

CIVIL SERVICE COMMISSION CITY AND COUNTY OF SAN FRANCISCO

EDWIN M. LEE
MAYOR

Sent via U.S. Mail

April 24, 2014.

SCOTT R. HELDFOND
PRESIDENT

E. DENNIS NORMANDY
VICE PRESIDENT

DOUGLAS S. CHAN
COMMISSIONER

KATE FAVETTI
COMMISSIONER

GINA M. ROCCANOVA
COMMISSIONER

Mandana Siyadat

NOTICE OF CIVIL SERVICE COMMISSION MEETING

SUBJECT: APPEAL BY MANDANA SIYADAT OF THE HUMAN RESOURCES DIRECTOR'S DETERMINATION THAT THERE WAS INSUFFICIENT EVIDENCE TO SUSTAIN HER ALLEGATION OF HARASSMENT/HOSTILE WORK ENVIRONMENT DUE TO HER GENDER AND NATIONAL ORIGIN. EEO FILE NO. 1652.

Dear Ms. Siyadat:

The above matter will be considered by the Civil Service Commission at a meeting to be held on May 5, 2014 at 2:00 p.m. in Room 400, Fourth Floor, City Hall, 1 Dr. Carlton B. Goodlét Place.

The agenda will be posted for your review on the Civil Service Commission's website at www.sfgov.org/Civil_Service under "Meeting" no later than end of day on Wednesday, April 30, 2014. Please refer to the attached Notice for procedural and other information about Commission hearings. A copy of the department's staff report on your appeal is available for your review at the Civil Service Commission's office located at 25 Van Ness Avenue, Suite 720, San Francisco. If, however, you would like an electronic copy of the staff report, you may email your request to CivilService@sfgov.org.

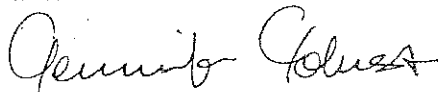
In the event that you wish to submit any additional documents in support of your appeal, the deadline for receipt in the Commission office is 5:00 p.m. on Tuesday, April 29, 2014 (as a reminder, we require an original and eight copies of any supplemental materials you wish to submit—all double-sided, hole-punched, paper-clipped and numbered). Again, please be sure to redact your submission for any confidential or sensitive information that is not relevant to your appeal (e.g., home addresses, home or cellular phone numbers, social security numbers, dates of birth, etc.), as it will be considered a public document.

It is important that you or an authorized representative attend the hearing on your appeal. Should you or a representative not attend, the Commission will rule on the information previously submitted and any testimony provided at its meeting. All calendared items will be heard and resolved at this time unless good reasons are presented for a continuance. As a reminder, you are to be honest and forthright during all testimony and in all documentation that you provide to the Civil Service Commission.

All non-privileged materials being considered by the Civil Service Commission for this item are available for public inspection and copying at the Civil Service Commission office Monday through Friday from 8:00 a.m. to 5:00 p.m.

You may contact me at (415) 252-3247 or at Jennifer.Johnston@sfgov.org if you have any questions.

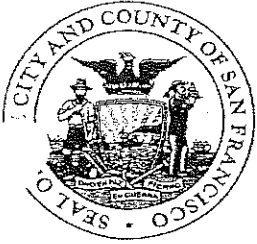
CIVIL SERVICE COMMISSION



JENNIFER JOHNSTON
Executive Officer

Attachment

Cc: Linda Simon, Department of Human Resources
Matthew Valdez, Department of Human Resources
Ron Weigelt, Department of Human Resources
Barbara A. Garcia, Department of Public Health
Commission File
Commissioners' Binder
Chron



CIVIL SERVICE COMMISSION CITY AND COUNTY OF SAN FRANCISCO

EDWIN M. LEE
MAYOR

NOTICE OF CIVIL SERVICE COMMISSION MEETING

Sent via U.S. Mail

April 24, 2014

SCOTT R. HELDFOND
PRESIDENT

Brian Moser

E. DENNIS NORMANDY
VICE PRESIDENT

DOUGLAS S. CHAN
COMMISSIONER

Subject: APPEAL BY MANDANA SIYADAT OF THE HUMAN RESOURCES DIRECTOR'S DETERMINATION THAT THERE WAS INSUFFICIENT EVIDENCE TO SUSTAIN HER ALLEGATION OF HARASSMENT/HOSTILE WORK ENVIRONMENT DUE TO HER GENDER AND NATIONAL ORIGIN, EEO FILE NO. 1652.

KATE FAVETTI
COMMISSIONER

GINA M. ROCCANOVA
COMMISSIONER

Dear Mr. Moser:

DEBRA C. JOHNSTON
EXECUTIVE OFFICER

As you may be aware, Mandana Siyadat filed the above-referenced complaint with the Department of Human Resources ("DHR") alleging that you subjected her to harassment/hostile work environment due to her gender and national origin. DHR investigated Ms. Siyadat's allegations, and the Human Resources Director determined that there was insufficient evidence to sustain the complaint. Ms. Siyadat has appealed that determination to the Civil Service Commission.

In accordance with the City Charter and Civil Service Rules, the Commission may sustain, modify or reverse the Human Resources Director's determination; and may effectuate an appropriate remedy in the event that it finds harassment/hostile work environment. Any such finding is binding on City departments. The Commission may not impose discipline on an employee, but in an appropriate case may recommend that the department consider discipline.

The Equal Employment Opportunity Division of DHR will present and defend the Human Resources Director's determination on Ms. Siyadat's complaint at the Civil Service Commission meeting to be held on May 5, 2014 at 2:00 p.m. in Room 400, Fourth Floor, City Hall, 1 Dr. Carlton B. Goodlett Place. The Commission will have received the DHR staff report, which reviews the evidence pertaining to the complaint and supports the Human Resources Director's determination, in advance of the meeting. You will have an opportunity to address Ms. Siyadat's allegations at the Commission meeting, if you wish to do so, although you are not required to appear. The Commission will rule on the information previously submitted and any testimony or other evidence provided at its meeting.

THIS DOCUMENT IS UNCLASSIFIED
DATE 10/10/10 BY 10

The May 5th meeting agenda will be posted on the Civil Service Commission's website at [www.sfgov.org/Civil Service](http://www.sfgov.org/Civil_Service) under "Meeting" no later than end of day on Tuesday, April 29, 2014. Additionally, hard copies of DHR's staff report regarding Ms. Siyadat's appeal will be available for review at the Commission's office located at 25 Van Ness Avenue, Suite 720, San Francisco; however, you may also contact the Commission at CivilService@sfgov.org to request that a copy of the report be emailed to you instead.

You may contact me at Jennifer.Johnston@sfgov.org or (415) 252-3247 should you have any questions.

Sincerely,

CIVIL SERVICE COMMISSION



Jennifer Johnston
Executive Officer

Cc: Micki Callahan, Human Resources Director
Linda Simon, Director, DHR EEO Programs and Leave Management Program
Mathew Valdez, Department of Human Resources

**ORIGINAL APPEAL
SUBMITTED BY
APPELLANT**



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

CSC Register No.
 2028-14-6

To: X M. Callahan

CC: D. Kotake
 L. Simon
 R. Weigelt

APPEAL TO THE CIVIL SERVICE COMMISSION

INSTRUCTIONS:

Submit an original copy of this form to the Executive Officer of the Civil Service Commission at the address above **within the designated number of days** 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. (E-mail is not accepted.) It is recommended that you include all relevant information and documentation in support of your appeal.

TYPE OF APPEAL: (Check One)

- Examination Matters (by close of business on 5th working day)
- Employee Compensation Matters (by close of business on 7th working day) - Limited application
- Personal Service Contracts (Posting Period)
- Other Matters (i.e., Human Resources Director/Executive Officer Action) (30 Calendar days)
- Future Employability Recommendations (See Notice to Employee)

Full Name of Appellant		Work Address	Work Telephone	
Mandana Siyadat		SFGH-1001 Potrero Ave; SF	415 206 8020	
Job Code	Title	Department		
469	Diagnostic Imaging Technologist III	DPH -SFGH-Radiology		
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)

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

Mandana Siyadat
 Original Signature of Appellant or Authorized Representative

2014 FEB 14 AM 11:26 -13-14
 Date

CSC-12 (5/13) Date Received by Civil Service Commission: _____

Civil Service Commission
City and County of San Francisco
25 Van Ness Avenue, Suite 720
San Francisco, CA 94102-6033

February 13, 2014

Dear Ms Jennifer Johnston, Executive Director

Re: Discrimination Complaint, DHR EEO File No. 1652 - Appeal

I would like to appeal the decision by Micki Callahan regarding my Discrimination and Harassment Complaint dated September 27, 2011, Ms Callahan decided on the complaint on January 17, 2014.

My complaint was made on the basis of gender (female) and national origin (Iran).

In regards to the first paragraph of Ms. Callahan's Determination (Section V), I agree with the substance of the investigation and the finding of Discrimination.

In regards to the second paragraph, I strongly disagree. I do not believe that much effort has been put forth to review my case as a series of events culminating in a tangible change of work status. Harassment can be viewed as a form of discrimination conducted over a period of time.

BASIS OF THIS APPEAL

My primary objection to the decision lies in the fact that the analysis fails to see my situation as a long and painful series of intimidating and antagonistic verbal and non-verbal events ending in a drastic change in my job which not only impacted my work life but my family life as well.

The reviewer has isolated the incidents instead of viewing the whole picture, the ethnic and gender slurs, and my unwillingness to accept them, are the point of departure from which the harassment exacerbated. There has been a clear pattern of abuse over time

For example:

In my complaint, I stated Mr. Moser's prejudicial and hostile attitude toward me heightened after I told him that I did not appreciate his comments about me as an "Iranian".

By appealing I would like to bring to your attention the fact that Ms Callahan's decision overlooks the root cause of the harassment, i.e. Mr. Moser's prejudice which in conjunction with Radiology's Department's cooperation caused me to be disciplined, (I was stripped of my duties in the Avon Breast Center and probationary period was extended.)

My position in the Avon Breast Center was ultimately changed in favor of a blonde, blue-eyed Caucasian woman. Essentially, I was demoted.

Moreover, I want to present new information that validates my assertion that over the course of the period delineated in my initial complaint, and for a period of time after submitting the complaint, Mr. Moser has subjected me to both verbal and non-verbal harassment.

The incidents, which I presented as a sequence, and perceive as having been the result of Mr., Moser's racial and ethnic prejudices, Ms Callahan has compartmentalized so that harassment is not viewed as a gestalt but rather as isolated, unrelated events.

For example:

- On page 4 Ms Callahan does not look at the series of events when she states: "Two inappropriate comments over a four (4) month period do not rise to the level of being severe..."
- The two comments were only the beginning of the harassment. One ethnic or racial slur is indicative of a prejudicial attitude.
- I would like to call to your attention a statement made by Fred Evens that was submitted with my complaint in which he states that Moser referred to me a "dumb Indian" woman. This statement alone, indicates, Moser's hostility toward both my gender and ethnicity.

After making derogatory comments to me Moser proceeded, with the collaboration of management (Rafael Ibarra, Acting Director of Radiology at that time) to fabricate issues regarding my job performance, which caused me to be reassigned and essentially demoted. For example:

- Moser's claimed that I was out of compliance with Federal Mammography regulations. (See my original complaint, incident on May 2011).
- Ms Callahan states under Allegations B that it is "more likely than not that your probation was extended because of your gender and national origin"

Furthermore, I was obligated, for fear of dismissal, to comply with the specious assertions that I was inattentive to my duties even though I presented to Moser and Ibarra the proof that I was not out of compliance with regulations.

According to U.S. Equal Employment Opportunity Commission (see attached):

"harassment is illegal when it is so frequent or severe that it creates a hostile or offensive work environment or when it results in an adverse employment decision (such as the victim being fired or demoted)" (see attached)

As I stated in my initial complaint following Moser's comments to me as an Iranian:

- I was first forced from my position as Lead Tech in Mammography based on fabricated allegations,
- Then due to the constant harassment, such as comments about my personal appearance and my use of shampoo, which were said in such a manner as to imply, I am dirty. including Moser's non-verbal hostility, I had to change my entire life, move to a new shift and position in order to avoid the constant harassment, verbal and non verb

NEW INFORMATION

I.

- In 2012 Radiology hired a new Director, David Sostarich
- Sometime after Mr. Sostarich's was hired Mr. Moser was removed from his position in the Avon Breast Center
- Moser was moved to an office in the area where I had moved in order to avoid him
- On May 6, 2013 I had another incident with Moser which I reported to the new Director (see the copy of the email to Sostarich dated May 6, 2013 which I cc'ed to Matthew Valdez at DHR who was investigating my complaint) (see attached)
- Following my conversation with and email to Mr. Sostarich, the new Director told me verbally that he would speak to Mr. Moser regarding the incident.
- Since then, Mr., Moser has kept his distance from me.

II

- Since Moser and Radiology took my Avon Breast Center position away from me a blonde, blue-eyed Caucasian woman has been given my position.

Moser's behavior has changed only since department management changed.

If the management of the department hadn't changed in 2012, I believe that the harassment would be ongoing based on past incidents.

Please note however, I am still very uncomfortable and feel very threatened by having to work in proximity to Mr. Moser, who sneers at me when cross paths. I am also uneasy knowing that he harassed me without consequence.

Therefore, in order to feel whole as an ethnic woman, I am requesting that your department further investigate in regards to paragraph two (2) of Ms Callahan's determination.

Additionally, I would like a letter of apology from the accused and the Radiology Department.

Sincerely,

Mandana Siyadat



From: "Valdez,Matthew" <matthew.valdez@sfgov.org>
To: "Siyadat,Mandana"

Date: Tuesday, May 07, 2013 06:13PM
Subject: RE: Hostile work environment

Hi Mandana,

Thank you for bringing this to my attention. I understand that you are currently addressing this incident through management at DPH. If you have any questions, please feel free to give me a call at 557-4982.

Thanks,

Matthew

From: Mandana Siyadat [mailto:]
Sent: Monday, May 06, 2013 10:42 PM
To: Sostarich, David
Cc: Valdez, Matthew; gus.feldman@seiu1021.org
Subject: Hostile work environment
Importance: High

Just to recap our conversation earlier today Monday May 6, 2013, @ 2:00 PM I came to your office, and spoke to you to make you aware of an incident that I described to you as follows:

- When I arrived to work @ 1:30 PM , I entered the Charge tech office, Brian Moser, and Donald Chin were in the Charge tech office discussing their assignment.
- Donald got up from my chair, and said that he was just keeping my chair warm for me.
- I sat at my desk waiting to start my work, but they were distracting.
- I asked them if they can go somewhere else to continue their work since this is a very small office, (I know that Moser has his own office).
- I was completely ignored, and I left the office to come to your office to talk to you.

When I got to your office and explained this incident to you, in addition I also explained:

- Moser always manages to either be in the Charge Tech office , or in the front desk when I arrive to work.

- It is my perception that he does this deliberately to get a rise out of me.
- As you know I have an unpleasant history with him.
- I have filed a harassment, and discrimination charges against Moser.
- I removed myself from Avon Breast Center, and changed my whole life to be away from him, and the hostile work environment that he, and ultimately with the support of the management that I was subject to.
- Now that he was removed from Avon Breast Center which originally was hired to be the Supervisor of, and instead been assigned to work where I am, I feel that Moser is subjecting me to a hostile work environment again.
- I am not sure how long does this investigation takes, **All I know is that it has been 2 long years that I have been subjected to an on going harassment.**

I sincerely hope that you as the Director of the radiology department will do something to provide a pleasant work environment.

Thank you

Mandana Siyadat
Lead Technologist
Avon Comprehensive Breast Center
San Francisco General Hospital



U.S. Equal Employment
Opportunity Commission

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Type](#)

[Prohibited Practices](#)

National Origin Discrimination

National origin discrimination involves treating people (applicants or employees) unfavorably because they are from a particular country or part of the world, because of ethnicity or accent, or because they appear to be of a certain ethnic background (even if they are not).

National origin discrimination also can involve treating people unfavorably because they are married to (or associated with) a person of a certain national origin or because of their connection with an ethnic organization or group.

Discrimination can occur when the victim and the person who inflicted the discrimination are the same national origin.

National Origin Discrimination & Work Situations

The law forbids discrimination when it comes to any aspect of employment, including hiring, firing, pay, job assignments, promotions, layoff, training, fringe benefits, and any other term or condition of employment.

National Origin & Harassment

It is unlawful to harass a person because of his or her national origin. Harassment can include, for example, offensive or derogatory remarks about a person's national origin, accent or ethnicity. Although the law doesn't prohibit simple teasing, offhand comments, or isolated incidents that are not very serious, harassment is illegal when it is so frequent or severe that it creates a hostile or offensive work environment or when it results in an adverse employment decision (such as the victim being fired or demoted).

Employer Coverage

15 or more employees

Time Limits

180 days to [file a charge](#)
(*may be extended by state laws*)

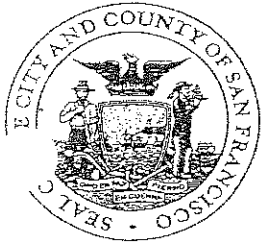
Federal employees have 45 days to [contact an EEO counselor](#)

For more information, see:

- ▶ [Facts About National Origin Discrimination](#)
- ▶ [Title VII of the Civil Rights Act of 1964](#)
- ▶ [Regulations: 29 C.F.R. Part 1606](#)
- ▶ [Policy & Guidance](#)
- ▶ [Statistics](#)

Additional Information

- ▶ [Questions and Answers About the Workplace Rights of Muslims, Arabs, South Asians, and Sikhs Under the Equal Employment Opportunity Laws](#)
- ▶ [Questions and Answers About Employer](#)



CIVIL SERVICE COMMISSION CITY AND COUNTY OF SAN FRANCISCO

EDWIN M. LEE
MAYOR

NOTICE OF RECEIPT OF APPEAL

SCOTT R. HELDFOND
PRESIDENT

E. DENNIS NORMANDY
VICE PRESIDENT

DOUGLAS S. CHAN
COMMISSIONER

KATE FAVETTI
COMMISSIONER

GINA M. ROCCANOVA
COMMISSIONER

DATE: February 18, 2014

REGISTER NO.: 0028-14-6

APPELLANT: MANDANA SIYADAT

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

Dear Ms. Callahan:

The Civil Service Commission has received the attached letter from Ms. Mandana Siyadat, appealing the Human Resources Director's decision on her discrimination complaint EEO File No. 1652. 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/Civil_Service under "Procedures and Forms."

In the event that Ms. Siyadat'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 April 24, 2014** so that it may be heard by the Civil Service Commission at its meeting on May 5, 2014. If you will be unable to transmit the staff report by the April 24th deadline, or if required departmental representatives will not be available to attend the May 5th 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.

