

1 DAN SIEGEL, SBN 56400
2 JANE BRUNNER, SBN 135422
3 SIEGEL, YEE & BRUNNER
4 475 14th Street, Suite 500
5 Oakland, California 94612
6 Telephone: (510) 839-1200
7 Facsimile: (510) 444-6698

8 Attorneys for Plaintiff
9 KAREN CLOPTON

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BY: *[Signature]*
Deputy Clerk

10 **SUPERIOR COURT OF CALIFORNIA**
11 **CITY AND COUNTY OF SAN FRANCISCO**
12 **CGC-17-563082**

13 KAREN CLOPTON,
14 Plaintiff,

15 vs.

16 CALIFORNIA PUBLIC UTILITIES
17 COMMISSION, MICHAEL PICKER,
18 CARLA J. PETERMAN, LIANE M.
19 RANDOLPH, MARTHA GUZMAN
20 ACEVES, CLIFFORD RECHTSCHAFFEN,
21 and Does 1-15,
22 Defendants.

Case No:

**VERIFIED COMPLAINT FOR
DAMAGES AND INJUNCTIVE
RELIEF**

(Employment)

Demand for Jury Trial

23 Plaintiff KAREN CLOPTON complains against defendants CALIFORNIA PUBLIC
24 UTILITIES COMMISSION, MICHAEL PICKER, CARLA J. PETERMAN, LIANE M.
25 RANDOLPH, MARTHA GUZMAN ACEVES, CLIFFORD RECHTSCHAFFEN, and Does
26 1-15 as follows:

PRELIMINARY STATEMENT

27 1. Defendant California Public Utilities Commission (CPUC), its president,
28 Michael Picker, and its members, Carla J. Peterman, Liane M. Randolph, Martha
Guzman Aceves, and Clifford Rechtschaffen, retaliated against and ultimately

1 12. Ms. Clopton provided exemplary service to the CPUC from January 5,
2 2009, to the effective date of her termination, August 25, 2017. Among her
3 achievements as Chief Administrative Law Judge were the following:

4 (a) Holding hearings to receive input from regulated energy utilities and stake
5 holders to aid in the development of the CPUC's Strategic Plan for long-term energy
6 efficiency;

7 (b) Assisting in CPUC rulemaking to consider policies for modernization of
8 the electrical grid and development of the "Smart Grid;"

9 (c) Carrying out an investigation into promoting the development of a
10 transmission network to provide access to renewable energy resources;

11 (d) Issuing a decision that adopted policies and findings to fulfill the
12 requirements of the Energy Independence and Security Act to complete the Smart Grid
13 and require utilities to provide customers with advanced meters;

14 (e) Assisting in CPUC rulemaking to re-examine gas cost incentive programs;

15 (f) Issuing decisions to require the development of regulations to protect the
16 public from potential hazards, including fires;

17 (g) Holding public workshops to gain input from stakeholders on ways to
18 improve the CPUC's public participation programs;

19 (h) In the wake of the San Bruno Pipeline rupture, drafting orders to increase
20 safety measures, including ordering pressure testing for previously exempt pipelines
21 and opening penalty proceedings against PGE;

22 (i) Ordering stakeholders to develop a Fire Safety Plan for San Diego County
23 to decrease the risk of fires from electric power lines;

24 (j) Ordering formal investigations into extended outages after a series of
25 incidents and malfunctions;

26 (k) Assisting in adoption of cap and trade program rules and directing that 85
27 percent of revenue generated from the sale of emission allowances be allocated to
28

1 households as a rate reduction and climate dividend;

2 (l) Settling of actions resulting from the 2007 Malibu fires;

3 (m) Working with the National Transportation Safety Board to investigate rail
4 accidents, requiring that corrective plans address all issues, and monitoring the
5 implementation of those plans;

6 (n) Issuing decisions in connection with the CPUC's investigations of PGE's
7 violations of state and federal laws, rules, standards, and regulations in connection with
8 the operation of its gas transmission system and recommending \$1.4 billion in
9 penalties;

10 (o) Issuing recommendations for revisions to the California LifeLine Program
11 to meet the requirements of the Moore Universal Telephone Service Act leading to the
12 enrollment of over 500,000 wireless subscribers in the program;

