



## Notification List

Kevin Lee



William Scott  
Chief of Police  
1245 3rd Street, 6th Floor  
San Francisco, CA 94158  
[William.Scott@sfgov.org](mailto:William.Scott@sfgov.org)

Bob Moser  
Chief of Staff  
1245 3rd Street  
San Francisco, CA 94158  
[Bob.Moser@sfgov.org](mailto:Bob.Moser@sfgov.org)

Greg Yee  
Deputy Chief of Administration  
1245 3rd Street, 6th Floor  
San Francisco, CA 94158  
[Greg.Yee@sfgov.org](mailto:Greg.Yee@sfgov.org)

Micki Callahan  
Director of Human Resources  
1 South Van Ness Avenue, 4th Floor  
San Francisco, CA 94103  
[Micki.Callahan@sfgov.org](mailto:Micki.Callahan@sfgov.org)

Anna Biasbas  
Deputy Director  
Employment Services  
Department of Human Resources  
1 South Van Ness Avenue, 4th Floor  
San Francisco, CA 94103-5413  
[Anna.Biasbas@sfgov.org](mailto:Anna.Biasbas@sfgov.org)

Dave Johnson  
Manager, Public Safety Team  
Department of Human Resources  
1 South Van Ness Avenue, 4th Floor  
San Francisco, CA 94103-5413  
[Dave.Johnson@sfgov.org](mailto:Dave.Johnson@sfgov.org)

Jeanne Buick  
Department of Human Resources  
1 South Van Ness Avenue, 4th Floor  
San Francisco, CA 94103-5413  
[Jeanne.buick@sfgov.org](mailto:Jeanne.buick@sfgov.org)



**MEMORANDUM**

TO: The Honorable Civil Service Commission

THROUGH: Micki Callahan, Human Resources Director

FROM: Dave Johnson, Department of Human Resources Public Safety Team

DATE: June 5, 2020

RE: **Appeal by Kevin Lee of the rejection of his application for CBT Q080 Captain 903263; Register No. 0094-20-4**

---

**Background**

The Department of Human Resources (DHR) Public Safety Team (PST) collaborated with the San Francisco Police Department (SFPD) to distribute the job announcement for CBT Q080 Captain 903263 (see Attachment A) to all SFPD members (Bureaus and Divisions) on Tuesday, March 03, 2020 twenty-eight days prior to the job posting (see Attachment B). The announcement was subsequently posted and the application filing period commenced on April 01, 2020.

The minimum qualifications (MQs) listed in the job announcement included the following experience requirement:

1. Sworn members of the SFPD who have completed probation and two (2) years of experience with the SFPD at the rank of Q060 Lieutenant. (Length of service is calculated from completion of probation.)

This minimum qualification is aligned with the Q080 minimum qualifications announced in SFPD Department Bulletin 16-008 issued January 29, 2016 (see Attachment C).

The announcement also specified that "applicants must have completed probation as a Q060 appointee by October 31, 2018 and have completed two (2) years of additional experience as a Q060 Lieutenant by October 31, 2020. Candidates who have not fulfilled the two-year Q060 experience requirement by the time of eligible list posting will be placed under general waiver on the list until such time as they meet the two-year Q060 experience requirement. Failure to meet the two-year experience requirement by October 31, 2020 is cause for disqualification."

DHR received 64 applications during the filing period. Liezel Cruz of the PST reviewed the applications to determine if the applicants met the two-year experience requirement. She reviewed the length of each applicants' post-probationary experience based on employee records (see Attachment D for an excerpt of the report). She determined from the employee records that 59 applicants met the MQs and 5 did not meet the MQs.

Kevin Lee was one of the applicants who, based on the information in the report, did not meet MQs because he would not possess by October 31, 2020 the full two (2) years of experience at the rank of Q060 Lieutenant calculated from completion of probation. Kevin Lee was sent a not qualified (NQ) notice on April 22, 2020 (see Attachment E). The NQ notice provided a time period during which Kevin Lee could submit documentation to demonstrate how he meets the experience requirement. The notice indicated that responses to the NQ determination were due by April 29, 2020.

On April 22, 2020, Kevin Lee responded via email that he disagreed with the decision that he was not qualified and that he would submit further documentation to support that he is a qualified applicant.

On April 24, 2020, Kevin Lee appealed the rejection of his application to participate in the CBT Q080 Captain 903263 selection process and submitted documentation stating that he was “unfairly denied a promotion since 2017” due to his race and his whistleblower complaint in 2013 (see Attachment F).

Liezal Cruz responded to Kevin Lee’s appeal on Wednesday, April 29, 2020 (see Attachment G). Her response included:

- Identifying the two-year service requirement as specified in the job announcement
- A statement about the terms of the announcement
- The denial of Kevin Lee’s appeal
- A statement about the option to appeal to the Civil Service Commission [CSC] within five days from the receipt of the notice
- A link to the CSC appeal form.

Kevin Lee appealed to the CSC on May 1, 2020 [see Attachment H] DHR’s denial of his request to be allowed to participate in the selection process for Q080 Captain.

## Issue

Should Kevin Lee be eligible to participate in the Q080 exam process without meeting the MQs?

## Authority/Standards

### Sec. 210.2 Notice of Examinations

*Official notice of examinations will be posted at the San Francisco Police Department and the Department of Human Resources. Notice of entrance examinations will be posted for a minimum period of five (5) workdays, and notice of promotional examinations will be posted for a minimum period of ten (10) workdays. Requests for notice of filing dates for entrance examinations may be filed online through the Department of Human Resources website. Notifications shall be emailed at the inquirer’s risk. Failure to receive a requested notification shall not result in any special consideration or remedy related to the examination process.*

### Sec. 210.8 Qualifications of Applicants

*210.8.1 Every applicant for entrance or promotional examination must possess and maintain the qualifications required by law and by the announcement of the examination for which applied. Experience gained in violation of Commission Rules shall not be recognized. It is the*

*responsibility of the appointing officer and of the employee to have out-of-class experience recorded as provided in the Civil Service Commission Rules.*

#### Sec. 210.13 Promotional Applicants

*Applicants for promotional examinations shall meet the requirements of the examination announcement under which they apply and be eligible to participate in an examination on a promotive basis as defined by the examination announcement.*

#### Sec. 211.5 Announcement

*The examination announcement shall provide the qualifications, dates, duration of eligible lists, type of examination, selection procedure(s) and other particulars regarding the examinations thereon announced. Applicants must be guided solely by the announcement of the examination(s) for which they apply. Not less than thirty (30) days prior to the issuance of this announcement, it shall be provided to the bargaining agent for review and comment. Should the document not be returned within the thirty (30) days, the department will proceed with the job announcement.*

#### Sec. 211.6 Protests and Appeals of Examination Announcements

*6.1 Protests concerning provisions of an announcement must be received by the Department of Human Resources/Examination Division of the Police Department within five (5) calendar days from the issuance date. A day the Exam Unit is closed shall not be counted as the fifth (5th) calendar day.*

*6.2 The Human Resources Director or his or her designee will rule upon protests and notify the petitioners in writing.*

*6.3 This decision is subject to appeal to the Civil Service Commission as provided elsewhere in these Rules.*

#### Sec. 211.9 Posting and Notice of Promotional Examination Announcements

*Examination announcements for a promotional examination shall be posted on the official bulletin board at the Police Department and the Department of Human Resources and will be distributed to each Bureau and Division. The minimum posting period shall be twenty (20) calendar days prior to the beginning of the filing period. A copy of the posting will be provided to the certified bargaining representative. The Department shall develop procedures making examination announcement information available, upon request, to Police Officers detailed to outside agencies or on approved extended leaves of absence.*

#### Sec. 213.2 Certification of Eligibles - General Policy

*213.2.1 The Civil Service Commission endorses and supports the broadening of the Rules governing certification of eligibles from the civil service eligible lists and considers this broadening as an increase in opportunities for appointing officers to select employees who are best suited to perform the duties of specific positions. Selection of employees from eligible lists shall be based on merit and fitness without regard to relationship, race, religion, gender, national origin, ethnicity, age, disability, gender identity, political affiliation, sexual orientation, ancestry, marital status, color, medical condition or other non-merit factors or otherwise prohibited nepotism or favoritism. Appointing officers and their designees shall be responsible for*

*establishing non-discriminatory selection procedures which may include by way of example but not limitation, scheduling each interested eligible for interview, reviewing application materials, conducting interviews by a diverse panel, and asking job-related questions. Appointing officer/designee shall also be responsible for maintaining documentation of selection criteria, and reviewing the proposed selection with the department's Equal Employment Opportunity Officer or with the Department of Human Resources Equal Employment Opportunity Unit. Unless otherwise instructed by the Civil Service Commission, the Police Department shall annually report to the Civil Service Commission on the selection process. In addition to the annual reports, the Department shall make regular reports as requested by the Civil Service Commission on merit system issues such as recruitment, examination, and certification and selection procedures. For further clarification, prior to the issuance of any job announcement, secondary criteria shall be presented to the Civil Service Commission for its approval in advance to insure compliance with Civil Service Commission Rules and policy and will be discussed in open session with all parties interested.*

#### Sec. 213.4 Requirement for Secondary Criteria Applicable to All Certification Rules

*4.1 The Police Chief/Designee shall be responsible for establishing non-discriminatory selection procedures. Prior to the issuance of any job announcement, secondary criteria shall be presented to the Civil Service Commission for its approval in advance to insure compliance with Civil Service Commission Rules and policy; and will be discussed in open session with all parties interested.*

*4.2 Selection of an eligible within the certification shall be made under the authority and direction of the Police Chief/Designee.*

*4.3 The Police Chief/Designee shall develop secondary criteria to guide the selection process following the certification of eligibles on the list of eligibles for the position who are available for appointment.*

*4.4 Secondary criteria may include, but need not be limited to experience(s), training and employment history.*

*4.5 Secondary criteria shall be job related.*

*4.6 Secondary criteria shall not be based on relationship, race, religion, gender, national origin, ethnicity, age, disability, gender identity, political affiliation, sexual orientation, ancestry, marital status, color, medical condition, or other non-merit factors or otherwise prohibited nepotism or favoritism.*

#### Sec. 213.7 Certification of Promotive Eligible List - Rule of Ten Scores

*For each referral from promotive eligible lists, the Certification Rule shall be the Rule of Ten Scores.*

#### Sec. 214.3 Method of Appointment - Permanent Appointment

*Permanent appointments shall be made in the following order of priority:*

*3.1 by the return to duty of a permanent holdover;*

3.2 by the reinstatement of a promotive probationary employee consistent with the provisions in the Reinstatement Rule governing such employees.

3.3 by the appointing officer through use of any one of the following options:

1) advancement of a part-time employee to full-time status consistent with the requirements found elsewhere in this Rule; or

2) transfer; or

3) from requests for reinstatement other than by the reinstatement of a promotive probationary employee consistent with the provisions in the Reinstatement Rule governing such employees; or

4) by reappointment following resignation; or

5) by certification by the Police Department Personnel Division of eligibles from a regular list or reemployment register.

3.4 Exercise of one option will preclude the use of any other method of appointment except as a result of any settlement arising following an appeal or other litigation. Departments may also fill permanent vacancies through internal reassignment of permanent employees consistent with departmental procedures. Such reassignments are not within the jurisdiction of the Civil Service Commission or the Department of Human Resources except as specifically provided elsewhere in these Rules.

Q080 Class Specification [excerpt]

## **EXPERIENCE AND TRAINING**

*These minimum qualifications establish the education, training, experience, special skills and/or license(s) which are required for employment in the classification. Please note, additional qualifications (i.e., special conditions) may apply to a particular position and will be stated on the exam/job announcement.*

Sworn members of the SFPD who have completed probation and two (2) years of experience with the SFPD at the rank of Q-60 Lieutenant.

## **Findings**

SFPD Bulletin 16-008 was issued in January 2016 in part to codify and make consistent requirements for promotion in the Police Department. All SFPD members were notified of the upcoming Q080 Captain minimum qualifications via SFPD Bulletin 16-008. The minimum qualifications listed in the Q080 class specification align with the requirements in SFPD Bulletin 16-008.

The CBT Q080 Captain 903263 job announcement was distributed in accordance with CSC rules including distribution to parties and members, posting location, and time requirements. CSC Rule 210.13 states that "applicants for promotional examinations shall meet the requirements of the examination announcement under which they apply and be eligible to participate in an examination on a promotive basis as defined by the examination announcement." Those minimum qualifications included two (2) years of experience with the SFPD at the rank of Q060 Lieutenant

calculated from completion of probation, and October 31, 2020 as the cut-off date for meeting that requirement.

The San Francisco Police Officers Association reviewed the job announcement as provided in CSC Rule 211.9 and had no objections to the content including the minimum qualifications as specified (see Attachment I).

Review of all Q080 applications included analysis of City employment records to corroborate dates upon which applicants completed probation as a Q060 Lieutenant [by October 31, 2018 or earlier] to establish meeting the minimum requirements. Further verification of probation completion dates was provided by SFPD for any applicant who appeared during the initial analysis to not meet the minimum requirements.

In his appeal to the CSC, Kevin Lee makes several points:

- Despite being ranked 20/108 on the Lieutenant Promotion Eligibility Test, I was repeatedly and unfairly denied a promotion since 2017.
- I believe that I have been discriminated against because I am a male Chinese American and other, less qualified women and non-Asian/Chinese Americans were promoted over me.
- The Chief of Police, William Scott, has unilaterally taken race and gender into consideration in his promotional decisions, and has unlawfully favored certain races/genders over others. He is on record confirming this in front of an audience of SFPOA members.
- Further, I believe the department's promotional decisions have been motivated by my reporting improper and illegal conduct by two officers. Indeed, I was advised by a sergeant that heard from a Deputy Chief who said that I was not going to be promoted based on past "bad" behavior which I believe is related to my Whistleblower complaint. (Please see attached lawsuit document)
- While I was finally promoted to Lieutenant in October 2019 after filing a complaint with the California Department of Fair Employment and Housing and subsequent lawsuit, the long delay in my promotion unlawfully precluded me from advancing in my career on the force and being eligible to take the next Captain Promotion Eligibility Test.
- Had I been promoted in 2017 based on my eligible ranking and the merits of my secondary criteria, I would have been eligible to take this Captain's examination.
- I also served two years as an Acting Lieutenant (LWLP) at Richmond Station on the Midnight Watch.

### Analysis

The minimum qualifications specified in CBT Q080 Captain 903263 align with the minimum qualifications announced by the SFPD in 2016 and the Q080 class specification. Sworn members of the SFPD are required to electronically acknowledge in the SFPD Human Resources Management System (HRMS) having read all Department Bulletins. All SFPD members including Kevin Lee are required to be familiar with the contents of all SFPD Bulletins, including Bulletin 16-004.

There is no evidence submitted to suggest that Q060 appointments were not made in compliance with relevant CSC rules [213.2.1, 213.4, 213.7, and 214.3] other than Kevin Lee's allegation of a statement made by Chief Scott to the POA. Such a statement, albeit a serious matter, has no bearing on this appeal. The issue before us is whether or not he meets the minimum qualifications, and not whether he was appointed when he believes that he should have been.

Kevin Lee claims to have two years of experience acting as a Lieutenant on the mid-night watch at the Richmond station. We find no contemporaneous documentation of such experience, and in accordance with CSC rule 210.8 that claim of experience cannot be accepted as counting toward meeting the experience requirement.

### Conclusion

The appellant states a variety of reasons why he should be considered eligible for the Q080 Captain selection process. The minimum qualifications as specified in the job announcement align with those in the class specification and SFPD Bulletin 16-008. Kevin Lee does not meet those criteria.

### Department of Human Resources Recommendation

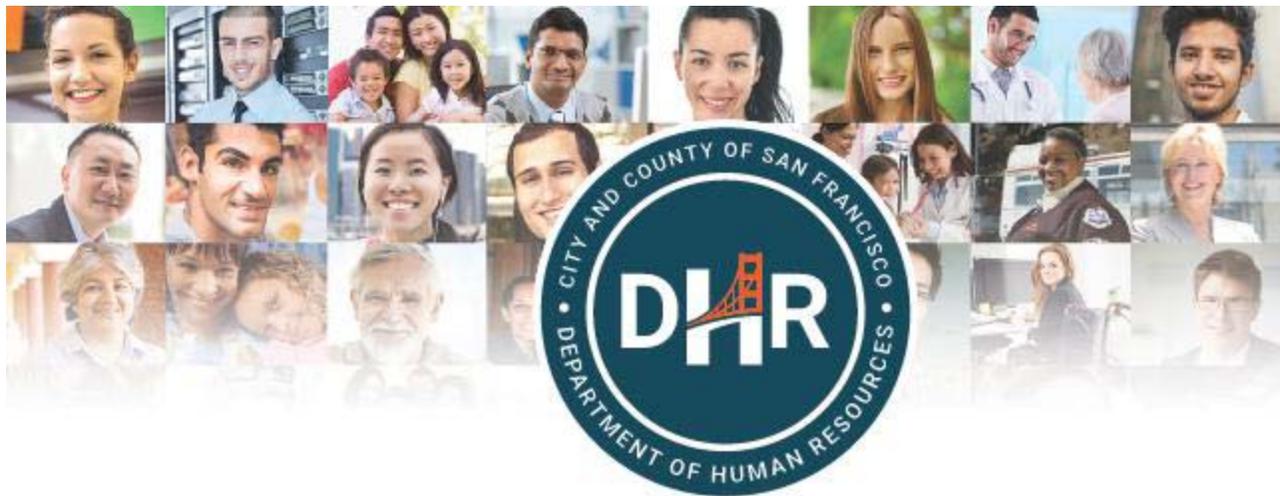
Deny the appeal and adopt the report of the Department of Human Resources.

# Q080 Captain, (Police Department)

Recruitment #CBT-Q080-903263

**DEPARTMENT** Public Safety  
**ANALYST** Liezel Cruz  
**DATE OPENED** 4/1/2020 08:00:00 AM  
**FILING DEADLINE** 4/14/2020 4:00:00 PM  
**SALARY** \$100.74 - \$100.74/hour; \$17,461.00 - \$17,461.00/month; \$209,534.00 - \$209,534.00/year  
**JOB TYPE** CBT Discrete  
**EMPLOYMENT TYPE** Full-Time

## INTRODUCTION



***Connecting People with Purpose***

## PROMOTIONAL ONLY

The Captain in the San Francisco Police Department (SFPD) is a management level position that may be assigned to the Operations, Administration, Special Operations, Investigations, Strategic Management, Airport or Chief of Staff Bureaus. Captains report directly to a Commander, Deputy Chief, or Executive Director.

Essential functions of the position include directing, supervising and monitoring personnel; training, developing and evaluating unit personnel; reviewing and processing documents/communications; analyzing procedures/information and developing plans; interacting with individuals other than unit personnel; and community policing. Captains routinely perform other law enforcement duties.

### MINIMUM QUALIFICATIONS

1. Sworn members of the SFPD who have completed probation and two (2) years of experience with the SFPD at the rank of Q060 Lieutenant. (Length of service is calculated from completion of probation.) AND
2. Possession of a POST Management Certificate issued by California Commission on Peace Officer Standards and Training; AND
3. Possession and maintenance of a valid Class C California Driver License.

Applicants must have completed probation as a Q060 appointee by October 31, 2018 and have completed two (2) years of additional experience as a Q060 Lieutenant by October 31, 2020. Candidates who have not fulfilled the two-year Q060 experience requirement by the time of eligible list posting will be placed under general waiver on the list until such time as they meet the two-year Q060 experience requirement. Failure to meet the two-year experience requirement by October 31, 2020 is cause for disqualification.

Evidence of possession of the POST Management Certificate must be submitted no later than 4:00 p.m. on December 31, 2020 to [dhr-publicsafety@sfgov.org](mailto:dhr-publicsafety@sfgov.org). Candidates who have not provided a certificate as of list posting will be placed under waiver until such time as they provide a certificate. Failure to submit the POST Management Certificate as specified above is cause for disqualification.

### HOW TO APPLY

Applications for City and County of San Francisco jobs are only accepted through an online process. Visit [www.jobaps.com/sf](http://www.jobaps.com/sf) to register an account (if you have not already done so) and begin the application process.

- Select the "Police Captain" job announcement
- Select "Apply" and read and acknowledge the information
- Select either "I am a New User" if you have not previously registered, or "I have Registered Previously"
- Follow instructions on the screen

Computers are available for the public (from 8:00 a.m. to 5:00 p.m. Monday through Friday) to file online applications in the lobby of the Department of Human Resources at 1 South Van Ness Avenue, 4th Floor, San Francisco.

Applicants may be contacted by email about this announcement and, therefore, it is their responsibility to ensure that their registered email address is accurate and kept up-to-date. Also, applicants must ensure that email from CCSF is not blocked on their computer by a spam filter. To prevent blocking, applicants should set up their email to accept CCSF mail from the following addresses @sfgov.org.

Applicants will receive a confirmation email that their online application has been received in response to every announcement for which they file. Applicants should retain this confirmation email for their records. Failure to receive this email means that the online application was not submitted or received.

In the experience section of the application, you need to include only your experience as a Lieutenant in the San Francisco Police Department. Applications completed improperly may be cause for ineligibility or disqualification.

If you have any questions regarding this recruitment or application process, please contact the exam analyst, Liezel Cruz, by telephone at 415-551-8947, or by email at Liezel.Cruz@sfgov.org.

### SELECTION PROCEDURES

The test will consist of Assessment-Center type test components such as an oral in-basket, highly structured subordinate meeting roleplay, hot call tactical, field operations, staff meeting roleplay, and community meeting roleplay. At this time, all components are planned for administration the first week of July 2020. Qualified applicants will be notified by email of the exact date, time and location of the test components at least 10 days in advance of the test. A final passing score will be established. Only those who attain a final score above the pass point will be listed on the eligible list.

**Q080 Captain Preparation Guide:** A description of the examination process will be included in a preparation guide. The preparation guide will also list the job-related duty areas and the knowledge, skills, and abilities to be evaluated in each test component. The preparation guide will be made available approximately 30 days prior to the administration of the test. Qualified applicants will be notified via email when preparation guide becomes.

**Eligible List:** The duration of the eligible list produced from this examination will be **thirty-six (36) months** and may be extended up to twelve months upon approval of the Human Resources Director.

**Certification Rule:** The certification rule for the eligible list resulting from this test will be **Rule of Ten (10) Scores**.

**Secondary Criteria:** When making appointments, the Appointing Officer will consider the following secondary criteria:

- Assignments
- Training
- Education
- Community involvement
- Special qualifications
- Commendations/awards
- Bilingual certification and
- Discipline history

### **CONVICTION HISTORY**

As a selected candidate for a job, you will be fingerprinted, and your fingerprints will be sent to the California Department of Justice (DOJ) and the Federal Bureau of Investigation (FBI). The resulting report of your conviction history (if any) will be used to determine whether the nature of your conviction (or arrest, in limited circumstances) conflicts with the specific duties and responsibilities of the job for which you are a selected candidate. If a conflict exists, you will be asked to present any evidence of rehabilitation that may mitigate the conflict, except when federal or state regulations bar employment in specific circumstances, such as:

- Candidates for positions with the Unified School District and the Community College District may be disqualified from consideration should their conviction history not meet the standards established under the California Education Code.
- Candidates for positions with the Recreation and Park Department may be disqualified from consideration should their conviction history not meet the standards established under California Public Resources Code 5164.

*Having a conviction history does not automatically preclude you from a job with the City.*

If you are a selected candidate, the hiring department will contact you to schedule a fingerprinting appointment.

### **CONCLUSION**

#### **Terms of Announcement**

Applicants must be guided solely by the provisions of this announcement, including requirements, time periods and other particulars, except when superseded by federal, state or local laws, rules or regulations. Clerical errors may be corrected by posting the correction on the Department of Human Resources website at [www.jobaps.com/sf](http://www.jobaps.com/sf).

The terms of this examination announcement may be appealed under Civil Service Rule 211.6, provided that such appeal is submitted in writing in the Department of Human Resources, 1 S Van Ness Avenue, 4th Floor, San Francisco, CA 94103-5413 by close of business on the 5th business day following the issuance date of this examination announcement. Go to <http://sfgov.org/civilservice/rules> for more information on applicable appeal rights and submission requirements under the Civil Service Rules; and for Civil Service Rules, policies and procedures on announcements, applications and examinations.

All examination procedures are subject to the Civil Service Commission Rules, Volume II, Uniformed Ranks of the San Francisco Police Department and are available at <http://sfgov.org/civilservice/rules> and the policies and procedures of the Department of Human Resources.

### **Contact Information**

An applicant/eligible that changes his or her contact information (email, name, mailing address, phone, etc.) after having filed an application must promptly go to CCSF's employment website: [www.jobaps.com/sf](http://www.jobaps.com/sf). Click on "Update My Contact Info" button. Log in to your JobAps account by entering both UserID and password. Enter your new address/contact information. Click on the "Update Contact Information" button again. Failure to maintain current contact information may result in loss of eligibility.

### **Requests**

Applicants with disabilities who meet the minimum eligibility requirements for this job announcement can find information on requesting a reasonable **ADA**

**Accommodation** at:

<http://sfdhr.org/information-about-hiring-process#applicantswithdisabilities>

Requests for an alternate test date may be considered in limited circumstances and must be submitted in writing to [dhr-publicsafety@sfgov.org](mailto:dhr-publicsafety@sfgov.org) within five (5) calendar days of the issuance of this announcement.

### **General Information concerning City and County of San Francisco Employment Policies and Procedures**

Important Employment Information for the City and County of San Francisco can be obtained at <http://sfdhr.org/information-about-hiring-process> or hard copy at 1 South Van Ness Avenue, 4<sup>th</sup> Floor.

### **Copies of Application Documents:**

Applicants should keep copies of all documents submitted, as these will not be returned.

**Exam Type: P**  
**Issued: April 01, 2020**  
**Micki Callahan**  
**Human Resources Director**  
**Department of Human Resources**  
**Recruitment ID Number: 903263**  
**HRD/LC/415-551-8947**

### **BENEFITS**

All employees hired on or after January 10, 2009 will be required (pursuant to San Francisco Charter Section A8.432) to contribute 2% of pre-tax compensation to fund retiree healthcare. In addition, most employees are required to make a member contribution towards retirement, ranging from 7.5%-13.25% of compensation. For more information on these provisions, please contact the personnel office of the hiring agency.

For more information about benefits, please click [here](#).

Powered by  JobAps.



# DEPARTMENT NOTICE

20-023  
03/03/20

## Q-80 Captain Examination Update

The Department of Human Resources Public Safety Team is distributing the attached examination announcement for the upcoming Q-80 Captain promotional examination. The announcement is being distributed to Department members in accordance with Civil Service Commission Rule 211.9. The application filing period for this examination is scheduled to begin on Wednesday, April 01, 2020.

Any specific questions about the announcement may be directed to the DHR Public Safety Team at [dhr-publicsaftey@sfgov.org](mailto:dhr-publicsaftey@sfgov.org).