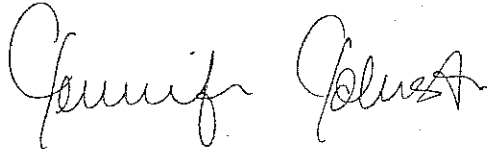
You may contact me at Jennifer.Johnston@sfgov.org or (415) 252-3250 if you have any questions. For more information regarding staff report requirements,

Appellant: Mandana Siyadat
February 18, 2014
Page 2

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

Sincerely,

CIVIL SERVICE COMMISSION

A handwritten signature in black ink, appearing to read "Jennifer Johnston". The signature is written in a cursive style with a large initial "J".

JENNIFER JOHNSTON
Executive Officer

Attachment

Cc: Donna Kotake, Department of Human Resources
Linda Simon, Department of Human Resources
Ron Weigelt, Department of Public Health



CIVIL SERVICE COMMISSION CITY AND COUNTY OF SAN FRANCISCO

EDWIN M. LEE
MAYOR

Sent via U.S. Mail

February 18, 2014

Mandana Siyadat

SCOTT R. HELDFOND
PRESIDENT

E. DENNIS NORMANDY
VICE PRESIDENT

DOUGLAS S. CHAN
COMMISSIONER

KATE FAVETTI
COMMISSIONER

GINA M. ROCCANOVA
COMMISSIONER

Subject: **Register No. 0028-14-6: Appealing the Human Resources Director's decision on your discrimination complaint File No. 1652**

Dear Ms. Siyadat:

This is in response to your appeal submitted to the Civil Service Commission on February 14, 2014 appealing the Human Resources Director's decision on your discrimination complaint File No. 1652. 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 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 located at 25 Van Ness Avenue, Suite 720, San Francisco, CA 94102. If you would instead prefer Commission staff to email you a copy of the meeting notice and staff report, please submit your request to CivilService@sfgov.org (this will also result in your receiving the meeting notice and staff report a few days sooner).

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 eight 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 at Jennifer.Johnston@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/Civil_Service.

Sincerely,

CIVIL SERVICE COMMISSION

JENNIFER JOHNSTON
Executive Officer

JENNIFER C. JOHNSTON
EXECUTIVE OFFICER

STAFF REPORT




CIVIL SERVICE COMMISSION CITY AND COUNTY OF SAN FRANCISCO

CIVIL SERVICE COMMISSION REPORT TRANSMITTAL (FORM 22)

Refer to Civil Service Commission Procedure for Staff - Submission of
Written Reports for Instructions on Completing and Processing this Form

1. Civil Service Commission Register Number: 0028 - 14 - 6
2. For Civil Service Commission Meeting of:
3. Check One: Ratification Agenda
 Consent Agenda
 Regular Agenda
 Human Resources Director's Report
4. Subject: Appeal by Mandana Siyadat of the Human Resources Director's determination that there was insufficient evidence to sustain her allegation of harassment/hostile work environment due to her gender and national origin.
5. Recommendation: Adopt the report and deny Ms. Siyadat's appeal.
6. Report prepared by: Matthew Valdez, DHR/EEO Telephone number: (415) 557-4982
7. Notifications: See Attached
8. Reviewed and approved for Civil Service Commission Agenda:

Human Resources Director: Micki Callahan 

Date: April 22, 2014

9. Submit the original time-stamped copy of this form and person(s) to be notified (see Item 7 above) along with the required copies of the report to:

Executive Officer, Civil Service Commission
25 Van Ness Avenue, Suite 720, San Francisco, CA 94102

10. Receipt-stamp this form in the "CSC RECEIPT STAMP" box to the right using the time-stamp in the CSC Office.

<u>CSC RECEIPT STAMP</u>

Attachment
CSC-22 (11/97)

CIVIL SERVICE COMMISSION REPORT

MEMORANDUM

TO: Civil Service Commission

THROUGH: Micki Callahan, Human Resources Director

THROUGH: Linda Simon, Director, EEO and Leave Management Programs

FROM: Matthew Valdez, EEO Programs Senior Specialist

DATE: April 22, 2014

EEO FILE NO: 1652

REGISTER NO: 0028-14-6

APPELLANT: Mandana Siyadat

1. Authority

The San Francisco Charter, Section 10.103, and Civil Service Commission Rules provide that the Human Resources Director shall review and resolve complaints of employment discrimination. Pursuant to Civil Service Commission Rules, Section 103.3, the Civil Service Commission shall review and resolve appeals of the Human Resources Director's determinations.

2. Summary

a. Background

Mandana Siyadat is a 2469 Diagnostic Imaging Technologist III employed with the Department of Public Health (DPH). She is assigned to San Francisco General Hospital's (SFGH) Department of Radiology. On September 30, 2011, she filed a complaint with DPH EEO, alleging that Brian Moser (male), 2496 Radiologic Technologist Supervisor, subjected her to a hostile work environment because of her gender (female) and national origin (Iran). She also alleged that Mr. Moser and DPH subjected her to discrimination based on her gender and national origin, and to retaliation for opposing discrimination.

On September 30, 2011, Ms. Siyadat submitted a letter of complaint to DPH EEO alleging harassment/hostile work environment and discrimination based on gender and

national origin. On October 5, 2011, Ms. Siyadat submitted to DPH EEO a follow-up complaint, in which she raised allegations of retaliation in addition to her previous allegations of discrimination and harassment/hostile work environment.

Specifically, Ms. Siyadat made the following allegations:

- A. Between February 2011 and May 2011, Brian Moser subjected her to harassment/hostile work environment by making inappropriate comments based on her gender and national origin;
- B. On May 25, 2011, the Department extended her probation because of her gender and national origin, and due to retaliation;
- C. On June 7, 2011, the Department removed her Charge Technologist responsibilities because of her gender and national origin, and due to retaliation;
- D. On June 9, 2011, the Department changed her work location from four (4) days at Avon each week to two (2) days at Avon and two (2) days at Main each week because of her gender and national origin, and due to retaliation;
- E. On July 22, 2011, the Department removed her Quality Control (QC) responsibilities because of her gender and national origin, and due to retaliation;
- F. On July 12, 2011 and October 6, 2011, the Department denied her training because of her gender and national origin, and due to retaliation;
- G. On October 6, 2011, the Department gave her a performance evaluation rating of "Does Not Meet Standards" because of her gender and national origin, and due to retaliation;
- H. On July 21, 2011, Mr. Moser threatened to write her up for insubordination due to retaliation; and,
- I. On October 6, 2011, she was singled out having a second supervisor sit in on her PPAR evaluation meeting due to retaliation.

The complaint was assigned to Zachary Williams, 1241 Personnel Analyst, DPH EEO, for investigation. On December 20, 2012, the investigation was reassigned to Matthew Valdez, Department of Human Resources (DHR) EEO Programs Specialist. Mr. Valdez conducted a supplemental investigation.

b. Human Resources Director's Determination

The Human Resources Director reviewed the investigative report and determined that there was sufficient evidence to support a finding of discrimination and retaliation in Allegation B, Allegation C, Allegation F¹, and Allegation G.

¹ Allegation F contained two allegations of denial of training. The Human Resources Director determined there was sufficient evidence to support the allegation as to the July 12, 2011 denial of training, and that there was insufficient evidence to support the allegation as to the October 6, 2011 denial of training.

The Human Resources Director also determined that there was insufficient evidence to support Allegation A, Allegation D, Allegation E, Allegation F², Allegation G, Allegation H, and Allegation I.

On January 17, 2014, the Human Resources Director issued a determination letter to Ms. Siyadat and to the Department of Public Health. (Exhibits B & C, pp. 367-394)

3. Issue on Appeal to the Civil Service Commission

On February 18, 2014, Ms. Siyadat appealed the Human Resources Director's determination. (Exhibit E, pp. 401-412)

Ms. Siyadat only appeals the Human Resources Director's determination on **Allegation A: Hostile Work Environment due to Gender and National Origin**. Ms. Siyadat states that the analysis failed to take all of her allegations into account. (Exhibit E, p. 407)

The only issue on appeal is whether the Human Resources Director's correctly determined there was insufficient evidence to sustain Ms. Siyadat's allegation of harassment/hostile work environment due to her gender (female) and national origin (Iran). Specifically, that between February 2011 and May 2011, Brian Moser subjected her to a hostile work environment by making inappropriate comments.

4. The Standards

To establish a claim of harassment/hostile work environment, Ms. Siyadat must establish all of the following:

Harassment/Hostile Work Environment

- (1) The Appellant was subjected to physical, verbal, or visual conduct on account of the Appellant's membership in a protected category;
- (2) The conduct was unwelcome; and
- (3) The conduct was sufficiently severe or pervasive to alter the condition of Appellant's employment and create an abusive working environment.

5. Findings/Analysis

a. The Evidence Did Not Support Ms. Siyadat's Harassment/Hostile Work Environment Claim Based on Gender and National Origin

Ms. Siyadat alleged that on February 18, 2011 and May 10, 2011, Mr. Moser commented that a volatile patient was "like Iranian women" while gesturing toward her. Also in May 2011, Mr. Moser said, "Oh you got a haircut, so you don't have to use too much

² See Footnote 1.

shampoo.” Ms. Siyadat was unable to explain why she believed the comment relating to her haircut was motivated by her gender or national origin.

Mr. Moser denied making the comments, and there were no witnesses to either of the “like Iranian women” comments. However, five witnesses testified that they have heard inappropriate gender-based, racial, and national-origin based comments by Mr. Moser, including one witness who stated that Mr. Moser referred to Ms. Siyadat as a “dumb Indian” woman. Mr. Moser’s credibility is questionable given the number of witnesses who attested that Mr. Moser made similar inappropriate comments about gender, race, and national origin. Therefore, the evidence supported that it is more likely than not that Mr. Moser made the two “like Iranian women” comments.

The investigation established that Ms. Siyadat was subjected to two comments related to her gender and national origin. Two inappropriate comments over a four month period do not rise to the level of being severe or pervasive as to alter the condition of her employment and create an abusive working environment. Therefore, the investigative findings do not support Ms. Siyadat’s allegation that Mr. Moser subjected her to a hostile work environment because of her gender or national origin.

However, Mr. Moser’s comments violated the City and County of San Francisco’s (CCSF) Harassment-Free Workplace Policy, which states “[a]n employee may be subject to discipline for engaging in harassing conduct that does not meet the definition of harassment under federal and state law, but that, if repeated or allowed to continue, might meet that definition.” The Department of Public Health took appropriate corrective action to address Mr. Moser’s violation of the CCSF Harassment-Free Workplace Policy (Exhibit D, pp. 395-400)

b. Adverse Employment Actions Are Analyzed Using the Discrimination/Disparate Treatment Standard Rather Than the Hostile Work Environment Standard

In the Appeal, Ms. Siyadat argues that since the investigative findings established that she was subjected to discrimination due to her gender and national origin when Mr. Moser extended her probation, reassigned her Charge Technologist duties to another employee, denied her training on July 12, 2011, and gave her a rating of “Does Not Meet Expectations” on her FY 2010/2011 performance evaluation, these actions should also have been included in the analysis of her harassment/hostile work environment claim. However, these adverse employment actions do not fall within the definition of conduct that is analyzed in a harassment/hostile work environment claim.

i. Mr. Moser’s Conduct at Issue in the Appeal Consists of Adverse Employment Actions

Mr. Moser’s conduct falls within the definition of adverse employment actions that are appropriately analyzed under the discrimination/disparate treatment standard. In a

disparate treatment claim, an adverse employment action is a material adverse change in the terms of employment that is detrimental and substantial. The extension of Ms. Siyadat's probation, reassignment of her Charge Technologist duties, the July 12, 2011 denial of training, and the performance evaluation rating of "Does Not Meet Expectations" are material adverse changes in the terms of Ms. Siyadat's employment. These actions were analyzed under the discrimination/disparate treatment standard, and the Human Resources Director found that the evidence supported Ms. Siyadat's allegation that these actions were taken against her due to discrimination based on her gender and national origin.

Moreover, courts have held that the "Plaintiff cannot [] rely on discrete acts upon which he bases his discrimination and retaliation claims to support a hostile work environment claim." *See, e.g., Hampton v. Vilsack*, 760 F.Supp.2d 38, 56–57 (D.D.C.2011). Therefore, it was appropriate and necessary for the Human Resources Director to separate the adverse employment actions from Mr. Moser's verbal conduct and examine only the verbal conduct in the analysis the hostile work environment claim.

ii. **Mr. Moser's Conduct at Issue in the Appeal Is Not "Physical, Verbal, or Visual Conduct"**

The first element of a harassment/hostile work environment claim is that "the Appellant was subjected to *physical, verbal, or visual conduct* on account of the Appellant's membership in a protected category." (Emphasis added). The adverse employment actions to which Mr. Moser subjected Ms. Siyadat are not physical, verbal, or visual conduct within the meaning of the hostile work environment standard.

The California Supreme Court held that "verbal harassment may include epithets, derogatory comments, or slurs on the basis of sex; physical harassment may include assault, impeding or blocking movement, or any physical interference with normal work or movement, when directed at an individual on the basis of sex; and visual harassment may include derogatory posters, cartoons, or drawings on the basis of sex." *Lyle v. Warner Brothers Television Productions*, 38 Cal.4th 264, 280 (2006). Additionally, the Department of Fair Employment and Housing, the CCSF Harassment-Free Workplace Policy and the CCSF Employee Handbook provide the following examples of physical, verbal, and visual conduct:

- verbal harassment (e.g., graphic comments, derogatory comments, suggestive or obscene jokes or telephone calls);
- physical harassment (e.g., assault, impeding or blocking movement, gestures or any physical interference with normal work or movements); or
- visual forms of harassment (e.g., leering, derogatory or sexually explicit posters, letters, poems, emails, graffiti, cartoons, computer screen savers or drawings).

Thus, the adverse employment actions are not physical, verbal, or visual conduct for the purposes of a harassment/hostile work environment claim.

c. The New Information Ms. Siyadat Presents Was Addressed and Is Not Relevant to the Hostile Work Environment Claim

In her Appeal, Ms. Siyadat presents information that she believes should have been examined with her hostile work environment claim.

i. May 6, 2013 Incident

Ms. Siyadat alleges that when she arrived to work on May 6, 2013, Mr. Moser was in the shared Charge Technologist office discussing an assignment with his subordinate. Ms. Siyadat found the discussion distracting and asked Mr. Moser and his subordinate to move elsewhere. However, Mr. Moser and his subordinate ignored Ms. Siyadat's request and continued their work in the shared office. Ms. Siyadat then emailed the Director of Radiology, David Sostarich, and copied Mr. Valdez and her union representative, about the incident. On May 20, 2013, Mr. Valdez sent Ms. Siyadat an email explaining that the manner in which Mr. Moser performs his work assignment is not an EEO issue and that such matters are best handled by DPH management. (Exhibit I, pp.427-432)

Ms. Siyadat acknowledged that after she brought the incident to Mr. Sostarich's attention, Mr. Sostarich stated he would speak with Mr. Moser. She further acknowledged that since then, Mr. Moser has kept his distance from her. Thus, DPH management appropriately addressed Ms. Siyadat's concern when she raised it.

Ms. Siyadat did not allege that Mr. Moser or the subordinate made any comments to her and she acknowledged that they were performing a work assignment. Thus, the incident is not an EEO issue. Therefore, the May 6, 2013 incident is not relevant to Ms. Siyadat's hostile work environment claim and does not alter the Human Resources Director's analysis.

ii. Reassignment of Charge Technologist Duties

In her Appeal, Ms. Siyadat states, "Since Moser and Radiology took my Avon Breast Center position away from me a blonde, blue-eyed Caucasian woman has been given my position." The reassignment of Ms. Siyadat's Charge Technologist duties was investigated, and the Human Resources Director sustained Ms. Siyadat's allegation that the reassignment was due to her gender and national origin. (See Exhibit B, pp. 374) Therefore, the allegation was already addressed through the investigation.

6. Recommendation

For all the reasons set forth above, the Human Resources Director's decision should be upheld and the appeal should be denied.

7. Notifications

Mandana Siyadat, Appellant

Brian Moser, Accused Party

Barbara A. Garcia, Director of Health
Department of Public Health
101 Grove Street
San Francisco, CA 94102

Ron Weigelt, Director of Human Resources
Department of Public Health
101 Grove Street
San Francisco, CA 94102

Linda Simon, Director of EEO and Leave Management Programs
Department of Human Resources
Equal Employment Opportunity Division
1 So. Van Ness Avenue, 4th Floor
San Francisco, CA 94103

Matthew Valdez, EEO Programs Senior Specialist
Department of Human Resources
Equal Employment Opportunity Division
1 So. Van Ness Avenue, 4th Floor
San Francisco, CA 94103

8. Appendix/Attachments to Report

Attached to this report are the following exhibits:

- Exhibit A:** DHR EEO Investigative Report with Exhibits A-L, pp. 9-366
- Exhibit B:** Human Resources Director's Determination Letter to Complainant, pp. 367-378
- Exhibit C:** Human Resources Director's Determination Letter to Respondent Department, pp. 379-394
- Exhibit D:** Letter from Ron Weigelt, DPH Human Resources Director, Documenting Corrective Actions to Address the Investigative Findings, pp. 395-400
- Exhibit E:** Notice of Receipt of Appeal with Appeal to Civil Service Commission from Mandana Siyadat, pp. 401-412
- Exhibit F:** DFEH Brochure, "Sexual Harassment: The Facts about Sexual Harassment," pp. 413-416
- Exhibit G:** CCSF Harassment-Free Workplace Policy, pp. 417-420

CSC Report
EEO File No. 1652
Page 8 of 8

Exhibit H: CCSF Employee Handbook, Section on Equal Employment Opportunity,
pp. 421-426

Exhibit I: May 20, 2013 Email from Matthew Valdez to Mandana Siyadat, pp. 427-432

EXHIBIT A

**DHR EEO INVESTIGATIVE
REPORT WITH EXHIBITS**

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EEO INVESTIGATIVE REPORT

To: Micki Callahan, Human Resources Director

Through: Linda Simon, Director, EEO Division

From: Matthew Valdez, EEO Programs Specialist

EEO File No.: 1652

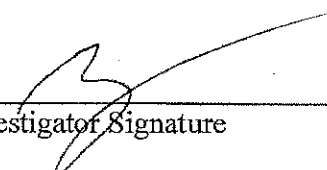
Complainant: Mandana Siyadat, 2469 Diagnostic Imaging Technologist III

Respondent: Department of Public Health


Issues/Basis: Harassment based on gender (female) and national origin (Iran);
Discrimination based on gender (female) and national origin (Iran);
and Retaliation

Date Complaint Filed: September 30, 2011

Date of Report: September 9, 2013



EEO Investigator Signature



EEO Supervisor Signature

1. Introduction

Mandana Siyadat is a 2469 Diagnostic Imaging Technologist III at San Francisco General Hospital's (SFGH) Department of Radiology. On September 30, 2011, she filed a complaint, alleging that Brian Moser, 2496 Radiologic Technologist Supervisor, subjected her to a hostile work environment because of her gender (female) and national origin (Iran). She also alleged that Mr. Moser and the Department of Radiology discriminated against her because of her gender (female) and national origin (Iran), and retaliated against her for opposing discrimination.

