 within the OCDA's office in September, 2017 and during the pendency of this litigation.
19 Defendant RACKAUCKAS, over the years as the District Attorney, has a well-deserved
20 pattern and reputation of using his office to "help his friends" and to "damage or destroy his
21 enemies".

22 29. Instead of being promoted, Plaintiff remains in her Team Leader position and
23 has in fact been assigned relatively trivial work in the OCDA's office well below her pay
24 grade, thus marginalizing and isolating her from her peers. Further, during the same period
25 of time, she has applied for lateral transfer positions in which she can use her superior
26 knowledge, training, and skills as a deputy district attorney in trial work and in law and
27 motion work; however, she has been denied those transfers as well.

28 30. In the OCDA's office, the promotional opportunities occur on a regular basis.

COMPLAINT FOR DAMAGES AND DEMAND FOR JURY TRIAL

1 These opportunities generally arise on a quarterly basis when deputy district attorneys put in
 2 for rotation assignments by submitting what is known as a “dream sheet”; however,
 3 promotions can also occur whenever there is a need to fill particular supervisory positions,
 4 but, as noted, typically occur just before rotations. As noted, Plaintiff SCHATZLE put in a
 5 request for promotion to the management Assistant Head of Court position in or about June,
 6 2017 when she returned from disability leave. She will continue to do put her name in for
 7 promotion every three months according to the promotional policies of the OCDA’s office.

8 9 **FIRST CAUSE OF ACTION**

10 **(Violation of Federal Civil Rights Under First And Fourteenth** 11 **Amendments to United States Constitution— 42 U.S.C. 1983,** 12 **Et Seq.— Brought By Plaintiff Against Defendants RACKAUCKAS,** 13 **SCHROEDER, and DOES 1 Through 20, Inclusive)**

14 31. Plaintiff realleges and incorporates herein those matters contained in
 15 paragraphs 1 through 30 as though fully set forth.

16 32. This cause of action arises under Plaintiff SCHATZLE’s rights as a citizen
 17 under the First and Fourteenth Amendments to the United States Constitution. As to the First
 18 Amendment, Plaintiff had a right to exercise free speech and/or association by running and
 19 campaigning for political/ judicial office against incumbent Judge Scott Steiner for the
 20 vacant Seat Number 48 of the Orange County Superior Court. As to the Fourteenth
 21 Amendment, any such rights of free speech and/or association she enjoyed as a citizen under
 22 the First Amendment could not be abridged by her public entity employers without providing
 23 Plaintiff with due process of law. In connection with this particular cause of action arising
 24 under the First and Fourteenth Amendments to the United States Constitution, Plaintiff sues
 25 individual Defendants RACKAUCKAS and SCHROEDER and does not sue the public
 26 entity defendants— Defendants OC and OCDA. Instead, Defendants OC and OCDA are
 27 sued in the Second Cause of Action for the aforesaid “unwritten” policy and practice of the
 28 OCDA’s office in not permitting deputy district attorneys from running for political/ judicial

COMPLAINT FOR DAMAGES AND DEMAND FOR JURY TRIAL

1 office (i.e. *Monell* violations).

2 33. From the time that Plaintiff SCHATZLE first broached her interest in running
3 against incumbent Judge Steiner to Defendants RACKAUCKAS and SCHROEDER until the
4 present date, as set forth in the General Allegations incorporated herein, Plaintiff
5 SCHATZLE was acting as “citizen” and not pursuant to her official duties as a deputy
6 district attorney. As further noted in the facts incorporated into this cause of action, Plaintiff
7 was not a policymaker nor manager nor confidential employee within the OCDA.