  
WILLIAM SCOTT  
Chief of Police

*Any questions regarding this policy should be made to [sfpd.writtendirectives@sfgov.org](mailto:sfpd.writtendirectives@sfgov.org) who will provide additional guidance about the directive.*

# Q080 Captain, (Police Department)

Recruitment #CBT-Q080-903263

DEPARTMENT	Public Safety
FILING DEADLINE	4/14/2020 4:00:00 PM
SALARY	
JOB TYPE	CBT Discrete
EMPLOYMENT TYPE	Full-Time

[Go Back](#) [Apply](#) [View Benefits](#)

## INTRODUCTION

The Captain in the San Francisco Police Department (SFPD) is a management level position that may be assigned to the Operations, Administration, Special Operations, Investigations, Strategic Management, Airport or Chief of Staff Bureaus. Captains report directly to a Commander, Deputy Chief or Executive Director.

Essential functions of the position include directing, supervising and monitoring personnel; training, developing and evaluating unit personnel; reviewing and processing documents/communications; analyzing procedures/information and developing plans; interacting with individuals other than unit personnel; and community policing. Captains routinely perform other law enforcement duties.

## MINIMUM QUALIFICATIONS

1. Sworn members of the SFPD who have completed probation and two (2) years of experience with the SFPD at the rank of Q060 Lieutenant. (Length of service is calculated from completion of probation.) AND

2. Possession of a POST Management Certificate issued by California Commission on Peace Officer Standards and Training; AND
3. Possession and maintenance of a valid Class C California Driver License.

Applicants must have completed probation as a Q060 appointee by October 31, 2018 and have completed two (2) years of additional experience as a Q060 Lieutenant by October 31, 2020. Candidates who have not fulfilled the two-year Q060 experience requirement by the time of eligible list posting will be placed under general waiver on the list until such time as they meet the two-year Q060 experience requirement. Failure to meet the two-year experience requirement by October 31, 2020 is cause for disqualification.

Evidence of possession of the POST Management Certificate must be submitted no later than 4:00 p.m. on December 31, 2020 to [dhrr-publicsafety@sfgov.org](mailto:dhrr-publicsafety@sfgov.org). Candidates who have not provided a certificate as of list posting will be placed under waiver until such time as they provide a certificate. Failure to submit the POST Management Certificate as specified above is cause for disqualification.

## HOW TO APPLY

Applications for City and County of San Francisco jobs are only accepted through an online process. Visit [www.jobaps.com/sf](http://www.jobaps.com/sf) to register an account (if you have not already done so) and begin the application process.

- Select the "Police Captain" job announcement
- Select "Apply" and read and acknowledge the information
- Select either "I am a New User" if you have not previously registered, or "I have Registered Previously"
- Follow instructions on the screen

Computers are available for the public (from 8:00 a.m. to 5:00 p.m. Monday through Friday) to file online applications in the lobby of the Department of Human Resources at 1 South Van Ness Avenue, 4th Floor, San Francisco.

Applicants may be contacted by email about this announcement and, therefore, it is their responsibility to ensure that their registered email address is accurate and kept up-to-date. Also, applicants must ensure that email from CCSF is not blocked on their computer by a spam filter. To prevent blocking, applicants should set up their email to accept CCSF mail from the following addresses @sfgov.org.

Applicants will receive a confirmation email that their online application has been received in response to every announcement for which they file. Applicants should retain this confirmation email for their records. Failure to receive this email means that the online application was not submitted or received.

In the experience section of the application, you need to include only your experience as a Lieutenant in the San Francisco Police Department. Applications completed improperly may be cause for ineligibility or disqualification.

If you have any questions regarding this recruitment or application process, please contact the exam analyst, Liezel Cruz, by telephone at 415-551-8947, or by email at [Liezel.Cruz@sfgov.org](mailto:Liezel.Cruz@sfgov.org).

## SELECTION PROCEDURES

The test will consist of Assessment-Center type test components such as an oral in-basket, highly structured subordinate meeting roleplay, hot call tactical, field operations, staff meeting roleplay, and community meeting roleplay. At this time, all components are planned for administration the first week of July 2020. Qualified applicants will be notified by email of the exact date, time and location of the test components at least 10 days in advance of the test. A final passing score will be established. Only those who attain a final score above the pass point will be listed on the eligible list.

**Q080 Captain Preparation Guide:** A description of the examination process will be included in a preparation guide. The preparation guide will also list the job-related duty areas and the knowledge, skills, and abilities to be evaluated in each test component. The preparation guide will be made available approximately 30 days prior to the administration of the test. Qualified applicants will be notified via email when preparation guide becomes.

**Eligible List:** The duration of the eligible list produced from this examination will be **thirty-six (36) months** and may be extended up to twelve months upon approval of the Human Resources Director.

**Certification Rule:** The certification rule for the eligible list resulting from this test will be **Rule of Ten (10) Scores**.

**Secondary Criteria:** When making appointments, the Appointing Officer will consider the following secondary criteria:

- Assignments
- Training
- Education
- Community involvement
- Special qualifications
- Commendations/awards
- Bilingual certification and
- Discipline history

## CONVICTION HISTORY

As a selected candidate for a job, you will be fingerprinted, and your fingerprints will be sent to the California Department of Justice (DOJ) and the Federal Bureau of Investigation (FBI). The resulting report of your conviction history (if any) will be used to determine whether the nature of your conviction (or arrest, in limited circumstances) conflicts with the specific duties and responsibilities of the job for which you are a selected candidate. If a conflict exists, you will be asked to present any evidence of rehabilitation that may mitigate the conflict, except when federal or state regulations bar employment in specific circumstances, such as:

- Candidates for positions with the Unified School District and the Community College District may be disqualified from consideration should their conviction history not meet the standards established under the California Education Code.
- Candidates for positions with the Recreation and Park Department may be disqualified from consideration should their conviction history not meet the standards established under California Public Resources Code 5164.

*Having a conviction history does not automatically preclude you from a job with the City.*

If you are a selected candidate, the hiring department will contact you to schedule a fingerprinting appointment.

## CONCLUSION

### Terms of Announcement

Applicants must be guided solely by the provisions of this announcement, including requirements, time periods and other particulars, except when superseded by federal, state or local laws, rules or regulations. Clerical errors may be corrected by posting the correction on the Department of Human Resources website at [www.jobaps.com/sf](http://www.jobaps.com/sf).

The terms of this examination announcement may be appealed under Civil Service Rule 211.6, provided that such appeal is submitted in writing in the Department of Human Resources, 1 S Van Ness Avenue, 4th Floor, San Francisco, CA 94103-5413 by close of business on the 5th business day following the issuance date of this examination announcement. Go to <http://sfgov.org/civilservice/rules> for more information on applicable appeal rights and submission requirements under the Civil Service Rules; and for Civil Service Rules, policies and procedures on announcements, applications and examinations.

All examination procedures are subject to the Civil Service Commission Rules, Volume II, Uniformed Ranks of the San Francisco Police Department and are available at <http://sfgov.org/civilservice/rules> and the policies and procedures of the Department of Human Resources.

### Contact Information

An applicant/eligible that changes his or her contact information (email, name, mailing address, phone, etc.) after having filed an application must promptly go to CCSF's employment website: [www.jobaps.com/sf](http://www.jobaps.com/sf). Click on "Update My Contact Info" button. Log in to your JobAps account by entering both UserID and password. Enter your new address/contact information. Click on the "Update Contact Information" button again. Failure to maintain current contact information may result in loss of eligibility.

### Requests

Applicants with disabilities who meet the minimum eligibility requirements for this job announcement can find information on requesting a reasonable **ADA Accommodation** at: <http://sfdhr.org/information-about-hiring-process#applicantswithdisabilities>

Requests for an alternate test date may be considered in limited circumstances and must be submitted in writing to [dhr-publicsafety@sfgov.org](mailto:dhr-publicsafety@sfgov.org) within five (5) calendar days of the issuance of this announcement.

**General Information concerning City and County of San Francisco Employment Policies and Procedures**

Important Employment Information for the City and County of San Francisco can be obtained at <http://sfdhr.org/information-about-hiring-process> or hard copy at 1 South Van Ness Avenue, 4<sup>th</sup> Floor.

**Copies of Application Documents:**

Applicants should keep copies of all documents submitted, as these will not be returned.

**Exam Type: P**

**Issued: April 01, 2020**

**Micki Callahan**

**Human Resources Director**

**Department of Human Resources**

**Recruitment ID Number: 903263**

**HRD/LC/415-551-8947**



A  
16-008  
01/29/16

### Sworn Promotional Exam Minimum Qualifications

Below is a listing of minimum qualifications for promotional examinations for sworn members of the San Francisco Police Department (SFPD).

#### Q80 – Captain:

- Sworn members of the SFPD who have successfully completed their one (1) year probationary period as a Q60 Lieutenant and have two (2) additional years of experience with the SFPD at the rank of Q60 Lieutenant;
- Possess a POST Management Certificate issued by the Commission on Peace Officer Standards and Training, or is qualified and has applied for a POST Management Certificate issued by the Commission on Peace Officer Standards and Training;
- Possess a valid Class C California Driver License.

#### Q60 – Lieutenant:

- Sworn members of the SFPD who have successfully completed their one (1) year probationary period as a Q50 Sergeant and have two (2) additional years of experience with the SFPD at the rank of Q50 Sergeant;
- Possess a POST Supervisory Certificate issued by the Commission on Peace Officer Standards and Training, or is qualified and has applied for a POST Supervisory Certificate issued by the Commission on Peace Officer Standards and Training;
- Possess a valid Class C California Driver License.

#### Q50 – Sergeant:

- Members at the rank of Q2 Police Officer or higher who have successfully completed their probationary period and two (2) additional years of experience as a sworn member of the SFPD;
- Possess an Intermediate POST Certificate issued by the Commission on Peace Officer Standards and Training, or is qualified and has applied for an Intermediate POST Certificate issued by the Commission on Peace Officer Standards and Training;
- Possess a valid Class C California Driver License.

If the first component of a promotional examination is administered between January 1<sup>st</sup> and June 30<sup>th</sup> all requirements must be met by June 30<sup>th</sup>. If the first component of a promotional examination is administered between July 1<sup>st</sup> and December 31<sup>st</sup> all requirements must be met by December 31<sup>st</sup>.

When promotional examination announcements are posted, Commanding Officers are directed to make every reasonable attempt to contact members under their command who are on leave, and who may qualify based on the minimum qualifications listed above, to notify them of such promotional examinations and to document those efforts. Officers on long term leave who have been transferred to the Staff Services Division will be notified by the Commanding Officer of Staff Services.

Any specific questions about the examination schedule may be addressed to the DHR Public Safety Team Examination Unit at (415) 551-8940.

(over)

## Requirements for POST Certificate

### Management Certificate

1. Possess or be eligible to possess an Advanced Certificate and
2. 60 college units, plus 2 years experience of Middle Management (Lieutenant) and
3. Completion of Middle Management Training.

### Supervisory Certificate

1. Possess or be eligible to possess an intermediate certificate and
2. 60 college units, plus two years in a supervisory position and
3. Completion of Supervisory Course.

### Advanced Certificate

1. Master degree, plus four years law enforcement or;
2. Baccalaureate degree, plus six years law enforcement or;
3. Associates degree, plus nine years law enforcement or;
4. 45 college units, plus nine years law enforcement and 45 training points or;
5. 30 college units, plus twelve years law enforcement and 30 training points.

### Intermediate Certificate

1. Baccalaureate degree, plus two years law enforcement or;
2. Associate degree, plus four years law enforcement or;
3. 45 college units, plus four years law enforcement and 45 training points or;
4. 30 college units, plus six years law enforcement and 30 training points or;
5. 15 college units, plus eight years law enforcement and 15 training points.

Per DB 15-141, sworn members are required to electronically acknowledge this Department Bulletin in HRMS.

  
GREGORY P. SUHR  
Chief of Police

Job Code	Elig Lis	Rank	Fu	Name	First Name	Last	ID	Ctywd Snrty Dt	Appointment Dt	Certificate Dt
Q062	901238								11/17/2018	
Q062	901238								11/17/2018	
Q062	901238								11/17/2018	
Q062	901238								11/17/2018	
Q062	901238								11/17/2018	
Q062	901238								11/17/2018	
Q062	901238								11/17/2018	
Q062	901238								11/17/2018	
Q062	901238								11/17/2018	
Q062	901238								10/26/2019	
Q062	901238								10/26/2019	
Q062		20.00	F	Kevin Lee	Kevin	Lee	019840	3/20/2019	10/26/2019	3/20/2019
Q062	901238								10/26/2019	
Q062	901238								10/26/2019	
Q062	901238								10/26/2019	
Q062	901238								10/26/2019	
Q062	901238								10/26/2019	
Q062	901238								10/26/2019	
Q062	901238								10/26/2019	
Q062	901238								10/26/2019	
Q062	901238								10/26/2019	
Q062	901238								10/26/2019	
Q062	901238								10/26/2019	
Q062	901238								10/26/2019	
Q062	901238								10/26/2019	
Q062	901238								10/26/2019	
Q062	901238								10/26/2019	
Q062	901238								10/26/2019	
Q062	902138								10/26/2019	



Wednesday, April 22, 2020

Kevin Lee

[REDACTED]  
[REDACTED]

USA

Dear Kevin Lee,

Your application for Q080 Captain, (Police Department) has been marked Not Qualified. Based on the information you provided in the Employment Record section of your application, you do not meet the minimum experience for this recruitment.

The minimum qualifications are:

1. Sworn members of the SFPD who have completed probation and two (2) years of experience with the SFPD at the rank of Q060 Lieutenant. (Length of service is calculated from completion of probation.) AND
2. Possession of a POST Management Certificate issued by California Commission on Peace Officer Standards and Training; AND
3. Possession and maintenance of a valid Class C California Driver License.

Applicants must have completed probation as a Q060 appointee by October 31, 2018 and have completed two (2) years of additional experience as a Q060 Lieutenant by October 31, 2020. Candidates who have not fulfilled the two-year Q060 experience requirement by the time of eligible list posting will be placed under general waiver on the list until such time as they meet the two-year Q060 experience requirement. Failure to meet the two-year experience requirement by October 31, 2020 is cause for disqualification.

This decision regarding your application status may be reconsidered if you can provide additional information or explanation by the close of business (4:00 p.m.) on Wednesday, April 29, 2020. To be reconsidered, your request must include specific details demonstrating how you meet the minimum experience as stated on the exam announcement. Civil Service Commission Rules for the City and County of San Francisco specify announcement, application and examination policies and procedures, including applicant appeal rights. They can be found on the Civil Service Commission website at <http://sfgov.org/civilservice/rules>.

If you have any questions regarding this notice, please send an email to [liezel.cruz@sfgov.org](mailto:liezel.cruz@sfgov.org)

Thank you,

Liezel Cruz  
Senior Human Resources Analyst  
Public Safety Team

**From:** Lee, Kevin (POL) <[REDACTED]>  
**Sent:** Friday, April 24, 2020 1:54 AM  
**To:** Cruz, Liezel (HRD) <liezel.cruz@sfgov.org>  
**Subject:** CBT-Q080-903263 Q080 Police Captain Application Appeal

Date: April 24, 2020

San Francisco Department of Human Resources  
Attn: Senior Human Resources Analyst Liezel Cruz

Re: Q80 [CBT-Q080-903263] Examination

Dear Liezel,

As you may know from my resume that I am a long-time, dedicated officer with exemplary performance and service to the City and County of San Francisco. I have exemplified all the attributes the SFPD states it values in my twenty-year career as a peace officer. Despite this, and despite being ranked 20/108 on the Lieutenant Promotion Eligibility Test, I was repeatedly and unfairly denied a promotion since 2017. I believe that I have been discriminated against because I am a male Chinese American and other, less-qualified women and non-Asian/Chinese Americans were promoted over me. The Chief of Police, William Scott, has unilaterally taken race and gender into consideration in his promotional decisions, and has unlawfully favored certain races/genders over others. He is on record confirming this in front of an audience of SFPOA members.

Further, I believe the department's promotional decisions have been motivated by my reporting improper and illegal conduct by two officers. Indeed, I was advised by a sergeant that heard from a Deputy Chief who said that I was not going to be promoted based on past "bad" behavior which I believe is related to my Whistleblower complaint. (Please see attached lawsuit document)

While I was finally promoted to Lieutenant in October 2019 after filing a complaint with the California Department of Fair Employment and Housing and subsequent lawsuit, the long delay in my promotion unlawfully precluded me from advancing in my career on the force and being eligible to take the next Captain Promotion Eligibility Test. Since my promotion, I have demonstrated that I am capable and qualified to be promoted to Captain. As one of four patrol platoon commanders at Mission Station, I manage the busiest police station in the City and have worked in six of the ten district stations. I have a master's degree in management and leadership and a bachelor's degree in criminal justice management. I am certified bilingual and have received highly rated employee evaluations.

Had I been promoted in 2017 based on my eligible ranking and the merits of my secondary criteria, I would have been eligible to take this Captain's examination. I also served two years as an Acting Lieutenant (LWLP) at Richmond Station on the Midnight Watch.

Accordingly, I am requesting that I be permitted to take the Captain's exam that will be administered in 2020.

Thank you for your consideration.

Sincerely,

Lt. Kevin Lee

Sent from [Mail](#) for Windows 10

**From:** [Cruz, Liezel \(HRD\)](#)

**Sent:** Thursday, April 23, 2020 11:20 AM

**To:** [Kevin Lee](#)

**Subject:** RE: CBT-Q080-903263 Q080 Police Captain Application Update

Hello Lt. Lee,

Thanks for the update and I'm looking forward to receiving your additional documents. Please note that we will also request official records from the Police Department to substantiate your eligibility status.

If you have any questions, please let me know.

Liezel Cruz  
Public Safety Team, Sr. HR Analyst  
415.551.8947

**From:** Kevin Lee <[REDACTED]>

**Sent:** Wednesday, April 22, 2020 5:33 PM

**To:** Cruz, Liezel (HRD) <[liezel.cruz@sfgov.org](mailto:liezel.cruz@sfgov.org)>

**Subject:** Re: CBT-Q080-903263 Q080 Police Captain Application Update

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Hi Liezel:

I disagree and I would like to request an appeal.

I will provide more documents and information before the deadline you listed.

Thanks,  
Kevin

Sent from my iPhone

On Apr 22, 2020, at 15:57, [liezel.cruz@sfgov.org](mailto:liezel.cruz@sfgov.org) wrote:



Wednesday, April 22, 2020

Kevin Lee

[REDACTED]

[REDACTED]

USA

Dear Kevin Lee,

Your application for Q080 Captain, (Police Department) has been marked Not Qualified. Based on the information you provided in the Employment Record section of your application, you do not meet the minimum experience for this recruitment.

The minimum qualifications are:

1. Sworn members of the SFPD who have completed probation and two (2) years of experience with the SFPD at the rank of Q060 Lieutenant. (Length of service is calculated from completion of probation.) AND
2. Possession of a POST Management Certificate issued by California Commission on Peace Officer Standards and Training; AND
3. Possession and maintenance of a valid Class C California Driver License.

Applicants must have completed probation as a Q060 appointee by October 31, 2018 and have completed two (2) years of additional experience as a Q060 Lieutenant by October 31, 2020. Candidates who have not fulfilled the two-year Q060 experience requirement by the time of eligible list posting will be placed under general waiver on the list until such time as they meet the two-year Q060 experience requirement. Failure to meet the two-year experience requirement by October 31, 2020 is cause for disqualification.

This decision regarding your application status may be reconsidered if you can provide additional information or explanation by the close of business (4:00 p.m.) on Wednesday, April 29, 2020. To be reconsidered, your request must include specific details demonstrating how you meet the minimum experience as stated on the exam announcement. Civil Service Commission Rules for the City and County of San Francisco specify announcement, application and examination policies and procedures, including applicant appeal rights. They can be found on the Civil Service Commission website at <http://sfgov.org/civilservice/rules>.

If you have any questions regarding this notice, please send an email to [liezel.cruz@sfgov.org](mailto:liezel.cruz@sfgov.org)

Thank you,

Liezel Cruz  
Senior Human Resources Analyst  
Public Safety Team



**CIVIL SERVICE COMMISSION**  
**City and County of San Francisco**  
 25 Van Ness Avenue, Suite 720  
 San Francisco, California 94102-6033  
 Executive Officer  
 (415) 252-3247

CSC Register No.  
 \_\_\_\_\_  
 To: \_\_\_\_\_  
 CC: \_\_\_\_\_

**APPEAL TO THE CIVIL SERVICE COMMISSION**

<p><b>INSTRUCTIONS:</b>          Submit an original copy of this form to the Executive Officer of the Civil Service Commission at the address above <b>within the designated number of days</b> following the postmarked mailing date or email date (whichever is applicable) of the Department of Human Resources' or Municipal Transportation Agency's notification to the appellant. The appellant's/authorized representative's original signature is required. <b>(E-mail is not accepted.)</b> It is recommended that you include all relevant information and documentation in support of your appeal.</p>	<p><b>TYPE OF APPEAL:</b> (Check One)  <input checked="" type="checkbox"/> Examination Matters (by close of business on 5<sup>th</sup> working day)  <input type="checkbox"/> Employee Compensation Matters (by close of business on 7<sup>th</sup> working day) - Limited application  <input type="checkbox"/> Personal Service Contracts (Posting Period)  <input type="checkbox"/> Other Matters (i.e., Human Resources Director/Executive Officer Action) (30 Calendar days)  <input type="checkbox"/> Future Employability Recommendations (See Notice to Employee)</p>
---	---

Kevin Lee	630 Valencia Street, San Francisco	415-726-1801
Full Name of Appellant	Work Address	Work Telephone
Exam appeal to take Q80 - Police Captain	San Francisco Police Department	
Job Code	Title	Department

Residence Address	City	State	Zip	Home Telephone
-------------------	------	-------	-----	----------------

Full Name of Authorized Representative (if any)	Telephone Number of Representative (including Area Code)
---	--

**NOTE:** If this is deemed to be a timely and appealable matter, the department will submit a staff report to the Civil Service Commission to request that it be scheduled for hearing. You will be notified approximately one week in advance of the hearing date, at which time you will be able to pick up a copy of the department's staff report at the Commission's offices. If you would instead prefer Commission staff to email you a copy of the meeting notice and staff report, please provide your email address below.

**Email:** [Redacted]

**COMPLETE THE BASIS OF THIS APPEAL ON THE REVERSE SIDE.** (Use additional page(s) if necessary)

Does the basis of this appeal include <b>new</b> information not previously presented in the appeal to the Human Resources Director? If so, please specify.	Check One: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> X
---	--

<i>Kevin Lee</i> Original Signature of Appellant or Authorized Representative	04/20/2020 Date
--	--------------------

CSC-12 (10/14) Date Received by Civil Service Commission: \_\_\_\_\_



**SUMMONS  
(CITACION JUDICIAL)**

FOR COURT USE ONLY  
(SOLO PARA USO DE LA CORTE)

**NOTICE TO DEFENDANT:  
(AVISO AL DEMANDADO):**

CITY AND COUNTY OF SAN FRANCISCO, SAN FRANCISCO POLICE DEPARTMENT, and  
DOES 1 through 10

**YOU ARE BEING SUED BY PLAINTIFF:  
(LO ESTÁ DEMANDANDO EL DEMANDANTE):**

KEVIN LEE, an individual

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), or by contacting your local court or county bar association. NOTE: The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. ¡AVISO! Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), en el Centro de Ayuda de las Cortes de California, ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)) o poniéndose en contacto con la corte o el colegio de abogados locales. AVISO: Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:

(El nombre y dirección de la corte es): San Francisco Superior Court, 400 McAllister Street, San Francisco, CA 94102

CASE NUMBER: (Número del Caso):

CGC-19-580969

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is: (El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Menaka Fernando, Outten & Golden LLP, One California Street, 12th Floor, San Francisco, CA 94111, 415-638-8800

DATE: November 22, 2019  
(Fecha)

CLERK OF THE COURT

Clerk, by  
(Secretario)

Deputy  
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons (POS-010).)

DE LA VEGA-NAVARRO, Rossaly



**NOTICE TO THE PERSON SERVED: You are served**

1.  as an individual defendant.
2.  as the person sued under the fictitious name of (specify):
3.  on behalf of (specify):
 

under: <input type="checkbox"/> CCP 416.10 (corporation)	<input type="checkbox"/> CCP 416.60 (minor)
<input type="checkbox"/> CCP 416.20 (defunct corporation)	<input type="checkbox"/> CCP 416.70 (conservatee)
<input type="checkbox"/> CCP 416.40 (association or partnership)	<input type="checkbox"/> CCP 416.90 (authorized person)
<input type="checkbox"/> other (specify):	
4.  by personal delivery on (date)

FAY

1 MENAKA N. FERNANDO (SBN 271380)  
2 ZOË DEGEER (SBN 298698)  
3 OUTTEN & GOLDEN LLP  
4 One California Street, 12th Floor  
5 San Francisco, CA 94111  
6 Telephone: (415) 638-8800  
7 Facsimile: (415) 638-8810  
8 E-mail: mfernando@outtengolden.com  
9 zdegeer@outtengolden.com

10 Attorneys for Plaintiff KEVIN LEE

**FILED**  
San Francisco County Superior Court  
NOV 22 2019  
BY: [Signature] CLERK OF THE COURT  
Deputy Clerk

11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
12 **COUNTY OF SAN FRANCISCO**

13 CGC - 19 - 580969

14 KEVIN LEE, an individual,

15 Plaintiff,

16 v.

17 CITY AND COUNTY OF SAN FRANCISCO,  
18 SAN FRANCISCO POLICE DEPARTMENT,  
19 and DOES 1 through 10,

20 Defendants.

Case No.

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

1. **DISCRIMINATION BASED ON RACE CAL. GOV. CODE, § 12940, subd. (a)**
2. **DISCRIMINATION BASED ON NATIONAL ORIGIN (CAL. GOV. CODE, § 12940, subd. (a))**
3. **DISCRIMINATION BASED ON SEX (CAL. GOV. CODE, § 12940, subd. (a))**
4. **FAILURE TO PREVENT DISCRIMINATION (CAL. GOV. CODE, § 12940, subd. (k))**
5. **RETALIATION IN VIOLATION OF FEHA (CAL. GOV. CODE, § 12940, subd. (h))**
6. **RETALIATION FOR DISCLOSURE OF UNLAWFUL ACTS (CAL. LAB. CODE, § 1102.5, subd. (b))**

21 Kevin Lee ("Plaintiff" or "Mr. Lee") alleges the following:

22 **I. NATURE OF THE ACTION**

23  
24 1. This is an individual action brought by Plaintiff Kevin Lee against his current  
25 employers, the City and County of San Francisco ("the City") and the San Francisco Police  
26 Department ("SFPD").  
27  
28

1           2.       Mr. Lee is a forty-three-year-old Chinese-American man with twenty years of  
2 experience in law enforcement. Mr. Lee was hired by the SFPD in 2006 and is currently stationed  
3 at Mission Police Station.

4           3.       Mr. Lee has a history of exemplary employment with the SFPD. He has taken on a  
5 wide variety of assignments and has worked in six of the ten SFPD district stations. In thirteen  
6 years of service, Mr. Lee has only received “above average” or “exceptional” performance ratings  
7 in all evaluation categories. Additionally, Mr. Lee’s work has been celebrated through one Police  
8 Commission Meritorious Conduct award and three Unit Citations. Mr. Lee is bilingual in English  
9 and Cantonese, has a Bachelor of Science in Criminal Justice Management and a master’s degree in  
10 Management and Leadership, holds various leadership positions, and volunteers some of his free  
11 time performing community service.