On November 29, 2011, Siyadat signed a Charge of Discrimination with DPH EEO.

2. Complainant's Allegations

On September 30, 2011, Ms. Siyadat submitted a letter of complaint to DPH EEO alleging harassment/hostile work environment based on gender (female) and national origin (Iran) and discrimination based on gender (female) and national origin (Iran). On October 5, 2011, Ms. Siyadat submitted to DPH EEO a follow-up complaint, in which she raised allegations of retaliation in addition to her previous allegations of discrimination and harassment/hostile work environment.

Specifically, Ms. Siyadat made the following allegations:

- A. Between February 2011 and May 2011, Brian Moser subjected her to harassment/hostile work environment by making inappropriate comments based on her gender (female) and national origin (Iran);
- B. On May 25, 2011, the Department extended her probation because of her gender (female) and national origin (Iran), and due to retaliation;
- C. On June 7, 2011, the Department removed her Charge Technologist responsibilities because of her gender (female) and national origin (Iran), and due to retaliation;
- D. On June 9, 2011, the Department changed her work location from four (4) days at Avon each week to two (2) days at Avon and two (2) days at Main each week because of her gender (female) and national origin (Iran), and due to retaliation;
- E. On July 22, 2011, the Department removed her Quality Control (QC) responsibilities because of her gender (female) and national origin (Iran), and due to retaliation;
- F. On July 12, 2011 and October 6, 2011, the Department denied her training because of her gender (female) and national origin (Iran), and due to retaliation;
- G. On October 6, 2011, the Department gave her a performance evaluation rating of "Does Not Meet Standards" because of her gender (female) and national origin (Iran), and due to retaliation;
- H. On July 21, 2011, Mr. Moser threatened to write her up for insubordination due to retaliation; and,
- I. On October 6, 2011, she was singled out to have to have a second supervisor sit in on her PPAR evaluation meeting due to retaliation.

As resolution, Ms. Siyadat asked that Mr. Moser's probationary period be extended. She also asked for a letter of apology from Mr. Moser, an opportunity to formally discuss and define her

job duties, and assurances that Mr. Moser will have no direct contact with her in the future. Additionally, Ms. Siyadat would like DPH to enroll Mr. Moser in training courses on harassment prevention and the City's workplace policies.

3. Allegations Requiring Investigation

DPH EEO and DHR EEO investigated all of Ms. Siyadat's allegations.

4. Relevant Background

Ms. Siyadat was first hired by the Department of Public Health in 1983 as a 2423 Radiologic Technologist Intern. In October 2007, Ms. Siyadat was promoted to Provisional 2469 Diagnostic Imaging Technologist III. The 2469 Diagnostic Imaging Technologist III is commonly referred to as the Charge Technologist or Lead Technologist. Ms. Siyadat was promoted to be the Charge Technologist at the Avon Comprehensive Breast Care Center (Avon).

In October 2010, Mr. Moser was appointed as 2496 Radiologic Technologist Supervisor at Avon.

In February 2011, Ms. Siyadat was promoted to her current position as a PCS 2469 Diagnostic Imaging Technologist III. Under Civil Service Commission Rule 117, Ms. Siyadat began a new 3-month probationary period.

5. Departmental Response

After Ms. Siyadat filed her complaint with DPH EEO, DPH EEO began an investigation of her claims. The Department separated Ms. Siyadat and Mr. Moser. The Department also enrolled Mr. Moser in DHR's workshop – 24 PLUS: New Managers and Supervisors. The Department also distributed a memorandum and the City's Harassment-Free Workplace Policy to all staff in the Department of Radiology.

6. Investigative Standards

Discrimination/Disparate Treatment Standard

To establish a complaint based on discrimination/disparate treatment, Ms. Siyadat must establish all of the following: (1) she is a member of a protected category; (2) she suffered an adverse employment action; and (3) she suffered an adverse employment action because of her membership in a protected category.

Harassment/Hostile Work Environment Standard

To establish a complaint of harassment that creates a hostile work environment, Ms. Siyadat must meet all of the following: (1) she was subjected to physical, verbal, or visual conduct on account of your membership in a protected category; (2) the conduct was unwelcome; and (3) the

conduct was sufficiently severe or pervasive as to alter the condition of her employment and create an abusive working environment.

Retaliation Standard

To establish a complaint based on retaliation, Ms. Siyadat must meet all of the following: (1) she engaged in a protected activity; (2) she suffered an adverse employment action; and (3) there was a causal link between the protected activity and the adverse employment action.

7. The Investigation

a. The Investigative Process

Zachary Williams, 1241 Personnel Analyst, DPH EEO, investigated Ms. Siyadat's allegations. The investigation included a review of the written complaint, Ms. Siyadat's interview statements, interview statements from witnesses and other individuals named in the complaint, Ms. Siyadat's performance appraisals, and other relevant individuals and materials. On December 20, 2012, the investigation was reassigned to Matthew Valdez, 1233 EEO Programs Specialist. Mr. Valdez conducted a supplemental investigation.

b. Summary of Interviews

The following individuals were interviewed as part of the investigation:

1. Brian Moser, 2496 Radiologic Technologist Supervisor
2. Rafael Ibarra, 2469 Diagnostic Imaging Technologist III/Interim Director of Radiology
3. Nancy Toscano, 2469 Diagnostic Imaging Technologist III
4. Robert J. (RJ) Merck, 2496 Radiologic Technologist Supervisor
5. Shermineh Jafarieh, 0941 Manager VI, Associate Hospital Administrator
6. Cathy Abela, 1244 Senior Personnel Analyst
7. Joselito Cruz, 2469 Diagnostic Imaging Technologist III
8. Shari Zimm, 2468 Diagnostic Imaging Technologist II
9. Corazon (Cora) Andaya, 2468 Diagnostic Imaging Technologist II
10. Dr. Loretta Strachowski, UCSF, Director of Women's Imaging, Avon Center
11. Fred Evans, UCSF Programmer Analyst
12. Sylvia Romero-Pagan, UCSF Assistant III, Patient Community Navigator
13. Marla Armstrong, Technologist (Contract Employee)
14. Hilary Bunlert, UCSF Women's Imaging Administrative Assistant III
15. Mary McGinty, 2468 Diagnostic Imaging Technologist II

Loleta Carpenter, UCSF Mammography Van Driver, was identified by Ms. Siyadat as a witness. However, she was not interviewed because DPH EEO was unable to contact her to schedule an interview.

8. Findings of Fact

ALLEGATION A: HARASSMENT/HOSTILE WORK ENVIRONMENT BASED ON GENDER (FEMALE) AND NATIONAL ORIGIN (IRAN)

Summary of Relevant Evidence

1. Ms. Siyadat's Written Complaint/Interview

Ms. Siyadat alleged that Mr. Moser made three separate unwelcome verbal comments towards her on the basis of her gender and national origin. On February 18, 2011, Mr. Moser told her that a volatile patient was "just like Iranian women." Mr. Moser "snickered" and indicated that he was referring to her by making a hand gesture in Ms. Siyadat's direction. There were no witnesses present. Ms. Siyadat did not report the incident at that time because she believed it to be a one-time occurrence.

On May 10, 2011, Mr. Moser again pointed towards Ms. Siyadat and told her that an upset patient was "like Iranian women." In response, Ms. Siyadat told Mr. Moser that she did not appreciate his comments about her ethnicity. Mr. Moser "snickered," and she then corrected his pronunciation of the word "Iranian." There were no witnesses present.

Ms. Siyadat reported the May 10, 2011 incident to Rafael Ibarra, Interim Director of Radiology. Mr. Ibarra advised her to file a Ms. Siyadat with DPH EEO if she desired to do so. Ms. Siyadat also made several attempts, beginning on May 12, 2011, to meet with Shermineh Jafarieh, 0941 Manager VI, so she could discuss what she "perceived as Moser's ethnic prejudice." Ms. Siyadat was unable to meet with Ms. Jafarieh to discuss her allegations.

In May 2011, Mr. Moser told Ms. Siyadat, "Oh, you got a haircut, so you don't have to use too much shampoo." Ms. Siyadat was unable to explain how this comment related to her national origin or gender. She said it was part of Mr. Moser's pattern of inappropriate comments. Ms. Siyadat subsequently said, "Maybe it means that I'm a dirty Iranian." There were no witnesses present.

2. Interview of Brian Moser

Mr. Moser denied making any of the three comments. Mr. Moser denied that Ms. Siyadat told him that she did not appreciate his comments about her ethnicity.

Mr. Moser speculated that Ms. Siyadat made the allegations because she is "probably upset about her performance appraisal." He explained that their work relationship was challenging. Ms. Siyadat was "not on the same page" with him with regard to the changes that he implemented.

Mr. Moser stated that he has heard female staff joke amongst themselves that the largely-female staff leads to frequent complaining, thus making it a challenging environment for men. He added that he has never participated in the jokes.

Mr. Moser denied telling Fred Evans that Ms. Siyadat is a "dumb Indian woman." He also denied that he has ever referred to female staff as "bitches" or stated that women complain too much. Mr. Moser did not know why Mr. Evans would say that he made those comments.

3. Interview of Fred Evans

Mr. Evans is employed by UCSF as a Programmer Analyst. He provides IT support to Avon. In late May 2011 or early June 2011, while performing IT work for Mr. Moser in the server room, Mr. Evans told Mr. Moser about previous work that he had performed for Ms. Siyadat as the Charge Technologist. Mr. Moser responded to Mr. Evans by calling Ms. Siyadat a "dumb Indian" woman and complaining about an error she may have made. In a written statement that Mr. Evans provided to DPH EEO, Mr. Evans wrote that he has heard Mr. Moser call Ms. Siyadat a "dumb Indian" woman to other employees as well. See Exhibit D, Attachment 11.

Mr. Evans said that Mr. Moser has "showed signs of being a male chauvinist." He said that in January 2011 and July 2011, Mr. Moser referred to female employees at Avon as "bitches" during casual conversations with him. In his written statement, Mr. Evans wrote that Mr. Moser refers to "women in period as bitches." See Exhibit D, Attachment 11.

In another conversation with Mr. Moser, Mr. Moser expressed frustration about having to work with the Chief Radiologist at Avon, Dr. Loretta Strachowski. Mr. Moser told him that "women are always complaining about the smallest things" and "with that many women, there will be too many complaints." Mr. Evans was unable to recall when Mr. Moser made these statements.

4. Interview of Shari Zinn

Ms. Zinn is a 2468 Diagnostic Imaging Technologist II at Avon and was supervised by Ms. Siyadat. Ms. Zinn stated that Mr. Moser thinks that all women are "dopes." Mr. Moser frequently refers to the female staff as "the help" when he jokes with construction workers who have visited Avon. On one occasion, Mr. Moser also knocked on her head to imply that she was mentally disabled.

Ms. Zinn also stated that Mr. Moser routinely makes stereotypical jokes such as "Asians are good at laundry" or "He's Jewish so he has money."

5. Interview of Hilary Bunlert

Ms. Bunlert is employed by UCSF as an Administrative Assistant III and works at Avon.

Ms. Bunlert stated that Mr. Moser interacts with the exclusively female Avon staff differently than he interacts with male individuals and described it as "sexist." She said that he is dismissive of the women and tends to physically stand over them when giving instruction. Mr. Moser tries to establish a rapport with men by acting "buddy-buddy" with them. Ms. Bunlert also heard Mr.

Moser call Dr. Strachowski a "bitch" after walking away from a disagreement with her. Ms. Bunlert does not know if Dr. Strachowski heard Mr. Moser's comment.

Ms. Bunlert also stated that Mr. Moser frequently makes jokes and comments about employees such as referring to the women at the front desk as "the hot-headed Mexican ladies."

6. Interview of Nancy Toscano

Ms. Toscano is a 2469 Diagnostic Imaging Technologist III. Ms. Toscano did not hear Mr. Moser make any of the alleged comments to Ms. Siyadat, but said that she could see him making comments of that nature. She stated that on one occasion between January 2011 and April 2011, while she and other female staff were conversing in the lobby, Mr. Moser entered with male construction workers. Mr. Moser jokingly asked her and the other women, "Can one of you get us a beer?" Ms. Toscano and the other women, except Ms. Siyadat, remained silent and ignored the comment. Ms. Siyadat responded by saying, "How about vodka instead?"

7. Interview of Corazon (Cora) Andaya

Ms. Andaya is a 2468 Diagnostic Imaging Technologist II. She has never witnessed Mr. Moser make inappropriate comments. She stated, "I know that Brian jokes around. With women, Brian would make jokes maybe because he's a guy." She further stated, "I don't remember him making any jokes about someone being a woman, or Mexican, or anything like that." Ms. Andaya could not recall any specific jokes. She remarked that she prefers "not to make a big thing of anything." I asked Ms. Andaya if it appeared that anyone was disturbed by Mr. Moser's jokes. In response she stated, "No. People just seemed bored by his jokes. He just likes to talk."

8. Interview of Mary McGinty

Ms. McGinty is currently a 2469 Diagnostic Imaging Technologist III at Avon. At the time that the allegations occurred, she was a 2468 Diagnostic Imaging Technologist II. Ms. McGinty has never heard Mr. Moser make comments or jokes about gender or national origin to anyone.

9. Interview of Sylvia Romero-Pagan

Ms. Romero-Pagan is a UCSF employee, working as a Patient Community Navigator. She not heard Mr. Moser make any comments about Ms. Siyadat. However, she said that Mr. Moser once said "You women make small things into big things." She said he jokingly plays it off but he has made those comments in front of patients.

10. Interview of Marla Armstrong

Ms. Armstrong was a Technologist employed as a contract employee by UCSF. She stated that she left her job at Avon because of the "hostile work environment" under Mr. Moser. In a written statement, she described the work environment as "unpleasant, uncomfortable, and hostile." See Exhibit D, Attachment 13.

She stated that Mr. Moser is insulting and unappreciative of the female employees. She has not heard Mr. Moser make any comments about Ms. Siyadat's gender or national origin. However, she believes that Mr. Moser treats women differently than he treats men. Mr. Moser treats women like "women don't know anything" and compared the treatment to the interaction between mechanics and women.

11. Interview of Dr. Loretta Strachowski

Dr. Strachowski is the Chief Radiologist and Medical Director of Avon. At one point, Ms. Siyadat told her that Mr. Moser was "racist" for commenting on her haircut. Dr. Strachowski stated that she did not understand what the significance of the comment was.

Dr. Strachowski heard rumors of employees claiming that Mr. Moser made inappropriate comments. She was not aware of any specific claims, but advised Administrator Sherminah Jafarieh that she had heard the rumors.

12. Interview of Sherminah Jafarieh

Ms. Jafarieh is the SFGH Administrator that oversees Avon. Ms. Jafarieh denied Ms. Siyadat's claim that she never met with her. Ms. Jafarieh prefers that unit managers address personnel issues with their employees. However, she "met with Mandana a few times to determine which process she should go through...either with Rafael [Ibarra] or EEO." Ms. Jafarieh stated that she directed Ms. Siyadat to work with Mr. Ibarra because she didn't have specific claims.

13. Interview of Rafael Ibarra

Mr. Ibarra is a 2469 Diagnostic Imaging Technologist III. At the time the allegations occurred, he was the Interim Director of Radiology. Mr. Ibarra recalled that Ms. Siyadat had told him that Mr. Moser made a joke to her about her being an Iranian woman. Mr. Ibarra believes she reported it to him between February 2011 and May 2011, but could not recall specifically. Mr. Ibarra stated that he did not speak with Mr. Moser about Ms. Siyadat's allegation. He stated that he did not do so because Ms. Siyadat did not provide him with any details and that she made the allegations in passing. Mr. Ibarra advised Ms. Siyadat to contact DPH EEO if she wished to file a complaint. He stated that was the only time that Ms. Siyadat ever made a claim of this nature.

Analysis:

Ms. Siyadat alleged that on February 18, 2011 and May 10, 2011, Mr. Moser commented that a volatile patient was "like Iranian women" while gesturing toward her. Also in May 2011, Mr. Moser said, "Oh you got a haircut, so you don't have to use too much shampoo." Ms. Siyadat was unable to explain why she believed the third comment was motivated by her gender or national origin.

Mr. Moser denied making the comments to Ms. Siyadat, and there were no witnesses to any of the comments. Mr. Moser said that the female staff at Avon joke amongst themselves that the largely-female staff leads to frequent complaining, but that he does not participate in those jokes.

However, Mr. Evans stated that Mr. Moser told him that "women are always complaining about the smallest things" and "with that many women, there will be too many complaints." Ms. Romero-Pagan said that Mr. Moser said "You women make small things into big things" and has said that in front of patients. Further, Mr. Evans stated that he refers to the female employees at Avon as "bitches" and referred to "women in period as bitches." Ms. Bunlert heard Mr. Moser call Dr. Strachowski a "bitch." Ms. Zinn stated that Mr. Moser refers to the female staff as "the help" when he jokes with the construction workers that visit Avon. Ms. Toscano stated that one occasion, when Mr. Moser entered the lobby with male construction workers, he asked her and the other women, "Can one of you go get us a beer?" Mr. Evans also stated that Mr. Moser "showed signs of being a male chauvinist." Ms. Bunlert and Ms. Armstrong stated that Mr. Moser treats women differently than he treats men. Ms. Bunlert described the difference as "sexist." She said that he is dismissive of women and tends to physically stand over them when giving them instruction while he acts "buddy-buddy" and tries to establish a rapport with men. Ms. Armstrong left her position at Avon because of the "hostile work environment" under Mr. Moser. She stated that he is insulting and unappreciative of the female staff. She stated that the way he interacts with women is like the way mechanics interact with women, "like women don't know anything." Ms. Zinn stated that Mr. Moser believes that all women are "dopes." The evidence supports that Mr. Moser has a pattern of making inappropriate comments about women in the workplace.

Mr. Evans also stated that Mr. Moser has called Ms. Siyadat a "dumb Indian" woman on more than one (1) occasion. Ms. Zinn said that Mr. Moser makes stereotypical jokes like "Asians are good at laundry" and "He's Jewish so he has money." Ms. Bunlert stated that Mr. Moser refers to the women at the front desk as "the hot-headed Mexican ladies." The evidence supports that Mr. Moser has a pattern of making inappropriate comments based on race and national origin in the workplace.

Although Mr. Moser denied making the comments that a volatile patient was "like Iranian women," Mr. Moser was not credible. Witness testimony supports that Mr. Moser has a pattern of making inappropriate remarks of that nature. Therefore, it is more likely than not that Mr. Moser made the two (2) "like Iranian women" comments.