8 34. In addition to addressing Plaintiff’s protected free speech and/or association
9 rights by running and campaigning for political/ judicial office, this cause of action also
10 addresses any public comments made by, or attributed to, Plaintiff SCHATZLE by the press
11 or media, regarding her candidacy for political/ judicial office against incumbent Judge Scott
12 Steiner. During her campaign for political/ judicial office, Plaintiff SCHATZLE was
13 interviewed by the Orange County Register newspaper on or about May 24, 2016 and was
14 further interviewed by the Los Angeles Daily Journal on June 6, 2016, one day before the
15 election. In both instances, public statements were attributed to Plaintiff and, also, were
16 attributed to Defendant RACKAUCKAS. Plaintiff asserts that her public statements to the
17 press on both occasions were protected under the First and Fourteenth Amendments.
18 Plaintiff also asserts that the public statements attributed to Defendant RACKAUCKAS on
19 one or both instances were reflective of his retaliatory intent against Plaintiff because she ran
20 for political/ judicial office and because she gave statements to the press during her campaign
21 for political/ judicial office.

22 35. At all times herein mentioned, Plaintiff’s candidacy for political/ judicial office
23 and her public statements during the campaign for political/ judicial office, were matters of
24 public concern.

25 36. Since she lost the judicial election to incumbent Judge Steiner on June 7, 2016,
26 Plaintiff has been subjected to job retaliation by Defendants RACKAUCKAS and
27 SCHROEDER. The facts contained in the General Allegations section of this Complaint
28 have been incorporated into this cause of action. Together, these facts demonstrate that

COMPLAINT FOR DAMAGES AND DEMAND FOR JURY TRIAL

1 Plaintiff has been retaliated against by said individual Defendants named in this cause of
2 action, particularly with respect to a failure to promote to positions for which she was and is
3 qualified, continuing job assignments in the Team Leader position which are well beneath
4 her qualifications, experience, knowledge, skills and training, not being permitted to transfer
5 out of the Team Leader position into other available positions in the OCDA's office that
6 would be more suitable for her skills and qualifications, and ostracism and isolation by her
7 peers and management in the OCDA's office. These retaliatory job actions are continuing up
8 to the present date and it is further suspected that these will continue during the pendency of
9 this action, and may even result in further retaliation up to and including discharge from her
10 employment.

11 37. At all times herein mentioned, based on the above facts, the substantial
12 motivation of Defendants RACKAUCKAS and SCHROEDER in retaliating against Plaintiff
13 was because of exercising her right of protected speech and association by running and
14 campaigning for political/ judicial office against incumbent Judge Steiner; and, further,
15 because of her campaigning for political/ judicial office by giving protected interviews about
16 her campaign and her employment status in the OCDA's office.

17 38. As a direct result of the job retaliation Plaintiff has experienced because she
18 ran for political/ judicial office against incumbent Judge Steiner, and because she gave press
19 interviews as a result of her campaign for political/ judicial office, Plaintiff has sustained
20 compensatory damages in amount according to proof at the trial of this action.

21 39. Plaintiff also prays for the recovery of attorney's fees and expenses pursuant to
22 the provisions of 42 U.S.C. Sections 1983, et seq.

23 40. Plaintiff also prays for the recovery of punitive damages against Defendant
24 RACKAUCKAS for his intentional job retaliation against Plaintiff. In so doing, he has
25 exhibited malice, oppression, fraud and despicable condition. Facts which support Plaintiff's
26 claim for punitive damages in this action include, but are not limited, to each of the
27 following:

28 A) Defendant RACKAUCKAS, a former judge, was first elected to the

COMPLAINT FOR DAMAGES AND DEMAND FOR JURY TRIAL

1 position of District Attorney for County of Orange in June, 1998, winning 59% of the vote
 2 against former OCDA prosecutor Wally Wade. In March, 2002, he successfully ran for re-
 3 election against former OCDA prosecutor Wally Wade again, winning 62% of the vote. In
 4 June, 2006, he ran for re-election and was unopposed, thus winning 100% of the vote. In
 5 June 2010, he ran for re-election and was unopposed again, thus winning 100% of the vote.
 6 In June, 2014, he successfully ran for re-election, winning about 73% of the vote. Said
 7 Defendant has announced he is running for re-election for the June, 2018 election.