12           4.       After witnessing two officers falsifying an accident report in 2013, Mr. Lee reported  
13 this misconduct to his superior. Rather than commending Mr. Lee, officers and supervisors  
14 subsequently chastised Mr. Lee for his honesty, called him an “asshole,” and caused Mr. Lee  
15 emotional distress. Mr. Lee’s complaint was never formally investigated by Internal Affairs  
16 Division (IAD), and the officers involved were never disciplined. Rather, they were given coveted  
17 positions working plainclothes assignments.

18           5.       In 2016, Mr. Lee took the Lieutenant eligibility exam and scored exceptionally well  
19 placing him in the 20th position out of 108 ranks and 147 total members on the Lieutenant  
20 Promotion Eligibility List. Notwithstanding Mr. Lee’s exceptional qualifications, outstanding  
21 performance evaluations, and lengthy service with the SFPD, he was passed over for promotion on  
22 October 21, 2017 and November 17, 2018. Instead of promoting Mr. Lee, SFPD promoted less  
23 qualified female and non-Asian American candidates, who were ranked lower on the Lieutenant  
24 Promotion Eligibility List than Mr. Lee, had not made protected complaints, and some had notable  
25 disciplinary issues.

26           6.       Plaintiff alleges violations of California’s Fair Employment and Housing Act  
27 (“FEHA”) based on discrimination on the basis of his sex, national origin and race, failure to  
28 prevent discrimination and retaliation, and retaliation for his protected complaints. Plaintiff also

1 alleges retaliation for disclosure of unlawful acts in violation of FEHA and the Labor Code.

## 2 II. PARTIES

3 7. Plaintiff Kevin Lee is an individual and, at all times relevant herein, was a resident  
4 of San Mateo County, California and worked in the County of San Francisco, California. At all  
5 times relevant herein, Plaintiff was an employee of the City and the SFPD within the meaning of  
6 California Government Code sections 12926 and 12940, and all other relevant statutes, and was  
7 entitled to the protections of the California Labor Code.

8 8. The City is a consolidated city-county and is both a municipal corporation and a  
9 county within the State of California. Pursuant to Section 4.100 of the San Francisco Charter (“the  
10 Charter”), the executive branch of the City is composed of the office of the Mayor, as well as  
11 departments, appointive boards, commissions, and other units of government. The City currently  
12 employs more than 30,000 full-time workers across a variety of departments. One of these  
13 departments is the SFPD, where Mr. Lee performs work. At all times relevant herein, SFPD  
14 regularly employed five or more persons and was Plaintiff’s employer within the meaning of  
15 California Government Code sections 12926 and 12940, and all other relevant statutes.

16 9. Defendant SFPD is a department of the City within its executive branch. Pursuant to  
17 Charter § 4.127, the SFPD, together with the San Francisco Police Commission as appointed by the  
18 Mayor of the City and the Rules Committee of the Board of Supervisors, is responsible for  
19 preserving the public peace, preventing and detecting crime, and protecting the rights of persons  
20 and property by enforcing the laws of the United States, the State of California, and the City and  
21 County. According to its November 2019 sworn demographics report, the SFPD has over 2,200  
22 employees.

23 10. Plaintiff is ignorant of the true names or capacities of the Defendants sued here  
24 under the fictitious names Does 1 through 10, inclusive (the “Doe Defendants”). Plaintiff is  
25 informed and believes, and thereon alleges, that each of the Doe Defendants was responsible in  
26 some manner for the occurrences and injuries alleged herein. Plaintiff is further informed and  
27 believes, and thereon alleges, that, at all times relevant herein, each of the Doe Defendants  
28 regularly employed five or more persons and was Plaintiff’s employer within the meaning of

1 California Government Code sections 12926 and 12940 and all other relevant statutes. In the  
2 alternative, Plaintiff is informed and believed, and thereon alleges, that, each of the Doe Defendants  
3 was an employee of an entity subject to California Government Code section 12940, subdivision  
4 (j), and was therefore personally liable for any harassment he or she perpetrated in violation of that  
5 subsection pursuant to California Government Code section 12940, subdivision (j)(3).

6 11. Plaintiff is informed and believes, and thereon alleges, that, at all times relevant  
7 herein, Defendants were acting on their own behalf and as agents or employees of each of the  
8 other Defendants. The acts described herein were done in the course and scope of such agency or  
9 employment with the consent, permission, and authorization of each of the other Defendants, as  
10 well as on each Defendants' own behalf.

### 11 III. JURISDICTION AND VENUE

12 12. This Court has jurisdiction over Plaintiff's claims under California Government  
13 Code section 12940, California Labor Code section 1102.5, and Article VI, section 10 of the  
14 California Constitution.

15 13. Venue is proper in this county pursuant to California Code of Civil Procedure  
16 sections 395 and 395.5 because a substantial part of the events and omissions giving rise to the  
17 claims alleged herein occurred in the County of San Francisco. Venue is also proper in this county  
18 pursuant to California Government Code section 12965 because the unlawful employment practices  
19 alleged herein were committed in the County of San Francisco and the records relevant to those  
20 practices are maintained and administered in the County of San Francisco.

### 21 IV. EXHAUSTION OF ADMINISTRATIVE REMEDIES

22 14. On March 26, 2019, within one year of the date of the unlawful employment  
23 practices committed by Defendants, and each of them, Plaintiff filed a charge of discrimination  
24 with the California Department of Fair Employment and Housing ("DFEH"). This charge was  
25 amended on April 12, 2019. A copy of this charge is attached hereto as **Exhibit A** and incorporated  
26 by reference as though fully set forth herein.

27 15. On March 26, 2019, the DFEH issued to Plaintiff a notice of right to bring a civil  
28 action against Defendants based on the charges described herein. A copy of Plaintiff's notice of his

1 Right To Sue is attached hereto as **Exhibit B** and incorporated by reference as though fully set forth  
2 herein.

3 16. In or around March 2019, Mr. Lee sent a memorandum to Captain Milanda Moore,  
4 Mr. Lee's commanding officer, providing notice of potential legal action against the City and the  
5 SFPD. This notice complied with SFPD General Order 2.01, Rule 31, which requires officers to  
6 submit a memorandum to their commanding officer briefly describing the cause of action, prior to  
7 filing suit against the city or the police department.

8 17. To comply with the Government Tort Claim Act, on May 13, 2019, Mr. Lee filed an  
9 internal claim form with the City Controller's Office regarding his whistleblower claim. A copy of  
10 Plaintiff's internal claim form is attached hereto as **Exhibit C** and incorporated by reference as  
11 though fully set forth herein.

12 18. On May 24, 2019, Matthew Rothschild, Chief of the Claims Division issued to  
13 Plaintiff a notice of action upon that claim. The City denied Mr. Lee's claim. A copy of the City's  
14 denial is attached hereto as **Exhibit D** and incorporated by reference as though fully set forth  
15 herein.

## 16 V. FACTUAL ALLEGATIONS

### 17 Mr. Lee Has a History of Exemplary Employment with the SFPD.

18 19. Plaintiff Kevin Lee is a forty-three-year-old first generation Chinese-American man  
19 with twenty years of experience in law enforcement. In 1983, Mr. Lee immigrated from a rural  
20 village in Southeast China, and subsequently, grew up near the Central Police Station in San  
21 Francisco's Chinatown.

22 20. Mr. Lee's childhood fascination with police cars and officers inspired him to  
23 dedicate the majority of his career to law enforcement.

24 21. In 1999, Mr. Lee began his career as a San Francisco Deputy Sheriff. In 2006, Mr.  
25 Lee transferred to the SFPD, where for the last thirteen years, he has worked in six of the ten  
26 district stations (Southern, Central, Bayview, Richmond, Northern, and Mission) and the Airport  
27 Bureau. Mr. Lee has had a wide variety of assignments at the SFPD, including Patrol Field Training  
28 Officer, Field Training Sergeant, Station Training Coordinator, background investigations, school

1 car, foot beat, plainclothes, and administrative work. While Sergeant, he even served for two years  
2 as an acting Lieutenant on the Midnight Watch at Richmond Station.

3 22. Mr. Lee has brought significant educational, linguistic, and community service  
4 achievements to his positions at the SFPD. Mr. Lee holds a Bachelor of Science in Criminal Justice  
5 Management and a master's degree in Management and Leadership. These educational  
6 achievements exceed those of most officers and well surpasses SFPD's minimum requirement that  
7 sworn officers pass the California High School Proficiency Exam. Mr. Lee is also fully bilingual in  
8 English and Cantonese. In his spare time, Mr. Lee serves his community by providing  
9 Thanksgiving meals to the elderly and other residents, mentoring public high school students  
10 through school sports, assisting reformed youth in the Chinese community, and acting as a liaison  
11 between the Bayview Portola Community and the police.

12 23. During his thirteen years of employment with the SFPD, Mr. Lee has only received  
13 "exceptional" or "above average" ratings in each performance evaluation category. Moreover, Mr.  
14 Lee's most recent evaluation on March 20, 2019 featured "exceptional" ratings in all categories.  
15 Throughout his career, reviewing supervisors have consistently noted that Mr. Lee has extremely  
16 strong management and administrative abilities, "outstanding judgment, flexibility, and problem-  
17 solving skills."

18 24. Mr. Lee's exceptional qualities have led to numerous awards and leadership  
19 positions. He earned a Meritorious Conduct Award for his skillful and lengthy undercover  
20 operation on a high-target pedophile that resulted in arrest. In addition, Mr. Lee was granted three  
21 Unit Citations for exceptional police work. In 2011, Mr. Lee worked on the child safety awareness  
22 campaign, Project Safe Haven in the Bayview District. He worked as a School Resource Officer to  
23 develop a tactical response plan for "active shooter" incidents at schools in the Richmond District  
24 in 2013. From 2018 to present, Mr. Lee has worked as Coordinator and Manager of overtime  
25 resources, the liaison between SFO and the SFPD Airport Bureau, and on the Body Worn Camera  
26 Program at SFO. He is also an elected member of the San Francisco Police Officer's Association  
27 ("SFPOA") Board of Directors.

28 25. Despite Mr. Lee's extensive experience and qualifications, Mr. Lee believes, and

1 thereon alleges, that SFPD intentionally and illegally delayed Mr. Lee's promotion from Sergeant  
2 to Lieutenant on two separate occasions.

3 **The SFPD Discriminated and Retaliated Against Mr. Lee Because of His Protected**  
4 **Complaints and Characteristics.**

5 26. Mr. Lee believes, and thereon alleges, that he has twice been denied promotion to  
6 Lieutenant because of his protected complaints regarding misconduct by two well-liked police  
7 officers, his protected complaints concerning SFPD's failure to promote him, and his race/national  
8 origin and/or gender.

9 **Mr. Lee's November 2013 Protected Complaint**

10 27. On November 17, 2013, Mr. Lee responded to a DUI crash incident as the  
11 supervising officer where two subordinate officers were already present.

12 28. Upon arriving at the scene, Mr. Lee conversed with the security guard who  
13 witnessed the driver crash into the gate. The guard stated that the driver was drunk and slumped  
14 over the steering wheel. After hearing the guard's account, Mr. Lee instructed the officers to  
15 conduct a DUI investigation, write a collision report, and take other appropriate action.

16 29. Instead of following Mr. Lee's orders, the two subordinate officers failed to write a  
17 collision report and falsified the police report by stating there was no merit to conducting a DUI  
18 investigation. The officers also falsely wrote that the suspect was "unknown" when Mr. Lee later  
19 discovered, per the computer log, that the officers had indeed conducted a record check on the  
20 detained driver. Following further investigation, Mr. Lee learned that the driver had a suspended  
21 license for DUI, was on probation for DUI, and had a warrant for DUI from Alameda County.

22 30. The officers' egregious conduct was perjury (a felony), as well as a violation of  
23 multiple SFPD rules and regulations, including but not limited to, insubordination, failing to write  
24 an accurate police report, neglect of duty, and lying to a superior officer.

25 31. Mr. Lee reported the officers' misconduct to then Captain, now Deputy Chief, Greg  
26 McEachern and submitted a written memorandum.

27 32. Mr. Lee is informed and believes, and thereon alleges, that the City and SFPD failed  
28 to conduct a formal investigation or take corrective action of any kind.

1           33.     Instead of commending Mr. Lee's integrity, other officers and supervisors chastised  
2 Mr. Lee for his protected complaint. Department members (with management's knowledge)  
3 promoted the idea that Mr. Lee was an "asshole." In contrast, SFPD awarded the officers Mr. Lee  
4 reported with coveted positions working plainclothes assignments.

5           34.     Deputy Chief McEachern and former Assistant Chief Toney Chaplin, who were both  
6 intimately aware of Mr. Lee's protected complaint, served as Command Staff, the panel charged  
7 with reviewing and selecting candidates for promotion, during the time period Mr. Lee was being  
8 considered for promotion.

9           35.     On or about October 10, 2018, Sergeant Eddie Hagan told two officers in the  
10 hallway of the police substation that he heard from a Deputy Chief that Mr. Lee was not going to  
11 be promoted because of his "bad behavior" in speaking out against subordinate officers in 2013.  
12 One of the officers privy to this hallway conversation told Mr. Lee what Sgt. Hagan had said.  
13 Later that day, Sgt. Hagan confirmed with Mr. Lee that he had heard this comment from a Deputy  
14 Chief. Mr. Lee is informed and believes, and thereon alleges, that his fortitude and commitment  
15 to following the law and departmental rules and regulations blocked his advancement within the  
16 SFPD and his opportunity to further serve his community.

17           *Defendants Denied Mr. Lee a Promotion Twice and Mr. Lee Made Protected Complaints*  
18           *Regarding the SFPD's Failure to Promote Him.*

19           36.     In 2016, Mr. Lee took the Lieutenant promotional exam termed the SFPD Q-60 test  
20 and ranked in the top 20 out of 108 ranks and 147 total members on the Lieutenant Promotion  
21 Eligibility List (some had tied test scores).

22           37.     Effective October 21, 2017, thirty sergeants were promoted to Lieutenant. Mr. Lee  
23 was not selected for promotion even though fifteen candidates who ranked below him were  
24 promoted. Some of these lower-ranked candidates had inferior qualifications and/or known  
25 disciplinary issues such as IAD investigations and suspensions.

26           38.     Following the results of the October 21, 2017 promotions, Mr. Lee complained to  
27 Chief William Scott about the inequitable promotional decisions. Chief Scott failed to address his  
28 concerns, and instead, verbally assured Mr. Lee there was a second round of promotions and Mr.

1 Lee had a good chance to be promoted then.

2 39. The City and the SFPD failed to investigate or remedy Mr. Lee's complaint. Mr.  
3 Lee's only recourse was to wait and see if he would be promoted in the second round.

4 40. Effective November 17, 2018, fifteen sergeants were promoted to Lieutenant in a  
5 second round of promotions. Mr. Lee was not promoted, yet SFPD promoted eleven candidates  
6 who ranked below Mr. Lee, including those with inferior qualifications and known disciplinary  
7 issues, such as suspension, demotion, and an IAD investigation.

8 41. Following the promotions effective November 17, 2018, Mr. Lee complained to  
9 Commander Peter Walsh about the discriminatory and retaliatory promotional decisions.

10 42. The City and SFPD did not do anything to investigate or remedy his complaint.  
11 Indeed, Mr. Lee had put together a binder of documents and information relating to his complaint  
12 and Commander Walsh told him not to submit it to the Chief as it would "not be looked at  
13 favorably" by the Command Staff.

14 43. Despite Mr. Lee's high ranking on the SFPD Q-60 test, glowing performance  
15 reviews, and multiple accolades, SFPD Command Staff, including Commander McEachern and  
16 Chief Chaplin, two superiors familiar with Mr. Lee's 2013 complaint, decided not to promote Mr.  
17 Lee.

18 44. After Mr. Lee repeatedly complained about the discriminatory promotional  
19 process—internally and through counsel—the SFPD promoted him from Sergeant to Lieutenant  
20 on October 26, 2019. Mr. Lee's lengthy wait time for promotion to Lieutenant has now  
21 permanently delayed any possible future promotions to Captain.

22 *Defendants Subjected Mr. Lee to Discrimination Based on Race and Sex and Retaliation*  
23 *for his Protected Complaints.*

24 45. The SFPD subjected Mr. Lee to differential treatment based on his race, national  
25 origin, and/or sex by giving preferential treatment to female and non-Asian-American employees  
26 in its promotional practices.

27 46. The SFPD Command Staff is responsible for reviewing and selecting candidates  
28 for promotion. In hiring decisions, the Command Staff are supposed to consider qualification

1 exam scores in combination with secondary criteria. Secondary criteria should include  
2 assignments, training, education, special qualifications, commendations, awards, bilingual  
3 certification, and discipline history, not race and gender.

4 47. At a San Francisco Police Officer's Association (SFPOA) general meeting on  
5 November 16, 2017, when asked about his promotion decisions, Chief Scott confirmed he uses  
6 "race and gender" in the determination of who is promoted.

7 48. As early as June 2018, the SFPOA and their counsel had repeatedly written Chief  
8 Scott to address their concern that the SFPD bases its promotions on race and gender, arguing that  
9 these practices are subjective and pretext for decisions based on protected characteristics, and are  
10 in violation of the law and SFPD rules.

11 49. According to census data, the Asian-American community makes up approximately  
12 35.9% of San Francisco's population<sup>1</sup>, with the Chinese community making up approximately  
13 21.4%.<sup>2</sup> Plaintiff is informed and believes that local media outlets have long reported on the  
14 underrepresentation of Chinese officers given the large Chinese community in San Francisco, but  
15 the SFPD has not yet addressed or remedied this issue. SFPD has reported incidents where Chinese  
16 residents have been unable to communicate with 911 dispatchers and officers, resulting in  
17 significant delays in response. Despite the need for bilingual Chinese officers, Mr. Lee is informed  
18 and believes, and thereon alleges, have not been hired or promoted in proportion to the city's  
19 demographics.

20 50. Greg Yee is the only Asian-American Deputy Chief or Assistant Chief in the SFPD.  
21 Mr. Yee was promoted to Deputy Chief in May 2019, after Mr. Lee's discrimination complaints.  
22 The Command Staff at the time Mr. Lee was denied promotions included: the Chief of Police (an  
23 African-American man), two Assistant Chiefs (one African-American man and one Latino man),  
24 and five Deputy Chiefs (one African-American man, three white men, and one white woman).

25 51. During the round of promotions effective October 21, 2017, only two out of the

26 \_\_\_\_\_  
27 <sup>1</sup> (United States Census Bureau, *QuickFacts San Francisco County* (2010)  
<<https://www.census.gov/quickfacts/sanfranciscocountycalifornia>> [as of Nov. 21, 2019].)

28 <sup>2</sup> Fagan, *Asian population swells in the Bay Area, state, nation* (March 22, 2012) SFGATE  
<<https://www.sfgate.com/bayarea/article/Asian-population-swells-in-Bay-Area-state-nation-3425777.php>> [as of  
November 21, 2019].)

1 thirty sergeants promoted were Asian-American. One of the two Asian-American sergeants  
2 promoted ranked higher than Mr. Lee and the other ranked lower. The sergeant who ranked lower  
3 than Mr. Lee was also the Police Chief's personal driver.

4 52. For the second round of promotions effective November 17, 2018, fifteen sergeants  
5 were promoted to Lieutenant. No Asian-American candidates were promoted.

6 53. Now-Deputy Chief Yee, the only Asian-American member of the Command Staff,  
7 was inexplicably excluded from the hiring board meeting for the second round of promotions.  
8 Deputy Chief Yee had personally recommended Mr. Lee for a promotion. The SFPD further  
9 blocked Mr. Lee from promotion by not allowing Deputy Chief Yee's attendance at the hiring  
10 board meeting.

11 54. Between the first and second round of lieutenant promotions, all twelve female  
12 candidates under consideration (except for one candidate who retired on a medical disability) were  
13 promoted, although eight of them had lower scores than Mr. Lee and several of these female  
14 candidates also had disciplinary issues.

15 55. In both rounds of lieutenant promotions, sergeants who had inferior qualifications  
16 and known disciplinary complaints were consistently promoted over Mr. Lee.

17 56. Mr. Lee's qualifications, including his bilingual certification, directly fit into the  
18 secondary criteria the SFPD promotion panel is supposed to consider in promotional decisions, yet  
19 he was still passed over for promotions in favor of inferior candidates.

20 57. Mr. Lee repeatedly protested SFPD's discriminatory promotional practices to his  
21 superiors, both verbally and in writing. The City and SFPD retaliated against Mr. Lee for  
22 complaining about their discriminatory and unlawful conduct.

23 58. For example, Mr. Lee attempted to meet with Assistant Chiefs, Hector Sainez and  
24 Chaplin to discuss how he could make himself a more viable candidate for promotion. Both  
25 denied his requests for a meeting.

26 59. The SFPD had scheduled to make third round promotional decisions in July 2019.  
27 Prior to the scheduled time, Chief Scott announced his decision to indefinitely postpone the third  
28 round of promotions. On July 8, 2019, the SFPOA filed a union grievance with Chief Scott in

1 response to his decision. Though there are dozens of vacancies across the ranks of Lieutenant,  
2 Sergeant, and Captain, Chief Scott failed to timely fill them as further retaliation for Mr. Lee's  
3 (and others') protected claims of discrimination and retaliation.

4 60. On October 26, 2019, after a two-year delay, Mr. Lee was finally promoted to  
5 Lieutenant.

6 61. Mr. Lee is informed and believes, and thereon alleges, that the City and SFPD  
7 failed to investigate his complaints or take adequate corrective action.

8 **Mr. Lee Suffered Severe Emotional Distress and Economic Loss.**

9 62. SFPD's discriminatory, retaliatory, and unlawful conduct and Defendants' failure  
10 to investigate his complaints or take corrective action caused Mr. Lee extreme emotional distress.

11 63. Due to SFPD's discriminatory, retaliatory, and unlawful conduct and Defendants'  
12 failure to investigate his complaints or take corrective action, Mr. Lee experienced immense  
13 pressure and suffered from feelings of frustration, stress, anxiety, isolation, and helplessness. Mr.  
14 Lee did not suffer from this emotional state before Defendants began their unlawful conduct.

15 64. Specifically, after Mr. Lee's 2013 protected complaint against two SFPD officers,  
16 Mr. Lee faced an immediate, hostile backlash within the department that caused a strain on his  
17 professional and personal relationships. Fellow SFPD employees bullied Mr. Lee, called him "an  
18 asshole," and unjustly chastised him for following the law and rules of the Department.

19 65. SFPD's failure to promote Mr. Lee in October 2017 and November 2018 and  
20 disregard for his complaints of racial, national origin, and sex discrimination caused him additional  
21 anguish and stress.

22 66. Mr. Lee's also experienced past and future economic loss because of Defendants'  
23 actions.

24 **FIRST CAUSE OF ACTION**  
25 **DISCRIMINATION BASED ON RACE**  
26 **(FEHA - CAL. GOV. CODE, § 12940, subd. (a))**  
27 **(Against all Defendants)**

28 67. Plaintiff incorporates by reference paragraphs 1 through 66 above as though fully  
set forth herein.

1           68.    At all times relevant herein, California Government Code section 12940,  
2 subdivision (a), was in full effect and binding on the City, SFPD, and the Doe Defendants.

3           69.    Plaintiff is informed and believes, and thereon alleges, that, at all times alleged  
4 herein, the City, SFPD, and the Doe Defendants regularly employed five or more persons and were  
5 therefore employers within the meaning of California Government Code sections 12926 and 12940.

6           70.    At all times relevant herein, Plaintiff was an Asian-American employee.  
7 Pursuant to California Government Code section 12940, subdivision (a), Plaintiff had a legal right  
8 to be free from discrimination in employment based upon his race.

9           71.    Plaintiff is informed and believes, and thereon alleges, that the City, SFPD, and  
10 the Doe Defendants violated California Government Code section 12940, subdivision (a), by  
11 discriminating against Plaintiff on the basis of his race as set forth herein.

12           72.    The unlawful conduct of the City, SFPD, and the Doe Defendants as alleged  
13 herein directly and proximately caused Plaintiff to suffer, and continue to suffer, special damages  
14 including, but not limited to, past and future loss of income and benefits, and other damages to be  
15 proven at the time of trial. As alleged herein, the City, SFPD, and the Doe Defendants ratified the  
16 unlawful conduct of their employees and are therefore liable for their conduct.

17           73.    The unlawful conduct of the City, SFPD, and the Doe Defendants as alleged  
18 herein directly and proximately caused Plaintiff to suffer, and continue to suffer, general damages  
19 including, but not limited to, shock, embarrassment, humiliation, emotional distress, stress, anxiety,  
20 fear, uncertainty, isolation, loss of confidence, and other damages to be proven at trial. As alleged  
21 herein, the City, SFPD, and the Doe Defendants ratified the unlawful conduct of their employees  
22 and are therefore liable for their conduct.

23           74.    As a result of the conduct of the City, SFPD, and the Doe Defendants, and each  
24 of them, Plaintiff was forced to retain counsel to protect his rights. Accordingly, Plaintiff seeks the  
25 reasonable attorneys' fees and costs incurred in this litigation in an amount according to proof at  
26 trial pursuant to California Government Code section 12965, subdivision (b).

27  
28

**SECOND CAUSE OF ACTION**  
**DISCRIMINATION BASED ON NATIONAL ORIGIN**  
**(FEHA - CAL. GOV. CODE, § 12940, subd. (a))**  
**(Against all Defendants)**

1  
2  
3  
4       75. Plaintiff incorporates by reference paragraphs 1 through 66 above as though fully  
5 set forth herein.

6       76. At all times relevant herein, California Government Code section 12940,  
7 subdivision (a), was in full effect and binding on the City, SFPD, and the Doe Defendants.

8       77. Plaintiff is informed and believes, and thereon alleges, that, at all times alleged  
9 herein, the City, SFPD, and the Doe Defendants regularly employed five or more persons and were  
10 therefore employers within the meaning of California Government Code sections 12926 and 12940.

11       78. At all times relevant herein, Plaintiff was an employee of Chinese origin.  
12 Pursuant to California Government Code section 12940, subdivision (a), Plaintiff had a legal right  
13 to be free from discrimination in employment based upon his national origin.

14       79. Plaintiff is informed and believes, and thereon alleges, that the City, SFPD, and  
15 the Doe Defendants violated California Government Code section 12940, subdivision (a),  
16 by discriminating against Plaintiff on the basis of his national origin as set forth herein.

17       80. The unlawful conduct of the City, SFPD, and the Doe Defendants as alleged  
18 herein directly and proximately caused Plaintiff to suffer, and continue to suffer, special damages  
19 including, but not limited to, past and future loss of income and benefits, and other damages to be  
20 proven at the time of trial. As alleged herein, the City, SFPD, and the Doe Defendants ratified the  
21 unlawful conduct of their employees and are therefore liable for their conduct.

22       81. The unlawful conduct of the City, SFPD, and the Doe Defendants as alleged  
23 herein directly and proximately caused Plaintiff to suffer, and continue to suffer, general damages  
24 including, but not limited to, shock, embarrassment, humiliation, emotional distress, stress, anxiety,  
25 fear, uncertainty, isolation, loss of confidence, and other damages to be proven at trial. As alleged  
26 herein, the City, SFPD, and the Doe Defendants ratified the unlawful conduct of their employees  
27 and are therefore liable for their conduct.