However, the evidence is insufficient to establish a claim of harassment/hostile work environment based on her gender and national origin. While the investigation disclosed that Mr. Moser has made several inappropriate comments in the workplace, Ms. Siyadat only complained about two (2) comments. Two (2) comments over a four (4) month period do not rise to the level of so severe or pervasive as to alter the condition of her employment and create an abusive working environment.

Nevertheless, the investigative findings establish that Mr. Moser engaged in inappropriate behavior in violation of the City and County of San Francisco (CCSF) Harassment Free

Workplace Policy, which states “[a]n employee may be subject to discipline for engaging in harassing conduct that does not meet the definition of harassment under federal and state law, but that, if repeated or allowed to continue, might meet that definition.”

ALLEGATIONS B-G: DISCRIMINATION/DISPARATE TREATMENT BECAUSE OF GENDER AND NATIONAL ORIGIN

Allegation B: Extension of Probation

1. Ms. Siyadat’s Written Complaint/Interview

In March 2011, Mr. Moser told Ms. Siyadat that she was not in compliance with the U.S. FDA’s regulations because her mammography totals were below 200 within the previous 24 months. On March 9, 2011, Mr. Moser asked her to perform 25 supervised mammograms to requalify ahead of the annual inspection that was to take place on April 26, 2011.

Ms. Siyadat stated she was not out of compliance in March 2011, but that she performed the 25 supervised mammograms as Mr. Moser requested to avoid conflict and because she needed to get her numbers up prior to the inspection. She explained that in the FDA regulations, compliance is determined on the date of the inspection. The “previous 24 months” refers to the 24 months previous to the date of the inspection. Ms. Siyadat believes Mr. Moser knew the rule because he said he had run seven (7) mammography clinics in New York.

On April 15, 2011, Ms. Siyadat began a medical leave for surgery. She returned to work on April 26, 2011 to participate in the inspection at Avon. The inspection includes a review of the technologists’ compliance with the regulations. Avon passed the inspection. On April 26, 2011, Ms. Siyadat also informed Mr. Moser and Mr. Ibarra that she was placed on a medical restriction for four (4) weeks as a result of her surgery and that she could not lift her arm to perform mammograms. The restriction ended toward the end of May 2011.

Ms. Siyadat stated that on the first Monday of each month, a report of mammograms performed in the previous 24 months is automatically generated. On the May 2011 report, she had 202 mammograms.

On May 19, 2011, Mr. Ibarra called her while she was out sick and told her that Mr. Moser said that she was out of compliance because she only had completed 194 mammograms from May 19, 2009 to May 18, 2011. Mr. Ibarra told Ms. Siyadat not to report to Avon when she returned to work because she was out of compliance. Ms. Siyadat believes Mr. Moser singled her out by running her numbers on May 19, 2011.

When Ms. Siyadat returned to work on May 24, 2011, she reported to the Main Radiology Department (Main) instead of Avon and met with Mr. Ibarra. Mr. Ibarra informed Ms. Siyadat that her probation had been extended to June 3, 2011 because of her absences. He also informed Ms. Siyadat that because she was on probation, Mr. Moser wanted to “let her go” because Mr.

Moser said she was "out of compliance and therefore a liability to the department." Mr. Ibarra told her that he and Mr. Moser went to Human Resources for recommendations.

Mr. Moser joined Mr. Ibarra and Ms. Siyadat and presented Ms. Siyadat with several documents that he had drawn up with Cathy Abela in SFGH Human Resources. The documents extended her probation by another six (6) months. Mr. Moser told Ms. Siyadat that she had to sign the document because it had already been approved by Human Resource and her Union and that her Union was in agreement with the Department. Mr. Moser also told Ms. Siyadat that he was doing her a favor by extending her probation instead of "letting me go." Ms. Siyadat signed the document because she believed that her employment would be terminated if she did not sign it.

Ms. Siyadat's Union challenged the length of the extension because Ms. Siyadat's original probation had been for three (3) months. On May 31, 2011, Ms. Siyadat's probation was extended for three (3) months, and was scheduled to end on September 2, 2011.

2. Interview of Rafael Ibarra

Mr. Ibarra stated that Ms. Siyadat's probation was extended because she was out of compliance with the regulations. On May 19, 2011, Mr. Moser checked Ms. Siyadat's mammography totals and they were below 200. Mr. Ibarra did not look at the regulations himself and went by what Mr. Moser told him. Mr. Ibarra trusted Mr. Moser's interpretation of the regulations because he was more familiar with mammography.

In a subsequent interview, Mr. Ibarra stated that Ms. Siyadat's probation was also extended for other reasons. He said the other reasons are the issues that Mr. Moser wrote about in Ms. Siyadat's performance evaluation. Mr. Ibarra was unable to recall what the other issues were, but did recall that they included Ms. Siyadat moving her desk and telling the staff not to listen to Mr. Moser. These issues were not included in the probation extension documents because SFGH Human Resources felt it would be too much to include those issues as well and wanted them to focus on the immediate issue, which was the compliance issue.

3. Interview of Brian Moser

Mr. Moser stated that he was not responsible for the decision to extend her probation. He stated he was involved in discussions about extending her probation or terminating her, but that Mr. Ibarra made the decision to extend her probation. Mr. Moser was aware that Ms. Siyadat had less than 200 mammograms as early as January 2011.

Ms. Siyadat's probation was extended because she was out of compliance with the FDA regulations. Ms. Siyadat had less than 200 mammograms in the previous 24 months. He stated that even if an employee has 199 mammograms, they cannot perform mammograms because that would be considered an unlicensed person performing mammograms, which would be the highest level of citation that Avon could receive.

In April 2011, Avon had an inspection. Mr. Moser said that when the inspector is there, the technologists have to be able to show that they have the 200 supervised mammograms. Mr. Moser did not know if Ms. Siyadat had the required 200 mammograms on the day of the inspection. Avon passed its inspection.

In a subsequent interview, Mr. Moser stated that the probation was also extended because of the performance issues that are contained in Ms. Siyadat's performance appraisal. Those issues were not included on the documents related to the probation extension because SFGH Human Resources told him and Mr. Ibarra to only include the compliance issue when extending the probation and to put the other issues in the performance appraisal.

4. Interview of Cathy Abela

Ms. Abela met with Mr. Moser and Mr. Ibarra about the process for extending probation. She recalled Mr. Moser asking questions and talking during the meeting, but did not recall Mr. Ibarra asking questions. Mr. Moser talked a lot about the number of mammograms Ms. Siyadat performed. Ms. Siyadat had not performed the sufficient number. Mr. Moser had documents with the regulations and a spreadsheet showing how many Ms. Siyadat had performed.

Ms. Abela did not recall telling Mr. Moser to focus on the compliance issue. She said there might have been other issues, but could not recall. She said the main issue was the compliance issue.

Allegation C: Reassignment of Charge Technologist Duties

1. Ms. Siyadat's Written Complaint/Interview

Ms. Siyadat stated that she was promoted to a 2469 Diagnostic Imaging Technologist III position at Avon in October 2007. The 2469 Diagnostic Imaging Technologist III is commonly called the Charge Technologist. As the Charge Technologist at Avon, she ran the center. She performed the QC duties. She said was responsible for scheduling and patient care and she performed mammograms and biopsies. She said that as Charge Technologist 80% of her work was administrative and 20% was working with patients.

Beginning June 7, 2011, Ms. Siyadat was assigned to do patient exams when she worked at Avon. On June 9, 2011, her schedule was changed, and she only worked at Avon on Thursdays and Fridays. On those days, Mary McGinty, 2468 Diagnostic Imaging Technologist II, was assigned the Charge Technologist duties.

Ms. Siyadat stated that Mr. Moser did not reassign the Charge Technologist duties for Nancy Toscano, the part time Charge Technologist that worked at Avon Monday to Wednesday. Mr. Moser never informed her of the change in assignment or the reason for the change. She only learned of the change when she viewed the assignment board each morning.

2. Interview of Rafael Ibarra

Mr. Ibarra stated that 2469 Diagnostic Imaging Technologist IIIs are the Charge Technologists, and only a 2469 Diagnostic Imaging Technologist IIIs can be a Charge Technologist. Employees that are classified as a 2468 Diagnostic Imaging Technologist II or a 2467 Diagnostic Imaging Technologist I can serve as an Acting Charge Technologist sometimes, but that is only an acting position.

Initially, Mr. Ibarra was unable to confirm that Mr. Moser reassigned the Charge Technologist duties. He added that it appeared to him that Mr. Moser relied on Ms. McGinty because he did not have a good relationship with Ms. Siyadat. He stated that Ms. Siyadat complained to him that she was no longer assigned the Charge Technologist duties. In response, he told her that Mr. Moser is responsible for managing the work assignments at Avon and that if she disagreed with her assignments to contact her union representative.

In a subsequent interview, Mr. Ibarra stated that when Ms. Siyadat began her new schedule, he recommended to Mr. Moser that he assign the supervisory responsibilities to Ms. McGinty. He made this recommendation because Ms. Siyadat had been out of compliance and he wanted her to focus on raising her mammography total since she was now only assigned to Avon for two days per week. He said that this plan was to be temporary until Ms. Siyadat's numbers increased to 1000, but she incurred a work-related injury in September 2011 and then in November 2011, she requested to be assigned exclusively to Main.

Mr. Ibarra's recommendation was also based on the "friction" between Mr. Moser and Ms. Siyadat. He said that Mr. Moser did not want Ms. Siyadat as the Charge Technologist because Mr. Moser said that she undermined him. Mr. Ibarra thought Mr. Moser had the right to reassign the duties, and he believed that separating them by having Ms. Siyadat just perform mammograms would minimize the conflict between them.

3. Interview of Brian Moser

Mr. Moser said he never formally reassigned Ms. Siyadat's Charge Technologist responsibilities and never told her that he had done so. He initially stated that he assigned the role to several technologists so they could share the responsibility. He rotated the Charge Technologist assignment amongst the technologists because Ms. Siyadat went on medical leave in April 2011. When she returned on April 26, 2011, Ms. Siyadat told him and Mr. Ibarra that she had medical restrictions that barred her from lifting her arm to perform mammograms. He understood that Ms. Siyadat could not act as Charge Technologist while she was on limited duty for that reason.

In a subsequent interview, Mr. Moser stated that he stopped assigning Ms. Siyadat the Charge Technologist duties because she had fallen out of compliance in the past. He and Mr. Ibarra wanted her to focus on mammograms to help her maintain her mammography numbers. Mr. Moser said, "We had to structure her day to help her maintain her numbers so it wouldn't be a problem later."

In a third interview, Mr. Moser stated that Mr. Ibarra made the decision to reassign Ms. Siyadat's Charge Technologist responsibilities. He reiterated that she was assigned to perform mammograms to help her increase her mammography totals so she would not have to worry about falling out of compliance again. Mr. Moser stated that in the past, he, Mr. Ibarra, and RJ Merck, Ms. Siyadat's previous supervisor, had repeatedly told Ms. Siyadat to get her numbers up, but she did not do so. Since Ms. Siyadat was not assigning herself the mammograms, in June 2011, he assigned her to perform them.

Allegation D: Reassignment of Work Location

1. Ms. Siyadat's Written Complaint/Interview

In February 2011, Mr. Ibarra asked Ms. Siyadat if she would be open to occasionally helping at the Main Radiology Department (Main) when it was understaffed. She agreed to help, but stated Mr. Ibarra did not propose that she work there on a permanent basis. She continued to work full-time at Avon after this conversation. She worked four (4) days a week, Tuesday to Friday.

In April 2011, Nancy Toscano was appointed to a part-time 2469 Diagnostic Imaging Technologist III. She worked Monday to Wednesday.

On June 9, 2011, Mr. Moser and Mr. Ibarra provided Ms. Siyadat with a new schedule in which she would work Tuesdays and Wednesdays at Main and Thursdays and Fridays at Avon. See Exhibit J. Mr. Ibarra told her that he did not want two (2) Charge Technologists working in Avon on the same day.

At Main, she performed different duties than those she performed at Avon. At Avon, she ran the center. She performed the QC duties. She said was responsible for scheduling and patient care and she performed mammograms and biopsies. She said that as Charge Technologist 80% of her work was administrative and 20% was working with patients. At Main, mammograms or biopsies are not performed. At Main, she still performs quality control, but performs those duties in different aspects of radiography. At Main, they also handle the emergency rooms and the trauma rooms. She also interviews job applicants and performs tasks related to hiring.

2. Interview of Rafael Ibarra

Mr. Ibarra said that responsibilities of Charge Technologists in subsections such as Avon, CT, and ultrasound, differ from the responsibilities of Charge Technologists at Main. The Charge Technologists in the subsections are "really like working Charge Techs." Each subsection has only one (1) Charge Technologist per day so the Charge Technologist must be ready to assist when a problem occurs and be able to assist with specialized diagnostics. They must also be ready to fill in for the junior technologists. At Main, the junior technologist can look to any of the three (3) or four (4) Charge Technologists on duty. At Main, the Charge Technologists also have responsibility for staff orientation, payroll, scheduling, and other functions for the Radiology Department.

Mr. Ibarra stated that he is responsible for the change to Ms. Siyadat's work schedule. In February 2011, Mr. Ibarra told Ms. Siyadat that he would need to split her schedule between Main and Avon when Nancy Toscano is appointed to the new part-time 2469 Diagnostic Imaging Technologist III position at Avon. He told her that the Department did not need Charge Technologist coverage greater than 1.0 FTE at Avon. Ms. Siyadat agreed to the possibility of the schedule change. He also said that the change became necessary due to the "increasingly negative work relationship" between Ms. Siyadat and Mr. Moser. Mr. Ibarra stated that Mr. Moser asked that Ms. Siyadat be transferred out of Avon, but initially denied that Mr. Moser's request played a role in the decision to change Ms. Siyadat's work location.

In a subsequent interview, when asked why he did not change Ms. Siyadat's schedule until June 2011 instead of April 2011 when Ms. Toscano was promoted, Mr. Ibarra stated that in March 2011, Mr. Moser said that Ms. Siyadat was out of compliance so they wanted Ms. Siyadat to focus on performing mammograms on a daily basis. He also stated that she needed to stay until she was compliant.

In subsequent interview, Mr. Ibarra admitted that the "real reason" that he changed Ms. Siyadat's work schedule is because Mr. Moser did not want her at Avon. He said that Mr. Moser could not work with Ms. Siyadat. As a result, Mr. Ibarra changed Ms. Siyadat's schedule. He stated that it was a good time to change her schedule because she had already agreed to it.

3. Interview of Brian Moser

Mr. Moser stated that Mr. Ibarra was responsible for the change to Ms. Siyadat's schedule. He stated, "She and Rafael agreed to two days in both places." His understanding is that Mr. Ibarra wanted to limit the amount of coverage in the Avon Center by Charge Technologists. Ms. Siyadat and Nancy Toscano were to split the weekly coverage in Avon.

4. Interview of Nancy Toscano

In February 2011, Ms. Toscano stated that a part-time 2469 Diagnostic Imaging Technologist III in mammography was posted. Mr. Moser asked if she was interested in taking the position. Ms. Toscano spoke with Mr. Ibarra about the position because she wanted to know how the Department planned to work with two (2) Charge Technologists at Avon. Ms. Toscano told Mr. Ibarra that she did not want to push anyone out of Avon. Mr. Ibarra told her that both Charge Technologists would be working at Avon and that the current Charge Technologist would not be moving. Ms. Toscano then agreed to take the position, and on April 18, 2011, she began as the part-time Charge Technologist at Avon.

Allegation E: Reassignment of Quality Control (QC) Technologist Duties

1. Complaint from Siyadat/Intake Interview of Siyadat

In Ms. Siyadat's written complaint, she stated that she had been stripped of her responsibilities as the Quality Control (QC) Technologist. In her supplement to the complaint, she stated that in a

June 9, 2011 meeting with Mr. Moser, Mr. Ibarra, and her union representative, Emma Gerould, about changing her work schedule, Ms. Moser proposed that taking away Ms. Siyadat's QC responsibilities. On June 30, 2011, Mr. Moser instructed Ms. Siyadat not to perform the monthly QC on July 1, 2011. Instead, he wanted Ms. McGinty to perform the QC tasks and told Ms. Siyadat not to assist or answer any questions regarding the QC tasks. He would have either her or Ms. Toscano review Ms. McGinty's work later.

At the time, Ms. Siyadat was the QC Technologist on record with the State of California and the FDA. In a July 22, 2011 email, Ms. Siyadat stated, "Per instruction of Rafael Ibarra and Brian Moser as of July 14, 2011, I will no longer perform or be the responsible party for Mammography QC." Ms. Siyadat relinquished the role. She told Mr. Ibarra that she did not feel comfortable being registered with the State of California and the FDA as Avon's QC Technologist if she was no longer working at the Center on a daily basis. She was concerned she would be held liable if inspectors found that the radiologic equipment was not properly maintained. Mr. Moser then removed her from the QC Technologist role on July 22, 2011 and reassigned it to Ms. McGinty.

2. Interview of Brian Moser

The QC Technologist is responsible for ensuring that the mammography equipment is operating correctly. He removed the QC Technologist role from Ms. Siyadat because she requested that she no longer perform the tasks. He said that her rationale was that she did not want to continue being listed as the QC Technologist if she was not working full-time at Avon.

3. Interview of Rafael Ibarra

Mr. Ibarra stated that Ms. Siyadat requested that she no longer have the QC Technologist responsibilities. Ms. Siyadat did not want to be registered with the State of California as the QC Technologist if she was no longer able to work at Avon on a daily basis. As a result, Mr. Moser reassigned the QC Technologist responsibilities to other technologists.

Allegation F: Denial of Training

July 12, 2011 Denial of Training on Biopsy Equipment

1. Ms. Siyadat's Written Complaint/Interview

The Supervisor decides who attends trainings, but the Charge Technologist can as well. The Supervisor and the Charge Technologist coordinate the schedules for trainings.

From April 15-25, 2011, Ms. Siyadat was out on medical leave. During this time, she missed training on the new EVIVA needle for stereotactic biopsies. Ms. Siyadat performs stereotactic biopsies and needed the training to know how to use the needle properly.

When Ms. Siyadat learned that the training was being offered again, she asked Mr. Moser if she could attend the training. She did not receive a response.

On July 12, 2011, Ms. Siyadat told Mr. Ibarra that Mr. Moser refused to allow her to receive training on the needle. Mr. Ibarra told her that Mr. Moser "has discretion to do whatever he wants to do he is the Supervisor."

2. Interviews of Brian Moser

Mr. Moser stated that the Charge Technologist is responsible for organizing the trainings. Mr. Moser schedules the trainings but he does not select who attends the trainings. The Charge Technologist is responsible for assigning who attends the trainings. Mr. Moser thinks Nancy Toscano may have been the assigned Charge Technologist who was responsible for deciding who should attend the training.

Attendance of trainings is not always documented. If the technologists receive a certificate for attending the training, then the training is documented.