13 (p) Holding hearings regarding the fatal accident at the San Francisco
14 Municipal Transportation Agency's Mission Rock Station;

15 (q) Initiating proceedings in conjunction with the State Air Resources Board
16 to reduce natural gas leakage resulting in methane emissions that contribute to climate
17 change;
18

19 (r) Instituting an investigation into whether PGE's organizational culture and
20 governance prioritize safety;

21 (s) Assisting in CPUC rulemaking to facilitate the Governor's goal of 1.5
22 million alternative-fueled vehicles through the development of infrastructure for electric
23 vehicle charging stations;

24 (t) Investigating the gas leak at the SoCalGas Aliso Canyon Facility and
25 coordinating the response to the Aliso Canyon shut-down;

26 (u) Facilitating an investigation into a series of power outages in Long Beach
27 during summer 2015;

28 (v) Developing regulations directing water utilities to improve forecast

1 methodologies, develop programs to implement high user water tiers, and install
2 advance metering infrastructure and meter reading to detect leaks and provide data
3 communication benefits.

4 13. In addition to her duties as the CPUC's Chief Administrative Law Judge,
5 Ms. Clopton has provided extraordinary service to the legal profession and the
6 community at large by the following actions, among others:

7 (a) She has served the State Bar of California as the Chair of the Council on
8 Access and Fairness; Chair of the Executive Committee of the Labor and Employment
9 Law Section; Member of the Commission for the Revision of the Rules of Professional
10 Conduct; and Member of the Task Force on Admissions Regulation Reform
11 Implementation;

12 (b) Chaired the Task Force on Inter-Group Relations appointed by the
13 President of San Francisco State University;

14 (c) Elected as Presiding Judge of the Ecclesiastical Court of the Episcopal
15 Diocese of California;

16 (d) Served as the President of the San Francisco Civil Service Commission.

17 (e) Awarded the Robert B. Yegge Award for Outstanding Contributions in the
18 Field of Judicial Administration by the American Bar Association, Judicial Division,
19 Lawyers Conference in 2017; the Silver SPUR Award, for promoting active public
20 discourse, integrity and transparency in government; the Mary C. Lawton award for
21 Outstanding Government Service from the American Bar Association, Section on
22 Administrative Law and Regulatory Practices.
23
24

25 14. In November 2014, the CPUC fined Pacific Gas and Electric Company
26 \$1.05 million for its back-channel communications made in an effort to secure a
27 favorable judge in a rate-setting case. The fine was imposed after investigators
28 concluded that CPUC Commissioner Mike Florio and the chief of staff for CPUC

1 President Michael Peevey had encouraged and/or assisted PGE in its efforts to influence
2 the selection of judges whom would be assigned to hear matters involving PGE.

3 15. Federal and state prosecutors investigated these matters to determine
4 whether any laws had been broken. The City of San Bruno demanded that the CPUC
5 turn over some 65,000 emails between PGE and company officials, leading to the public
6 release of about 7000 emails.

7 16. Chief Administrative Law Judge Clopton engaged in "protected activities"
8 within the meaning of Government Code § 8547.8 and California Labor Code § 1102.5,
9 as set forth below in paragraphs 17-21.

10 17. Beginning in September 2014, Ms. Clopton cooperated fully with state and
11 federal prosecutors in their efforts to determine whether any laws were broken in
12 connection with the communications between PGE and members of the Commission
13 and their staff and instructed all of the judges on her staff to cooperate with these
14 investigations.

15 18. Ms. Clopton also advised members of the Commission not to interfere in
16 the assignment of judges to particular cases and urged them to maintain their integrity.
17 Additionally, Ms. Clopton recommended that Commission Executive Director Timothy
18 Sullivan not appoint Michael Colvin as an administrative law judge. Her
19 recommendation was based on Mr. Colvin's close and unethical relationships with
20 certain PGE employees. Specifically, Mr. Colvin had conducted back channel
21 communications with PGE staff regarding issues pending before the Commission,
22 including writing emails that disparaged African American administrative law judges in
23 a racially offensive manner. Right before entering the meeting where Ms. Clopton
24 objected to Colvin's appointment, Picker, President of the Commission, said to her "Are
25 you ready to meet with the three white men with white hair?"
26

27 19. Ms. Clopton promoted actions designed to address racial bias at the CPUC,
28 including appointing a more diverse staff of administrative law judges and conducting

1 training on implicit bias. On a regular basis in weekly Director meetings, Ms. Clopton
2 discussed implicit bias and race discrimination concerns, including the potentially
3 discriminatory implications of having employee photographs on emails and suggesting
4 that directors privately self-administer Harvard University's Implicit Association Tests.