28       82. As a result of the conduct of the City, SFPD, and the Doe Defendants, and each

1 of them, Plaintiff was forced to retain counsel to protect his rights. Accordingly, Plaintiff seeks the  
2 reasonable attorneys' fees and costs incurred in this litigation in an amount according to proof at  
3 trial pursuant to California Government Code section 12965, subdivision (b).

4 **THIRD CAUSE OF ACTION**  
5 **DISCRIMINATION BASED ON SEX**  
6 **(FEHA - CAL. GOV. CODE, § 12940, subd. (a))**  
7 **(Against all Defendants)**

8 83. Plaintiff incorporates by reference paragraphs 1 through 66 above as though fully  
9 set forth herein.

10 84. At all times relevant herein, California Government Code section 12940,  
11 subdivision (a), was in full effect and binding on the City, SFPD, and the Doe Defendants.

12 85. Plaintiff is informed and believes, and thereon alleges, that, at all times alleged  
13 herein, the City, SFPD, and the Doe Defendants regularly employed five or more persons and were  
14 therefore employers within the meaning of California Government Code sections 12926 and 12940.

15 86. At all times relevant herein, Plaintiff was a male employee. Pursuant to  
16 California Government Code section 12940, subdivision (a), Plaintiff had a legal right to be free  
17 from discrimination in employment based upon his sex.

18 87. Plaintiff is informed and believes, and thereon alleges, that the City, SFPD, and  
19 the Doe Defendants violated California Government Code section 12940, subdivision (a), by  
20 discriminating against Plaintiff on the basis of his sex as set forth herein.

21 88. The unlawful conduct of the City, SFPD, and the Doe Defendants as alleged  
22 herein directly and proximately caused Plaintiff to suffer, and continue to suffer, special damages  
23 including but not limited to past and future loss of income and benefits, and other damages to be  
24 proven at the time of trial. As alleged herein, the City, SFPD, and the Doe Defendants ratified the  
25 unlawful conduct of their employees and are therefore liable for their conduct.

26 89. The unlawful conduct of the City, SFPD, and the Doe Defendants as alleged  
27 herein directly and proximately caused Plaintiff to suffer, and continue to suffer, general damages  
28 including, but not limited to, shock, embarrassment, humiliation, emotional distress, stress,  
isolation, anxiety, fear, uncertainty, loss of confidence, and other damages to be proven at trial. As

1 alleged herein, the City, SFPD, and the Doe Defendants ratified the unlawful conduct of their  
2 employees and are therefore liable for their conduct.

3 90. As a result of the conduct of the City, SFPD, and the Doe Defendants, and each  
4 of them, Plaintiff was forced to retain counsel to protect his rights. Accordingly, Plaintiff seeks the  
5 reasonable attorneys' fees and costs incurred in this litigation in an amount according to proof at  
6 trial pursuant to California Government Code section 12965, subdivision (b).

7  
8 **FOURTH CAUSE OF ACTION**  
9 **FAILURE TO PREVENT DISCRIMINATION**  
10 **(FEHA - CAL. GOV. CODE, § 12940, subd. (k))**  
11 **(Against all Defendants)**

12 91. Plaintiff incorporates by reference paragraphs 1 through 66 above as though fully  
13 set forth herein.

14 92. At all times alleged herein, California Government Code section 12940,  
15 subdivision (k), was in full effect and binding on the City, SFPD, and the Doe Defendants.

16 93. Pursuant to California Government Code section 12940, subdivision (k), the City,  
17 SFPD, and the Doe Defendants were required to take all reasonable steps necessary to prevent  
18 discrimination of and retaliation against Plaintiff.

19 94. Plaintiff is informed and believes, and thereon alleges, that the City, SFPD, and  
20 the Doe Defendants failed to take all reasonable steps necessary to prevent discrimination of and  
21 retaliation against Plaintiff.

22 95. The unlawful conduct of the City, SFPD, and the Doe Defendants as alleged  
23 herein directly and proximately caused Plaintiff to suffer, and continue to suffer, special damages  
24 including, but not limited to, past and future loss of income and benefits, and other damages to be  
25 proven at the time of trial. As alleged herein, the City, SFPD, and the Doe Defendants ratified the  
26 unlawful conduct of their employees and are therefore liable for their conduct.

27 96. The unlawful conduct of the City, SFPD, and the Doe Defendants as alleged  
28 herein directly and proximately caused Plaintiff to suffer, and continue to suffer, general damages  
including, but not limited to, shock, embarrassment, humiliation, emotional distress, stress,  
isolation, anxiety, fear, uncertainty, loss of confidence, and other damages to be proven at trial. As

1 alleged herein, the City, SFPD, and the Doe Defendants ratified the unlawful conduct of their  
2 employees and are therefore liable for their conduct.

3 97. As a result of the conduct of the City, SFPD, and the Doe Defendants, and each of  
4 them, Plaintiff was forced to retain counsel to protect his rights. Accordingly, Plaintiff seeks the  
5 reasonable attorneys' fees and costs incurred in this litigation in an amount according to proof at  
6 trial pursuant to California Government Code section 12965, subdivision (b).

7 **FIFTH CAUSE OF ACTION**  
8 **RETALIATION IN VIOLATION OF FEHA**  
9 **(FEHA - CAL. GOV. CODE, § 12940, subd. (h))**  
10 **(Against all Defendants)**

11 98. Plaintiff incorporates by reference paragraphs 1 through 66 above as though fully  
12 set forth herein.

13 99. At all times relevant herein, California Government Code section 12940, subdivision  
14 (h), was in full effect and binding on all Defendants.

15 100. Pursuant to California Government Code section 12940, subdivision (h), Plaintiff  
16 had a legal right to protest discrimination and/or retaliation in the workplace without retaliation  
17 from Defendants, and Plaintiff did protest what he reasonably believed to be discrimination and  
18 retaliation in the workplace.

19 101. As a result of Plaintiff's protest and opposition to the unlawful conduct of  
20 employees of Defendants, Plaintiff was retaliated against by the City, SFPD, and the Doe  
21 Defendants.

22 102. The unlawful conduct of the City, SFPD, and the Doe Defendants as alleged  
23 herein directly and proximately caused Plaintiff to suffer, and continue to suffer, special damages  
24 including, but not limited to, past and future loss of income and benefits, and other damages to be  
25 proven at the time of trial. As alleged herein, the City, SFPD, and the Doe Defendants ratified the  
26 unlawful conduct of their employees and are therefore liable for their conduct.

27 103. The unlawful conduct of the City, SFPD, and the Doe Defendants as alleged  
28 herein directly and proximately caused Plaintiff to suffer, and continue to suffer, general damages  
including, but not limited to, shock, embarrassment, humiliation, emotional distress, stress,

1 isolation, anxiety, fear, uncertainty, loss of confidence, and other damages to be proven at trial. As  
2 alleged herein, the City, SFPD, and the Doe Defendants ratified the unlawful conduct of their  
3 employees and are therefore liable for their conduct.

4 104. As a result of the conduct of the City, SFPD, and the Doe Defendants, and each of  
5 them, Plaintiff was forced to retain counsel to protect his rights. Accordingly, Plaintiff seeks the  
6 reasonable attorneys' fees and costs incurred in this litigation in an amount according to proof at  
7 trial pursuant to California Government Code section 12965, subdivision (b).

8 **SIXTH CAUSE OF ACTION**  
9 **RETALIATION FOR DISCLOSURE OF UNLAWFUL ACTS**  
10 **(Cal. Lab. Code, § 1102.5, subd. (b))**  
11 **(Against all Defendants)**

12 105. Plaintiff incorporates by reference paragraphs 1 through 66 above as though fully  
13 set forth herein.

14 106. At all times relevant herein, California Labor Code section 1102.5, subdivision  
15 (b), was in full effect and binding on the City, SFPD, and the Doe Defendants.

16 107. Pursuant to California Labor Code 1102.5, subdivision (b), Plaintiff had a legal  
17 right to disclose information that he had reasonable cause to believe disclosed unlawful acts to a  
18 person with authority over him or another employee who had the authority to investigate, discover,  
19 or correct those unlawful acts.

20 108. Plaintiff reported and disclosed unlawful acts prohibited by, *inter alia*, California  
21 Government Code section 12940 to managers and supervisors employed by the City, SFPD, and the  
22 Doe Defendants, including but not limited to Deputy Chief McEachern, Commander Walsh, and  
23 Chief Scott.

24 109. As a result of Plaintiff's reporting and disclosure of unlawful acts, the City, SFPD,  
25 and the Doe Defendants retaliated against him as alleged herein.

26 110. The unlawful conduct of the City, SFPD, and the Doe Defendants as alleged  
27 herein directly and proximately caused Plaintiff to suffer, and continue to suffer, special damages  
28 including, but not limited to, past and future loss of income and benefits, and other damages to be  
proven at the time of trial. As alleged herein, the City, SFPD, and the Doe Defendants ratified the

1 unlawful conduct of their employees and are therefore liable for their conduct.

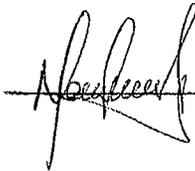
2 111. The unlawful conduct of the City, SFPD, and the Doe Defendants as alleged  
3 herein directly and proximately caused Plaintiff to suffer, and continue to suffer, general damages  
4 including, but not limited to, shock, embarrassment, humiliation, emotional distress, stress,  
5 isolation, anxiety, fear, uncertainty, loss of confidence, and other damages to be proven at trial. As  
6 alleged herein, the City, SFPD, and the Doe Defendants ratified the unlawful conduct of their  
7 employees and are therefore liable for their conduct.

8 **WHEREFORE, PLAINTIFF KEVIN LEE PRAYS FOR JUDGMENT AGAINST**  
9 **ALL DEFENDANTS, AND EACH OF THEM, AS FOLLOWS:**

- 10 1. For compensatory damages, including lost wages, earnings, retirement benefits, and  
11 other employee benefits, according to proof;
- 12 2. For general, special, and incidental damages and amounts for emotional and  
13 physical distress according to proof;
- 14 3. For injunctive relief;
- 15 4. For pre-judgment interest and post-judgment interest, as provided by law;
- 16 5. For reasonable attorneys' fees and costs of suit herein incurred; and  
17 For such other and further relief as the Court deems proper.

18  
19 DATED: November 22, 2019

Respectfully submitted,

20  
21   
22

23 \_\_\_\_\_  
24 MENAKA N. FERNANDO  
25 ZOË DEGEER  
26 OUTTEN & GOLDEN LLP

27 Attorneys for Plaintiff  
28 KEVIN LEE

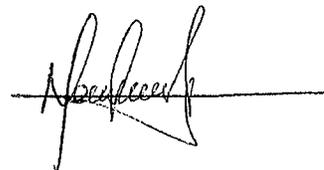
1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**JURY TRIAL DEMANDED**

Plaintiff demands trial of all issues by jury.

DATED: November 22, 2019

Respectfully submitted,



---

MENAKA N. FERNANDO  
ZOË DEGEER  
OUTTEN & GOLDEN LLP

Attorneys for Plaintiff  
KEVIN LEE

# **Exhibit A**

1 **COMPLAINT OF EMPLOYMENT DISCRIMINATION**  
2 **BEFORE THE STATE OF CALIFORNIA**  
3 **DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING**  
4 **Under the California Fair Employment and Housing Act**  
5 **(Gov. Code, § 12900 et seq.)**

6 **In the Matter of the Complaint of**  
7 Kevin Lee

DFEH No. 201903-05587426

8 Complainant,

9 vs.

10 City and County of San Francisco  
11 City Hall, Room 234, 1 Dr. Carlton B. Goodlett Pl.  
12 San Francisco, California 94102

13 San Francisco Police Department  
14 1245 3rd Street  
15 San Francisco, California 94158

16 Respondents

17  
18 1. Respondent **City and County of San Francisco** is an employer subject to suit  
19 under the California Fair Employment and Housing Act (FEHA) (Gov. Code, § 12900  
20 et seq.).

21 2. Complainant **Kevin Lee**, resides in the City of **Pacifica** State of **California**.

22 3. Complainant alleges that on or about **November 17, 2018**, respondent took the  
23 following adverse actions:

24 **Complainant was harassed** because of complainant's race, ancestry, national  
25 origin (includes language restrictions), color, sex/gender.

26 **Complainant was discriminated against** because of complainant's race, ancestry,  
27 national origin (includes language restrictions), color, sex/gender and as a result of  
28 the discrimination was denied hire or promotion, denied a work environment free of  
discrimination and/or retaliation, denied any employment benefit or privilege, denied  
work opportunities or assignments.

**Complainant experienced retaliation** because complainant reported or resisted  
any form of discrimination or harassment and as a result was denied hire or

1 promotion, denied a work environment free of discrimination and/or retaliation,  
2 denied any employment benefit or privilege.

3 **Additional Complaint Details:** Kevin Lee immigrated to the United States in 1983  
4 from a poor farming and fishing village in Southeast China. Mr. Lee began work in  
5 law enforcement in 1999 as a San Francisco Deputy Sheriff. In 2006, he transferred  
6 to the San Francisco Police Department ("SFPD"). Since starting with the SFPD,  
7 Mr. Lee has worked at five of the ten district stations – Southern, Central, Bayview,  
8 Richmond, and Northern. He currently works at the Airport Bureau, Patrol and  
9 Traffic Divisions. In 2013, he was promoted to the rank of Police Sergeant.

10 Mr. Lee has had an outstanding career with the SFPD, receiving one Police  
11 Commission Meritorious Conduct award and three Unit Citations. During his 13-year  
12 career with SFPD, he has received all "above average" or "exceptional" evaluation  
13 ratings, and most recently received "exceptional" ratings in all categories on his  
14 personnel evaluation executed by his Captain. Mr. Lee is bilingual in English and  
15 Cantonese, which is especially important in his position given San Francisco's large  
16 Chinese population.

17 Mr. Lee studied for and took the SFPD Q60-Lieutenant promotional examination in  
18 2016. When the test results were published in January 2017, he ranked number 20  
19 out of 108 ranks (some had tied test scores, there are 147 total candidates on the  
20 list). Eligibility based on the 2017 test expires in January 2020. The SFPD  
21 Command Staff is responsible for reviewing and selecting candidates for promotion.  
22 The Command Staff includes: The Chief of Police (African American male); two  
23 Assistant Chiefs (one African American Male and one Latino male); and five Deputy  
24 Chiefs (One African American male, three Caucasian males, and one Caucasian  
25 female). There are no Asian members in the ranks of permanent Deputy Chiefs,  
26 Assistant Chiefs, and Chief.

27 Effective October 21, 2017, 30 Sergeants from the 2017 list were promoted to  
28 Lieutenant; Mr. Lee was not selected even though 15 candidates who ranked below  
him were promoted. Subsequently, Mr. Lee discovered some of these candidates  
not only ranked lower than him, but also had inferior qualifications. Some of the  
selected candidates had known disciplinary issues.

Mr. Lee complained to the Chief of Police about the unfair promotional decisions but  
was told that there would be a second round of promotions and he had a good  
chance to be promoted then. Mr. Lee is informed and believes that nothing was  
done to investigate or remedy his complaint.

1 In the second round of promotions, effective November 17, 2018, 15 Sergeants were  
2 promoted to Lieutenant. Mr. Lee was not selected even though 11 candidates who  
3 ranked below him were promoted. Again, some of these candidates had inferior  
4 qualifications to Mr. Lee and at least two of the selected candidates had known  
5 disciplinary issues. No Asians were promoted. Commander Greg Yee, the only  
6 Chinese Commander who was also serving as Acting Deputy Chief, inexplicably was  
7 not invited to the hiring board meeting where the Command Staff determine  
8 promotions. Mr. Yee had recommended Mr. Lee for a promotion; by not allowing  
9 him to attend the meeting, it further blocked Mr. Lee from being selected for a  
10 promotion.

11 After the second round of promotions, Mr. Lee complained to Commander Walsh  
12 about the discriminatory and retaliatory promotional decisions. Still, nothing was  
13 done.

14 Between the first and second round of Lieutenant promotions, all 12 female  
15 candidates under consideration (except for one candidate who retired on a medical  
16 disability) were promoted, although eight of them had lower scores than Mr. Lee.  
17 Several of these female candidates had disciplinary issues.

18 When making promotion decisions, SFPD considers rank on the eligible list as well  
19 as "secondary criteria". "Secondary criteria" includes: assignments; training;  
20 education; special qualifications; commendations; awards; bilingual certification and  
21 disciplinary history. As mentioned above, Mr. Lee worked at five of the ten district  
22 stations, in addition to the Airport Bureau. He has served on a variety of  
23 assignments, including: patrol; background investigations; school car; foot beat;  
24 plainclothes and administrative work. He has led several large projects for SFPD  
25 and volunteered in the community. Additionally, he served two years as an Acting  
26 Lieutenant on the Midnight Watch at Richmond Station. He has taken numerous  
27 training courses and has a Bachelor's degree in Criminal Justice Management and  
28 Master's degree in Management and Leadership (which is directly compatible with  
the job of Lieutenant). Many of the candidates who were promoted had only a high  
school education, demotion history, suspensions, open cases and lawsuits, serious  
disciplinary issues, and/or DUI arrests. Mr. Lee, on the other hand, has documented  
outstanding performance, has never been suspended, and has superior experience  
and higher education.

Further, there are current members on the Command Staff with past misdemeanor  
arrest records and/or serious disciplinary records, which did not impact their  
promotional opportunities.

Although the SFPD purports to want a department reflective of the community it  
serves, its promotional decisions do not support this mission. The Asian community

1 of San Francisco makes up at least 30% of the San Francisco population, yet there  
2 is not one permanent Asian (or Chinese) Deputy Chief or Assistant Chief in the  
3 SFPD, and Mr. Lee, an extremely qualified Asian candidate for Lieutenant has been  
4 passed over twice for promotion. The SFPD has prioritized promoting minorities  
(other than Asians) and women, even those with documented disciplinary issues,  
while passing over Asians, including Mr. Lee.

5 On November 17, 2013, Mr. Lee documented his investigation of two popular  
6 Caucasian police officers in a memorandum, which was submitted to a then-Captain  
7 (currently on the Command Staff as a Commander). Mr. Lee's memorandum  
8 reported these officers for falsifying a police report and insubordination. The officers  
9 were not disciplined, and instead given coveted assignments. The complaint was  
10 intentionally ignored and not sent, as required, to IAD for a formal investigation. Mr.  
11 Lee has faced, and continues to face, ongoing harassment and retaliation in  
12 retaliation for filing a complaint about two well-liked Caucasian officers. For  
13 example, Mr. Lee was labeled as an "asshole" due to his complaint and is informed  
14 and believes that a Deputy Chief said Mr. Lee was not going to be promoted  
15 because "he did something bad in the past," referring to his complaint. The  
16 Commander Mr. Lee complained to and an Assistant Chief, who make promotional  
17 decisions as part of the Command Staff, worked with Mr. Lee in 2013, and are  
18 aware of his protected complaint.

19 Based on the foregoing, Mr. Lee has been denied rightful promotion because of his  
20 race/national origin, gender, and in retaliation for his protected complaints of  
21 discrimination and retaliation and of misconduct by fellow officers. He has suffered  
22 past and future wage loss, promotional opportunities (he is not eligible to take the  
23 Captain's examination unless he is a Lieutenant), pension and benefit loss, as well  
24 as emotional distress, because of the SFPD's unlawful conduct.

1 VERIFICATION

2 I, **Zoe DeGeer**, am the **Attorney** in the above-entitled complaint. I have read the  
3 foregoing complaint and know the contents thereof. The matters alleged are based  
4 on information and belief, which I believe to be true.

5 On April 12, 2019, I declare under penalty of perjury under the laws of the State of  
6 California that the foregoing is true and correct.

7  
8 **San Francisco, California**  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

# **Exhibit B**



## DEPARTMENT OF FAIR EMPLOYMENT & HOUSING

2218 Kausen Drive, Suite 100 | Elk Grove | CA | 95758  
(800) 884-1684 (Voice) | (800) 700-2320 (TTY) | California's Relay Service at 711  
<http://www.dfeh.ca.gov> | Email: [contact.center@dfeh.ca.gov](mailto:contact.center@dfeh.ca.gov)

March 26, 2019

Kevin Lee  
REDACTED

**RE: Notice of Case Closure and Right to Sue**  
DFEH Matter Number: 201903-05587426  
Right to Sue: Lee / City and County of San Francisco

Dear Kevin Lee,

This letter informs you that the above-referenced complaint was filed with the Department of Fair Employment and Housing (DFEH) has been closed effective March 26, 2019 because an immediate Right to Sue notice was requested. DFEH will take no further action on the complaint.

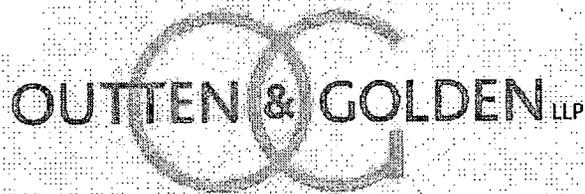
This letter is also your Right to Sue notice. According to Government Code section 12965, subdivision (b), a civil action may be brought under the provisions of the Fair Employment and Housing Act against the person, employer, labor organization or employment agency named in the above-referenced complaint. The civil action must be filed within one year from the date of this letter.

To obtain a federal Right to Sue notice, you must contact the U.S. Equal Employment Opportunity Commission (EEOC) to file a complaint within 30 days of receipt of this DFEH Notice of Case Closure or within 300 days of the alleged discriminatory act, whichever is earlier.

Sincerely,

Department of Fair Employment and Housing

# **Exhibit C**



Advocates for Workplace Fairness

Jennifer Schwartz  
[jschwartz@outtengolden.com](mailto:jschwartz@outtengolden.com)  
Tel: (415) 638-8800, ext. 8818

May 13, 2019

**Via Certified Mail**

City and County of San Francisco  
Controller's Office  
Claims Division  
1390 Market Street, 7th Floor  
San Francisco, CA 94102-5408

**Re: Claim Form – Sergeant Kevin Lee**

Dear Controller's Office:

We represent Sergeant Kevin Lee of the San Francisco Police Department in his claims against the City and County of San Francisco and San Francisco Police Department. Please find attached his Claim Form and Attachment A. Please contact me directly if you have any questions or need further information.

Sincerely,

A handwritten signature in cursive script that reads "Jennifer Schwartz".

Jennifer Schwartz



## Attachment A

Sergeant Kevin Lee began work in law enforcement in 1999 as a San Francisco Deputy Sheriff. In 2006, he transferred to the San Francisco Police Department (“SFPD”). Since starting with the SFPD, Mr. Lee has worked at five of the ten district stations – Southern, Central, Bayview, Richmond, and Northern. He currently works at the Airport Bureau, Patrol and Traffic Divisions. In 2013, he was promoted to the rank of Police Sergeant.

Sgt. Lee has had an outstanding career with the SFPD, receiving one Police Commission Meritorious Conduct award and three Unit Citations. During his 13-year career with the SFPD, he has received all “above average” or “exceptional” evaluation ratings, and most recently received “exceptional” ratings in all categories on his personnel evaluation executed by his Captain. Sgt. Lee is bilingual in English and Cantonese, which is especially important in his position given San Francisco’s large Chinese population.

On November 17, 2013, Sgt. Lee responded to a DUI crash incident as the supervising officer, where two subordinate officers were already present. A security guard at the location saw a driver crash into a gate and reported it to police. The guard said the driver was drunk and slumped over the steering wheel. Sgt. Lee arrived at the scene and saw the officers had detained the driver outside of his vehicle. Sgt. Lee spoke with the guard who said he had relayed the details of the incident to the officers. Sgt. Lee instructed the officers to conduct a DUI investigation, write a collision report, and take other appropriate action. Later, Sgt. Lee discovered the officers had released the driver, in direct contradiction of his order, had falsified the police report by stating there was no merit to conducting a DUI investigation, and failed to write a collision report. Further, the officers falsely wrote that the suspect was “unknown.” Per the computer log, the officers had conducted a record check on the detained driver. Using this information, Sgt. Lee further investigated and discovered the driver had a suspended license for DUI, was on probation for DUI, and had a warrant for DUI from Alameda County.

This alarming conduct was in violation of multiple SFPD rules and regulations and laws, including but not limited to, insubordination, failing to write an accurate police report (which is perjury), neglect of duty, and lying to a superior officer. Sgt. Lee reported the misconduct to then-Captain McEachern and submitted a written memorandum. Notwithstanding the serious nature of the complaint, SFPD did not conduct a formal investigation, and the complaint was never forwarded to the Internal Affairs Department (IAD). In fact, the officers in question were awarded coveted plainclothes assignments while Sgt. Lee was chastised for his protected complaint by other officers and supervisors at Northern Station, and at other stations once word spread throughout the Department. Thereafter, Department members intentionally communicated to colleagues and others (with management’s knowledge) that Sgt. Lee was an “asshole.” Mr. Lee wrote an email to then-Captain McEachern about the hostile, retaliatory work environment, but McEachern never responded. On October 10, 2018, Sergeant Hagan told two officers in the police substation that he heard from a Deputy Chief a few weeks earlier that Sgt. Lee was not going to be promoted because he had “done something really bad in the past.” Sgt. Lee heard about Sgt. Hagan’s comments and contacted Sgt. Hagan to inquire about what he said. Sgt. Hagan stated he had heard it from a Deputy Chief, but would not provide further details. Ironically, Sgt. Lee’s commendable fortitude to “do the right thing” blocked his

advancement within the SFPD and opportunity to further serve his community. Although Sgt. Lee is informed and believes that his complaint is widely known within the SFPD, then-Captain McEachern (now a Commander) and Assistant Chief Chaplin were both intimately aware of Sgt. Lee's complaint and are on the current Command Staff who review and select candidates for promotion.

Sgt. Lee studied for and took the SFPD Q60-Lieutenant promotional examination in 2016. When the test results were published in January 2017, he ranked number 20 out of 108 ranks (some had tied test scores, there are 147 total candidates on the list). Eligibility based on the 2017 test expires in January 2020.

Effective October 21, 2017, 30 Sergeants from the 2017 list were promoted to Lieutenant; Sgt. Lee was not selected even though 15 candidates who ranked below him were promoted. Subsequently, Sgt. Lee discovered some of these candidates not only ranked lower than him, but also had inferior qualifications. Some of the selected candidates had known disciplinary issues. Sgt. Lee complained to the Chief of Police, William Scott, about the unfair promotional decisions but was told that there would be a second round of promotions and he had a good chance to be promoted then. Sgt. Lee is informed and believes that nothing was done to investigate or remedy his complaint.

In the second round of promotions, effective November 17, 2018, 15 Sergeants were promoted to Lieutenant. Sgt. Lee was not selected even though 11 candidates who ranked below him were promoted. Again, some of these candidates had inferior qualifications to Sgt. Lee and at least two of the selected candidates had known disciplinary issues. Commander Greg Yee, who was also serving as Acting Deputy Chief, inexplicably was not invited to the hiring board meeting where the Command Staff determine promotions. Mr. Yee had recommended Sgt. Lee for a promotion; by not allowing him to attend the meeting, it further blocked Sgt. Lee from being selected for a promotion.