Mr. Moser did not recall if Ms. Siyadat attended the July 12, 2011 training. He does not have any records to show who attended the training. He submitted two (2) emails to show that he requested that Ms. Siyadat and Ms. Toscano attend the session. See Exhibit K, Attachment 1. Mr. Moser did not know why Ms. Siyadat was not included on the July 8, 2011 email that contained the time and date of the training.

3. Interview of Nancy Toscano

Ms. Toscano explained that the companies that make the equipment go to Avon to conduct applications trainings for the technologists. The applications trainings usually occur when there is new equipment. The company usually gives continuing education credits, which the technologists have to earn under the FDA regulations, for attending the trainings.

Charge Technologists work with Supervisors to manage staffing and requests for training. Mr. Moser usually says "Let's get people trained," and then leaves it to the Charge Technologists. The process is informal. When assigning who attends training and when, they will just say "today so-and-so and so-and-so will take training, and tomorrow so-and-so and so-and-so." They hope they catch everyone. However, Mr. Moser had to approve when Ms. Siyadat could go over to Avon on days that she was not assigned to cases on Avon so it was Mr. Moser's decision whether Ms. Siyadat could attend the training.

Ms. Toscano said Avon does not do a good job of keeping records of who attends the trainings. The previous Supervisor at Avon kept records of trainings to make sure everyone received training, but with Mr. Moser it became more lax.

Not all trainings are mandatory. If a technologist does not attend the training, then they will get trained by one of the technologist that is familiar with the system. If a technologist does not perform the procedure for which the equipment is used, that technologist will not attend training. If it is a whole new piece of equipment, then all persons who will use it need the training because no one already knows how to use it. The EVIVA needle was a new needle, but the machine was not new.

Ms. Toscano said that the July 12, 2011 training was for the EVIVA needle for stereotactic biopsy. Ms. Siyadat told Ms. Toscano that she was interested in attending the training. Ms. Toscano told Mr. Moser that Ms. Siyadat wanted to attend the training, but she did not receive a response. He may have said "Let's get these people trained first" or did not respond to her at all.

October 6, 2011 Denial of Training on Mammography Machine

1. Interviews of Mandana Siyadat

Ms. Siyadat stated that on October 6, 2011, Mr. Moser denied her request for training on the new Hologic Selenia equipment. She stated that the training was listed on the SFGH website as "open to all SFGH Mammography Technologists." Ms. Siyadat sent an email to Mr. Moser asking when she will have training on the new equipment. Mr. Moser replied that the training was for technologists who had not previously participated in the training as Ms. Siyadat had. Ms. Siyadat replied asking why Cora Andaya, Yvonne Whitlock, Nancy Toscano, Mary McGinty, and Huayun (Helen) Niu were permitted to train on the equipment even though they had previously participated in the training. Mr. Moser did not reply to her email. See Exhibit K, Attachment 2.

Ms. Siyadat previously received training on the equipment when she installed the equipment while she was working at Avon. However, she said that the October 6, 2011 training was new because there are new applications and new software that gets put on the mammography machines that she needs to know how to use.

Ms. Siyadat stated that there was training on the Ceretom applications at the Main department that may have been going on at the same time as the Hologic Selenia training. She was not involved in the Ceretom training since that is for CT.

Although Ms. Siyadat was working full-time at Main in October 2011, she still goes to Avon to perform mammograms to keep her numbers up. She said the training is for people who use that machine so she needs the training to perform her job.

2. Interviews of Brian Moser

Mr. Moser did not know if Ms. Siyadat attended the October 6, 2011 training. Mr. Moser stated the Charge Technologists make decisions about trainings because they are responsible for staffing.

Mr. Moser said that in his email he told her that there was another applications training occurring the same day. He said that two trainings on the same day would have made staffing very short and it would have been impossible for all technologists to participate. Ms. Siyadat had already participated in the training.

Additionally, Ms. Siyadat was no longer working at the Avon Center in October 2011 because on September 1, 2011, she had incurred a work injury on September 1, 2011. Mr. Moser believes that Ms. Siyadat may have been out on workers' compensation at the time of the training.

3. Interview of Nancy Toscano

Ms. Toscano helped set up the training. Mr. Moser had asked her what type of training they should have since Avon already had a Hologic Selenia machine. They chose to have the training focus on the performing the QC tasks so other technologists can assist with the QC. Ms. Siyadat was not doing the QC at the time of the training. See Exhibit K, Attachment 2.

Ms. Siyadat had previously received training when Avon installed its first Hologic Selenia machine. Ms. Siyadat helped set up that machine when it was first installed.

Allegation G: Negative Performance Evaluation

1. Ms. Siyadat's Written Complaint/Interview

Ms. Siyadat stated that in her performance appraisal for the period from July 1, 2010 to June 30, 2011, Mr. Moser gave her a rating of "Does Not Meet Standards." See Exhibit L, Attachment 1. She said that she has never received such a rating and that in her previous evaluations, she received "Exceeds Expectations." Nothing in the performance appraisal was documented, and none of the statements Mr. Moser wrote in the appraisal were discussed with Ms. Siyadat at the time they occurred. Mr. Moser never met with Siyadat to discuss her work performance despite his statement in the appraisal that he had several conferences with her. Ms. Siyadat submitted a rebuttal to the performance appraisal that outlined her specific disagreements with its contents. See Exhibit L, Attachment 2. She believes that the "Does Not Meet Standards" rating is because of national origin and gender and due to retaliation.

2. Interview of Brian Moser

Mr. Moser stated that everything in Ms. Siyadat's appraisal is true, but he acknowledged that he did not document any of the incidents he cited in her evaluation. He stated, "I would never write something that is not true in an employee's evaluation." Mr. Moser said that RJ Merck, 2496 Radiologic Technologist Supervisor, who supervised Ms. Siyadat from June 2010 to October 2010, agreed with the appraisal and signed it.

3. Interview of RJ Merck

Mr. Merck also supervised Ms. Siyadat during the review period. Mr. Merck signed off on the appraisal and believed Mr. Moser's statements in the appraisal to be true. Mr. Moser wrote the appraisal because Mr. Merck did not witness the majority of the issues contained in the appraisal. Mr. Merck stated that he supervised Ms. Siyadat from November 2009 to October 2010. During the time he supervised her, he was at Avon for only two (2) hours per day. Mr. Merck stated, "Even though I didn't witness everything, I could see some of the things that Brian said about her as true." He submitted his personal notes citing two incidents from June 2010 to show that "working with Mandana can be very difficult." See Exhibit L, Attachment 4.

Mr. Merck was familiar with the incident when Ms. Siyadat moved her desk without permission. He denied that he gave Ms. Siyadat permission to move her desk. He explicitly told her not to move her desk without approval from the incoming Supervisor, Mr. Moser.

4. Interview of Rafael Ibarra

Mr. Ibarra does not think Ms. Siyadat got a "fair appraisal" because Mr. Moser never talked to her about her deficiencies. Mr. Ibarra stated that Mr. Moser did not actively seek to meet with Ms. Siyadat or discuss with her how she could improve performance, including when Mr. Moser alleged that Ms. Siyadat fell out of compliance with the FDA regulations. On several occasions, Mr. Ibarra advised Mr. Moser to communicate with Ms. Siyadat about her performance, but her preferred to document incidents in her performance appraisal. Ms. Siyadat told Ms. Ibarra that Mr. Moser was unwilling to discuss her performance.

Mr. Ibarra also stated that the written reprimands that were cited in the performance appraisal were rescinded because they were not properly issued. Ms. Siyadat was reprimanded for issues that other employees were not reprimanded for.

Mr. Ibarra said that Ms. Siyadat's performance appraisal was withheld from formal submission. He said that he met with the new Director of Radiology, David Sostarich, and that Mr. Sostarich agreed to withhold the submission of Ms. Siyadat's performance appraisal so a new evaluation can be submitted under the supervision of Ms. Siyadat's new supervisor.

Analysis

Allegation B: Extension of Probation

Ms. Siyadat alleged that her probation was extended due to discrimination based on her gender and national origin. Mr. Moser and Mr. Ibarra stated that Ms. Siyadat's probation was extended because she was not in compliance with the FDA mammography regulations.

The FDA regulations state that "the radiologic technologist shall have performed a minimum of 200 mammography examinations during the 24 months immediately preceding the date of the facility's annual MQSA inspection or the last day of the calendar quarter preceding the

inspection or any date in between the two. The facility will choose one of these dates to determine the 24-month period." See Exhibit G, Attachment 1. On April 26, 2011, the date of Avon's annual MQSA inspection, Ms. Siyadat had performed 201 mammography examinations in the previous 24 months. See Exhibit F, Attachment 5. The investigative findings conclude that Ms. Siyadat had performed the required 200 mammograms in the previous 24 months, and therefore, was in compliance with the FDA mammography regulations.

Mr. Moser explained that the technologists must have the required 200 mammograms daily; otherwise, Avon could receive a citation for allowing an unlicensed person to perform mammograms. However, the text of the FDA mammography regulations do not state the 200 mammogram minimum must be met daily or that failure to meet that requirement results in the loss of the license. Rather, the regulations state that technologists who fail to meet the continuing experience requirement must perform 25 mammograms under direct supervision before resuming the performance of unsupervised mammograms. See Exhibit G, Attachment 1.

Additionally, Mr. Moser was aware as early as January 2011 that Ms. Siyadat had less than 200 mammograms, yet he did not prevent her from performing mammograms and he did not raise the compliance issue until March 2011. Mr. Moser's failure to take action when he was first aware that Ms. Siyadat had less than 200 mammograms belies his explanation of the severity of allowing a technologist with less than 200 mammograms to continue to perform mammography examinations.

In communications to Shermineh Jafarieh, the administrator over the Radiology Department, and Ms. Abela, the only issue Mr. Moser and Mr. Ibarra cited is Ms. Siyadat's alleged noncompliance with the FDA mammography regulations. See Exhibit I. Additionally, probation extension documentation specify the reason for the extension was Ms. Siyadat's alleged failure to maintain the required number of mammograms. See Exhibit H. The evidence does not support Mr. Ibarra's and Mr. Moser's assertions that Ms. Siyadat's probation was extended because of the performance issues contained in the Ms. Siyadat's performance appraisal.

The evidence does not support Mr. Ibarra's and Mr. Moser's assertions that SFGH Human Resources personnel told them not to include other items in the probation extension documents. Ms. Abela stated that when she met with Mr. Ibarra and Mr. Moser, they talked largely about the number of mammograms she performed and the compliance issue. She said that there might have been other issues but the main issue was the compliance issue. She does not recall telling them to focus only on the compliance issue. The investigative findings conclude that Ms. Siyadat's alleged non-compliance with the FDA regulations was the sole reason for her probation extension.

Mr. Ibarra's and Mr. Moser's assertion that Ms. Siyadat was out of compliance with the FDA mammography regulations was not accurate. Therefore, Mr. Ibarra and Mr. Moser did not have a legitimate business reason for extending Ms. Siyadat's probation. In making the decision to extend the probation, Mr. Ibarra and the Department's Human Resources personnel relied on Mr. Moser's statements regarding the regulations because they were not familiar with mammography. Mr. Moser was hired to be the Supervisor of Avon, a mammography facility. He

knew or should have known that Ms. Siyadat was in compliance with the FDA mammography regulations. He used his position to influence the Department to approve Ms. Siyadat's probation extension despite the lack of a legitimate business reason.

Mr. Moser's "like Iranian women" comments and references to Ms. Siyadat as a "dumb Indian woman" suggest that Mr. Moser targeted Ms. Siyadat because of her gender and national origin, and he lacked a legitimate business reason for the probation extension. The investigative findings support Ms. Siyadat's allegation that her probation was extended because her gender and national origin.

Allegation C: Reassignment of Charge Technologist Duties

Ms. Siyadat alleged that after June 7, 2011, Mr. Moser reassigned the Charge Technologist duties due to discrimination because of her gender and national origin. Mr. Moser denied the allegation and stated Mr. Ibarra made the decision to have him reassign the role.

Mr. Ibarra confirmed that he recommended that Mr. Moser reassigned the Charge Technologist duties to another employee. Mr. Ibarra stated that he wanted Ms. Siyadat to focus on performing mammograms until she reached 1000 so she would not have to worry about noncompliance again in the future. However, as previously discussed, the evidence supports Ms. Siyadat was not out of compliance with the FDA mammography regulations. Therefore, Mr. Ibarra did not have a legitimate business reason for the reassignment.

Mr. Ibarra relied on Mr. Moser's statement about Ms. Siyadat's compliance because he was not familiar with the mammography regulations. While Mr. Ibarra made the reassignment decision, he was the "cat's paw." Mr. Moser misinformed Mr. Ibarra about Ms. Siyadat's compliance with the mammography regulations. Mr. Moser, as the supervisor of Avon, knew or should have known that Ms. Siyadat was not out of compliance with the mammography regulations. The misinformation led directly to the adverse employment action, thus, Mr. Moser is responsible for the adverse employment action. The "like Iranian women" comments and references to Ms. Siyadat as a "dumb Indian woman" demonstrate that Mr. Moser targeted Ms. Siyadat because of her gender and national origin. Therefore, the evidence supports Ms. Siyadat's allegation that her probation was extended because of her gender and national origin.

Allegation D: Change in Work Location

Ms. Siyadat was reassigned to work at Main for two (2) days each week, where she performed work that is objectively comparable to work she performed at Avon. She did not suffer any change in work duties, responsibilities, status, or compensation. Therefore, Ms. Siyadat did not suffer a discriminatory adverse employment action.

Allegation E: Reassignment of Quality Control (QC) Technologist Duties

The QC Technologist duties were reassigned after Ms. Siyadat requested that she no longer be responsible for the QC Technologist duties. Therefore, Ms. Siyadat did not suffer an adverse employment action.

Allegation F: Denial of Training

July 12, 2011 Denial of Training on Biopsy Machine

In July 2011, Ms. Siyadat learned that the company's application specialist would be at Avon to conduct training on the EVIVA needle because there was a new doctor and two (2) new fellows that needed the training. Ms. Siyadat asked Mr. Moser if she could attend the training, but he did not respond to her. Ms. Siyadat also told Ms. Toscano that she was interested in attending the training, and Ms. Toscano informed Mr. Moser that Ms. Siyadat would like to attend. Mr. Moser did not respond or said "Let's get these people trained first."

Mr. Moser stated that he, in fact, requested that Ms. Siyadat attend the training. However, the emails that he provided to show that he requested her to attend the training do not support his statement. In the July 6-7, 2011 email chain he submitted, Ms. Siyadat informed Mr. Moser that she would be attending CPR training. The email was not related to the EVIVA needle training and it did not contain a request that Ms. Siyadat attend the EVIVA needle training. See Exhibit K, Attachment 1.

In the July 8, 2011 email chain, Mr. Moser emailed the Hologic's training coordinator asking him to schedule the training because Avon had a new radiologist and two (2) new fellows. Ms. Siyadat and Ms. Toscano are copied on the first email, but the email states that the trainings are being arranged for the doctors and does not request that Ms. Siyadat attend the training. Ms. Siyadat and Ms. Toscano are not copied on the subsequent emails that select July 12, 2011 for the date of the training. In the final email, Mr. Moser replied to the Hologic representatives stating the times of the procedures and the time they should arrive on July 12, 2011. He copied Ms. Toscano on the email, but did not copy Ms. Siyadat. See Exhibit K, Attachment 1. He did not have an explanation for why Ms. Siyadat was not included. Therefore, the investigative findings conclude that Mr. Moser did not request that Ms. Siyadat attend the training. Because Mr. Moser's stated reason appears to be untrue, the investigative findings conclude that the Department did not have a legitimate business reason for the denial of training.

Based on Mr. Moser's comments about Ms. Siyadat's gender and national origin, the investigative findings support Ms. Siyadat's allegation that on July 12, 2011 she was denied training because her gender and national origin.

October 6, 2011 Denial of Training on Mammography Machine

Ms. Siyadat alleged that on October 6, 2011, Mr. Moser denied her training on a new mammogram machine. The training spanned three (3) days from October 4-6, 2011. Ms. Siyadat

did not request to attend until the final day of the training. Therefore, Ms. Siyadat did not suffer an adverse employment action.

Allegation G: Negative Performance Evaluation

Mr. Ibarra did not submit her performance evaluation to be placed in her personnel file. The performance evaluation, thus, cannot affect Ms. Siyadat's prospects for advancement or cause any other tangible adverse employment action. Therefore, the negative performance evaluation is not an adverse employment action, and Ms. Siyadat failed to raise an inference of disparate treatment.

ALLEGATIONS B-I: RETALIATION

On May 10, 2011, Mr. Moser commented that an upset patient was "like Iranian women" and pointed at Ms. Siyadat indicating that he was referring to her. Ms. Siyadat responded, "I don't appreciate these comments about my ethnicity." Mr. Moser denied that the incident occurred.

Subsequently, Ms. Siyadat made a complaint to Mr. Ibarra about Mr. Moser's comments about her gender and national origin. Mr. Ibarra acknowledged that Ms. Siyadat complained to him about Mr. Moser's inappropriate comments about her national origin. He did not report the complaint to Human Resources.

Ms. Siyadat alleged that all of the above actions discussed in Allegation B were also due to retaliation. She also alleged the following actions were due to retaliation:

Allegation H: Insubordination Threat

1. Ms. Siyadat's Written Complaint/Interview

On July 14, 2011, Ms. Siyadat and her union representative met with Mr. Moser and Mr. Ibarra to discuss her schedule. Mr. Moser proposed a change to her schedule that would have required her to work from 7:00am to 5:30pm instead of 6:30am to 5:00pm, but they did not agree to change her schedule.

Ms. Siyadat and Ms. Gerould were scheduled to meet with Mr. Moser and Mr. Ibarra on the morning of July 21, 2011 to provide evidence that she had been in compliance with the FDA regulations, but on July 20, 2011, Mr. Moser cancelled that meeting. Mr. Ibarra told Ms. Siyadat that Mr. Moser would not be able to meet until July 28, 2011. Mr. Ibarra also told her that he was free to meet with her on the afternoon July 21, 2011, but Ms. Siyadat was unable to reach her union representative to see if she was available.

On July 21, 2011, Mr. Moser called Ms. Siyadat to his office. When she arrived, Mr. Ibarra and Mr. Moser were both in Mr. Moser's office. Mr. Moser presented her with the proposed schedule change and asked her to sign it. Ms. Siyadat told Mr. Moser that she "would not sign it without her union representative present." Mr. Moser asked her if she was refusing her assignment and

told her that refusing her assignment is insubordination. Mr. Ibarra told Mr. Moser that it was not insubordination.

2. Interview of Rafael Ibarra

Mr. Ibarra confirmed that Mr. Moser told Ms. Siyadat that she was insubordinate when she refused to sign the proposed schedule change without union representation. Mr. Ibarra believes that Mr. Moser responded to her refusal to sign the document because he felt that Complainant has always disregarded his instructions.