8 B) Throughout his career as the District Attorney for Orange County,
 9 Defendant RACKAUCKAS has engaged in a unlawful pattern and practice of squelching
 10 dissent and free speech among his employees, including deputy district attorneys and law
 11 enforcement district attorney investigators. (See *infra*).

12 C) Throughout his career as the District Attorney for Orange County,
 13 Defendant RACKAUCKAS has engaged in an unlawful pattern and practice of exercising
 14 job retaliation against his employees who have had the temerity to bring unlawful practices in
 15 the OCDA's office to public attention (i.e. perceived or actual "whistleblowers"). (See
 16 *infra*).

17 D) Recently, three District Attorney investigators of the OCDA's have filed
 18 complaints regarding the retaliation that they have each experienced as a result of exercising
 19 their First Amendment rights to free speech and association.

20 **SECOND CAUSE OF ACTION**

21 **(Violation of Federal Civil Rights Under First And Fourteenth** 22 **Amendments to the United States Constitution— 42 U.S. C.** 23 **1983, Et Seq— Brought By Plaintiff Against Defendants OC** 24 **And OCDA (*Monell* Violation)**

25 41. Plaintiff realleges and incorporates herein those matters contained in
 26 paragraphs 1 through 37 as though fully set forth.

27 42. Pursuant to 42 U.S.C. Sections 1983, et seq., public entity defendants, such as
 28

COMPLAINT FOR DAMAGES AND DEMAND FOR JURY TRIAL

1 Defendants OC and OCDA, are “persons” that can be held liable for infringement of the
2 plaintiff’s constitutional rights that are the direct result of their public employer’s official
3 policy. The Court held that this liability only existed when the constitutional infringement
4 was the direct result of an official policy.

5 43. This cause of action arises under Plaintiff SCHATZLE’s rights as a citizen
6 under the First and Fourteenth Amendments to the United States Constitution. As to the First
7 Amendment, Plaintiff had a right to exercise free speech and/or association by running and
8 campaigning for political/ judicial office against incumbent Judge Scott Steiner for the
9 vacant Seat Number 48 of the Orange County Superior Court. As to the Fourteenth
10 Amendment, any such rights of free speech and/or association she enjoyed as a citizen under
11 the First Amendment could not be abridged by her public entity employers without providing
12 Plaintiff with due process of law. In connection with this particular cause of action arising
13 under the First and Fourteenth Amendments to the United States Constitution, Plaintiff sues
14 public entity defendants— OC and OCDA— for the expressed adoption of an official and
15 unlawful “unwritten policy” that deputy district attorneys employed by the OCDA who are
16 running for judicial election against an incumbent judge in the Orange County Superior
17 Court will be subjected to retaliation for doing so.

18 44. Based on the facts incorporated into this cause of action, Defendants OC/
19 OCDA had, and continue to have, adopted an official “unwritten policy” which Plaintiff
20 SCHATZLE allegedly violated when she ran for political/ judicial office against incumbent
21 Judge Steiner.

22 45. Said public entity Defendants named in this cause of action retaliated against
23 Plaintiff SCHATZLE in her employment as a deputy district attorney after she announced her
24 candidacy for the vacant judicial seat against incumbent Judge Steiner in the Orange County
25 Superior Court. Plaintiff was expressly told by Co-Defendants RACKAUCKAS and
26 SCHROEDER that, if she defied their orders and ran against incumbent Judge Steiner in the
27 2016 judicial election, her career in the OCDA’s office would be “destroyed”.

28 46. Before and since losing the 2016 judicial election against incumbent Judge

COMPLAINT FOR DAMAGES AND DEMAND FOR JURY TRIAL

1 Steiner, Plaintiff SCHATZLE has in fact been subjected to job retaliation of the kind and
2 nature set forth in the facts incorporated into this cause of action.