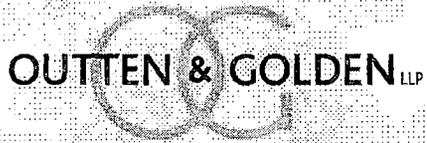
After the second round of promotions, Sgt. Lee complained to Commander Walsh about promotional decisions. His complaint, in part, stated that he was being denied a promotion for reporting misconduct by two officers in 2013, as discussed above. Still, nothing was done.

When making promotion decisions, SFPD considers rank on the eligible list as well as "secondary criteria". "Secondary criteria" includes: assignments; training; education; special qualifications; commendations; awards; bilingual certification and disciplinary history. As mentioned above, Sgt. Lee worked at five of the ten district stations, in addition to the Airport Bureau. He has served on a variety of assignments, including: patrol; background investigations; school car; foot beat; plainclothes and administrative work. He has led several large projects for SFPD and volunteered in the community. Additionally, he served two years as an Acting Lieutenant on the Midnight Watch at Richmond Station. He has taken numerous training courses and has a Bachelor's degree in Criminal Justice Management and Master's degree in Management and Leadership (which is directly compatible with the job of Lieutenant). Many of the candidates who were promoted had only a high school education, demotion history, suspensions, open cases and lawsuits, serious disciplinary issues, and/or DUI arrests. Sgt. Lee, on the other hand, has documented outstanding performance, has never been suspended, and has

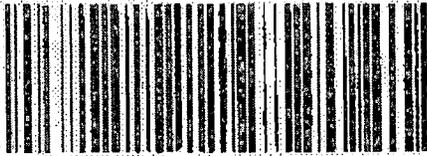
superior experience and higher education. Further, there are current members on the Command Staff with past misdemeanor arrest records and/or serious disciplinary records, which did not impact their promotional opportunities.

Based on the foregoing, Sgt. Lee has been denied rightful promotion in retaliation for his protected complaint of misconduct by fellow officers in violation of Labor Code section 1102.5. Because of this unlawful conduct, Sgt. Lee has suffered past and future wage loss, promotional opportunities (he is not eligible to take the Captain's examination unless he is a Lieutenant), pension and benefit loss, as well as emotional distress.

Please note that Sgt. Lee has also asserted race and national origin and gender discrimination claims against the City and County of San Francisco and SFPD, which claims have been exhausted by obtaining a Right to Sue from the Department of Fair Employment and Housing. If the City and County of San Francisco needs further information regarding the discrimination and related retaliation claims, Sgt. Lee will provide it upon request. This complaint is intended to comply with Government Code section 810, *et seq.*; however, nothing stated in this complaint shall be deemed a waiver of Sgt. Lee's rights and remedies at law or equity, which are expressly reserved.



One California Street 12th Floor  
San Francisco, CA 94111



7014 2120 0000 4535 2156

NEOPOST  
05/13/2019  
US POSTAGE \$00



Z1  
041L

City and County of San Francisco  
Controller's Office  
Claims Division  
1390 Market Street, 7th Floor  
San Francisco, CA 94102-5408

# **Exhibit D**

CITY AND COUNTY OF SAN FRANCISCO

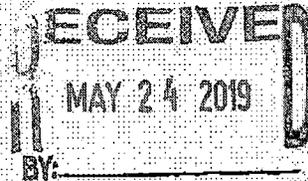


DENNIS J. HERRERA  
City Attorney

OFFICE OF THE CITY ATTORNEY

Matthew J. Rothschild  
Chief of Claims Division

DIRECT DIAL: (415) 554-3926  
E-MAIL: MATTHEW.ROTHSCHILD@SFCITYATTY.ORG



May 21, 2019

Jennifer Schwartz, Esq.  
Outten & Golden LLP  
One California Street, 12th Floor  
San Francisco, CA 94111

RE: Claim of Kevin Lee / Claim Number 19-02779

Department: SFPD SFPD Claims and Litigation  
Incident Date: November 17, 2018  
Claim Filed: May 13, 2019

**NOTICE OF ACTION UPON CLAIM**

**PLEASE TAKE NOTICE THAT**

An investigation of your claim filed with the City and County of San Francisco has revealed no indication of liability on the part of the City and County. Accordingly, your claim is DENIED.

**WARNING**

Subject to certain exceptions, you have only six (6) months from the date this notice was personally delivered or deposited in the mail to file a court action on this claim. See Government Code section 945.6. This time limitation applies only to causes of action arising under California law for which a claim is mandated by the California Government Claims Act, Government Code sections 900 et. seq. Other causes of action, including those arising under federal law, may have shorter time limitations for filing.

You may seek the advice of an attorney of your choice in connection with this matter. If you desire to consult an attorney, you should do so immediately.

Please also be advised that, pursuant to Code of Civil Procedure sections 128.7 and 1038, the City and County of San Francisco will seek to recover all costs of defense in the event an action is filed in this matter and it is determined that the action was not brought in good faith and with reasonable cause.

Very truly yours,

DENNIS J. HERRERA  
City Attorney

Matthew J. Rothschild  
Chief of Claims Division

Claim of: Kevin Lee

Claim Filed: May 13, 2019

I, Tonya Breaux, say: I am a citizen of the United States, over eighteen years of age, and not a party to the within action; that I am employed by the City Attorney's Office of San Francisco, Fox Plaza, 1390 Market Street, 7th Floor, San Francisco, CA 94102.

That on May 21, 2019 I served:

**NOTICE OF ACTION UPON CLAIM**

by placing a true copy thereof in an envelope addressed to:

Jennifer Schwartz, Esq.  
Outten & Golden LLP  
One California Street, 12th Floor  
San Francisco, CA 94111

Following ordinary business practices, I sealed true and correct copies of the above documents in addressed envelope(s) and placed them at my workplace for collection and mailing with the United States Postal Service. I am readily familiar with the practices of the San Francisco City Attorney's Office for collecting and processing mail. In the ordinary course of business, the sealed envelope(s) that I placed for collection would be deposited, postage prepaid, with the United States Postal Service that same day.

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

Executed on May 21, 2019 at San Francisco, California.



Tonya Breaux

**DECLARATION OF SERVICE BY MAIL**

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, telephone number, and address):  
Menaka Fernando, Esq. (SBN 2713)  
Zoë DeGeer, Esq. (SBN 298698)  
Outten & Golden LLP, One California St, 12th Floor  
San Francisco, CA 94111  
TELEPHONE NO.: (415) 638-8800 FAX NO.: (415) 638-8810  
ATTORNEY FOR (Name): Plaintiff Kevin Lee

FOR COURT USE ONLY  
**FILED**  
San Francisco County Superior Court  
NOV 22 2019  
BY: *[Signature]*  
CLERK OF THE COURT  
Deputy Clerk

SUPERIOR COURT OF CALIFORNIA, COUNTY OF San Francisco  
STREET ADDRESS: 400 McAllister Street  
MAILING ADDRESS:  
CITY AND ZIP CODE: San Francisco, CA 94102  
BRANCH NAME:

CASE NAME:  
Kevin Lee v. City and County of San Francisco, et al

**CIVIL CASE COVER SHEET**  
 **Unlimited** (Amount demanded exceeds \$25,000)  **Limited** (Amount demanded is \$25,000 or less)  
 **Counter**  **Joinder**  
Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)

CASE NUMBER: CGC-19-580969  
JUDGE:  
DEPT:

Fax

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

<b>Auto Tort</b> <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) <b>Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort</b> <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PI/PD/WD (23) <b>Non-PI/PD/WD (Other) Tort</b> <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PI/PD/WD tort (35) <b>Employment</b> <input type="checkbox"/> Wrongful termination (36) <input checked="" type="checkbox"/> Other employment (15)	<b>Contract</b> <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) <b>Real Property</b> <input type="checkbox"/> Eminent domain/Inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) <b>Unlawful Detainer</b> <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) <b>Judicial Review</b> <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	<b>Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403)</b> <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) <b>Enforcement of Judgment</b> <input type="checkbox"/> Enforcement of judgment (20) <b>Miscellaneous Civil Complaint</b> <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) <b>Miscellaneous Civil Petition</b> <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)
---	--	--

2. This case  is  is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- |  |  |
|--|--|
| a. <input type="checkbox"/> Large number of separately represented parties   | d. <input type="checkbox"/> Large number of witnesses  |
| b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court |
| c. <input type="checkbox"/> Substantial amount of documentary evidence   | f. <input type="checkbox"/> Substantial postjudgment judicial supervision  |
3. Remedies sought (check all that apply): a.  monetary b.  nonmonetary; declaratory or injunctive relief c.  punitive
4. Number of causes of action (specify): Six
5. This case  is  is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: November 22, 2019  
Menaka Fernando  
(TYPE OR PRINT NAME)

*[Signature]*  
(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

**NOTICE**

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

**RE: CBT-Q080-903263 Q080 Police Captain Application Appeal**

Cruz, Liezel (HRD) &lt;liezel.cruz@sfgov.org&gt;

Wed 4/29/2020 8:20 AM

**To:** Lee, Kevin (POL) [REDACTED] >**Bcc:** Johnson, Dave (HRD) <dave.johnson@sfgov.org>

Hi Lt. Lee,

Thank you for the additional information regarding your application for Q080 Captain. Although we can appreciate your circumstances, we are nonetheless bound by the terms of the job announcement. Specifically, applicants must have completed probation as a Q060 appointee by October 31, 2018 and have completed two (2) years of additional experience as a Q060 Lieutenant by October 31, 2020.

The information that you provided unfortunately does not demonstrate that you meet this requirement, and your application remains rejected.

In accordance with Civil Service Commission [CSC] Rules, you have the option to appeal this decision to the CSC. Such an appeal must be filed within five days of receipt of this notice. Information on how to file an appeal is available on the CSC website at <http://sfgov.org/civilservice/appeals>.

Liezel Cruz  
Public Safety Team, Sr. HR Analyst  
415.551.8947

---

**From:** Lee, Kevin (POL) [REDACTED]  
**Sent:** Friday, April 24, 2020 1:54 AM  
**To:** Cruz, Liezel (HRD) <liezel.cruz@sfgov.org>  
**Subject:** CBT-Q080-903263 Q080 Police Captain Application Appeal

Date: April 24, 2020

San Francisco Department of Human Resources  
Attn: Senior Human Resources Analyst Liezel Cruz

Re: Q80 [CBT-Q080-903263] Examination

Dear Liezel,

As you may know from my resume that I am a long-time, dedicated officer with exemplary performance and service to the City and County of San Francisco. I have exemplified all the attributes the SFPD states it values in my twenty-year career as a peace officer. Despite this, and despite being ranked 20/108 on the Lieutenant Promotion Eligibility Test, I was repeatedly and unfairly denied a promotion since 2017. I believe that I have been discriminated against because I am a male Chinese American and other, less-qualified women and non-Asian/Chinese Americans were promoted over me. The Chief of Police, William Scott, has unilaterally taken race and gender into consideration in his promotional decisions, and has unlawfully favored certain races/genders over others. He is on record confirming this in front of an audience of SFPOA members.

Further, I believe the department's promotional decisions have been motivated by my reporting improper and illegal conduct by two officers. Indeed, I was advised by a sergeant that heard from a Deputy Chief who said that I was not going to be promoted based on past "bad" behavior which I believe is related to my Whistleblower complaint. (Please see attached lawsuit document)

While I was finally promoted to Lieutenant in October 2019 after filing a complaint with the California Department of Fair Employment and Housing and subsequent lawsuit, the long delay in my promotion unlawfully precluded me from advancing in my career on the force and being eligible to take the next Captain Promotion Eligibility Test. Since my promotion, I have

demonstrated that I am capable and qualified to be promoted to Captain. As one of four patrol platoon commanders at Mission Station, I manage the busiest police station in the City and have worked in six of the ten district stations. I have a master's degree in management and leadership and a bachelor's degree in criminal justice management. I am certified bilingual and have received highly rated employee evaluations.

Had I been promoted in 2017 based on my eligible ranking and the merits of my secondary criteria, I would have been eligible to take this Captain's examination. I also served two years as an Acting Lieutenant (LWLP) at Richmond Station on the Midnight Watch.

Accordingly, I am requesting that I be permitted to take the Captain's exam that will be administered in 2020.

Thank you for your consideration.

Sincerely,

Lt. Kevin Lee

Sent from [Mail](#) for Windows 10

---

**From:** [Cruz, Liezel \(HRD\)](#)  
**Sent:** Thursday, April 23, 2020 11:20 AM  
**To:** [Kevin Lee](#)  
**Subject:** RE: CBT-Q080-903263 Q080 Police Captain Application Update

Hello Lt. Lee,

Thanks for the update and I'm looking forward to receiving your additional documents. Please note that we will also request official records from the Police Department to substantiate your eligibility status.

If you have any questions, please let me know.

Liezel Cruz  
Public Safety Team, Sr. HR Analyst  
415.551.8947

---

**From:** Kevin Lee <[REDACTED]>  
**Sent:** Wednesday, April 22, 2020 5:33 PM  
**To:** Cruz, Liezel (HRD) <liezel.cruz@sfgov.org>  
**Subject:** Re: CBT-Q080-903263 Q080 Police Captain Application Update

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Hi Liezel:

I disagree and I would like to request an appeal.

I will provide more documents and information before the deadline you listed.

Thanks,  
Kevin

On Apr 22, 2020, at 15:57, [liezel.cruz@sfgov.org](mailto:liezel.cruz@sfgov.org) wrote:

[REDACTED]

Wednesday, April 22, 2020

Kevin Lee

[REDACTED]

USA

Dear Kevin Lee,

Your application for Q080 Captain, (Police Department) has been marked Not Qualified. Based on the information you provided in the Employment Record section of your application, you do not meet the minimum experience for this recruitment.

The minimum qualifications are:

1. Sworn members of the SFPD who have completed probation and two (2) years of experience with the SFPD at the rank of Q060 Lieutenant. (Length of service is calculated from completion of probation.) AND
2. Possession of a POST Management Certificate issued by California Commission on Peace Officer Standards and Training; AND
3. Possession and maintenance of a valid Class C California Driver License.

Applicants must have completed probation as a Q060 appointee by October 31, 2018 and have completed two (2) years of additional experience as a Q060 Lieutenant by October 31, 2020. Candidates who have not fulfilled the two-year Q060 experience requirement by the time of eligible list posting will be placed under general waiver on the list until such time as they meet the two-year Q060 experience requirement. Failure to meet the two-year experience requirement by October 31, 2020 is cause for disqualification.

This decision regarding your application status may be reconsidered if you can provide additional information or explanation by the close of business (4:00 p.m.) on Wednesday, April 29, 2020. To be reconsidered, your request must include specific details demonstrating how you meet the minimum experience as stated on the exam announcement. Civil Service Commission Rules for the City and County of San Francisco specify announcement, application and examination policies and procedures, including applicant appeal rights. They can be found on the Civil Service Commission website at <http://sfgov.org/civilservice/rules>.

If you have any questions regarding this notice, please send an email to [liezel.cruz@sfgov.org](mailto:liezel.cruz@sfgov.org)

Thank you,

Liezel Cruz  
Senior Human Resources Analyst  
Public Safety Team



# CIVIL SERVICE COMMISSION

## CITY AND COUNTY OF SAN FRANCISCO

LONDON N. BREED  
MAYOR

### NOTICE OF RECEIPT OF APPEAL

ELIZABETH SALVESON  
PRESIDENT

KATE FAVETTI  
VICE PRESIDENT

DOUGLAS S. CHAN  
COMMISSIONER

F. X. CROWLEY  
COMMISSIONER

JACQUELINE P. MINOR  
COMMISSIONER

SANDRA ENG  
ACTING EXECUTIVE OFFICER

DATE: May 1, 2020

REGISTER NO.: 0094-20-4

APPELLANT: KEVIN LEE

Micki Callahan  
Human Resources Director  
Department of Human Resources  
1 South Van Ness Avenue, 4<sup>th</sup> Floor  
San Francisco, CA 94103

Dear Ms. Callahan:

The Civil Service Commission has received the attached letter from Kevin Lee, appealing the rejection of his application for the Q-80 Captain Examination with the San Francisco Police Department. Your review and action are required.

If this matter is not timely or appropriate, please submit CSC Form 13 "Action Request on Pending Appeal/Request," with supporting information and documentation to my attention at 25 Van Ness Avenue, Suite 720, San Francisco, CA 94102. CSC Form 13 is available on the Civil Service Commission's website at [www.sfgov.org/CivilService](http://www.sfgov.org/CivilService) under "Forms."

In the event that Kevin Lee's appeal is timely and appropriate, the department is required to submit a staff report in response to the appeal within sixty (60) days so that the matter may be resolved in a timely manner. Accordingly, **the staff report is due no later than 11 a.m. on July 23, 2020** so that it may be heard by the Civil Service Commission at its meeting on August 3, 2020. If you will be unable to transmit the staff report by the July 23<sup>rd</sup> deadline, or if required departmental representatives will not be available to attend the August 3<sup>rd</sup> meeting, please notify me by use of CSC Form 13 as soon as possible, with information regarding the reason for the postponement and a proposed alternate submission and/or hearing date.

You may contact me at [Sandra.Eng@sfgov.org](mailto:Sandra.Eng@sfgov.org) or (415) 252-3247 if you have any questions. For more information regarding staff report requirements,

Intentionally blank

Appellant: Kevin Lee  
May 1, 2020  
Page 2 of 2

meeting procedures or future meeting dates, please visit the Commission's website at [www.sfgov.org/CivilService](http://www.sfgov.org/CivilService).

Sincerely,

CIVIL SERVICE COMMISSION



SANDRA ENG  
Acting Executive Officer

Attachment

Cc: Anna Biasbas, Department of Human Resources  
Jeanne Buick, Department of Human Resources  
Dave Johnson, Department of Human Resources  
Mawuli Tugbenyoh, Department of Human Resources

Intentionally blank



# CIVIL SERVICE COMMISSION CITY AND COUNTY OF SAN FRANCISCO

LONDON N. BREED  
MAYOR

*Sent via U.S. Mail and Email*

May 1, 2020

Kevin Lee  


Subject: **Register No. 0094-20-4: Appealing the rejection of your application for the Q-80 Captain Examination with the San Francisco Police Department**

Dear Kevin Lee:

This is in response to your appeal submitted to the Civil Service Commission on April 30, 2020 appealing the rejection of your application for the Q-80 Captain Examination with the San Francisco Police Department. Your appeal has been forwarded to the Department of Human Resources for investigation and response to the Civil Service Commission.

If your appeal is timely and appropriate, the department will submit its staff report on this matter to the Civil Service Commission in the near future to request that it be scheduled for hearing. The Civil Service Commission generally meets on the 1st and 3rd Mondays of each month. You will receive notice of the meeting and the department's staff report on your appeal two Fridays before the hearing date via email, as you have requested on your appeal form. A hard copy of the report will also be available for your review at the Commission's offices located at 25 Van Ness Avenue, Suite 720, San Francisco, CA 94102.

In the meantime, you may wish to compile any additional information you would like to submit to the Commission in support of your position. The deadline for receipt in the Commission office of any additional information you may wish to submit is 5:00 p.m. on the Tuesday preceding the meeting date (note that the Commission requires an original and nine copies of any supplemental/rebuttal materials you wish to submit—all double-sided, hole-punched, paper-clipped and numbered). Please be sure to redact your submission for any confidential or sensitive information (e.g., home addresses, home or cellular phone numbers, social security numbers, dates of birth, etc.), as it will be considered a public document.

You may contact me by email [Sandra.Eng@sfgov.org](mailto:Sandra.Eng@sfgov.org) or by phone at (415) 252-3247 if you have any questions. You may also access the Civil Service Commission's meeting calendar, and information regarding staff reports and meeting procedures, on the Commission's website at [www.sfgov.org/CivilService](http://www.sfgov.org/CivilService).

Sincerely,

CIVIL SERVICE COMMISSION

  
SANDRA ENG  
Acting Executive Officer

ELIZABETH SALVESON  
PRESIDENT

KATE FAVETTI  
VICE PRESIDENT

DOUGLAS S. CHAN  
COMMISSIONER

F. X. CROWLEY  
COMMISSIONER

JACQUELINE P. MINOR  
COMMISSIONER

SANDRA ENG  
ACTING EXECUTIVE OFFICER

Intentionally blank

Eng, Sandra (CSC)

X. M. Callahan

**From:** Kevin Lee <[REDACTED]>  
**Sent:** Thursday, April 30, 2020 2:23 PM  
**To:** Eng, Sandra (CSC)  
**Subject:** Re: CBT-Q080-903263 Q080 Police Captain Application Appeal

J. Buick  
M. Tugbenyoh  
A. Blasbas  
D. Johnson

Sandra,

I am seeking permission to take the upcoming Q80 exam.

If I am prevented from taking this exam, I would have to wait another 3 years, in 2023, to take the next exam.

Due to the discrimination and retaliation I've endured, I was passed over twice for promotion, starting in 2017.

After I filed my lawsuit which demonstrated my qualifications and there was no reason for the SFPD to pass me over, I was promoted in 2019.

Had I been promoted in 2017 based on my high ranking score on the Q60 exam and my resume secondary criteria, I would have been definitely eligible to take the Q80 exam this year.

Thank you for your consideration.

Best,  
Kevin

Sent from my iPhone

On Apr 30, 2020, at 14:12, Kevin Lee <[REDACTED]> wrote:

Thanks Sandra for getting back to me so quickly.

I'm appealing the DHR decision to disallow me from taking the upcoming Q80 Captain's examination.

Please let me know if there's anything else you need me to clarify or answer.

Take care,  
Kevin

Sent from my iPhone

On Apr 30, 2020, at 13:53, Eng, Sandra (CSC) <sandra.eng@sfgov.org> wrote:

Hi Kevin,

2020  
APR 30  
CIVIL SERVICE COMMISSION  
SAN FRANCISCO  
SIS

I received both emails with the attachments. For clarification, are you appealing the disqualification from the Q080 Examination?

Sandra

Sandra Eng  
Acting Executive Director  
Civil Service Commission  
City and County of San Francisco  
25 Van Ness Avenue, Suite 720  
San Francisco, CA 94102

Main (415) 252-3247  
Direct (415) 252-3254  
Fax (415) 252-3260

---

**From:** Kevin Lee [mailto: ]  
**Sent:** Thursday, April 30, 2020 1:32 PM  
**To:** Eng, Sandra (CSC) <sandra.eng@sfgov.org>  
**Subject:** Fwd: CBT-Q080-903263 Q080 Police Captain Application Appeal

Hi Sandra:

Please see the attached rejection letter from DHR.

I have mailed a copy of my initial appeal and supporting documents via USPS to the Civil Service Commission.

Thanks,

Kevin

Sent from my iPhone

Begin forwarded message:

**From:** "Cruz, Liezel (HRD)" <liezel.cruz@sfgov.org>  
**Date:** April 29, 2020 at 08:20:34 PDT  
**To:** "Lee, Kevin (POL)" < >  
**Subject:** RE: CBT-Q080-903263 Q080 Police Captain Application Appeal

Hi Lt. Lee,

Thank you for the additional information regarding your application for Q080 Captain. Although we can appreciate your

circumstances, we are nonetheless bound by the terms of the job announcement. Specifically, applicants must have completed probation as a Q060 appointee by October 31, 2018 and have completed two (2) years of additional experience as a Q060 Lieutenant by October 31, 2020.

The information that you provided unfortunately does not demonstrate that you meet this requirement, and your application remains rejected.

In accordance with Civil Service Commission [CSC] Rules, you have the option to appeal this decision to the CSC. Such an appeal must be filed within five days of receipt of this notice. Information on how to file an appeal is available on the CSC website at <http://sfgov.org/civilservice/appeals>.

Liezel Cruz  
Public Safety Team, Sr. HR Analyst  
415.551.8947

**From:** Lee, Kevin (POL) <[REDACTED]>  
**Sent:** Friday, April 24, 2020 1:54 AM  
**To:** Cruz, Liezel (HRD) <[liezel.cruz@sfgov.org](mailto:liezel.cruz@sfgov.org)>  
**Subject:** CBT-Q080-903263 Q080 Police Captain Application Appeal

Date: April 24, 2020

San Francisco Department of Human Resources  
Attn: Senior Human Resources Analyst Liezel Cruz

Re: Q80 [CBT-Q080-903263] Examination

Dear Liezel,

As you may know from my resume that I am a long-time, dedicated officer with exemplary performance and service to the City and County of San Francisco. I have exemplified all the attributes the SFPD states it values in my twenty-year career as a peace officer. Despite this, and despite being ranked 20/108 on the Lieutenant Promotion Eligibility Test, I was repeatedly and unfairly denied a promotion since 2017. I believe that I have been discriminated against because I am a male Chinese American and other, less-qualified women and non-Asian/Chinese Americans were promoted over me. The Chief of Police, William Scott, has unilaterally taken race and gender into consideration in his promotional decisions, and has unlawfully favored certain races/genders over others. He is on record confirming this in front of an audience of SFPOA members.

Further, I believe the department's promotional decisions have been motivated by my reporting improper and illegal conduct by two officers. Indeed, I was advised by a sergeant that heard from a Deputy Chief who

said that I was not going to be promoted based on past "bad" behavior which I believe is related to my Whistleblower complaint. (Please see attached lawsuit document)

While I was finally promoted to Lieutenant in October 2019 after filing a complaint with the California Department of Fair Employment and Housing and subsequent lawsuit, the long delay in my promotion unlawfully precluded me from advancing in my career on the force and being eligible to take the next Captain Promotion Eligibility Test. Since my promotion, I have demonstrated that I am capable and qualified to be promoted to Captain. As one of four patrol platoon commanders at Mission Station, I manage the busiest police station in the City and have worked in six of the ten district stations. I have a master's degree in management and leadership and a bachelor's degree in criminal justice management. I am certified bilingual and have received highly rated employee evaluations.

Had I been promoted in 2017 based on my eligible ranking and the merits of my secondary criteria, I would have been eligible to take this Captain's examination. I also served two years as an Acting Lieutenant (LWLP) at Richmond Station on the Midnight Watch.

Accordingly, I am requesting that I be permitted to take the Captain's exam that will be administered in 2020.

Thank you for your consideration.

Sincerely,

Lt. Kevin Lee

Sent from [Mail](#) for Windows 10

**From:** [Cruz, Liezel \(HRD\)](#)

**Sent:** Thursday, April 23, 2020 11:20 AM

**To:** [Kevin Lee](#)

**Subject:** RE: CBT-Q080-903263 Q080 Police Captain Application Update

Hello Lt. Lee,

Thanks for the update and I'm looking forward to receiving your additional documents. Please note that we will also request official records from the Police Department to substantiate your eligibility status.

If you have any questions, please let me know.

Liezel Cruz

Public Safety Team, Sr. HR Analyst  
415.551.8947

**From:** Kevin Lee <[REDACTED]>  
**Sent:** Wednesday, April 22, 2020 5:33 PM  
**To:** Cruz, Liezel (HRD) <[liezel.cruz@sfgov.org](mailto:liezel.cruz@sfgov.org)>  
**Subject:** Re: CBT-Q080-903263 Q080 Police Captain Application Update

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Hi Liezel:

I disagree and I would like to request an appeal.