3. Interview of Brian Moser

Mr. Moser denied that he accused Ms. Siyadat of insubordination when she refused to sign his proposed schedule change without union representation. He stated that he "simply asked her if she was refusing the schedule." He added, "I never said insubordination."

Allegation I: PPAR Evaluation Meeting

1. Ms. Siyadat's Written Complaint/Interview

On October 6, 2011, Mr. Moser called Ms. Siyadat for her performance evaluation meeting. Ms. Siyadat said that usually for the performance evaluation meetings, only the supervisor and employee are in the room. When she arrived for the meeting, Joselito Cruz was there as well.

Ms. Siyadat asked what Mr. Cruz was doing there. Mr. Moser said that he was doing the evaluation and "We asked him to sit in." Ms. Siyadat asked who "we" is, and Mr. Moser replied "I don't have to tell you who we is." Mr. Moser told her that Mr. Cruz is a supervisor so he can be there. Ms. Siyadat asked to postpone the meeting so she could have someone there at the meeting as well. Ms. Siyadat felt that having another individual in the office violated her privacy. Mr. Cruz did not supervise Ms. Siyadat during the period of the performance appraisal covered and did not provide input in the performance appraisal.

Mr. Moser told her Ms. Siyadat that she had to having the meeting. Ms. Siyadat could not tolerate the hostility and signed the evaluation without looking at it and left.

2. Interview of Rafael Ibarra

Mr. Ibarra confirmed that Mr. Cruz was at the performance evaluation meeting. Mr. Ibarra said that he asked DPH HR if a third party could sit in on the meeting. Mr. Moser wanted a second person at the meeting because he never wanted to meet alone with Ms. Siyadat. He wanted a third party to be present to protect both Mr. Moser and Ms. Siyadat due to the conflict between them. Mr. Merck was not around so he told Mr. Moser to ask Mr. Cruz to attend with him.

3. Interview of Brian Moser

Mr. Moser said that Mr. Merck was not there the day of the evaluation so Mr. Ibarra told him to ask Mr. Cruz to attend the meeting as well. Mr. Moser said that Human Resources personnel told him that there was no rule that a second person cannot be at the evaluation. Mr. Moser said that Ms. Siyadat is a difficult employee so they wanted to have another supervisor present at the meeting.

Analysis

On May 10, 2011, Ms. Siyadat engaged in a protected activity when, in response to Mr. Moser's comments about her national origin, she told him that she does not appreciate his comments about her ethnicity. Mr. Moser denied the two incidents ever occurred. However, as discussed above, witness testimony establish Mr. Moser's pattern of making comments of a similar nature, and Mr. Moser's credibility is questionable. Therefore, it is more likely than not that Ms. Siyadat told Mr. Moser that she did not appreciate his remarks about her ethnicity, and thus, Mr. Moser was aware that Ms. Siyadat engaged in a protected activity.

After the May 10, 2011 comment, Ms. Siyadat engaged in another protected activity when she complained to Mr. Ibarra that Mr. Moser inappropriately commented on her national origin and gender. Mr. Ibarra acknowledged that Ms. Siyadat made a complaint to him about Mr. Moser's inappropriate comments about her national origin. Therefore, Mr. Ibarra was aware that Ms. Siyadat engaged in a protected activity.

Allegation B: Extension of Probation

Ms. Siyadat alleged she was retaliated against when she her probation was extended for three (3) months. As discussed above, the Department did not have a legitimate business reason for extending Ms. Siyadat's probation. The evidence established Ms. Siyadat was informed two (2) weeks after she engaged in protected activities that her probation would be extended. The timing of the decision to extend her probation and the absence of a legitimate business reason make it more likely than not that the extension was due to a retaliatory animus.

Allegation C: Reassignment of Charge Technologist Duties

Ms. Siyadat alleged that she was retaliated against when the Charge Technologist duties were reassigned. As discussed above, the evidence supports Mr. Ibarra did not have a legitimate business reason for the reassignment because Ms. Siyadat was not out of compliance with the mammography regulations as Mr. Moser claimed.

Mr. Ibarra relied on Mr. Moser's statement about Ms. Siyadat's compliance because he was not familiar with the mammography regulations. While Mr. Ibarra made the reassignment decision, he was the "cat's paw." Mr. Moser misinformed Mr. Ibarra about Ms. Siyadat's compliance with the mammography regulations. Mr. Moser, as the supervisor of Avon, knew or should have known that Ms. Siyadat was not out of compliance with the mammography regulations. The

misinformation led directly to the adverse employment action, thus, Mr. Moser is responsible for the adverse employment action.

The reassignment occurred about one (1) month after Ms. Siyadat engaged in protected activities. The timing of the reassignment and the misinformation that Mr. Moser gave to Mr. Ibarra make it more likely than not that Mr. Moser intended to harm Ms. Siyadat in retaliation for her protected activities.

Allegation D: Change in Work Location

Ms. Siyadat was reassigned to work at Main for two (2) days each week, where she performed objectively comparable work as she performed at Avon. She did not suffer any change in work duties, responsibilities, status, or compensation. Therefore, Ms. Siyadat did not suffer a retaliatory adverse employment action.

Allegation E: Reassignment of Quality Control (QC) Technologist Duties

As discussed above, Ms. Siyadat did not suffer an adverse employment action because on July 22, 2011, she requested that she no longer be responsible for the QC Technologist duties. Therefore, Ms. Siyadat did not suffer a retaliatory adverse employment action.

Allegation F: Denial of Training

July 12, 2011 Denial of Training on Biopsy Equipment

Ms. Siyadat alleged that she was retaliated against when Mr. Moser did not allow her to attend a July 12, 2011 training. As discussed above, Mr. Moser did not have a legitimate business reason for the denying her request. The absence of a legitimate business reason for the denial makes it more likely than not that the denial of training was due to retaliation.

October 6, 2011 Denial of Training on Mammography Machine

As discussed above, Ms. Siyadat did not suffer an adverse employment action because she did not request to attend the training until the third day of a three-day training. Therefore, Ms. Siyadat did not suffer a retaliatory adverse employment action.

Allegation G: Negative Performance Evaluation

Ms. Siyadat alleged that Mr. Moser gave her a rating of "Does Not Meet Expectations" on her performance evaluation due to retaliation.

On Ms. Siyadat's performance appraisal for FY 2010/2011, she received a rating of "Does Not Meet Expectations." See Exhibit L, Attachment 1. Mr. Moser states that everything he wrote in the evaluation is true. However, in the performance evaluation, he wrote that Ms. Siyadat "neglected to maintain her credentials to perform mammography." As previously discussed, Ms.

Siyadat was never out of compliance with the regulations. Mr. Moser also wrote that in August 2011, Ms. Siyadat received written reprimands for falsifying sign-in times. However, these written reprimands were rescinded because they were improperly given to her. Additionally, they did not occur in the time period the evaluation covered. Therefore, Mr. Moser's statements are not credible.

Mr. Merck agreed with Mr. Moser's assessment of Ms. Siyadat's performance and signed the evaluation. He supervised Ms. Siyadat from November 2009 to October 2010. When he supervised Ms. Siyadat, he was at Avon for only about two (2) hours each day. He admitted that he did not witness many of the issues listed in the evaluation. Mr. Merck only was able to confirm personal knowledge one item in the performance appraisal.

To explain his agreement with Mr. Moser, Mr. Merck submitted his notes from the time he supervised Ms. Siyadat to demonstrate that "working with Mandana [Siyadat] can be very difficult." See Exhibit L, Attachment 4. The two (2) incidents in his notes occurred in June 2010, which was during the time period covered by the FY 2009/2010 performance appraisal in which Mr. Merck gave her a rating of "Exceeds Expectations." In the FY 2009/2010 performance appraisal, he wrote, "Mandana has been very [sic] helpful in running [Avon]," "You can depend on Mandana to get the things done that she says she will get done," and "I greatly appreciate Mandana's help in running the center in a difficult, transitional period. I look forward to working with her in the future." See Exhibit L, Attachment 3. Therefore, the two (2) incidents do not demonstrate support for the "Does Not Meet Expectations" for FY 2010/2011 performance appraisal.

Without documentation of performance deficiencies and due to Mr. Moser's questionable credibility, the Department did not have a legitimate business reason for rating Ms. Siyadat "Does Not Meet Expectations" for the FY 2010/2011 performance appraisal.

Allegation H: Insubordination Threat

On July 21, 2011, Mr. Moser called Ms. Siyadat to his office to meet with him and Mr. Ibarra. Mr. Moser asked Ms. Siyadat to sign a change to her schedule that she and her union previously did not agree to. Ms. Siyadat said that she would not sign anything without her union representative present. Mr. Moser then asked Ms. Siyadat if she was refusing her assignment and told her that refusing her assignment is insubordination. She understood that he was implying that she was being insubordinate because she refused to sign it. Although Mr. Moser denied accusing Ms. Siyadat of insubordination, Mr. Ibarra confirmed that Mr. Moser told Ms. Siyadat that she was insubordinate. However, Mr. Moser did not tell Ms. Siyadat that she would be written up, and Mr. Ibarra immediately corrected Mr. Moser. Therefore, Ms. Siyadat did not suffer a retaliatory adverse employment action.

Allegation I: PPAR Evaluation Meeting

Ms. Siyadat alleged that when she arrived to her performance evaluation meeting, Mr. Moser and Joselito Cruz, 2496 Radiologic Technologist Supervisor, were both in the room. Mr. Cruz did not

supervise Ms. Siyadat during the time period that the performance evaluation covered. Ms. Siyadat requested that only Mr. Moser be present at the meeting, but Mr. Moser refused. Ms. Siyadat felt that the meeting was hostile and signed the evaluation without reading it or reviewing it with Mr. Moser.

Mr. Moser and Mr. Ibarra confirmed that Mr. Cruz was present at the performance evaluation meeting. Mr. Ibarra suggested that Mr. Moser ask Mr. Cruz to attend the meeting as well because Mr. Moser did not want to meet with Ms. Siyadat alone. Mr. Ibarra believed it would be beneficial to both of them if a third party was present given the conflict between them, and he asked DPH HR if a third party could be present. DPH HR approved a third party being present at the PPAR meeting due to the conflict. The presence of a neutral third party to mediate potential conflicts between employees with a history of conflict is not likely to dissuade a reasonable employee from making complaints of discrimination. Therefore, Ms. Siyadat did not suffer an adverse employment action.

9. Recommendations Regarding Any Other Workplace Issues

The following recommendations are based on the investigative findings:

1. Inform Mr. Moser of the Director of Human Resources' findings that he violated federal and state law and city policies by subjecting Ms. Siyadat to unlawful discrimination and retaliation. Also inform Mr. Moser that he violated the CCSF's Harassment Free Workplace Policy by making inappropriate comments about Ms. Siyadat's gender and national origin.
2. Take appropriate disciplinary action against Mr. Moser for his discriminatory and retaliatory actions against Ms. Siyadat and for his inappropriate comments about gender, race, and national origin that five (5) other employees attested he made.
3. Remind Mr. Moser of the CCSF policy prohibiting retaliation against employees complaining about discrimination, or providing testimony in support of a discrimination complaint.
4. Require Mr. Moser to attend Harassment Free Workplace training; one-on-one training should be considered as an option because it may be more effective. Issue Mr. Moser the CCSF's Harassment Free Workplace Policy with a signed Acknowledgement and Receipt to be placed in Mr. Moser's official personnel file.
5. Require Mr. Moser to attend the Department of Human Resources' 24-PLUS for New Supervisors and Managers training program, which provides training that covers fundamental competencies for supervision.
6. Disseminate a written reminder to DPH supervisors and managers regarding reporting allegations of discrimination to DPH Human Resources or DPH EEO. Mr. Ibarra, then-Interim Director of Radiology, acknowledged that Ms. Siyadat complained to him about

an inappropriate comment that Mr. Moser made about her nationality. While Mr. Ibarra advised Ms. Siyadat to file a complaint with DPH EEO, he failed to report her allegations himself. Supervisors have an obligation to report EEO concerns.

10. Attachments to Report

Attached to this report are the following exhibits:

Exhibit A

Attachment 1: Letter of Complaint

Attachment 2: Follow-up to Complaint

Exhibit B Interview Notes from Meetings with Mandana Siyadat

Exhibit C Charge of Discrimination

Exhibit D Summary of Investigative Interviews

Exhibit E Summary of Documents Reviewed

Exhibit F SFGH Radiology – Tech Productivity Reports for MAM from January 2, 2011 to May 19, 2011

Exhibit G

Attachment 1: U.S. FDA Mammography Quality Standards Act (MQSA) Regulations

Attachment 2: FDA Policy Guidance on the MQSA

Exhibit H Siyadat Probation Extension Packet

Exhibit I May 24-25, 2011 Communications from Ibarra and Moser to Abela and Jafariieh re: Siyadat's probation

Exhibit J June 2011 Schedule Change Documents

Exhibit K

Attachment 1: Emails re: July 12, 2011 training

Attachment 2: Emails re: October 6, 2011 Trainings

Exhibit L

Attachment 1: Siyadat's July 2010 to June 2011 Performance Appraisal

Attachment 2: Siyadat's Rebuttal

Attachment 3: Siyadat's July 2009 to June 2010 Performance Appraisal for Siyadat

Attachment 4: Merck's Notes on Siyadat

Attachment 5: Siyadat's July 2011 to June 2012 Performance Appraisal for Siyadat

Attachment 1: Letter of Complaint
Attachment 2: Follow-up to Complaint

EXHIBIT A

Attachment 1

September 27, 2011

To: Department of Human Resources – EEO Division

From: Mandana Siyadat, SFGH – Radiology
2469 Diagnostic Imaging Technologist III

Re: Harassment and Discrimination on the Job - SFGH

I am writing to file a discrimination and harassment complaint. The basis for the complaint is ethnic, race, and gender bias expressed in remarks that Brian Moser made to me and the actions of the Radiology Department.

As a result of the prejudicial, hostile, offensive, and intimidating behavior of Brian Moser, 2496 Radiology Supervisor, and the SFGH Department of Radiology, I have been subjected to a hostile work environment over a prolonged period of time beginning in May 2011 and continuing to the present day.

Furthermore, the ultimate result of the long series of discriminatory actions and the harassment is that I have experienced a tangible change in my work assignment and environment.

I have worked for the SFGH Radiology Department since 1988. At the time this discriminatory sequence of events occurred, I was the QC and Lead Tech in the Avon Comprehensive Breast Center; a position I held since 2007.

During the extended period when the discrimination and harassment took place I had been on probation, even though I had worked at SFGH for over 20 years, because I was changing from a Part time to a Full time requisition.

Moser was hired in October 2010. His first ethnically prejudicial comment occurred in February 2011. The conversation transpired in the following manner:

- I wanted to inform him that a patient would probably write a written complaint about having to wait too long for a mammogram even though I tried to resolve her problem and diffuse her frustration.
- I explained to him that she seemed to really want to write a complaint and added that she is volatile.
- Moser replied: "Oh, just like Iranian women."
- With that remark, Moser snickered and made a hand gesture toward me indicating that he was referring to me.

Although I was very upset by the comment, at that that time I let the comment go because I thought it was an isolated incident.

In May 2011 there was another patient complaint about waiting too long in the waiting room for a diagnostic mammography exam. I brought this to his attention because he was adamant about not wanting written complaints. When I went to tell him about the possibility of a written complaint from a patient the conversation that ensued was as follows:

- Moser reacted using the "F" word.
- I explained that the woman seemed very upset and seemed stubborn.
- Once again, he replied: "Like Iranian women" as he pointed at me.
- This time I protested the discriminatory comment by replying: "I don't appreciate these comments about my ethnicity". He snickered again which upset me and then I also corrected his incorrect pronunciation of the word "Iranian".

Following this incident Moser systematically, consistently, and on a regular basis began to harass me, undermine me, and humiliate me in the work place. He and the Radiology Department even went so far as to manufacture accusations of my being out of compliance with the FDA Mammography regulations.

When I presented evidence to Moser and the Radiology Department, in the presence of a Representative of SEIU Local 1021, Moser refused to accept the documentation of the false accusation he had made toward me and accused me of forging another techs signature.

Moser and the Radiology department have gradually taken my duties as Mammography QC and Lead tech from me and given them to a technologist in a lower classification, that is a 2468.

Since there are two Mammography Lead Techs, the basis I was originally told for Moser's and the Radiology Department's decision for limiting the days I am assigned to the Breast Center was because there are two Mammography Charge Techs and they do not need two techs in charge on the same day in the Breast Center.

However, they currently have two techs, one a part time 2469, and the other a full time 2468, to whom he has given training and who is performing the duties that were my assignment. Therefore, contrary to why I originally was told my assignment was being changed, when both the full time 2468 and the part time 2469 are at work, there are two technologists in Charge in the Avon Breast Center.

Thus, my position in the environment has been tangibly changed. I no longer am assigned to the Avon Breast Center as Charge Tech. In addition, I am no longer assigned in the Breast Center on a daily basis, as was the case before Moser

and the Radiology Department began the process of stripping me of my duties in the Avon Comprehensive Breast Center.

In addition, I have been stripped of my responsibilities as Quality Control Technologist. Moser and the Radiology Department are training the same 2468 they put in Charge rather than me in the Breast Center.

When the Breast Center needs technologists and I am assigned there he demands to know in a hostile and aggravated tone from whomever the Charge Tech may be who asked me to come to the Breast Center: "What is she doing here?"

I am never put in Charge in the Avon Breast Center and instead, a 2468 is in the Breast Center on a daily basis and is in Charge on the days that I am assigned to the Breast Center. When I am in the Breast Center I perform patient exams that is mammograms and/or Breast Biopsies.

Frequently when Moser sees me he makes derogatory comments to me, for example he even made a comment about my physical appearance. After I had had a haircut he said:

"Oh, you got a haircut, so you don't have to use too much shampoo."

Above is a synopsis of my complaint. I will be happy to provide a detail of the sequence of events as evidence. Over the course of this period of being harassed, I spoke to Cathy Abela, SFGH HR regarding this but she refused to help me. I also left two messages for Michael Brown, DPH HR, but did not receive a reply.

In addition, I had tried to meet with Shermineh Jafrieh who is the SFGH administrator over Radiology, but she continually postponed meetings with me.

You can contact me by telephone at:

[REDACTED]

Or by mail at:

[REDACTED]

My purpose in filing this complaint is to request the City and County of San Francisco:

1. Put an end to the harassment, discrimination, and humiliation I have been subjected to by Moser and the complicit SFGH Radiology Management.
2. Extend Moser's probationary period until this matter is investigated and adjudicated

3. Require Moser as a condition of employment with the City and County of San Francisco to receive sensitivity training and education about what constitutes harassment and ethnic and gender bias.
4. Advise Moser and the Radiology Department to be advised that retaliation toward me or anyone who testifies on these matters will not be tolerated
5. Require Moser and the Radiology Department to provide me with a letter of apology for the false accusations that were made regarding my compliance with FDA standards.
6. To request the opportunity to discuss and redefine my job description in the Radiology Department and The Avon Breast Center. I would like to do this with the participation of Radiology Management and my Union Representative but without the participation of Brian Moser. The purpose of this request is to ensure that I will be spared a hostile work environment in the future and guaranteed a reasonable and friendly workplace.