3 47. As a direct result of the job retaliation Plaintiff has experienced because she
4 ran for political/ judicial office against incumbent Judge Steiner, Plaintiff has sustained, and
5 will continue to sustain for a period of time in the future, compensatory damages in amount
6 according to proof at the trial of this action. A substantial motivating factor to retaliate
7 against Plaintiff, as aforesaid, was her "violation" of the OCDA's official "unwritten policy"
8 by running and campaigning for political/ judicial office against incumbent Judge Steiner. As
9 noted, Defendants OC and OCDA retaliated against her, and continues to retaliate against
10 her, in the terms and conditions of her employment as a deputy district attorney.

11 48. Plaintiff also prays for the recovery of attorney's fees and expenses pursuant to
12 the provisions of 42 U.S.C. Sections 1983, et seq.

13 14 **THIRD CAUSE OF ACTION**

15 **(Job Retaliation For Running For Public Office— Violations of** 16 ***California Labor Code* Sections 1101, 1002, 1105— Brought By** 17 **Plaintiff Against Defendants OC, OCDA, And DOES 1** 18 **Through 20)**

19 49. Plaintiff realleges and incorporates herein those matters contained in
20 paragraphs 1 through 30 of the General Allegations, paragraphs 32 through 37 of the First
21 Cause of Action, and paragraphs 43 through 46 of the Second Cause of Action, as though
22 fully set forth.

23 50. At all times herein mentioned, *Labor Code* §§1101(a), 1101(b), 1102, and 1105
24 and its various subdivisions were in full force and effect.

25 A) Pursuant to *Labor Code* §1101(a), "no employer shall make, adopt, or
26 enforce any rule or regulation or policy forbidding or preventing employees from engaging or
27 participating in politics or from becoming candidates for public office."

28 B) Pursuant to *Labor Code* §1101(b), "no employer shall make, adopt, or

COMPLAINT FOR DAMAGES AND DEMAND FOR JURY TRIAL

1 enforce any rule or regulation, or policy controlling or directing, or tending to control or
2 direct the political activities or affiliations of employees.”

3 C) Pursuant to *Labor Code* §1102, “no employer shall coerce or influence
4 or attempt to coerce or influence his employees through or by means of threat of discharge or
5 loss of employment to adopt or follow or refrain from adopting or following any particular
6 course or line of political action or political activity.”

7 D) Pursuant to *Labor Code* §1103, “an employer or any other person or
8 entity that violates this chapter is guilty of a misdemeanor punishable, in the case of an
9 individual, by imprisonment in the county jail not to exceed one year or a fine not to exceed
10 one thousand dollars (\$1,000) or both that fine and imprisonment, or, in the case of a
11 corporation, by a fine not to exceed five thousand dollars (\$5,000).” Although this particular
12 section of the *Labor Code* does not in and of itself create a private right of civil action,
13 nevertheless it demonstrates that the other relevant provisions of the same chapter are part of
14 the public policy of the State of California.

15 E) Pursuant to *Labor Code* §1105, “nothing in this chapter shall prevent the
16 injured employee from recovering damages from his employer for injury suffered through a
17 violation of this chapter”.

18 51. By adopting an official “unwritten” policy that deputy district attorneys
19 employed by the OCDA could not run for political/ judicial office against an incumbent
20 superior court judge, as was told to Plaintiff by policymaking representatives of the public
21 entity defendants named herein, said public entity defendants broke the law of the State of
22 California as set forth in *Labor Code* §§1101(a), 1101(b) and 1102— i.e., by either adopting,
23 making, and enforcing a rule or policy that would prevent an employee from participating in
24 politics, from becoming candidates for public office, and/or directing the political activities
25 or affiliations of those employees.

26 52. Pursuant to the facts incorporated from the General Allegations, the First Cause
27 of Action, and the Second Cause of Action contained herein, Plaintiff was subjected to
28 unlawful retaliation, and continues to be subjected to unlawful retaliation, all of which has

adversely affected the terms and conditions of her employment as a deputy district attorney.