I will provide more documents and information before the deadline you listed.

Thanks,  
Kevin

Sent from my iPhone

On Apr 22, 2020, at 15:57, [liezel.cruz@sfgov.org](mailto:liezel.cruz@sfgov.org) wrote:

<image001.jpg>

Wednesday, April 22, 2020

Kevin Lee

[REDACTED]  
USA

Dear Kevin Lee,

Your application for Q080 Captain, (Police Department) has been marked Not Qualified. Based on the information you provided in the Employment Record section of your application, you do not meet the minimum experience for this recruitment.

The minimum qualifications are:

1. Sworn members of the SFPD who have completed probation and two (2) years of experience with the SFPD at the rank of Q060 Lieutenant. (Length of service is calculated from completion of

probation.) AND

2. Possession of a POST Management Certificate issued by California Commission on Peace Officer Standards and Training;  
AND

3. Possession and maintenance of a valid Class C California Driver License.

Applicants must have completed probation as a Q060 appointee by October 31, 2018 and have completed two (2) years of additional experience as a Q060 Lieutenant by October 31, 2020. Candidates who have not fulfilled the two-year Q060 experience requirement by the time of eligible list posting will be placed under general waiver on the list until such time as they meet the two-year Q060 experience requirement. Failure to meet the two-year experience requirement by October 31, 2020 is cause for disqualification.

This decision regarding your application status may be reconsidered if you can provide additional information or explanation by the close of business (4:00 p.m.) on Wednesday, April 29, 2020. To be reconsidered, your request must include specific details demonstrating how you meet the minimum experience as stated on the exam announcement. Civil Service Commission Rules for the City and County of San Francisco specify announcement, application and examination policies and procedures, including applicant appeal rights. They can be found on the Civil Service Commission website at <http://sfgov.org/civilservice/rules>.

If you have any questions regarding this notice, please send an email to [liezel.cruz@sfgov.org](mailto:liezel.cruz@sfgov.org)

Thank you,

Liezel Cruz  
Senior Human Resources Analyst  
Public Safety Team

**Eng, Sandra (CSC)**

---

**From:** Kevin Lee <[REDACTED]>  
**Sent:** Thursday, April 30, 2020 1:25 PM  
**To:** Eng, Sandra (CSC)  
**Subject:** Fwd: CBT-Q080-903263 Q080 Police Captain Application Appeal  
**Attachments:** Appeal for Q80 eligibility.docx; CSC-12 Appeal Form.pdf; SF Superior Court Lawsuit Document.pdf

Hi Sandra,

Please see attached letter I sent to DHR regarding my appeal to take the Q80 police captain's exam.

Thanks,  
Kevin

[REDACTED]

Sent from my iPhone

Begin forwarded message:

**From:** "Lee, Kevin (POL)" <[REDACTED]>  
**Date:** April 24, 2020 at 01:54:39 PDT  
**To:** "Cruz, Liezel (HRD)" <liezel.cruz@sfgov.org>  
**Subject:** CBT-Q080-903263 Q080 Police Captain Application Appeal

Date: April 24, 2020

San Francisco Department of Human Resources  
Attn: Senior Human Resources Analyst Liezel Cruz

Re: Q80 [CBT-Q080-903263] Examination

Dear Liezel,

As you may know from my resume that I am a long-time, dedicated officer with exemplary performance and service to the City and County of San Francisco. I have exemplified all the attributes the SFPD states it values in my twenty-year career as a peace officer. Despite this, and despite being ranked 20/108 on the Lieutenant Promotion Eligibility Test, I was repeatedly and unfairly denied a promotion since 2017. I believe that I have been discriminated against because I am a male Chinese American and other, less-qualified women and non-Asian/Chinese Americans were promoted over me. The Chief of Police, William Scott, has unilaterally taken race and gender into consideration in his promotional decisions, and has unlawfully favored certain races/genders over others. He is on record confirming this in front of an audience of SFPOA members.

Further, I believe the department's promotional decisions have been motivated by my reporting improper and illegal conduct by two officers. Indeed, I was advised by a sergeant that heard from a

Deputy Chief who said that I was not going to be promoted based on past "bad" behavior which I believe is related to my Whistleblower complaint. (Please see attached lawsuit document)

While I was finally promoted to Lieutenant in October 2019 after filing a complaint with the California Department of Fair Employment and Housing and subsequent lawsuit, the long delay in my promotion unlawfully precluded me from advancing in my career on the force and being eligible to take the next Captain Promotion Eligibility Test. Since my promotion, I have demonstrated that I am capable and qualified to be promoted to Captain. As one of four patrol platoon commanders at Mission Station, I manage the busiest police station in the City and have worked in six of the ten district stations. I have a master's degree in management and leadership and a bachelor's degree in criminal justice management. I am certified bilingual and have received highly rated employee evaluations.

Had I been promoted in 2017 based on my eligible ranking and the merits of my secondary criteria, I would have been eligible to take this Captain's examination. I also served two years as an Acting Lieutenant (LWLP) at Richmond Station on the Midnight Watch.

Accordingly, I am requesting that I be permitted to take the Captain's exam that will be administered in 2020.

Thank you for your consideration.

Sincerely,

Lt. Kevin Lee

Sent from Mail for Windows 10

**From:** Cruz, Liezel (HRD)  
**Sent:** Thursday, April 23, 2020 11:20 AM  
**To:** Kevin Lee  
**Subject:** RE: CBT-Q080-903263 Q080 Police Captain Application Update

Hello Lt. Lee,

Thanks for the update and I'm looking forward to receiving your additional documents. Please note that we will also request official records from the Police Department to substantiate your eligibility status.

If you have any questions, please let me know.

Liezel Cruz  
Public Safety Team, Sr. HR Analyst  
415.551.8947

**From:** Kevin Lee <[REDACTED]>  
**Sent:** Wednesday, April 22, 2020 5:33 PM  
**To:** Cruz, Liezel (HRD) <liezel.cruz@sfgov.org>  
**Subject:** Re: CBT-Q080-903263 Q080 Police Captain Application Update

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Hi Liezel:

I disagree and I would like to request an appeal.

I will provide more documents and information before the deadline you listed.

Thanks,  
Kevin

Sent from my iPhone

On Apr 22, 2020, at 15:57, [liezel.cruz@sfgov.org](mailto:liezel.cruz@sfgov.org) wrote:



Wednesday, April 22, 2020

Kevin Lee



USA

Dear Kevin Lee,

Your application for Q080 Captain, (Police Department) has been marked Not Qualified. Based on the information you provided in the Employment Record section of your application, you do not meet the minimum experience for this recruitment.

The minimum qualifications are:

1. Sworn members of the SFPD who have completed probation and two (2) years of experience with the SFPD at the rank of Q060 Lieutenant. (Length of service is calculated from completion of probation.) AND
2. Possession of a POST Management Certificate issued by California Commission on Peace Officer Standards and Training; AND
3. Possession and maintenance of a valid Class C California Driver License.

Applicants must have completed probation as a Q060 appointee by October 31, 2018 and have completed two (2) years of additional experience as a Q060 Lieutenant by October 31, 2020. Candidates who have not fulfilled the two-year Q060 experience requirement by the time of eligible list posting will be placed under general waiver on

the list until such time as they meet the two-year Q060 experience requirement. Failure to meet the two-year experience requirement by October 31, 2020 is cause for disqualification.

This decision regarding your application status may be reconsidered if you can provide additional information or explanation by the close of business (4:00 p.m.) on Wednesday, April 29, 2020. To be reconsidered, your request must include specific details demonstrating how you meet the minimum experience as stated on the exam announcement. Civil Service Commission Rules for the City and County of San Francisco specify announcement, application and examination policies and procedures, including applicant appeal rights. They can be found on the Civil Service Commission website at <http://sfgov.org/civilservice/rules>.

If you have any questions regarding this notice, please send an email to [liezel.cruz@sfgov.org](mailto:liezel.cruz@sfgov.org)

Thank you,

Liezel Cruz  
Senior Human Resources Analyst  
Public Safety Team

Date: April 24, 2020

San Francisco Department of Human Resources  
Attn: Senior Human Resources Analyst Liezel Cruz

Re: Q80 [CBT-Q080-903263] Examination

Dear Liezel,

As you may know from my resume that I am a long-time, dedicated officer with exemplary performance and service to the City and County of San Francisco. I have exemplified all the attributes the SFPD states it values in my twenty-year career as a peace officer. Despite this, and despite being ranked 20/108 on the Lieutenant Promotion Eligibility Test, I was repeatedly and unfairly denied a promotion since 2017. I believe that I have been discriminated against because I am a male Chinese American and other, less-qualified women and non-Asian/Chinese Americans were promoted over me. The Chief of Police, William Scott, has unilaterally taken race and gender into consideration in his promotional decisions, and has unlawfully favored certain races/genders over others. He is on record confirming this in front of an audience of SFPOA members.

Further, I believe the department's promotional decisions have been motivated by my reporting improper and illegal conduct by two officers. Indeed, I was advised by a sergeant that heard from a Deputy Chief who said that I was not going to be promoted based on past "bad" behavior which I believe is related to my Whistleblower complaint. (Please see attached lawsuit document)

While I was finally promoted to Lieutenant in October 2019 after filing a complaint with the California Department of Fair Employment and Housing and subsequent lawsuit, the long delay in my promotion unlawfully precluded me from advancing in my career on the force and being eligible to take the next Captain Promotion Eligibility Test. Since my promotion, I have demonstrated that I am capable and qualified to be promoted to Captain. As one of four patrol platoon commanders at Mission Station, I manage the busiest police station in the City and have worked in six of the ten district stations. I have a master's degree in management and leadership and a bachelor's degree in criminal justice management. I am certified bilingual and have received highly rated employee evaluations.

Had I been promoted in 2017 based on my eligible ranking and the merits of my secondary criteria, I would have been eligible to take this Captain's examination. I also served two years as an Acting Lieutenant (LWLP) at Richmond Station on the Midnight Watch.

Accordingly, I am requesting that I be permitted to take the Captain's exam that will be administered in 2020.

Thank you for your consideration.

Sincerely,

Lt. Kevin Lee

Intentionally blank



**CIVIL SERVICE COMMISSION**  
**City and County of San Francisco**  
 25 Van Ness Avenue, Suite 720  
 San Francisco, California 94102-6033  
 Executive Officer  
 (415) 252-3247

CSC Register No.  
 0094-20-4

---

To: \_\_\_\_\_

---

CC: \_\_\_\_\_

---

**APPEAL TO THE CIVIL SERVICE COMMISSION**

<p><b>INSTRUCTIONS:</b>          Submit an original copy of this form to the Executive Officer of the Civil Service Commission at the address above <b>within the designated number of days</b> following the postmarked mailing date or email date (whichever is applicable) of the Department of Human Resources' or Municipal Transportation Agency's notification to the appellant. The appellant's/authorized representative's original signature is required. <b>(E-mail is not accepted.)</b> It is recommended that you include all relevant information and documentation in support of your appeal.</p>	<p><b>TYPE OF APPEAL:</b> (Check One)  <input checked="" type="checkbox"/> Examination Matters (by close of business on 5<sup>th</sup> working day)  <input type="checkbox"/> Employee Compensation Matters (by close of business on 7<sup>th</sup> working day) - Limited application  <input type="checkbox"/> Personal Service Contracts (Posting Period)  <input type="checkbox"/> Other Matters (i.e., Human Resources Director/Executive Officer Action) (30 Calendar days)  <input type="checkbox"/> Future Employability Recommendations (See Notice to Employee)</p>
---	---

Kevin Lee	630 Valencia Street, San Francisco	415-726-1801		
Full Name of Appellant	Work Address	Work Telephone		
Exam appeal to take Q80 - Police Captain	San Francisco Police Department			
Job Code	Title	Department		
Residence Address	City	State	Zip	Home Telephone
Full Name of Authorized Representative (if any)	Telephone Number of Representative (including Area Code)			

**NOTE:** If this is deemed to be a timely and appealable matter, the department will submit a staff report to the Civil Service Commission to request that it be scheduled for hearing. You will be notified approximately one week in advance of the hearing date, at which time you will be able to pick up a copy of the department's staff report at the Commission's offices. If you would instead prefer Commission staff to email you a copy of the meeting notice and staff report, please provide your email address below.

**Email:** \_\_\_\_\_

**COMPLETE THE BASIS OF THIS APPEAL ON THE REVERSE SIDE.** (Use additional page(s) if necessary)

<p>Does the basis of this appeal include <b>new</b> information not previously presented in the appeal to the Human Resources Director? If so, please specify.</p>	<p>Check One:          Yes                      No    <input checked="" type="checkbox"/></p>
--	---

*Kevin Lee* \_\_\_\_\_ 04/20/2020  
 Original Signature of Appellant or Authorized Representative                      Date

CSC-12 (10/14)                      Date Received by Civil Service Commission: \_\_\_\_\_



**SUMMONS  
(CITACION JUDICIAL)**

FOR COURT USE ONLY  
(SOLO PARA USO DE LA CORTE)

**NOTICE TO DEFENDANT:  
(AVISO AL DEMANDADO):**

CITY AND COUNTY OF SAN FRANCISCO, SAN FRANCISCO POLICE DEPARTMENT, and  
DOES 1 through 10

**YOU ARE BEING SUED BY PLAINTIFF:  
(LO ESTÁ DEMANDANDO EL DEMANDANTE):**

KEVIN LEE, an individual

NOTICE: You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

HAY

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), or by contacting your local court or county bar association. NOTE: The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. ¡AVISO! Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), en el Centro de Ayuda de las Cortes de California, ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)) o poniéndose en contacto con la corte o el colegio de abogados locales. AVISO: Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:

(El nombre y dirección de la corte es): San Francisco Superior Court, 400 McAllister Street, San Francisco, CA 94102

CASE NUMBER: (Número del Caso):

CG C - 19 - 580969

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is: (El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Menaka Fernando, Outten & Golden LLP, One California Street, 12th Floor, San Francisco, CA 94111, 415-638-8800

DATE: November 22, 2019  
(Fecha)

CLERK OF THE COURT

Clerk, by  
(Secretario)

Deputy  
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)  
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons (POS-010).)

DE LA VEGA-NAVARRO, Rossaly



NOTICE TO THE PERSON SERVED: You are served

- 1.  as an individual defendant.
- 2.  as the person sued under the fictitious name of (specify):
- 3.  on behalf of (specify):
  - under:  CCP 416.10 (corporation)  CCP 416.60 (minor)
  - CCP 416.20 (defunct corporation)  CCP 416.70 (conservatee)
  - CCP 416.40 (association or partnership)  CCP 416.90 (authorized person)
  - other (specify):
- 4.  by personal delivery on (date)

1 MENAKA N. FERNANDO (SBN 271380)  
2 ZOË DEGEER (SBN 298698)  
3 OUTTEN & GOLDEN LLP  
4 One California Street, 12th Floor  
5 San Francisco, CA 94111  
6 Telephone: (415) 638-8800  
7 Facsimile: (415) 638-8810  
8 E-mail: mfernando@outtengolden.com  
9 zdegeer@outtengolden.com

10 Attorneys for Plaintiff KEVIN LEE

**FILED**  
San Francisco County Superior Court  
NOV 22 2019  
BY: CLERK OF THE COURT  
Deputy Clerk

11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
12 **COUNTY OF SAN FRANCISCO**

13 CGC-19-580969

14 KEVIN LEE, an individual,

15 Plaintiff,

16 .v.

17 CITY AND COUNTY OF SAN FRANCISCO,  
18 SAN FRANCISCO POLICE DEPARTMENT,  
19 and DOES 1 through 10,

20 Defendants.

Case No.

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

1. **DISCRIMINATION BASED ON RACE CAL. GOV. CODE, § 12940, subd. (a)**
2. **DISCRIMINATION BASED ON NATIONAL ORIGIN (CAL. GOV. CODE, § 12940, subd. (a))**
3. **DISCRIMINATION BASED ON SEX (CAL. GOV. CODE, § 12940, subd. (a))**
4. **FAILURE TO PREVENT DISCRIMINATION (CAL. GOV. CODE, § 12940, subd. (k))**
5. **RETALIATION IN VIOLATION OF FEHA (CAL. GOV. CODE, § 12940, subd. (h))**
6. **RETALIATION FOR DISCLOSURE OF UNLAWFUL ACTS (CAL. LAB. CODE, § 1102.5, subd. (b))**

21 Kevin Lee ("Plaintiff" or "Mr. Lee") alleges the following:

22 **I. NATURE OF THE ACTION**

23  
24 1. This is an individual action brought by Plaintiff Kevin Lee against his current  
25 employers, the City and County of San Francisco ("the City") and the San Francisco Police  
26 Department ("SFPD").  
27  
28

FAY

1           2.       Mr. Lee is a forty-three-year-old Chinese-American man with twenty years of  
2 experience in law enforcement. Mr. Lee was hired by the SFPD in 2006 and is currently stationed  
3 at Mission Police Station.

4           3.       Mr. Lee has a history of exemplary employment with the SFPD. He has taken on a  
5 wide variety of assignments and has worked in six of the ten SFPD district stations. In thirteen  
6 years of service, Mr. Lee has only received "above average" or "exceptional" performance ratings  
7 in all evaluation categories. Additionally, Mr. Lee's work has been celebrated through one Police  
8 Commission Meritorious Conduct award and three Unit Citations. Mr. Lee is bilingual in English  
9 and Cantonese, has a Bachelor of Science in Criminal Justice Management and a master's degree in  
10 Management and Leadership, holds various leadership positions, and volunteers some of his free  
11 time performing community service.

12           4.       After witnessing two officers falsifying an accident report in 2013, Mr. Lee reported  
13 this misconduct to his superior. Rather than commending Mr. Lee, officers and supervisors  
14 subsequently chastised Mr. Lee for his honesty, called him an "asshole," and caused Mr. Lee  
15 emotional distress. Mr. Lee's complaint was never formally investigated by Internal Affairs  
16 Division (IAD), and the officers involved were never disciplined. Rather, they were given coveted  
17 positions working plainclothes assignments.

18           5.       In 2016, Mr. Lee took the Lieutenant eligibility exam and scored exceptionally well  
19 placing him in the 20th position out of 108 ranks and 147 total members on the Lieutenant  
20 Promotion Eligibility List. Notwithstanding Mr. Lee's exceptional qualifications, outstanding  
21 performance evaluations, and lengthy service with the SFPD, he was passed over for promotion on  
22 October 21, 2017 and November 17, 2018. Instead of promoting Mr. Lee, SFPD promoted less  
23 qualified female and non-Asian American candidates, who were ranked lower on the Lieutenant  
24 Promotion Eligibility List than Mr. Lee, had not made protected complaints, and some had notable  
25 disciplinary issues.

26           6.       Plaintiff alleges violations of California's Fair Employment and Housing Act  
27 ("FEHA") based on discrimination on the basis of his sex, national origin and race, failure to  
28 prevent discrimination and retaliation, and retaliation for his protected complaints. Plaintiff also

1 alleges retaliation for disclosure of unlawful acts in violation of FEHA and the Labor Code.

## 2 II. PARTIES

3 7. Plaintiff Kevin Lee is an individual and, at all times relevant herein, was a resident  
4 of San Mateo County, California and worked in the County of San Francisco, California. At all  
5 times relevant herein, Plaintiff was an employee of the City and the SFPD within the meaning of  
6 California Government Code sections 12926 and 12940, and all other relevant statutes, and was  
7 entitled to the protections of the California Labor Code.

8 8. The City is a consolidated city-county and is both a municipal corporation and a  
9 county within the State of California. Pursuant to Section 4.100 of the San Francisco Charter (“the  
10 Charter”), the executive branch of the City is composed of the office of the Mayor, as well as  
11 departments, appointive boards, commissions, and other units of government. The City currently  
12 employs more than 30,000 full-time workers across a variety of departments. One of these  
13 departments is the SFPD, where Mr. Lee performs work. At all times relevant herein, SFPD  
14 regularly employed five or more persons and was Plaintiff’s employer within the meaning of  
15 California Government Code sections 12926 and 12940, and all other relevant statutes.

16 9. Defendant SFPD is a department of the City within its executive branch. Pursuant to  
17 Charter § 4.127, the SFPD, together with the San Francisco Police Commission as appointed by the  
18 Mayor of the City and the Rules Committee of the Board of Supervisors, is responsible for  
19 preserving the public peace, preventing and detecting crime, and protecting the rights of persons  
20 and property by enforcing the laws of the United States, the State of California, and the City and  
21 County. According to its November 2019 sworn demographics report, the SFPD has over 2,200  
22 employees.

23 10. Plaintiff is ignorant of the true names or capacities of the Defendants sued here  
24 under the fictitious names Does 1 through 10, inclusive (the “Doe Defendants”). Plaintiff is  
25 informed and believes, and thereon alleges, that each of the Doe Defendants was responsible in  
26 some manner for the occurrences and injuries alleged herein. Plaintiff is further informed and  
27 believes, and thereon alleges, that, at all times relevant herein, each of the Doe Defendants  
28 regularly employed five or more persons and was Plaintiff’s employer within the meaning of

1 California Government Code sections 12926 and 12940 and all other relevant statutes. In the  
2 alternative, Plaintiff is informed and believed, and thereon alleges, that, each of the Doe Defendants  
3 was an employee of an entity subject to California Government Code section 12940, subdivision  
4 (j), and was therefore personally liable for any harassment he or she perpetrated in violation of that  
5 subsection pursuant to California Government Code section 12940, subdivision (j)(3).

6 11. Plaintiff is informed and believes, and thereon alleges, that, at all times relevant  
7 herein, Defendants were acting on their own behalf and as agents or employees of each of the  
8 other Defendants. The acts described herein were done in the course and scope of such agency or  
9 employment with the consent, permission, and authorization of each of the other Defendants, as  
10 well as on each Defendants' own behalf.

### 11 III. JURISDICTION AND VENUE

12 12. This Court has jurisdiction over Plaintiff's claims under California Government  
13 Code section 12940, California Labor Code section 1102.5, and Article VI, section 10 of the  
14 California Constitution.

15 13. Venue is proper in this county pursuant to California Code of Civil Procedure  
16 sections 395 and 395.5 because a substantial part of the events and omissions giving rise to the  
17 claims alleged herein occurred in the County of San Francisco. Venue is also proper in this county  
18 pursuant to California Government Code section 12965 because the unlawful employment practices  
19 alleged herein were committed in the County of San Francisco and the records relevant to those  
20 practices are maintained and administered in the County of San Francisco.

### 21 IV. EXHAUSTION OF ADMINISTRATIVE REMEDIES

22 14. On March 26, 2019, within one year of the date of the unlawful employment  
23 practices committed by Defendants, and each of them, Plaintiff filed a charge of discrimination  
24 with the California Department of Fair Employment and Housing ("DFEH"). This charge was  
25 amended on April 12, 2019. A copy of this charge is attached hereto as **Exhibit A** and incorporated  
26 by reference as though fully set forth herein.

27 15. On March 26, 2019, the DFEH issued to Plaintiff a notice of right to bring a civil  
28 action against Defendants based on the charges described herein. A copy of Plaintiff's notice of his

1 Right To Sue is attached hereto as **Exhibit B** and incorporated by reference as though fully set forth  
2 herein.

3 16. In or around March 2019, Mr. Lee sent a memorandum to Captain Milanda Moore,  
4 Mr. Lee's commanding officer, providing notice of potential legal action against the City and the  
5 SFPD. This notice complied with SFPD General Order 2.01, Rule 31, which requires officers to  
6 submit a memorandum to their commanding officer briefly describing the cause of action, prior to  
7 filing suit against the city or the police department.

8 17. To comply with the Government Tort Claim Act, on May 13, 2019, Mr. Lee filed an  
9 internal claim form with the City Controller's Office regarding his whistleblower claim. A copy of  
10 Plaintiff's internal claim form is attached hereto as **Exhibit C** and incorporated by reference as  
11 though fully set forth herein.

12 18. On May 24, 2019, Matthew Rothschild, Chief of the Claims Division issued to  
13 Plaintiff a notice of action upon that claim. The City denied Mr. Lee's claim. A copy of the City's  
14 denial is attached hereto as **Exhibit D** and incorporated by reference as though fully set forth  
15 herein.

## 16 V. FACTUAL ALLEGATIONS

### 17 Mr. Lee Has a History of Exemplary Employment with the SFPD.

18 19. Plaintiff Kevin Lee is a forty-three-year-old first generation Chinese-American man  
19 with twenty years of experience in law enforcement. In 1983, Mr. Lee immigrated from a rural  
20 village in Southeast China, and subsequently, grew up near the Central Police Station in San  
21 Francisco's Chinatown.

22 20. Mr. Lee's childhood fascination with police cars and officers inspired him to  
23 dedicate the majority of his career to law enforcement.

24 21. In 1999, Mr. Lee began his career as a San Francisco Deputy Sheriff. In 2006, Mr.  
25 Lee transferred to the SFPD, where for the last thirteen years, he has worked in six of the ten  
26 district stations (Southern, Central, Bayview, Richmond, Northern, and Mission) and the Airport  
27 Bureau. Mr. Lee has had a wide variety of assignments at the SFPD, including Patrol Field Training  
28 Officer, Field Training Sergeant, Station Training Coordinator, background investigations, school

1 car, foot beat, plainclothes, and administrative work. While Sergeant, he even served for two years  
2 as an acting Lieutenant on the Midnight Watch at Richmond Station.

3 22. Mr. Lee has brought significant educational, linguistic, and community service  
4 achievements to his positions at the SFPD. Mr. Lee holds a Bachelor of Science in Criminal Justice  
5 Management and a master's degree in Management and Leadership. These educational  
6 achievements exceed those of most officers and well surpasses SFPD's minimum requirement that  
7 sworn officers pass the California High School Proficiency Exam. Mr. Lee is also fully bilingual in  
8 English and Cantonese. In his spare time, Mr. Lee serves his community by providing  
9 Thanksgiving meals to the elderly and other residents, mentoring public high school students  
10 through school sports, assisting reformed youth in the Chinese community, and acting as a liaison  
11 between the Bayview Portola Community and the police.

12 23. During his thirteen years of employment with the SFPD, Mr. Lee has only received  
13 "exceptional" or "above average" ratings in each performance evaluation category. Moreover, Mr.  
14 Lee's most recent evaluation on March 20, 2019 featured "exceptional" ratings in all categories.  
15 Throughout his career, reviewing supervisors have consistently noted that Mr. Lee has extremely  
16 strong management and administrative abilities, "outstanding judgment, flexibility, and problem-  
17 solving skills."

18 24. Mr. Lee's exceptional qualities have led to numerous awards and leadership  
19 positions. He earned a Meritorious Conduct Award for his skillful and lengthy undercover  
20 operation on a high-target pedophile that resulted in arrest. In addition, Mr. Lee was granted three  
21 Unit Citations for exceptional police work. In 2011, Mr. Lee worked on the child safety awareness  
22 campaign, Project Safe Haven in the Bayview District. He worked as a School Resource Officer to  
23 develop a tactical response plan for "active shooter" incidents at schools in the Richmond District  
24 in 2013. From 2018 to present, Mr. Lee has worked as Coordinator and Manager of overtime  
25 resources, the liaison between SFO and the SFPD Airport Bureau, and on the Body Worn Camera  
26 Program at SFO. He is also an elected member of the San Francisco Police Officer's Association  
27 ("SFPOA") Board of Directors.