I would also like to add that I am worried that others over whom Moser and Radiology Management have authority and who have knowledge of Moser's discriminatory actions and attitudes will not be able to testify in my behalf, because they are afraid. They are intimidated because they have seen what Moser and the Radiology Department have done to me with complete impunity. Moser is the boss of many technologists and can affect their jobs. Furthermore, there are others who cannot speak up even though they have information about Moser's offenses because they are on probation and he is their boss.

cc. Ed Kinchley, Shop Stewart, SEIU Local 1021
Susan A. Currin, RN, MS - Chief Executive Officer, SFGH
Jason Hashimoto, Director EEO Cultural Competency DPH, EEO

Attachment 2

October 5, 2011

To: Department of Human Resources – EEO Director

From: Mandana Siyadat, SFGH – Radiology
2469 Diagnostic Imaging Technologist III

Re: Follow up to Complaint lodged September 30, 2011
Harassment and Discrimination on the Job – SFGH

This letter is a follow-up to the letter dated September 27, 2011 that I delivered to EEO Office at 101 Grove Street.

Below I will explain, with names and dates, the series of events that has led me to file a discrimination and harassment complaint against Brian Moser, 2496, Radiology Supervisor, in conjunction with the SFGH Department of Radiology.

I will recount the events to the best of my recollection.

February 18

Moser made a comment to me about being an Iranian woman, as I stated in my first letter to EEO dated September 27.

The series of events that led me to file a complaint are as follows (all events occurred in 2011):

March 9

Moser told me that my mammography numbers were below the 200 mammograms required by the FDA for a technologist performing mammograms to continue performing exams independently.

Moser stated that I was out of compliance with FDA standards and therefore, since our annual MQSA /FDA inspection was coming up within the month, he advised me to perform 25 supervised mammograms,

Comment:

The FDA requires for Certified Mammography Technologists to be recertified once their mammo numbers go below 200 in a 24-month period.

March 9 (continued)

I began performing 25 supervised mammograms with a senior Mammography Technologist, Cora Anaya, DIT II 2468 with Moser's approval of technologist.

March 11

I went to Moser's office and attempted to give him a list of 25 supervised mammograms I had performed. (See Attachment #1)

He didn't look at the list and just told me to keep the paper.

Late March/Early April

I was diagnosed with a positive finding on a mammogram.

Since I had to have breast surgery, I had to take time off from work even though our FDA inspection was due on April 26 and I was the official QC technologist and the technologist with the most experience in doing inspections.

April 15

I had breast surgery

April 26

I returned to work in order to participate in the MQSA inspection, which we passed

I informed Moser and Rafael Ibarra, Interim Director Radiology, that due to my breast surgery I had restrictions and was not supposed to lift my arm, which is required in order to perform mammograms.

Comment:

Although I was on limited duty at that time I could continue to run work in the Avon Breast Center running operations. However, currently I am on limited duty and Moser will not allow me to work in Avon. Instead a tech of a lesser classification is put in charge when the part time Charge Tech is off. I am assigned to the Main Radiology Department.

May 10

As stated in my letter of September 27, Moser's second comment regarding my ethnicity (Iranian) and gender occurred

May 12 (approximately)

I called Sherminah Jafarih, Associate Hospital Administer over Radiology to discuss what I perceive as Moser's ethnic prejudice.

I asked for a meeting with her.

May 17

Jafarih responded via email apologizing for not getting back to me sooner (See Attachment #2)

May 19

I was out sick with severe stomach flu.

Ibarra telephoned me and told me that Moser said I was out of compliance with mammography rules because I only had completed 194 mammograms from May 19, 2009 to May 18, 2011 according to the numbers that Moser ran from the computer on May 19, 2011.

Ibarra instructed me not to report to The Avon Breast Center but to report to the Main Radiology Department when I return to work because I was not in compliance and could not perform Quality Control (QC) mammograms.

Ibarra said when I return to work we would talk about it.

May 20

I was out sick again with the stomach flu a second day.

Morning May 24

I returned to work.

I reported to Main Radiology Department instead of The Avon Breast Center

I asked Ibarra what was the problem.

According to Ibarra, since I was on probation (i.e. I was changing from a Part Time to Full Time requisition as I explained in my letter of September 27), Moser wanted to "let me go" (i.e. terminate me) on the grounds that I was according to Moser:

"...out of compliance and therefore a liability to the department"

Ibarra continued to tell me that he had instructed Moser that Moser had to go through proper channels before terminating an employee and therefore, Ibarra and Moser had gone to Human Resources for recommendations.

Ibarra told me that since I had been out on Medical Leave they had extended my probationary period from 5/8/2011 to 6/3/2011.

8:00 AM approximately

Moser joined Ibarra Sr. and me in Ibarra office. The following is what transpired:

- Moser presented me with several papers he had drawn up with Cathy Abela in SFGH Human Resources.
- The papers not only extended my probationary period as stated above by Ibarra, but also extended my probationary period for another six (6) months beginning 6/3/2011. (See Attachment #3 specifically page 8)

I protested Moser's allegation and stated that I had performed the mammograms as directed and had been in compliance with regulations.

Moser told me that I had to sign the document because:

1. It had already gone through approval by Human Resources

2. My Union was aware of the situation and was in agreement with the Radiology Department; in fact, Moser had already drawn a signature line on the paper with the name of a Union Rep on it.
3. Moser implied that since the Union knew about the matter it was a done deal.
4. Moser insisted that instead of "letting me go" he was doing me a favor by extending my probation to help me and give me a chance to maintain my "status in your (my) position" (see attachment)

Because he led me to believe I had no choice but to sign the document or be terminated, I signed it.

Ibarra told me that the Radiology Department would owe me a letter of apology if I could give evidence that I had been in compliance, in which case HR would revise my probation period.

Following the meeting I asked Ibarra for the Union Rep's phone number. On that same day I tried several times to contact her but was not successful.

May 24

4:27 PM

I replied to Jafarih's email of May 17 (See Attachment #4)

4:48 PM

Jafarih replied to me (See Attachment #4)

May 25

6:45 AM

I replied to Jafarih that I was available (see Attachment #4)

Jafarih never got back to me from this point forward.

Late Morning

I approached Brenda Barros, ^{Shop Steward} SEIU Union Rep, and asked for help.

We discussed the situation.

May 25 (continued)

Barros called HR to clarify that since my probation had originally been three (3) months and extension should also only be three (3) and not six (6) months

Barros called Moser and consequently, they agreed that he and HR would revise the paperwork to extend my probation only three (3) months from 6/3/2011. (See Attachment #5, page 1).

May 27

I spoke via telephone to my Union Rep, Emma Gerould, SEIU Local 1021, because I wanted representation at the next meeting regarding the three-month probationary period.

May 31

7:00 AM

Via email I asked to meet with Ibarra before I signed the three-month probation extension (See Attachment #6).

9:23 AM

I wrote to my Union Rep, Emma Gerould (See Attachment #7).

Gerould and I also had a phone conversation in which she told me that I needed to sign the paper since I was on probation and they could terminate me.

I told her that I could prove that the accusations against me were false but she advised not to protest at this time since I was on probation.

Comment:

As a condition of my new probationary period I was required to complete another 25 supervised mammograms, because I was allegedly out of compliance. I was scheduled to begin to complete the 25 mammograms on June 7

June 6

Ibarra called me at home on my day off telling me that I could not go to the Avon Breast Center until Thursday, June 9.

June 7

I reported to Ibarra's office to inform him that the allegations about my compliance with MQSA standards were incorrect and that Moser's accusations were false.

I explained that the allegations were not founded in fact.

I told Ibarra I believed Moser was deliberately denying me the possibility of performing mammograms and therefore, preventing me from fulfilling the terms of the probationary extension.

Ibarra instructed Moser to allow me to perform 25 assisted mammograms.

June 7-June 8

Supervised
I performed 25 ~~assisted~~ mammograms with Cora Andaya, Senior Mammography Technologist, and Mary McGinty, Mammography Technologist. (See Attachment #8).

June 9

Moser met with, Gerould (Union Rep), Ibarra and me to discuss his proposal to change my schedule. (Attachment #9)

Comment:

With this proposal Moser began the process that would ultimately result in a tangible change in my work environment and assignment.

June 9 (continued)

Moser proposed to take the Quality Control responsibilities away from me at this meeting

I presented several documents that proved that I had performed the 25 supervised mammograms that he alleged I had not completed.

I also raised several questions about why this was being done and I asked specifically why I was being "singled out" as a Charge Tech

Moser stated that the meeting was not about the issue of 25 mammograms but about my schedule

Ibarra agreed to have Moser investigate the evidence I had presented.

June 10

Moser emailed a review of meeting June 9 (See Attachment #10)

Comments:

Please note: The Union had advised me to go along with the proposal because I was on probation.

After June 7 if I was assigned to the Avon Breast Center, I was made to relinquish the Charge Tech assignment and instead was assigned to do patient exams while a 2468, a tech in a lesser classification, was put in charge of the Avon Breast Center.

June 15

When I was scheduled to perform biopsies in the Avon Breast Center the Medical Director of the Breast Center, Lori Strachowski, MD, asked me to discuss a problem with a technologist, which is the job of the Charge Tech.

Moser countermanded that request made by Dr. Strachowski. (See Attachment #11 and 12)

June 30

11:00 AM

I had scheduled a meeting with Moser, Ibarra, and Gerould for the purpose of showing documentation that contrary to Moser's allegation; I had been in compliance with FDA requirements.

Meeting was cancelled by Gerould, Union Rep (Attachment # 13)

4:15 PM

Moser told me not to do the Monthly QC, on July 1. At that time I was the official QC tech on record with the State of California and the FDA. (Attachment #14)

July 1

I wrote to Gerould asking when she was available to meet with Moser and me in order to discuss the new schedule that he had proposed for me.

I explained that the meeting had to be scheduled after Ibarra returned from vacation on July 12 (See Attachment #13 again)

July 12

Moser denied me training on a new piece of mammography equipment. (See Attachment #15)

July 13

7:50 AM

An incident involving Moser harassing me occurred.

The harassment incident also involved the Charge Tech, Nancy Toscano, (See Attachments #16 and #17)

9:50 AM approximately

As I was going to attend a 10:00 AM CPR class I ran into Jafariieh, I will paraphrase, to my best recollection the conversation that followed:

Jafariieh: How are you?

Siyadat: Not well at all.

Jafariieh: I know there are problems between you and Brian (Moser), but I was hoping the two of you could resolve your issues within the Radiology Department.

Siyadat: Well, I'm very disappointed in the management and at this point the situation has escalated

Jafariieh: I want you to know my door is always open

Siyadat: Well, I want you to know that I haven't done anything wrong; all I did was have breast surgery

9:09 PM

Jafariieh emailed me regarding the above conversation. (See Attachment #18)

July 20

I replied to Jafariieh's email of July 13 telling her I could no longer meet with her because the Union was now involved in the matter

Moser cancelled follow-up meeting with Union and me in which I was to present my case that had been schedule for 11:00 AM.

Notified Gerould about rescheduling the follow-up appointment to discuss with Moser the evidence of my being in compliance. (See Attachments #19)

July 21

Morning

Moser cancelled a the meeting with the Union which we rescheduled for 4 PM in which I was going to present my evidence of being in compliance (Attachment # 20)

3:40 PM

Moser called me to meet with him in his office; he also had Ibarra with him.

Moser demanded that I sign my approval of the new schedule he proposed

When I told him that I wouldn't sign unless my Union Rep was present he told me it was insubordination. (See Attachment # 21)

Ibarra told him that I wasn't refusing and it was not insubordination.

4:11 PM

Moser wrote an email to my Union Rep. (See Attachment #21)

7:19 PM

I sent an email regarding these matters to my Gerould (Union Rep) (Attachment #20)

July 22

Moser removed me from my Role as Quality Control Technologist in the Avon Breast Center (See Attachment #22)

July 28

Met with Moser, Gerould and Ibarra.

Presented documentation proving that I never been out of compliance with FDA regulations including the following:

1. FDA Rules and Regulations – which clearly state that after doing 25 supervised mammograms a technologist has six (6) months to complete the required 200 mammograms (See Attachment #23)
2. List of 25 supervised mammograms I had performed in March with Cora Andaya. (See Attachment #24)
3. Letter from Cora Andaya attesting to having supervised my 25 mammograms (See Attachment #25)
4. Log book entries of the patient exams Andaya and I performed together from March 9 – 11. (See Attachment #26)
5. I reminded them that my initials are on the images and that Andaya and I are the technologists on record in the computer system.

Moser accused me of forging Andaya's signature and dismissed the entire issue.

I told Moser that if I had been out of compliance at the time that he claimed I was, i.e. during the time of the last FDA inspection, the inspection is invalid.

Moser adamantly refused to negotiate with Gerould who proposed that Moser shorten the probationary period because it was based on, (as Gerould stated to Moser), "false accusations"

Ibarra agreed to discuss the issue of shortening the probationary period with Moser and to get back to Gerould

August 10

Gerould informed me that Moser and Ibarra did not agree to shorten the probationary period (See Attachment 27)

October 6

7:29 AM

I emailed Moser inquiring about when I would be trained on new mammography equipment

He denied me training (See Attachment 28)

12:30 PM (approximately)

Moser called me to do my evaluation. He had another Supervisor, Joselito Cruz, in the office with him

I protested because having another in the office is a violation of my privacy. I said if you have a witness it is my right to have a witness too

He responded:

"We asked him (referring to Cruz) to sit in"

I asked him who we is and he replied:

"I don't have to tell you who we is"

Moser repeatedly demanded that I sit down and told him I would if Cruz left.

Cruz did not leave.

I did not sit down and because I could not tolerate the hostility and the harassment, I signed the evaluation without looking at it.

Comment:

Moser said Cruz was present because he (Moser) is new to the process and therefore, he needed Cruz in the room. To my knowledge Moser has done the evaluations of most mammography technologists without another Supervisor in the room. If that is the case, he is singling me out again for harassment.

Following the meeting I went to see Ed Kinchley, SEIU Local 1021, Shop Stewart, and he wrote an email regarding the incident to Moser (Attachment #29).

Situation to date:

- My work environment has tangibly changed.
- Moser has subjected me to a hostile work environment
- I am no longer allowed to act in role of Charge Tech in the Avon Breast Center.
- When I am in the Avon Breast Center I am never put in Charge even though I was originally hired in 2007 as the Mammography Charge Technologist and Mammography Quality Assurance Technologist.
- I have been denied training on mammography equipment more than once

MQSA Technologist Education and Clinical Performance Data Sheet

Name: Mandana Siyadat Date: 3-11-11

Address: 

Initial Experience Requirements:

40 Hours of Continuing Education Specific to Mammography (Documentation attached.)	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
25 Clinical exams/Supervised by a MQSA Technologist	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>

Clinical Experience

#	Patient ID	Date	Facility	Tech Initials
1	0524655	3/3/11	Avon	CBA
2	01274178	3/10/11		CBA
3	05231480	3/10/11		CBA
4	01302763	3/16/11		CBA
5	01454119	3/10/11		CBA
6	05235541	3/10/11		CBA
7	0144054	3/10/11		CBA
8	00878855	2/3/11		CBA
9	01741652	2/3/11		CBA
10	0508684	2/3/11		CBA
11	05151831	2/3/11		CBA
12	0513990	2/3/11		CBA
13	0141070	1/28/11		CBA
14	00081441	1/28/11		CBA
15	00648095	1/28/11		CBA
16	01452529	1/28/11		CBA
17	01576669	1/27/11		CBA
18	01275323	1/27/11		CBA

	Patient ID	Date	Facility	Tech Initials
19	05072428	3-11-11	ABC Avon	CBA
20	00823081	3-11-11		CBA
21	01774001	3-11-11		CBA
22	00515384	3-11-11		CBA
23	01506720	3-11-11		CBA
24	00916564	3-11-11		CBA
25	01484157	3-11-11		CBA

Facilities: (List all.)

Name: Avon Breast Center Name: _____
 Address: 1001 Potrero Ave Bldg 4 Address: _____
8F, CA 94110 _____

Supervising Technologist: (List all.)

Technologist Name: Mandana Syadat
 Facility: Avon Breast Center
 Technologist is MQSA Certified: Yes No

Technologist Name: _____
 Facility: _____
 Technologist is MQSA Certified: Yes No

Technologist Name: _____
 Facility: _____
 Technologist is MQSA Certified: Yes No

Technologist Name: _____
 Facility: _____
 Technologist is MQSA Certified: Yes No

7

From: Mandana Siyadat/DPH/SFGOV
To: Shermineh Jafariieh/DPH/SFGOV@SFGOV

Date: Wednesday, May 25, 2011 06:45AM
Subject: Re: Meet

Hi Shermineh,
It is fine. please let me know what time so I can arrange my time.

Thank you
Mandana Siyadat
Lead Technologist
Avon Comprehensive Breast Center
San Francisco General Hospital
415 206 4483

-----Shermineh Jafariieh/DPH/SFGOV wrote: -----

To: Mandana Siyadat/DPH/SFGOV@SFGOV
From: Shermineh Jafariieh/DPH/SFGOV
Date: 05/24/2011 04:48PM
Subject: Re: Meet

Hi Mandana,
I hope you are available Thurs because my day is really full tomorrow.
What is your availability?

Thank you,
Shermineh

Shermineh Jafariieh, M.S.
Associate Hospital Administrator
Director of Diagnostic & Wellness Services
San Francisco General Hospital & Trauma Center

Office: (415) 206-5804
Fax: (415) 206-3434
Email: shermineh.jafariieh@sfdph.org

Mandana Siyadat/DPH/SFGOV

**Mandana
Siyadat/DPH/SFGOV**

To: Shermineh Jafariieh/DPH/SFGOV@SFGOV
cc
Subject: Re: Meet

05/24/2011 04:27 PM

Hi Shermineh,
I am in Radiology Dept all day tomorrow, and I can meet with you any time is good for your schedule. Please email me the time or you can call me @ 8020 to let me know what time works for you.

#1
From: Mandana Siyadat/DPH/SFGOV
To: Sherminah Jafarieh/DPH/SFGOV@SFGOV

Date: Tuesday, May 24, 2011 04:27PM
Subject: Re: Meet

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To: Mandana Siyadat/DPH/SFGOV@SFGOV
From: Sherminah Jafarieh/DPH/SFGOV
Date: 05/17/2011 10:18PM
Subject: Meet

Hi Mandana,
Sorry for the delay in getting back to you. I have been in out at a conference and leadership academy. Are you available to meet tomorrow any time in the afternoon? Let me know.