53. On August 7, 2017, Plaintiff SCHATZLE filed a government tort claim against Defendants OC/ OCDA. A true and correct copy of this government tort claim is attached hereto as **Exhibit A**.

54. On August 15, 2017, Gary Stopforth, the Liability Claims Manager of Defendants OC/ OCDA sent a letter to Plaintiff's counsel, denying Plaintiff's government tort claim as being untimely— i.e. not being presented within six months of the accrual of the cause of action pursuant to *Government Code* §§901 and 911.2. Further, the denial of claim by Mr. Stopforth indicated that it was too late for Plaintiff to file for leave to present a late claim because the incident noted in Plaintiff's claim occurred more than one year after the accrual of the cause of action pursuant to *Government Code* §911.4. A true and correct copy of this denial of claim is attached hereto as **Exhibit B**.

55. Plaintiff disagrees with the analysis of Mr. Stopforth as set forth in the above-noted denial of claim. The accrual of the cause of action did not occur until Plaintiff returned from a six-month disability leave and applied for promotion to a management Assistant Head of Court position in or about June, 2017 as noted in Plaintiff's claim. At page 5 of Plaintiff's government tort claim, the following was noted in the government tort claim:

“Since she returned from disability leave on or about June 11, 2017, she has been denied promotions and/or transfers to the HEAT unit and to the Assistant Head of Court position. For these promotional opportunities that Ms. Schatzle sought, she was at least as qualified, and, in some cases, more qualified than the persons who received them....”

Further, at page 6 of the subject government tort claim, when specifying the “adverse actions addressed in this claim”, Plaintiff's claim form stated as follows:

“Karen Schatzle has suffered, and continues to suffer, adverse employment actions which affect her future

employment and promotional opportunities. All of the adverse employment actions addressed in this claim occurred after she disregarded the threats and warnings to her career if she ran for judicial office against incumbent Scott Steiner. To date, the adverse employment actions addressed in this claim are decisions up to the present date to not promote her to better-paying management positions for which she has superior qualifications and motivation to perform. She is currently performing in positions for which she is under-qualified without any good cause...”

56. As a direct result of the aforesaid violations of law, as well as the job retaliation set forth herein, Plaintiff has sustained, and will continue to sustain for a period of time in the future, compensatory and general damages in an amount according to proof at the trial of this action.

57. Because this claim arising under California state law is a matter of public concern, and affects the public at large, Plaintiff prays for attorney’s fees and expenses pursuant to the private attorney general doctrine of *Code of Civil Procedure* §1021.5.

WHEREFORE, Plaintiff prays for the following relief:

On the First And Second Causes of Action:

1. For compensatory damages in an amount according to proof.
2. For attorney’s fees and expenses pursuant to 42 U.S.C. Sections 1983, et seq.
3. As to the First Cause of Action only, for punitive damages against Defendant RACKAUCKAS.

On the Third Cause of Action:

1. For compensatory and general damages according to proof.
2. For attorney’s fees and expenses under the Private Attorney General Doctrine

COMPLAINT FOR DAMAGES AND DEMAND FOR JURY TRIAL

1 of *Code of Civil Procedure* §1021.5.

2
3 On All Causes of Action:

- 4 1. For any prejudgment interest where allowed in an amount according to proof.
5 2. For costs of the suit herein incurred.
6 3. For such other and further relief as this court may deem proper and just.

7
8 Dated: September 14, 2017

9
10 LAW OFFICES OF JOEL W. BARUCH, PC

11
12
13 By Joel Baruch
14 Joel W. Baruch, Attorney for Plaintiff

15
16
17 **DEMAND FOR JURY TRIAL**

- 18 1. Plaintiff herein demands a trial by jury.

19
20 Dated: September 14, 2017

21
22 LAW OFFICES OF JOEL W. BARUCH, PC

23
24
25 By Joel Baruch
26 Joel W. Baruch, Attorney for Plaintiff

27
28
COMPLAINT FOR DAMAGES AND DEMAND FOR JURY TRIAL