28 25. Despite Mr. Lee's extensive experience and qualifications, Mr. Lee believes, and

1 thereon alleges, that SFPD intentionally and illegally delayed Mr. Lee's promotion from Sergeant  
2 to Lieutenant on two separate occasions.

3 **The SFPD Discriminated and Retaliated Against Mr. Lee Because of His Protected**  
4 **Complaints and Characteristics.**

5 26. Mr. Lee believes, and thereon alleges, that he has twice been denied promotion to  
6 Lieutenant because of his protected complaints regarding misconduct by two well-liked police  
7 officers, his protected complaints concerning SFPD's failure to promote him, and his race/national  
8 origin and/or gender.

9 **Mr. Lee's November 2013 Protected Complaint**

10 27. On November 17, 2013, Mr. Lee responded to a DUI crash incident as the  
11 supervising officer where two subordinate officers were already present.

12 28. Upon arriving at the scene, Mr. Lee conversed with the security guard who  
13 witnessed the driver crash into the gate. The guard stated that the driver was drunk and slumped  
14 over the steering wheel. After hearing the guard's account, Mr. Lee instructed the officers to  
15 conduct a DUI investigation, write a collision report, and take other appropriate action.

16 29. Instead of following Mr. Lee's orders, the two subordinate officers failed to write a  
17 collision report and falsified the police report by stating there was no merit to conducting a DUI  
18 investigation. The officers also falsely wrote that the suspect was "unknown" when Mr. Lee later  
19 discovered, per the computer log, that the officers had indeed conducted a record check on the  
20 detained driver. Following further investigation, Mr. Lee learned that the driver had a suspended  
21 license for DUI, was on probation for DUI, and had a warrant for DUI from Alameda County.

22 30. The officers' egregious conduct was perjury (a felony), as well as a violation of  
23 multiple SFPD rules and regulations, including but not limited to, insubordination, failing to write  
24 an accurate police report, neglect of duty, and lying to a superior officer.

25 31. Mr. Lee reported the officers' misconduct to then Captain, now Deputy Chief, Greg  
26 McEachern and submitted a written memorandum.

27 32. Mr. Lee is informed and believes, and thereon alleges, that the City and SFPD failed  
28 to conduct a formal investigation or take corrective action of any kind.

1           33.     Instead of commending Mr. Lee's integrity, other officers and supervisors chastised  
2 Mr. Lee for his protected complaint. Department members (with management's knowledge)  
3 promoted the idea that Mr. Lee was an "asshole." In contrast, SFPD awarded the officers Mr. Lee  
4 reported with coveted positions working plainclothes assignments.

5           34.     Deputy Chief McEachern and former Assistant Chief Toney Chaplin, who were both  
6 intimately aware of Mr. Lee's protected complaint, served as Command Staff, the panel charged  
7 with reviewing and selecting candidates for promotion, during the time period Mr. Lee was being  
8 considered for promotion.

9           35.     On or about October 10, 2018, Sergeant Eddie Hagan told two officers in the  
10 hallway of the police substation that he heard from a Deputy Chief that Mr. Lee was not going to  
11 be promoted because of his "bad behavior" in speaking out against subordinate officers in 2013.  
12 One of the officers privy to this hallway conversation told Mr. Lee what Sgt. Hagan had said.  
13 Later that day, Sgt. Hagan confirmed with Mr. Lee that he had heard this comment from a Deputy  
14 Chief. Mr. Lee is informed and believes, and thereon alleges, that his fortitude and commitment  
15 to following the law and departmental rules and regulations blocked his advancement within the  
16 SFPD and his opportunity to further serve his community.

17           *Defendants Denied Mr. Lee a Promotion Twice and Mr. Lee Made Protected Complaints*  
18           *Regarding the SFPD's Failure to Promote Him.*

19           36.     In 2016, Mr. Lee took the Lieutenant promotional exam termed the SFPD Q-60 test  
20 and ranked in the top 20 out of 108 ranks and 147 total members on the Lieutenant Promotion  
21 Eligibility List (some had tied test scores).

22           37.     Effective October 21, 2017, thirty sergeants were promoted to Lieutenant. Mr. Lee  
23 was not selected for promotion even though fifteen candidates who ranked below him were  
24 promoted. Some of these lower-ranked candidates had inferior qualifications and/or known  
25 disciplinary issues such as IAD investigations and suspensions.

26           38.     Following the results of the October 21, 2017 promotions, Mr. Lee complained to  
27 Chief William Scott about the inequitable promotional decisions. Chief Scott failed to address his  
28 concerns, and instead, verbally assured Mr. Lee there was a second round of promotions and Mr.

1 Lee had a good chance to be promoted then.

2 39. The City and the SFPD failed to investigate or remedy Mr. Lee's complaint. Mr.  
3 Lee's only recourse was to wait and see if he would be promoted in the second round.

4 40. Effective November 17, 2018, fifteen sergeants were promoted to Lieutenant in a  
5 second round of promotions. Mr. Lee was not promoted, yet SFPD promoted eleven candidates  
6 who ranked below Mr. Lee, including those with inferior qualifications and known disciplinary  
7 issues, such as suspension, demotion, and an IAD investigation.

8 41. Following the promotions effective November 17, 2018, Mr. Lee complained to  
9 Commander Peter Walsh about the discriminatory and retaliatory promotional decisions.

10 42. The City and SFPD did not do anything to investigate or remedy his complaint.  
11 Indeed, Mr. Lee had put together a binder of documents and information relating to his complaint  
12 and Commander Walsh told him not to submit it to the Chief as it would "not be looked at  
13 favorably" by the Command Staff.

14 43. Despite Mr. Lee's high ranking on the SFPD Q-60 test, glowing performance  
15 reviews, and multiple accolades, SFPD Command Staff, including Commander McEachern and  
16 Chief Chaplin, two superiors familiar with Mr. Lee's 2013 complaint, decided not to promote Mr.  
17 Lee.

18 44. After Mr. Lee repeatedly complained about the discriminatory promotional  
19 process—internally and through counsel—the SFPD promoted him from Sergeant to Lieutenant  
20 on October 26, 2019. Mr. Lee's lengthy wait time for promotion to Lieutenant has now  
21 permanently delayed any possible future promotions to Captain.

22 *Defendants Subjected Mr. Lee to Discrimination Based on Race and Sex and Retaliation*  
23 *for his Protected Complaints.*

24 45. The SFPD subjected Mr. Lee to differential treatment based on his race, national  
25 origin, and/or sex by giving preferential treatment to female and non-Asian-American employees  
26 in its promotional practices.

27 46. The SFPD Command Staff is responsible for reviewing and selecting candidates  
28 for promotion. In hiring decisions, the Command Staff are supposed to consider qualification

1 exam scores in combination with secondary criteria. Secondary criteria should include  
2 assignments, training, education, special qualifications, commendations, awards, bilingual  
3 certification, and discipline history, not race and gender.

4 47. At a San Francisco Police Officer's Association (SFPOA) general meeting on  
5 November 16, 2017, when asked about his promotion decisions, Chief Scott confirmed he uses  
6 "race and gender" in the determination of who is promoted.

7 48. As early as June 2018, the SFPOA and their counsel had repeatedly written Chief  
8 Scott to address their concern that the SFPD bases its promotions on race and gender, arguing that  
9 these practices are subjective and pretext for decisions based on protected characteristics, and are  
10 in violation of the law and SFPD rules.

11 49. According to census data, the Asian-American community makes up approximately  
12 35.9% of San Francisco's population<sup>1</sup>, with the Chinese community making up approximately  
13 21.4%.<sup>2</sup> Plaintiff is informed and believes that local media outlets have long reported on the  
14 underrepresentation of Chinese officers given the large Chinese community in San Francisco, but  
15 the SFPD has not yet addressed or remedied this issue. SFPD has reported incidents where Chinese  
16 residents have been unable to communicate with 911 dispatchers and officers, resulting in  
17 significant delays in response. Despite the need for bilingual Chinese officers, Mr. Lee is informed  
18 and believes, and thereon alleges, have not been hired or promoted in proportion to the city's  
19 demographics.

20 50. Greg Yee is the only Asian-American Deputy Chief or Assistant Chief in the SFPD.  
21 Mr. Yee was promoted to Deputy Chief in May 2019, after Mr. Lee's discrimination complaints.  
22 The Command Staff at the time Mr. Lee was denied promotions included: the Chief of Police (an  
23 African-American man), two Assistant Chiefs (one African-American man and one Latino man),  
24 and five Deputy Chiefs (one African-American man, three white men, and one white woman).

25 51. During the round of promotions effective October 21, 2017, only two out of the

26  
27 <sup>1</sup> (United States Census Bureau, *QuickFacts San Francisco County* (2010)  
<<https://www.census.gov/quickfacts/sanfranciscocountycalifornia>> [as of Nov. 21, 2019].)

28 <sup>2</sup> Fagan, *Asian population swells in the Bay Area, state, nation* (March 22, 2012) SFGATE  
<<https://www.sfgate.com/bayarea/article/Asian-population-swells-in-Bay-Area-state-nation-3425777.php>> [as of  
November 21, 2019].)

1 thirty sergeants promoted were Asian-American. One of the two Asian-American sergeants  
2 promoted ranked higher than Mr. Lee and the other ranked lower. The sergeant who ranked lower  
3 than Mr. Lee was also the Police Chief's personal driver.

4 52. For the second round of promotions effective November 17, 2018, fifteen sergeants  
5 were promoted to Lieutenant. No Asian-American candidates were promoted.

6 53. Now-Deputy Chief Yee, the only Asian-American member of the Command Staff,  
7 was inexplicably excluded from the hiring board meeting for the second round of promotions.  
8 Deputy Chief Yee had personally recommended Mr. Lee for a promotion. The SFPD further  
9 blocked Mr. Lee from promotion by not allowing Deputy Chief Yee's attendance at the hiring  
10 board meeting.

11 54. Between the first and second round of lieutenant promotions, all twelve female  
12 candidates under consideration (except for one candidate who retired on a medical disability) were  
13 promoted, although eight of them had lower scores than Mr. Lee and several of these female  
14 candidates also had disciplinary issues.

15 55. In both rounds of lieutenant promotions, sergeants who had inferior qualifications  
16 and known disciplinary complaints were consistently promoted over Mr. Lee.

17 56. Mr. Lee's qualifications, including his bilingual certification, directly fit into the  
18 secondary criteria the SFPD promotion panel is supposed to consider in promotional decisions, yet  
19 he was still passed over for promotions in favor of inferior candidates.

20 57. Mr. Lee repeatedly protested SFPD's discriminatory promotional practices to his  
21 superiors, both verbally and in writing. The City and SFPD retaliated against Mr. Lee for  
22 complaining about their discriminatory and unlawful conduct.

23 58. For example, Mr. Lee attempted to meet with Assistant Chiefs, Hector Sainez and  
24 Chaplin to discuss how he could make himself a more viable candidate for promotion. Both  
25 denied his requests for a meeting.

26 59. The SFPD had scheduled to make third round promotional decisions in July 2019.  
27 Prior to the scheduled time, Chief Scott announced his decision to indefinitely postpone the third  
28 round of promotions. On July 8, 2019, the SFPOA filed a union grievance with Chief Scott in

1 response to his decision. Though there are dozens of vacancies across the ranks of Lieutenant,  
2 Sergeant, and Captain, Chief Scott failed to timely fill them as further retaliation for Mr. Lee's  
3 (and others') protected claims of discrimination and retaliation.

4 60. On October 26, 2019, after a two-year delay, Mr. Lee was finally promoted to  
5 Lieutenant.

6 61. Mr. Lee is informed and believes, and thereon alleges, that the City and SFPD  
7 failed to investigate his complaints or take adequate corrective action.

8 **Mr. Lee Suffered Severe Emotional Distress and Economic Loss.**

9 62. SFPD's discriminatory, retaliatory, and unlawful conduct and Defendants' failure  
10 to investigate his complaints or take corrective action caused Mr. Lee extreme emotional distress.

11 63. Due to SFPD's discriminatory, retaliatory, and unlawful conduct and Defendants'  
12 failure to investigate his complaints or take corrective action, Mr. Lee experienced immense  
13 pressure and suffered from feelings of frustration, stress, anxiety, isolation, and helplessness. Mr.  
14 Lee did not suffer from this emotional state before Defendants began their unlawful conduct.

15 64. Specifically, after Mr. Lee's 2013 protected complaint against two SFPD officers,  
16 Mr. Lee faced an immediate, hostile backlash within the department that caused a strain on his  
17 professional and personal relationships. Fellow SFPD employees bullied Mr. Lee, called him "an  
18 asshole," and unjustly chastised him for following the law and rules of the Department.

19 65. SFPD's failure to promote Mr. Lee in October 2017 and November 2018 and  
20 disregard for his complaints of racial, national origin, and sex discrimination caused him additional  
21 anguish and stress.

22 66. Mr. Lee's also experienced past and future economic loss because of Defendants'  
23 actions.

24 **FIRST CAUSE OF ACTION**  
25 **DISCRIMINATION BASED ON RACE**  
26 **(FEHA - CAL. GOV. CODE, § 12940, subd. (a))**  
27 **(Against all Defendants)**

28 67. Plaintiff incorporates by reference paragraphs 1 through 66 above as though fully  
set forth herein.

1           68.    At all times relevant herein, California Government Code section 12940,  
2 subdivision (a), was in full effect and binding on the City, SFPD, and the Doe Defendants.

3           69.    Plaintiff is informed and believes, and thereon alleges, that, at all times alleged  
4 herein, the City, SFPD, and the Doe Defendants regularly employed five or more persons and were  
5 therefore employers within the meaning of California Government Code sections 12926 and 12940.

6           70.    At all times relevant herein, Plaintiff was an Asian-American employee.  
7 Pursuant to California Government Code section 12940, subdivision (a), Plaintiff had a legal right  
8 to be free from discrimination in employment based upon his race.

9           71.    Plaintiff is informed and believes, and thereon alleges, that the City, SFPD, and  
10 the Doe Defendants violated California Government Code section 12940, subdivision (a), by  
11 discriminating against Plaintiff on the basis of his race as set forth herein.

12           72.    The unlawful conduct of the City, SFPD, and the Doe Defendants as alleged  
13 herein directly and proximately caused Plaintiff to suffer, and continue to suffer, special damages  
14 including, but not limited to, past and future loss of income and benefits, and other damages to be  
15 proven at the time of trial. As alleged herein, the City, SFPD, and the Doe Defendants ratified the  
16 unlawful conduct of their employees and are therefore liable for their conduct.

17           73.    The unlawful conduct of the City, SFPD, and the Doe Defendants as alleged  
18 herein directly and proximately caused Plaintiff to suffer, and continue to suffer, general damages  
19 including, but not limited to, shock, embarrassment, humiliation, emotional distress, stress, anxiety,  
20 fear, uncertainty, isolation, loss of confidence, and other damages to be proven at trial. As alleged  
21 herein, the City, SFPD, and the Doe Defendants ratified the unlawful conduct of their employees  
22 and are therefore liable for their conduct.

23           74.    As a result of the conduct of the City, SFPD, and the Doe Defendants, and each  
24 of them, Plaintiff was forced to retain counsel to protect his rights. Accordingly, Plaintiff seeks the  
25 reasonable attorneys' fees and costs incurred in this litigation in an amount according to proof at  
26 trial pursuant to California Government Code section 12965, subdivision (b).

27  
28

**SECOND CAUSE OF ACTION**  
**DISCRIMINATION BASED ON NATIONAL ORIGIN**  
**(FEHA - CAL. GOV. CODE, § 12940, subd. (a))**  
**(Against all Defendants)**

1  
2  
3  
4       75. Plaintiff incorporates by reference paragraphs 1 through 66 above as though fully  
5 set forth herein.

6       76. At all times relevant herein, California Government Code section 12940,  
7 subdivision (a), was in full effect and binding on the City, SFPD, and the Doe Defendants.

8       77. Plaintiff is informed and believes, and thereon alleges, that, at all times alleged  
9 herein, the City, SFPD, and the Doe Defendants regularly employed five or more persons and were  
10 therefore employers within the meaning of California Government Code sections 12926 and 12940.

11       78. At all times relevant herein, Plaintiff was an employee of Chinese origin.  
12 Pursuant to California Government Code section 12940, subdivision (a), Plaintiff had a legal right  
13 to be free from discrimination in employment based upon his national origin.

14       79. Plaintiff is informed and believes, and thereon alleges, that the City, SFPD, and  
15 the Doe Defendants violated California Government Code section 12940, subdivision (a),  
16 by discriminating against Plaintiff on the basis of his national origin as set forth herein.

17       80. The unlawful conduct of the City, SFPD, and the Doe Defendants as alleged  
18 herein directly and proximately caused Plaintiff to suffer, and continue to suffer, special damages  
19 including, but not limited to, past and future loss of income and benefits, and other damages to be  
20 proven at the time of trial. As alleged herein, the City, SFPD, and the Doe Defendants ratified the  
21 unlawful conduct of their employees and are therefore liable for their conduct.

22       81. The unlawful conduct of the City, SFPD, and the Doe Defendants as alleged  
23 herein directly and proximately caused Plaintiff to suffer, and continue to suffer, general damages  
24 including, but not limited to, shock, embarrassment, humiliation, emotional distress, stress, anxiety,  
25 fear, uncertainty, isolation, loss of confidence, and other damages to be proven at trial. As alleged  
26 herein, the City, SFPD, and the Doe Defendants ratified the unlawful conduct of their employees  
27 and are therefore liable for their conduct.

28       82. As a result of the conduct of the City, SFPD, and the Doe Defendants, and each

1 of them, Plaintiff was forced to retain counsel to protect his rights. Accordingly, Plaintiff seeks the  
2 reasonable attorneys' fees and costs incurred in this litigation in an amount according to proof at  
3 trial pursuant to California Government Code section 12965, subdivision (b).

4 **THIRD CAUSE OF ACTION**  
5 **DISCRIMINATION BASED ON SEX**  
6 **(FEHA - CAL. GOV. CODE, § 12940, subd. (a))**  
7 **(Against all Defendants)**

8 83. Plaintiff incorporates by reference paragraphs 1 through 66 above as though fully  
9 set forth herein.

10 84. At all times relevant herein, California Government Code section 12940,  
11 subdivision (a), was in full effect and binding on the City, SFPD, and the Doe Defendants.

12 85. Plaintiff is informed and believes, and thereon alleges, that, at all times alleged  
13 herein, the City, SFPD, and the Doe Defendants regularly employed five or more persons and were  
14 therefore employers within the meaning of California Government Code sections 12926 and 12940.

15 86. At all times relevant herein, Plaintiff was a male employee. Pursuant to  
16 California Government Code section 12940, subdivision (a), Plaintiff had a legal right to be free  
17 from discrimination in employment based upon his sex.

18 87. Plaintiff is informed and believes, and thereon alleges, that the City, SFPD, and  
19 the Doe Defendants violated California Government Code section 12940, subdivision (a), by  
20 discriminating against Plaintiff on the basis of his sex as set forth herein.

21 88. The unlawful conduct of the City, SFPD, and the Doe Defendants as alleged  
22 herein directly and proximately caused Plaintiff to suffer, and continue to suffer, special damages  
23 including but not limited to past and future loss of income and benefits, and other damages to be  
24 proven at the time of trial. As alleged herein, the City, SFPD, and the Doe Defendants ratified the  
25 unlawful conduct of their employees and are therefore liable for their conduct.

26 89. The unlawful conduct of the City, SFPD, and the Doe Defendants as alleged  
27 herein directly and proximately caused Plaintiff to suffer, and continue to suffer, general damages  
28 including, but not limited to, shock, embarrassment, humiliation, emotional distress, stress,  
isolation, anxiety, fear, uncertainty, loss of confidence, and other damages to be proven at trial. As

1 alleged herein, the City, SFPD, and the Doe Defendants ratified the unlawful conduct of their  
2 employees and are therefore liable for their conduct.

3 90. As a result of the conduct of the City, SFPD, and the Doe Defendants, and each  
4 of them, Plaintiff was forced to retain counsel to protect his rights. Accordingly, Plaintiff seeks the  
5 reasonable attorneys' fees and costs incurred in this litigation in an amount according to proof at  
6 trial pursuant to California Government Code section 12965, subdivision (b).

7 **FOURTH CAUSE OF ACTION**  
8 **FAILURE TO PREVENT DISCRIMINATION**  
9 **(FEHA - CAL. GOV. CODE, § 12940, subd. (k))**  
10 **(Against all Defendants)**

11 91. Plaintiff incorporates by reference paragraphs 1 through 66 above as though fully  
12 set forth herein.

13 92. At all times alleged herein, California Government Code section 12940,  
14 subdivision (k), was in full effect and binding on the City, SFPD, and the Doe Defendants.

15 93. Pursuant to California Government Code section 12940, subdivision (k), the City,  
16 SFPD, and the Doe Defendants were required to take all reasonable steps necessary to prevent  
17 discrimination of and retaliation against Plaintiff.

18 94. Plaintiff is informed and believes, and thereon alleges, that the City, SFPD, and  
19 the Doe Defendants failed to take all reasonable steps necessary to prevent discrimination of and  
20 retaliation against Plaintiff.

21 95. The unlawful conduct of the City, SFPD, and the Doe Defendants as alleged  
22 herein directly and proximately caused Plaintiff to suffer, and continue to suffer, special damages  
23 including, but not limited to, past and future loss of income and benefits, and other damages to be  
24 proven at the time of trial. As alleged herein, the City, SFPD, and the Doe Defendants ratified the  
25 unlawful conduct of their employees and are therefore liable for their conduct.

26 96. The unlawful conduct of the City, SFPD, and the Doe Defendants as alleged  
27 herein directly and proximately caused Plaintiff to suffer, and continue to suffer, general damages  
28 including, but not limited to, shock, embarrassment, humiliation, emotional distress, stress,  
isolation, anxiety, fear, uncertainty, loss of confidence, and other damages to be proven at trial. As

1 alleged herein, the City, SFPD, and the Doe Defendants ratified the unlawful conduct of their  
2 employees and are therefore liable for their conduct.

3 97. As a result of the conduct of the City, SFPD, and the Doe Defendants, and each of  
4 them, Plaintiff was forced to retain counsel to protect his rights. Accordingly, Plaintiff seeks the  
5 reasonable attorneys' fees and costs incurred in this litigation in an amount according to proof at  
6 trial pursuant to California Government Code section 12965, subdivision (b).

7 **FIFTH CAUSE OF ACTION**  
8 **RETALIATION IN VIOLATION OF FEHA**  
9 **(FEHA - CAL. GOV. CODE, § 12940, subd. (h))**  
10 **(Against all Defendants)**

11 98. Plaintiff incorporates by reference paragraphs 1 through 66 above as though fully  
12 set forth herein.

13 99. At all times relevant herein, California Government Code section 12940, subdivision  
14 (h), was in full effect and binding on all Defendants.

15 100. Pursuant to California Government Code section 12940, subdivision (h), Plaintiff  
16 had a legal right to protest discrimination and/or retaliation in the workplace without retaliation  
17 from Defendants, and Plaintiff did protest what he reasonably believed to be discrimination and  
18 retaliation in the workplace.

19 101. As a result of Plaintiff's protest and opposition to the unlawful conduct of  
20 employees of Defendants, Plaintiff was retaliated against by the City, SFPD, and the Doe  
21 Defendants.

22 102. The unlawful conduct of the City, SFPD, and the Doe Defendants as alleged  
23 herein directly and proximately caused Plaintiff to suffer, and continue to suffer, special damages  
24 including, but not limited to, past and future loss of income and benefits, and other damages to be  
25 proven at the time of trial. As alleged herein, the City, SFPD, and the Doe Defendants ratified the  
26 unlawful conduct of their employees and are therefore liable for their conduct.

27 103. The unlawful conduct of the City, SFPD, and the Doe Defendants as alleged  
28 herein directly and proximately caused Plaintiff to suffer, and continue to suffer, general damages  
including, but not limited to, shock, embarrassment, humiliation, emotional distress, stress,

1 isolation, anxiety, fear, uncertainty, loss of confidence, and other damages to be proven at trial. As  
2 alleged herein, the City, SFPD, and the Doe Defendants ratified the unlawful conduct of their  
3 employees and are therefore liable for their conduct.

4 104. As a result of the conduct of the City, SFPD, and the Doe Defendants, and each of  
5 them, Plaintiff was forced to retain counsel to protect his rights. Accordingly, Plaintiff seeks the  
6 reasonable attorneys' fees and costs incurred in this litigation in an amount according to proof at  
7 trial pursuant to California Government Code section 12965, subdivision (b).

8 **SIXTH CAUSE OF ACTION**  
9 **RETALIATION FOR DISCLOSURE OF UNLAWFUL ACTS**  
10 **(Cal. Lab. Code, § 1102.5, subd. (b))**  
11 **(Against all Defendants)**

12 105. Plaintiff incorporates by reference paragraphs 1 through 66 above as though fully  
13 set forth herein.

14 106. At all times relevant herein, California Labor Code section 1102.5, subdivision  
15 (b), was in full effect and binding on the City, SFPD, and the Doe Defendants.

16 107. Pursuant to California Labor Code 1102.5, subdivision (b), Plaintiff had a legal  
17 right to disclose information that he had reasonable cause to believe disclosed unlawful acts to a  
18 person with authority over him or another employee who had the authority to investigate, discover,  
19 or correct those unlawful acts.

20 108. Plaintiff reported and disclosed unlawful acts prohibited by, *inter alia*, California  
21 Government Code section 12940 to managers and supervisors employed by the City, SFPD, and the  
22 Doe Defendants, including but not limited to Deputy Chief McEachern, Commander Walsh, and  
23 Chief Scott.

24 109. As a result of Plaintiff's reporting and disclosure of unlawful acts, the City, SFPD,  
25 and the Doe Defendants retaliated against him as alleged herein.

26 110. The unlawful conduct of the City, SFPD, and the Doe Defendants as alleged  
27 herein directly and proximately caused Plaintiff to suffer, and continue to suffer, special damages  
28 including, but not limited to, past and future loss of income and benefits, and other damages to be  
proven at the time of trial. As alleged herein, the City, SFPD, and the Doe Defendants ratified the

1 unlawful conduct of their employees and are therefore liable for their conduct.

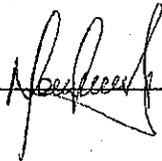
2 111. The unlawful conduct of the City, SFPD, and the Doe Defendants as alleged  
3 herein directly and proximately caused Plaintiff to suffer, and continue to suffer, general damages  
4 including, but not limited to, shock, embarrassment, humiliation, emotional distress, stress,  
5 isolation, anxiety, fear, uncertainty, loss of confidence, and other damages to be proven at trial. As  
6 alleged herein, the City, SFPD, and the Doe Defendants ratified the unlawful conduct of their  
7 employees and are therefore liable for their conduct.

8 **WHEREFORE, PLAINTIFF KEVIN LEE PRAYS FOR JUDGMENT AGAINST**  
9 **ALL DEFENDANTS, AND EACH OF THEM, AS FOLLOWS:**

- 10 1. For compensatory damages, including lost wages, earnings, retirement benefits, and  
11 other employee benefits, according to proof;
- 12 2. For general, special, and incidental damages and amounts for emotional and  
13 physical distress according to proof;
- 14 3. For injunctive relief;
- 15 4. For pre-judgment interest and post-judgment interest, as provided by law;
- 16 5. For reasonable attorneys' fees and costs of suit herein incurred; and  
17 For such other and further relief as the Court deems proper.