5 20. In addition, Ms. Clopton alerted the Human Resources Director and the
6 Executive Director about archaic and debunked racist theories of white supremacy being
7 taught by the agency's preferred training provider for the statutorily mandated
8 management training for all State supervisors and managers.

9 21. As a result of Ms. Clopton's participation in the protected activities
10 described above, and in retaliation for such actions, CPUC has subjected her to the
11 following adverse actions, in violation of Government Code § 8547.8 and/or California
12 Labor Code § 1102.5. Specifically,

13 (a) The Commission unjustifiably delayed payment to the counsel retained to
14 represent Ms. Clopton during the federal and state investigations into the Commission's
15 relationship with PGE.
16

17 (b) Then Commissioner Catherine J. K. Sandoval chastised Ms. Clopton for
18 describing the collusion between PGE and certain PUC commissioners and staff to
19 influence the assignment of judges who would hear PGE matters as a "scandal."

20 (c) Commissioners criticized Ms. Clopton for "upholding the rules" when she
21 advised the Commission to refrain from interfering in the assignment of judges.

22 (d) The Commission altered the terms of Ms. Clopton's employment by
23 changing the process by which her employment performance was evaluated.

24 Commissioners failed to use standard forms, evaluative tools, measurements, and
25 protocols. Previously, her evaluations had been conducted by the Commission's Chair
26 and Executive Director. Under the new, ad hoc practice, all Commissioners evaluated
27 Ms. Clopton's performance, and the Executive Director's role in the evaluation was
28 eliminated.

1 (e) Beginning in June 2016, the Commission began an investigation and hired
2 an outside investigator to look into Ms. Clopton's "management style," including
3 allegations that she engaged in "bullying, intimidating, and retaliatory" behavior
4 towards staff. The allegations against Ms. Clopton were without any factual basis and
5 represent merely the efforts of a few disgruntled employees whose performance Ms.
6 Clopton was required to criticize and correct.

7 (f) On February 9, 2017, the Commission gave Ms. Clopton a poor evaluation,
8 rating her as "Improvement Needed" in key areas of her performance, including
9 "Communications Skills" and "Relations with Others." The deficient ratings in these
10 areas reflect resentment directed at Ms. Clopton's efforts to encourage the Commission
11 and staff to maintain high ethical standards in the context of the investigation into the
12 relationship between the PUC and PGE and her persistent efforts to identify and critique
13 actions and statements reflecting racial bias by Commission members and their staff.
14 The poor evaluation also stands in sharp contrast to the Commission's action in naming
15 Ms. Clopton to the position of CPUC Acting General Counsel for the year beginning
16 March 3, 2014, and the universal acclaim of her performance in that position by the
17 Commission.
18

19 (g) The Commission has attempted to remove civil service protections for the
20 position of Chief Administrative Law Judge through seeking changes in the legislation
21 authorizing it. That action would not only place the Chief Administrative Law Judge in a
22 vulnerable position with respect to efforts by Commissioners to influence his or her
23 decisions, but would also facilitate the termination of a Chief Administrative Law Judge
24 for rejecting improper efforts to influence her in the performance of her official duties.

25 23. In further retaliation for Ms. Clopton's protected activities, the
26 Commission issued a Notice of Adverse Action - Dismissal to Ms. Clopton on June 30,
27 2017, originally effective July 28, 2017, subsequently amended to be effective August 25,
28 2017. As a result Ms. Clopton has been terminated from her position.

1 state, or federal law to a superior and a government agency in violation of Labor Code §
2 1102.5.

3 **THIRD CLAIM FOR RELIEF**
4 **DISCRIMINATION BASED ON RACE**
5 (against defendant CPUC)
6 (Government Code § 12940)

7 32. Ms. Clopton refers to and incorporates by reference paragraphs 1-31 above
8 as though fully set forth herein.