18  
19 DATED: November 22, 2019

Respectfully submitted,

20  
21   
22

23 MENAKA N. FERNANDO  
24 ZOË DEGEER  
25 OUTTEN & GOLDEN LLP

26 Attorneys for Plaintiff  
27 KEVIN LEE  
28

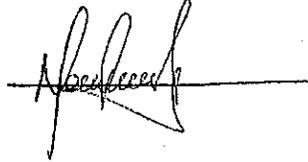
1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**JURY TRIAL DEMANDED**

Plaintiff demands trial of all issues by jury.

DATED: November 22, 2019

Respectfully submitted,



---

MENAKA N. FERNANDO  
ZOË DEGEER  
OUTTEN & GOLDEN LLP

Attorneys for Plaintiff  
KEVIN LEE

# Exhibit A



1 promotion, denied a work environment free of discrimination and/or retaliation,  
2 denied any employment benefit or privilege.

3 **Additional Complaint Details:** Kevin Lee immigrated to the United States in 1983  
4 from a poor farming and fishing village in Southeast China. Mr. Lee began work in  
5 law enforcement in 1999 as a San Francisco Deputy Sheriff. In 2006, he transferred  
6 to the San Francisco Police Department ("SFPD"). Since starting with the SFPD,  
7 Mr. Lee has worked at five of the ten district stations – Southern, Central, Bayview,  
8 Richmond, and Northern. He currently works at the Airport Bureau, Patrol and  
9 Traffic Divisions. In 2013, he was promoted to the rank of Police Sergeant.

10 Mr. Lee has had an outstanding career with the SFPD, receiving one Police  
11 Commission Meritorious Conduct award and three Unit Citations. During his 13-year  
12 career with SFPD, he has received all "above average" or "exceptional" evaluation  
13 ratings, and most recently received "exceptional" ratings in all categories on his  
14 personnel evaluation executed by his Captain. Mr. Lee is bilingual in English and  
15 Cantonese, which is especially important in his position given San Francisco's large  
16 Chinese population.

17 Mr. Lee studied for and took the SFPD Q60-Lieutenant promotional examination in  
18 2016. When the test results were published in January 2017, he ranked number 20  
19 out of 108 ranks (some had tied test scores, there are 147 total candidates on the  
20 list). Eligibility based on the 2017 test expires in January 2020. The SFPD  
21 Command Staff is responsible for reviewing and selecting candidates for promotion.  
22 The Command Staff includes: The Chief of Police (African American male); two  
23 Assistant Chiefs (one African American Male and one Latino male); and five Deputy  
24 Chiefs (One African American male, three Caucasian males, and one Caucasian  
25 female). There are no Asian members in the ranks of permanent Deputy Chiefs,  
26 Assistant Chiefs, and Chief.

27 Effective October 21, 2017, 30 Sergeants from the 2017 list were promoted to  
28 Lieutenant; Mr. Lee was not selected even though 15 candidates who ranked below  
him were promoted. Subsequently, Mr. Lee discovered some of these candidates  
not only ranked lower than him, but also had inferior qualifications. Some of the  
selected candidates had known disciplinary issues.

Mr. Lee complained to the Chief of Police about the unfair promotional decisions but  
was told that there would be a second round of promotions and he had a good  
chance to be promoted then. Mr. Lee is informed and believes that nothing was  
done to investigate or remedy his complaint.

1 In the second round of promotions, effective November 17, 2018, 15 Sergeants were  
2 promoted to Lieutenant. Mr. Lee was not selected even though 11 candidates who  
3 ranked below him were promoted. Again, some of these candidates had inferior  
4 qualifications to Mr. Lee and at least two of the selected candidates had known  
5 disciplinary issues. No Asians were promoted. Commander Greg Yee, the only  
6 Chinese Commander who was also serving as Acting Deputy Chief, inexplicably was  
7 not invited to the hiring board meeting where the Command Staff determine  
8 promotions. Mr. Yee had recommended Mr. Lee for a promotion; by not allowing  
9 him to attend the meeting, it further blocked Mr. Lee from being selected for a  
10 promotion.

11 After the second round of promotions, Mr. Lee complained to Commander Walsh  
12 about the discriminatory and retaliatory promotional decisions. Still, nothing was  
13 done.

14 Between the first and second round of Lieutenant promotions, all 12 female  
15 candidates under consideration (except for one candidate who retired on a medical  
16 disability) were promoted, although eight of them had lower scores than Mr. Lee.  
17 Several of these female candidates had disciplinary issues.

18 When making promotion decisions, SFPD considers rank on the eligible list as well  
19 as "secondary criteria". "Secondary criteria" includes: assignments; training;  
20 education; special qualifications; commendations; awards; bilingual certification and  
21 disciplinary history. As mentioned above, Mr. Lee worked at five of the ten district  
22 stations, in addition to the Airport Bureau. He has served on a variety of  
23 assignments, including: patrol; background investigations; school car; foot beat;  
24 plainclothes and administrative work. He has led several large projects for SFPD  
25 and volunteered in the community. Additionally, he served two years as an Acting  
26 Lieutenant on the Midnight Watch at Richmond Station. He has taken numerous  
27 training courses and has a Bachelor's degree in Criminal Justice Management and  
28 Master's degree in Management and Leadership (which is directly compatible with  
the job of Lieutenant). Many of the candidates who were promoted had only a high  
school education, demotion history, suspensions, open cases and lawsuits, serious  
disciplinary issues, and/or DUI arrests. Mr. Lee, on the other hand, has documented  
outstanding performance, has never been suspended, and has superior experience  
and higher education.

Further, there are current members on the Command Staff with past misdemeanor  
arrest records and/or serious disciplinary records, which did not impact their  
promotional opportunities.

Although the SFPD purports to want a department reflective of the community it  
serves, its promotional decisions do not support this mission. The Asian community

1 of San Francisco makes up at least 30% of the San Francisco population, yet there  
2 is not one permanent Asian (or Chinese) Deputy Chief or Assistant Chief in the  
3 SFPD, and Mr. Lee, an extremely qualified Asian candidate for Lieutenant has been  
4 passed over twice for promotion. The SFPD has prioritized promoting minorities  
(other than Asians) and women, even those with documented disciplinary issues,  
while passing over Asians, including Mr. Lee.

5 On November 17, 2013, Mr. Lee documented his investigation of two popular  
6 Caucasian police officers in a memorandum, which was submitted to a then-Captain  
7 (currently on the Command Staff as a Commander). Mr. Lee's memorandum  
8 reported these officers for falsifying a police report and insubordination. The officers  
9 were not disciplined, and instead given coveted assignments. The complaint was  
10 intentionally ignored and not sent, as required, to IAD for a formal investigation. Mr.  
11 Lee has faced, and continues to face, ongoing harassment and retaliation in  
12 retaliation for filing a complaint about two well-liked Caucasian officers. For  
13 example, Mr. Lee was labeled as an "asshole" due to his complaint and is informed  
and believes that a Deputy Chief said Mr. Lee was not going to be promoted  
because "he did something bad in the past," referring to his complaint. The  
14 Commander Mr. Lee complained to and an Assistant Chief, who make promotional  
15 decisions as part of the Command Staff, worked with Mr. Lee in 2013, and are  
16 aware of his protected complaint.

17 Based on the foregoing, Mr. Lee has been denied rightful promotion because of his  
18 race/national origin, gender, and in retaliation for his protected complaints of  
19 discrimination and retaliation and of misconduct by fellow officers. He has suffered  
20 past and future wage loss, promotional opportunities (he is not eligible to take the  
21 Captain's examination unless he is a Lieutenant), pension and benefit loss, as well  
22 as emotional distress, because of the SFPD's unlawful conduct.

1 VERIFICATION

2 I, **Zoe DeGeer**, am the **Attorney** in the above-entitled complaint. I have read the  
3 foregoing complaint and know the contents thereof. The matters alleged are based  
4 on information and belief, which I believe to be true.

5 On April 12, 2019, I declare under penalty of perjury under the laws of the State of  
6 California that the foregoing is true and correct.

7 **San Francisco, California**

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

-5-

Complaint – DFEH No. 201903-05587426

28

Date Filed: March 26, 2019  
Date Amended: April 12, 2019

# **Exhibit B**



**DEPARTMENT OF FAIR EMPLOYMENT & HOUSING**

2218 Kausen Drive, Suite 100 | Elk Grove | CA | 95758  
(800) 884-1684 (Voice) | (800) 700-2320 (TTY) | California's Relay Service at 711  
<http://www.dfeh.ca.gov> | Email: [contact.center@dfeh.ca.gov](mailto:contact.center@dfeh.ca.gov)

March 26, 2019

Kevin Lee  
REDACTED

**RE: Notice of Case Closure and Right to Sue**  
DFEH Matter Number: 201903-05587426  
Right to Sue: Lee / City and County of San Francisco

Dear Kevin Lee,

This letter informs you that the above-referenced complaint was filed with the Department of Fair Employment and Housing (DFEH) has been closed effective March 26, 2019 because an immediate Right to Sue notice was requested. DFEH will take no further action on the complaint.

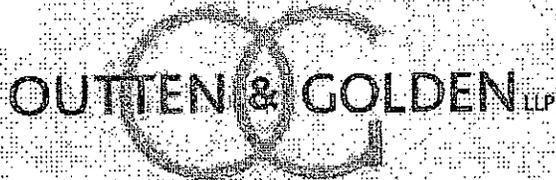
This letter is also your Right to Sue notice. According to Government Code section 12965, subdivision (b), a civil action may be brought under the provisions of the Fair Employment and Housing Act against the person, employer, labor organization or employment agency named in the above-referenced complaint. The civil action must be filed within one year from the date of this letter.

To obtain a federal Right to Sue notice, you must contact the U.S. Equal Employment Opportunity Commission (EEOC) to file a complaint within 30 days of receipt of this DFEH Notice of Case Closure or within 300 days of the alleged discriminatory act, whichever is earlier.

Sincerely,

Department of Fair Employment and Housing

# Exhibit C



Advocates for Workplace Fairness

Jennifer Schwartz  
[jschwartz@ottengolden.com](mailto:jschwartz@ottengolden.com)  
Tel: (415) 638-8800, ext. 8818

May 13, 2019

**Via Certified Mail**

City and County of San Francisco  
Controller's Office  
Claims Division  
1390 Market Street, 7th Floor  
San Francisco, CA 94102-5408

**Re: Claim Form – Sergeant Kevin Lee**

Dear Controller's Office:

We represent Sergeant Kevin Lee of the San Francisco Police Department in his claims against the City and County of San Francisco and San Francisco Police Department. Please find attached his Claim Form and Attachment A. Please contact me directly if you have any questions or need further information.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jennifer Schwartz', written in a cursive style.

Jennifer Schwartz



## Attachment A

Sergeant Kevin Lee began work in law enforcement in 1999 as a San Francisco Deputy Sheriff. In 2006, he transferred to the San Francisco Police Department ("SFPD"). Since starting with the SFPD, Mr. Lee has worked at five of the ten district stations – Southern, Central, Bayview, Richmond, and Northern. He currently works at the Airport Bureau, Patrol and Traffic Divisions. In 2013, he was promoted to the rank of Police Sergeant.

Sgt. Lee has had an outstanding career with the SFPD, receiving one Police Commission Meritorious Conduct award and three Unit Citations. During his 13-year career with the SFPD, he has received all "above average" or "exceptional" evaluation ratings, and most recently received "exceptional" ratings in all categories on his personnel evaluation executed by his Captain. Sgt. Lee is bilingual in English and Cantonese, which is especially important in his position given San Francisco's large Chinese population.

On November 17, 2013, Sgt. Lee responded to a DUI crash incident as the supervising officer, where two subordinate officers were already present. A security guard at the location saw a driver crash into a gate and reported it to police. The guard said the driver was drunk and slumped over the steering wheel. Sgt. Lee arrived at the scene and saw the officers had detained the driver outside of his vehicle. Sgt. Lee spoke with the guard who said he had relayed the details of the incident to the officers. Sgt. Lee instructed the officers to conduct a DUI investigation, write a collision report, and take other appropriate action. Later, Sgt. Lee discovered the officers had released the driver, in direct contradiction of his order, had falsified the police report by stating there was no merit to conducting a DUI investigation, and failed to write a collision report. Further, the officers falsely wrote that the suspect was "unknown." Per the computer log, the officers had conducted a record check on the detained driver. Using this information, Sgt. Lee further investigated and discovered the driver had a suspended license for DUI, was on probation for DUI, and had a warrant for DUI from Alameda County.

This alarming conduct was in violation of multiple SFPD rules and regulations and laws, including but not limited to, insubordination, failing to write an accurate police report (which is perjury), neglect of duty, and lying to a superior officer. Sgt. Lee reported the misconduct to then-Captain McEachern and submitted a written memorandum. Notwithstanding the serious nature of the complaint, SFPD did not conduct a formal investigation, and the complaint was never forwarded to the Internal Affairs Department (IAD). In fact, the officers in question were awarded coveted plainclothes assignments while Sgt. Lee was chastised for his protected complaint by other officers and supervisors at Northern Station, and at other stations once word spread throughout the Department. Thereafter, Department members intentionally communicated to colleagues and others (with management's knowledge) that Sgt. Lee was an "asshole." Mr. Lee wrote an email to then-Captain McEachern about the hostile, retaliatory work environment, but McEachern never responded. On October 10, 2018, Sergeant Hagan told two officers in the police substation that he heard from a Deputy Chief a few weeks earlier that Sgt. Lee was not going to be promoted because he had "done something really bad in the past." Sgt. Lee heard about Sgt. Hagan's comments and contacted Sgt. Hagan to inquire about what he said. Sgt. Hagan stated he had heard it from a Deputy Chief, but would not provide further details. Ironically, Sgt. Lee's commendable fortitude to "do the right thing" blocked his

advancement within the SFPD and opportunity to further serve his community. Although Sgt. Lee is informed and believes that his complaint is widely known within the SFPD, then-Captain McEachern (now a Commander) and Assistant Chief Chaplin were both intimately aware of Sgt. Lee's complaint and are on the current Command Staff who review and select candidates for promotion.

Sgt. Lee studied for and took the SFPD Q60-Lieutenant promotional examination in 2016. When the test results were published in January 2017, he ranked number 20 out of 108 ranks (some had tied test scores, there are 147 total candidates on the list). Eligibility based on the 2017 test expires in January 2020.

Effective October 21, 2017, 30 Sergeants from the 2017 list were promoted to Lieutenant; Sgt. Lee was not selected even though 15 candidates who ranked below him were promoted. Subsequently, Sgt. Lee discovered some of these candidates not only ranked lower than him, but also had inferior qualifications. Some of the selected candidates had known disciplinary issues. Sgt. Lee complained to the Chief of Police, William Scott, about the unfair promotional decisions but was told that there would be a second round of promotions and he had a good chance to be promoted then. Sgt. Lee is informed and believes that nothing was done to investigate or remedy his complaint.

In the second round of promotions, effective November 17, 2018, 15 Sergeants were promoted to Lieutenant. Sgt. Lee was not selected even though 11 candidates who ranked below him were promoted. Again, some of these candidates had inferior qualifications to Sgt. Lee and at least two of the selected candidates had known disciplinary issues. Commander Greg Yee, who was also serving as Acting Deputy Chief, inexplicably was not invited to the hiring board meeting where the Command Staff determine promotions. Mr. Yee had recommended Sgt. Lee for a promotion; by not allowing him to attend the meeting, it further blocked Sgt. Lee from being selected for a promotion.

After the second round of promotions, Sgt. Lee complained to Commander Walsh about promotional decisions. His complaint, in part, stated that he was being denied a promotion for reporting misconduct by two officers in 2013, as discussed above. Still, nothing was done.

When making promotion decisions, SFPD considers rank on the eligible list as well as "secondary criteria". "Secondary criteria" includes: assignments; training; education; special qualifications; commendations; awards; bilingual certification and disciplinary history. As mentioned above, Sgt. Lee worked at five of the ten district stations, in addition to the Airport Bureau. He has served on a variety of assignments, including: patrol; background investigations; school car; foot beat; plainclothes and administrative work. He has led several large projects for SFPD and volunteered in the community. Additionally, he served two years as an Acting Lieutenant on the Midnight Watch at Richmond Station. He has taken numerous training courses and has a Bachelor's degree in Criminal Justice Management and Master's degree in Management and Leadership (which is directly compatible with the job of Lieutenant). Many of the candidates who were promoted had only a high school education, demotion history, suspensions, open cases and lawsuits, serious disciplinary issues, and/or DUI arrests. Sgt. Lee, on the other hand, has documented outstanding performance, has never been suspended, and has

superior experience and higher education. Further, there are current members on the Command Staff with past misdemeanor arrest records and/or serious disciplinary records, which did not impact their promotional opportunities.

Based on the foregoing, Sgt. Lee has been denied rightful promotion in retaliation for his protected complaint of misconduct by fellow officers in violation of Labor Code section 1102.5. Because of this unlawful conduct, Sgt. Lee has suffered past and future wage loss, promotional opportunities (he is not eligible to take the Captain's examination unless he is a Lieutenant), pension and benefit loss, as well as emotional distress.

Please note that Sgt. Lee has also asserted race and national origin and gender discrimination claims against the City and County of San Francisco and SFPD, which claims have been exhausted by obtaining a Right to Sue from the Department of Fair Employment and Housing. If the City and County of San Francisco needs further information regarding the discrimination and related retaliation claims, Sgt. Lee will provide it upon request. This complaint is intended to comply with Government Code section 810, *et seq.*; however, nothing stated in this complaint shall be deemed a waiver of Sgt. Lee's rights and remedies at law or equity, which are expressly reserved.



One California Street, 12th Floor  
San Francisco, CA 94111



7014 2120 0000 4535 2156

NEOPOST  
05/13/2019  
USPS POSTAGE \$00  
ZI  
0411

City and County of San Francisco  
Controller's Office  
Claims Division  
1390 Market Street, 7th Floor  
San Francisco, CA 94102-5408

# **Exhibit D**

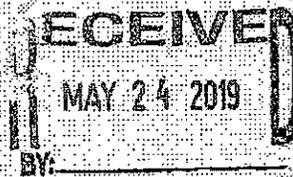
CITY AND COUNTY OF SAN FRANCISCO

OFFICE OF THE CITY ATTORNEY



DENNIS J. HERRERA  
City Attorney

Matthew J. Rothschild  
Chief of Claims Division



DIRECT DIAL: (415) 554-3926  
E-MAIL: MATTHEW.ROTHSCHILD@SFCITYATTY.ORG

May 21, 2019

Jennifer Schwartz, Esq.  
Outten & Golden LLP  
One California Street, 12th Floor  
San Francisco, CA 94111

RE: Claim of Kevin Lee / Claim Number 19-02779

Department: SFPD SFPD Claims and Litigation  
Incident Date: November 17, 2018  
Claim Filed: May 13, 2019

**NOTICE OF ACTION UPON CLAIM**

**PLEASE TAKE NOTICE THAT**

An investigation of your claim filed with the City and County of San Francisco has revealed no indication of liability on the part of the City and County. Accordingly, your claim is DENIED.

**WARNING**

Subject to certain exceptions, you have only six (6) months from the date this notice was personally delivered or deposited in the mail to file a court action on this claim. See Government Code section 945.6. This time limitation applies only to causes of action arising under California law for which a claim is mandated by the California Government Claims Act, Government Code sections 900 et. seq. Other causes of action, including those arising under federal law, may have shorter time limitations for filing.

You may seek the advice of an attorney of your choice in connection with this matter. If you desire to consult an attorney, you should do so immediately.

Please also be advised that, pursuant to Code of Civil Procedure sections 128.7 and 1038, the City and County of San Francisco will seek to recover all costs of defense in the event an action is filed in this matter and it is determined that the action was not brought in good faith and with reasonable cause.

Very truly yours,

DENNIS J. HERRERA  
City Attorney

Matthew J. Rothschild  
Chief of Claims Division

Claim of: Kevin Lee

Claim Filed: May 13, 2019

I, Tonya Breaux, say: I am a citizen of the United States, over eighteen years of age, and not a party to the within action; that I am employed by the City Attorney's Office of San Francisco, Fox Plaza, 1390 Market Street, 7th Floor, San Francisco, CA 94102.

That on May 21, 2019 I served:

**NOTICE OF ACTION UPON CLAIM**

by placing a true copy thereof in an envelope addressed to:

Jennifer Schwartz, Esq.  
Outten & Golden LLP  
One California Street, 12th Floor  
San Francisco, CA 94111

Following ordinary business practices, I sealed true and correct copies of the above documents in addressed envelope(s) and placed them at my workplace for collection and mailing with the United States Postal Service. I am readily familiar with the practices of the San Francisco City Attorney's Office for collecting and processing mail. In the ordinary course of business, the sealed envelope(s) that I placed for collection would be deposited, postage prepaid, with the United States Postal Service that same day.

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

Executed on May 21, 2019 at San Francisco, California



Tonya Breaux

**DECLARATION OF SERVICE BY MAIL**

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, telephone number, and address):  
Menaka Fernando, Esq. (SBN 2713)  
Zoë DeGeer, Esq. (SBN 298698)  
Outten & Golden LLP, One California St, 12th Floor  
San Francisco, CA 94111  
TELEPHONE NO.: (415) 638-8800 FAX NO.: (415) 638-8810  
ATTORNEY FOR (Name): Plaintiff Kevin Lee

FOR COURT USE ONLY  
**FILED**  
San Francisco County Superior Court  
NOV 22 2019  
BY: CLERK OF THE COURT  
Deputy Clerk

SUPERIOR COURT OF CALIFORNIA, COUNTY OF San Francisco  
STREET ADDRESS: 400 McAllister Street  
MAILING ADDRESS:  
CITY AND ZIP CODE: San Francisco, CA 94102  
BRANCH NAME:

CASE NAME:  
Kevin Lee v. City and County of San Francisco, et al

**CIVIL CASE COVER SHEET**  
 **Unlimited** (Amount demanded exceeds \$25,000)  
 **Limited** (Amount demanded is \$25,000 or less)

**Complex Case Designation**  
 **Counter**  **Joinder**  
Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)

CASE NUMBER: CGC-19-580969  
JUDGE:  
DEPT:

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:
- |   |  |  |
|---|--|--|
| <b>Auto Tort</b><br><input type="checkbox"/> Auto (22)<br><input type="checkbox"/> Uninsured motorist (46)<br><b>Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort</b><br><input type="checkbox"/> Asbestos (04)<br><input type="checkbox"/> Product liability (24)<br><input type="checkbox"/> Medical malpractice (45)<br><input type="checkbox"/> Other PI/PD/WD (23)<br><b>Non-PI/PD/WD (Other) Tort</b><br><input type="checkbox"/> Business tort/unfair business practice (07)<br><input type="checkbox"/> Civil rights (08)<br><input type="checkbox"/> Defamation (13)<br><input type="checkbox"/> Fraud (16)<br><input type="checkbox"/> Intellectual property (19)<br><input type="checkbox"/> Professional negligence (25)<br><input type="checkbox"/> Other non-PI/PD/WD tort (35)<br><b>Employment</b><br><input type="checkbox"/> Wrongful termination (36)<br><input checked="" type="checkbox"/> Other employment (15) | <b>Contract</b><br><input type="checkbox"/> Breach of contract/warranty (06)<br><input type="checkbox"/> Rule 3.740 collections (09)<br><input type="checkbox"/> Other collections (09)<br><input type="checkbox"/> Insurance coverage (18)<br><input type="checkbox"/> Other contract (37)<br><b>Real Property</b><br><input type="checkbox"/> Eminent domain/Inverse condemnation (14)<br><input type="checkbox"/> Wrongful eviction (33)<br><input type="checkbox"/> Other real property (26)<br><b>Unlawful Detainer</b><br><input type="checkbox"/> Commercial (31)<br><input type="checkbox"/> Residential (32)<br><input type="checkbox"/> Drugs (38)<br><b>Judicial Review</b><br><input type="checkbox"/> Asset forfeiture (05)<br><input type="checkbox"/> Petition re: arbitration award (11)<br><input type="checkbox"/> Writ of mandate (02)<br><input type="checkbox"/> Other judicial review (39) | <b>Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403)</b><br><input type="checkbox"/> Antitrust/Trade regulation (03)<br><input type="checkbox"/> Construction defect (10)<br><input type="checkbox"/> Mass tort (40)<br><input type="checkbox"/> Securities litigation (28)<br><input type="checkbox"/> Environmental/Toxic tort (30)<br><input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41)<br><b>Enforcement of Judgment</b><br><input type="checkbox"/> Enforcement of judgment (20)<br><b>Miscellaneous Civil Complaint</b><br><input type="checkbox"/> RICO (27)<br><input type="checkbox"/> Other complaint (not specified above) (42)<br><b>Miscellaneous Civil Petition</b><br><input type="checkbox"/> Partnership and corporate governance (21)<br><input type="checkbox"/> Other petition (not specified above) (43) |
|---|--|--|

2. This case  is  is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- |  |  |
|--|--|
| a. <input type="checkbox"/> Large number of separately represented parties   | d. <input type="checkbox"/> Large number of witnesses  |
| b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court |
| c. <input type="checkbox"/> Substantial amount of documentary evidence   | f. <input type="checkbox"/> Substantial postjudgment judicial supervision  |
3. Remedies sought (check all that apply): a.  monetary b.  nonmonetary, declaratory or injunctive relief c.  punitive
4. Number of causes of action (specify): Six
5. This case  is  is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: November 22, 2019  
Menaka Fernando

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

(TYPE OR PRINT NAME)

**NOTICE**

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

**From:** Tony Montoya <tony@sfpoa.org>  
**Sent:** Tuesday, February 25, 2020 13:16  
**To:** Johnson, Dave (HRD) <dave.johnson@sfgov.org>  
**Subject:** RE: Q080 Job Announcement

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Good Afternoon Dave,

The POA has no objection to the Q80 job announcement.

Sincerely,

Tony

**From:** Johnson, Dave (HRD) <[dave.johnson@sfgov.org](mailto:dave.johnson@sfgov.org)>  
**Sent:** Monday, February 24, 2020 11:08 AM  
**To:** Tony Montoya <[tony@sfpoa.org](mailto:tony@sfpoa.org)>  
**Cc:** Cruz, Liezel (HRD) <[liezel.cruz@sfgov.org](mailto:liezel.cruz@sfgov.org)>  
**Subject:** Q080 Job Announcement

Good morning Mr. Montoya,

In accordance with Civil Service Commission rule 211.5, I am attaching the draft job announcement for Q080 Captain. Please let me know by Monday, March 30, 2020 if you have any questions or concerns regarding the announcement.

Thank you.

Sincerely,

**Dave Johnson, Public Safety Team Manager**  
Department of Human Resources  
One South Van Ness Ave., 4<sup>th</sup> Floor  
San Francisco, CA 94103  
Phone: (415) 557-4871  
Website: [www.sfdhr.org](http://www.sfdhr.org)

Connecting People with Purpose