9 33. By virtue of the foregoing, CPUC discriminated against Ms. Clopton based
10 on her race.

11 **FOURTH CLAIM FOR RELIEF**
12 **FAIR EMPLOYMENT AND HOUSING ACT RETALIATION**
13 (against defendant CPUC)
14 (Government Code § 12940)

15 34. Ms. Clopton refers to and incorporates by reference paragraphs 1-33 above
16 as though fully set forth herein.

17 35. By virtue of the foregoing, CPUC retaliated against Ms. Clopton after she
18 complained about discrimination at the CPUC.

19 **DAMAGES**

20 37. In taking the actions described above, defendants Picker, Peterman,
21 Randolph, Aceves, and Rechtschaffen acted with malice and oppression for the purpose
22 of punishing and harming Ms. Clopton in retaliation for the exercise of her protected
23 rights. Accordingly, Ms. Clopton seeks punitive damages from said defendants for the
24 purpose of punishing them and to make an example of them so that others in their
25 positions will refrain from engaging in similar misconduct.

26 38. As a result of the actions of defendants, plaintiff has been injured and has
27 suffered damages as follows:

28 (a) She has lost compensation to which she was entitled and will lose such
compensation in the future;

1 (b) She has suffered from emotional distress, embarrassment and humiliation,
2 and has suffered damage to her professional reputation and standing; and

3 (c) She has incurred out of pocket expenses for health care benefits.

4 **PRAYER**

5 WHEREFORE, Karen Clopton prays for judgment against defendants CPUC,
6 Michael Picker, Carla J. Peterman, Liane M. Randolph, Martha Guzman Aceves, and
7 Clifford Rechtschaffen and requests that this Court grant her relief as follows:

8 (1) Injunctive relief to require defendant CPUC to reinstate plaintiff to her
9 position as Chief Administrative Law Judge of the California Public Utilities
10 Commission together with all pay, benefits, seniority, and emoluments of that position,
11 and to treat her without retaliation;

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

14 (3) General damages for pain, suffering, emotional distress, and damage to her
15 reputation, in an amount to be determined;

16 (4) Punitive damages in an amount to be determined;

17 (5) Interest at the legal rate;

18 (6) Attorneys' fees;

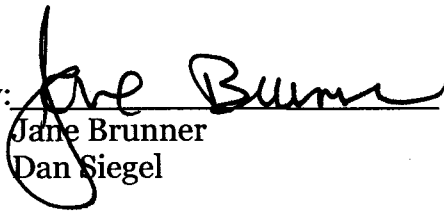
19 (7) Costs of the suit;

20 (8) Removal of all negative evaluations and other negative documentation from
21 her personnel file and from all CPUC files and records; and.

22 (9) Such other and further relief as the Court may deem proper.
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Dated: December 11, 2017

SIEGEL, YEE & BRUNNER

By: 
Jane Brunner
Dan Siegel

Attorneys for Plaintiff
KAREN CLOPTON

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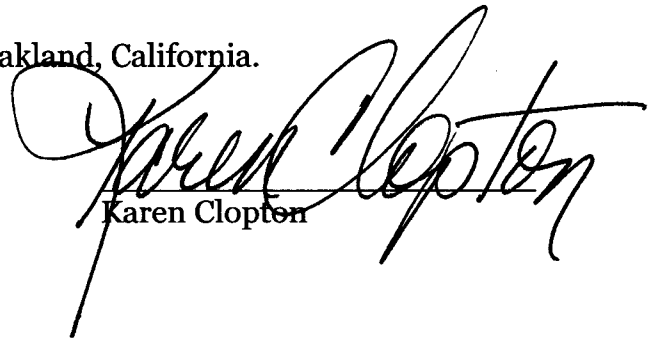
VERIFICATION

I, Karen Clopton, declare as follows:

I am the plaintiff in this action. I have read the foregoing Verified Complaint and know the contents thereof. The same is true of my own knowledge, except for those allegations stated on information and belief, and as to such allegations, I believe it to be true.

I declare under the penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated December 11, 2017, at Oakland, California.



Karen Clopton