Thank you,
Sherminah

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Sherminah Jafarieh, M.S.
 Associate Hospital Administrator
 Director of Diagnostic & Wellness Services
 San Francisco General Hospital & Trauma Center

Office: (415) 206-5804
 Fax: (415) 206-3434
 Email: sherminah.jafarieh@sfdph.org

Mandana Siyadat/DPH/SFGOV

**Mandana
 Siyadat/DPH/SFGOV**

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MS

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Thank you,
Sherminah

City and County of San Francisco



Department of Public Health
Human Resource Services
Labor Relations Division

(415) 206-8630
Fax (415) 206-4580

Edwin M. Lee, Mayor

May 31, 2011

Elizabeth Jacobi, Director
Department of Public Health
Human Resources Services
101 Grove Street, Suite 210
San Francisco, CA 94103

Re: Mandana Siyadat, 2469 Diagnostic Imaging Technician III

Dear Ms. Jacobi:

The Department of Public Health, Radiology Department (RAD), is requesting approval to extend the probationary period of Ms. Mandana Siyadat for three (3) months, subject to the provisions outlined under the Civil Service Commission Rules for probationary periods. Ms. Siyadat was appointed to Class 2469 Diagnostic Imaging Technician III on February 9, 2011 and is currently serving a probationary period through close of business on June 3, 2011. Please note that Ms. Siyadat's probation was scheduled to end by close of business May 8, 2011, but has been extended due to absences from work. See attached Probationary Status Report.

Ms. Siyadat has not demonstrated an acceptable level of performance in Class 2469 Diagnostic Imaging Technician III and the department is requesting an extension to provide her additional time to improve areas of deficiencies.

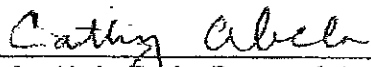
According to the collective bargaining agreement for miscellaneous Service Employees International Union (SEIU) Article II, Section B, Probationary Periods:

83. A probationary period may be extended by mutual agreement, in writing, between the Union and the City.


The anticipated new ending date for the extended probationary period for Mandana Siyadat will be close of business September 2, 2011 with the understanding that the probationary ending date will be subject to adjustment according to Civil Service Commission Rule 117, governing Probationary Periods.

Page 2
Extension of Probationary Period
Mandana Siyadat, 2469 Diagnostic Imaging Technician III

Thank you for your attention to this matter. If you have any questions, please contact me at (415) 206-5027.


Cathy Abela, Senior Personnel Analyst

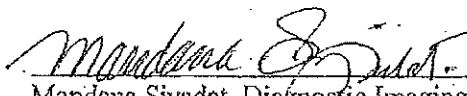
6/11/11
(Date)


Rafael Ibarra, Interim Director of Radiology

5/31/11
(Date)


Brian Moser, Radiologic Technologist Supervisor

6/11/2011
(Date)



Mandana Siyadat, Diagnostic Imaging Technician III

5/31/11
(Date)

(see attached)
Emma Gerould, SEIU Local 1021, Worksite Organizer

(Date)

APPROVAL:


Elizabeth Jacobi, Human Resources Director

6/1/11
(Date)

Attachments: Memorandum from Brian Moser; Probationary Status Report, Notice of Probationary Status; SEIU Miscellaneous Article II, Section B.

cc: Mandana Siyadat
Rafael Ibarra
Brian Moser
Emma Gerould
Yvette Gamble
Michael Brown
Personnel File

Page 2
Extension of Probationary Period
Mandana Siyadat, 2469 Diagnostic Imaging Technician III

Thank you for your attention to this matter. If you have any questions, please contact me at (415) 206-5027.

Cathy Abela, Senior Personnel Analyst

(Date)

Rafael Ibarra, Interim Director of Radiology


(Date)

Brian Moser, Radiologic Technologist Supervisor

(Date)

Mandana Siyadat, Diagnostic Imaging Technician III

(Date)



Emma Gerould, SEIU Local 1021, Worksite Organizer

5/31/11

(Date)

APPROVAL:

Elizabeth Jacobi, Human Resources Director

(Date)

Attachments: Memorandum from Brian Moser, Probationary Status Report, Notice of Probationary Status; SEIU Miscellaneous Article II, Section B.

cc: Mandana Siyadat
Rafael Ibarra
Brian Moser
Emma Gerould
Yvette Gamble
Michael Brown
Personnel File

City and County of San Francisco

Report of Probationary Status

Mandana Sivadat
Name of Employee

81-02 DPH-SFGH
Department / Division

2469 Diagnostic Imaging Tech III
Class Number and Title

Local 1021 SEIU
Employee Organization

056924 2
List Number Rank

Duration of the Probationary Period: 3 months (Check MOU or ordinance)

Appointee received credit for time. Dates: _____ to _____
Specify reason for credit and cite MOU / ordinance or CSC Rule Section 117.05: _____

Date Probationary Period Began: 02/09/11 Date Probationary Period Ended: COB 05/08/11
(Probation begins on start work date in PCS status, not the certification date.)

Appointee has successfully completed the probationary period.

Appointee will serve a successive probationary period. (CSC Rule Section 117.06)

Appointee will resume their probationary period for _____ days / months. (CSC Rule Section 117.08)

Probationary period was extended until 06/03/11. Reason for the extension:

to obtain required licenses and/or certificates. (CSC Rule Section 117.04)

time taken off for leave, and other types of time off. (CSC Rule Section 117.02.2)

other, specify reason: _____

Appointee is released during probationary period effective COB _____

If the probationary period was extended, please check the reason(s), provide the date(s), and total the number of working days of extension. (Use reverse side if more space is required).

Check	Reason for Extension	Dates		Number of Days
		From	To	
<input type="checkbox"/>	Vacation / Legal & Floating Holidays	<u>2/9/11</u>	<u>5/8/11</u>	<u>11.0 *</u>
<input type="checkbox"/>	Authorized Leave			
<input type="checkbox"/>	Unauthorized Absence			
<input type="checkbox"/>	Disciplinary Suspension			
<input type="checkbox"/>	Sick leave with or without pay	<u>2/9/11</u>	<u>5/8/11</u>	<u>3.9 *</u>
<input type="checkbox"/>	Other, specify: Overtime Used	<u>2/9/11</u>	<u>5/8/11</u>	<u>1.2 *</u>
Total Working Days of Extension				<u>16.1 *</u>

Prepared by:

Signature: Cathy Abela

Print Name: Cathy Abela

* Based on 10 hr days

Title: Sr. Personnel Analyst

Date: 05/24/11

Original: Employee's Personnel File
cc: Employee
DHR 6-37 (Revised 8/00)

[Signature]
Personnel Officer's Signature



Notice of Probationary Status

Mandana Sivadat

2469 Diagnostic Imaging Tech III
81-02 DPH-SFGH

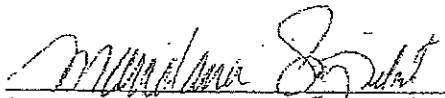
Local 1021

Type of Probation:
 Entrance Probationary
 Promotive Probationary

Congratulations on your Permanent Civil Service (PCS) appointment!

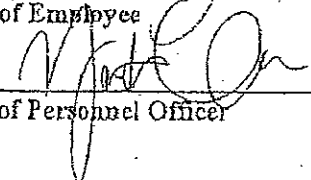
You are now serving your probationary period for your appointment in:
Class 2469 Diagnostic Imaging Tech III. This is the final and most important phase of the selection process. The probationary period is used to evaluate your performance on the job. The duration of your probationary period is 3 months; and begins on 2/9/2011 and is scheduled to be completed COB 5/8/2011. Extensions of your probationary period are governed by the Civil Service Commission Rules and provisions in your Memorandum of Understanding (MOU) or ordinance. During this probationary period, you may be released by your appointing officer at any time in accordance with Civil Service Commission Rule 117 – Probationary Period.

Please sign below acknowledging that you understand this notice and have received a copy of it.



Signature of Employee

2-18-11
Date



Signature of Personnel Officer

Original: Employee's Personnel File
cc: Employee's Immediate Supervisor
Employee

See Reverse Side for Excerpts from CSC Rule 117 – Probationary Period

DHR 6-38 (8/00)

Excerpts from Civil Service Commission Rule 117 - Probationary Period

RULE 117

Probationary Period

Applicability: Unless otherwise noted, the provisions of Rule 117 apply to employees in all classes.

Sec. 117.01 Requirement for a Probationary Period

- 117.01.1 Any person appointed to a permanent civil service position shall serve a probationary period.
- 117.01.2 Nothing in these provisions is intended to infringe upon or restrict the authority of an appointing officer in releasing a probationary employee as provided in these Rules.

Sec. 117.02 Definition of Probationary Period

The probationary period is defined as:

- 117.02.1 The final and most important phase of the selection process and is to be used for evaluating the performance of an employee in the position to which appointed; and
- 12.02.2 A period of regularly scheduled hours worked, excluding any time off for leave, vacation, other types of time off, or overtime.

Sec. 117.03 Appointments subject to the Probationary Period

A probationary period is required for all of the following types of permanent appointments:

- 117.03.1 Appointment from an eligible list;
- 117.03.2 Appointment following layoff or involuntary leave when the appointment is to a class and/or department other than the one from which laid off, or when a probationary period has not been previously served in the class and department;
- 117.03.3 Appointments by transfer to a position in the same class in another department, status transfer under the status rights of Americans With Disabilities Act provisions of these Rules, or technological transfer;
- 117.03.4 Reappointment of resignees;
- 117.03.5 Reinstatement at the request of the employee to a permanent position in a former class in a department other than a department in which the probationary period had been completed in this former class;
- 17.03.6 Advancement from a part-time position to a full-time position except if the employee had previously served a probationary period in a full-time position in the same class in the same department;
- 17.03.7 Reversion by a promotive probationary employee to a position in a former class in which the probationary period has been completed, except if the employee has previously served a probationary period in the same department in that class.

(Issued 8/8/90)

ARTICLE II - EMPLOYMENT CONDITIONS

81. 9. A current regularly scheduled provisional employee who receives a permanent appointment in his or her class in another department shall have his or her probationary period reduced by the time served by that employee in the same classification, but all such probationary periods shall be at least three (3) months.
82. 10. The probationary period for 8237, 8238 and 8239 Public Safety Dispatchers hired on or after July 1, 2007 shall conclude six (6) months after an employee's successful completion of the Department of Emergency Management training program.

83. A probationary period may be extended by mutual agreement, in writing, between the Union and the City.

84. An employee who is granted a leave while serving a probationary period shall have such probationary period extended by the period of such leave in order to complete the required period of service. Disability leave shall extend the probationary period in all cases.

C. CONTRACTING OUT OF WORK

85. Due to the size of the bargaining unit and the diversity of the classifications and employees within the unit, which enable the employees to perform various services in the diverse communities served by the City, the Mayor and the Union agree that, for the term of this 2006-2009 Agreement, the Mayor shall instruct the City's Department Heads over whom he has budgetary authority that:

86. Department heads shall not initiate and the Mayor shall not approve requests to contract out any routine work currently performed by existing employees represented by the Union; and

87. Department heads shall not lay off current bargaining unit members or eliminate existing bargaining unit positions as a result of contracting out.

88. This instruction shall not in any way affect (i) existing contracts (which shall include proposed contracts funded with monies appropriated in the 1996-97 budget), (ii) renewals, amendments or extensions of those contracts, or (iii) new contracts either for services already contracted out or arising from the City's receipt of new and/or additional federal, state, or grant funds designated for new or unique programs. However, such funds shall not include growth in general fund or enterprise revenues in force and effect at the time of the signing of this Agreement.

89. The Mayor agrees that it is not the intent of the City to use the contracting out process to avoid prevailing wages, compliance with MBE/WBE requirements, or payment of health or other benefits.

90. Notwithstanding any other provision of this section, the Mayor may propose pursuant to the City's standard procedures to contract out work currently performed by existing City employees (a) where external funding sources require the use of outside third parties to perform services; or (b) in emergency situations, as determined by the Mayor and upon a majority vote of the Board of Supervisors.

91. Should the Mayor determine that the restrictions contained in this section unduly interfere with a department's or the City's ability to provide appropriate services to the diverse communities within the City, the Mayor and the Union agree to meet in order to resolve the concerns. If the Mayor and

3
Page 1
City and County of San Francisco

Department of Public Health
Human Resource Services
Labor Relations Division

(415) 206-8630
Fax (415) 206-4580



Edwin M. Lee, Mayor

May 31, 2011

Elizabeth Jacobi, Director
Department of Public Health
Human Resources Services
101 Grove Street, Suite 210
San Francisco, CA 94103

Re: Mandana Siyadat, 2469 Diagnostic Imaging Technician III

Dear Ms. Jacobi:

The Department of Public Health, Radiology Department (RAD), is requesting approval to extend the probationary period of Ms. Mandana Siyadat for three (3) months, subject to the provisions outlined under the Civil Service Commission Rules for probationary periods. Ms. Siyadat was appointed to Class 2469 Diagnostic Imaging Technician III on February 9, 2011 and is currently serving a probationary period through close of business on June 3, 2011. Please note that Ms. Siyadat's probation was scheduled to end by close of business May 8, 2011, but has been extended due to absences from work. See attached Probationary Status Report.

Ms. Siyadat has not demonstrated an acceptable level of performance in Class 2469 Diagnostic Imaging Technician III and the department is requesting an extension to provide her additional time to improve areas of deficiencies.

According to the collective bargaining agreement for miscellaneous Service Employees International Union (SEIU) Article II, Section B, Probationary Periods:

83. A probationary period may be extended by mutual agreement, in writing, between the Union and the City.

The anticipated new ending date for the extended probationary period for Mandana Siyadat will be close of business September 2, 2011 with the understanding that the probationary ending date will be subject to adjustment according to Civil Service Commission Rule 117, governing Probationary Periods.

Extension of Probationary Per.
Mandana Siyadat, 2469 Diagnostic Imaging Technician III

Thank you for your attention to this matter. If you have any questions, please contact me at (415) 206-5027.

Cathy Abela
Cathy Abela, Senior Personnel Analyst

6/11/11
(Date)

Rafael Ibarra
Rafael Ibarra, Interim Director of Radiology

5/31/11
(Date)

Brian Moser
Brian Moser, Radiologic Technologist Supervisor

6/11/2011
(Date)

Mandana Siyadat
Mandana Siyadat, Diagnostic Imaging Technician III

5/31/11
(Date)

(See attached)
Emma Gerould, SEIU Local 1021, Worksite Organizer

(Date)

APPROVAL:

Elizabeth A. Jacobo
Elizabeth Jacobo, Human Resources Director

6/11/11
(Date)

Attachments: Memorandum from Brian Moser, Probationary Status Report, Notice of Probationary Status; SEIU Miscellaneous Article II, Section B.

- cc: Mandana Siyadat
- Rafael Ibarra
- Brian Moser
- Emma Gerould
- Yvette Gamble
- Michael Brown
- Personnel File

Page 2

Extension of Probationary Period

Mandana Siyadat, 2469 Diagnostic Imaging Technician III

Thank you for your attention to this matter. If you have any questions, please contact me at (415) 206-5027.

Cathy Abela, Senior Personnel Analyst

(Date)

Rafael Ibarra, Interim Director of Radiology

(Date)

Brian Moser, Radiologic Technologist Supervisor

(Date)

Mandana Siyadat, Diagnostic Imaging Technician III

(Date)



Emma Gerould, SEIU Local 1021, Worksite Organizer

5/31/11
(Date)

APPROVAL:

Elizabeth Jacobi, Human Resources Director

(Date)

Attachments: Memorandum from Brian Moser; Probationary Status Report, Notice of Probationary Status; SEIU Miscellaneous Article II, Section B.

cc: Mandana Siyadat
Rafael Ibarra
Brian Moser
Emma Gerould
Yvette Gamble
Michael Brown
Personnel File

Report of Probationary Status

Mandana Siyadat
Name of Employee

81-02 DPH-SFGH
Department / Division

2469 Diagnostic Imaging Tech III
Class Number and Title

Local 1021 SEIU
Employee Organization

056924 2
List Number Rank

Duration of the Probationary Period: 3 months (Check MOU or ordinance)

Appointee received credit for time. Dates: _____ to _____
Specify reason for credit and cite MOU / ordinance or CSC Rule Section 117.05: _____

Date Probationary Period Began: 02/09/11 Date Probationary Period Ended: COB 05/08/11
(Probation begins on start work date in PCS status, not the certification date.)

Appointee has successfully completed the probationary period.

Appointee will serve a successive probationary period. (CSC Rule Section 117.06)

Appointee will resume their probationary period for _____ days/months. (CSC Rule Section 117.08)

Probationary period was extended until 06/03/11. Reason for the extension:
 to obtain required licenses and/or certificates. (CSC Rule Section 117.04)
 time taken off for leave, and other types of time off. (CSC Rule Section 117.02.2)
 other, specify reason: _____

Appointee is released during probationary period effective COB _____

If the probationary period was extended, please check the reason(s), provide the date(s), and total the number of working days of extension. (Use reverse side if more space is required).

Check	Reason for Extension	Dates		Number of Days
		From	To	
<input type="checkbox"/>	Vacation / Legal & Floating Holidays	<u>2/9/11</u>	<u>5/8/11</u>	<u>11.0*</u>
<input type="checkbox"/>	Authorized Leave			
<input type="checkbox"/>	Unauthorized Absence			
<input type="checkbox"/>	Disciplinary Suspension			
<input type="checkbox"/>	Sick leave with or without pay	<u>2/9/11</u>	<u>5/8/11</u>	<u>3.9*</u>
<input type="checkbox"/>	Other, specify: Overtime Used	<u>2/9/11</u>	<u>5/8/11</u>	<u>1.2*</u>
Total Working Days of Extension				<u>16.1*</u>

Prepared by:

Signature: Cathy Abela

Print Name: Cathy Abela

* Based on 10 hr days

Title: Sr. Personnel Analyst

Date: 05/24/11

Original: Employee's Personnel File

cc: Employee

DHR 6-37 (Revised 8/00)

Michael B. Brown
Personnel Officer's Signature



Notice of Probationary Status

Mandana Siyadat

2469 Diagnostic Imaging Tech III
81-02 DPH-SFGH

Local 1024

Type of Probation:

Entrance Probationary

Promotive Probationary

Congratulations on your Permanent Civil Service (PCS) appointment!

You are now serving your probationary period for your appointment in:

Class: 2469 Diagnostic Imaging Tech III. This is the final and most important phase of the selection process.

The probationary period is used to evaluate your performance on the job. The duration of your probationary

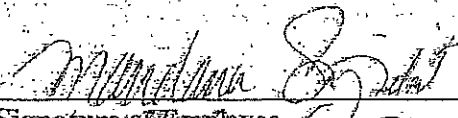
period is 3 months, and begins on 2/9/2011 and is scheduled to be completed COB 5/8/2011. Extensions of your

probationary period are governed by the Civil Service Commission Rules and provisions in your Memorandum of

Understanding (MOU) or ordinance. During this probationary period, you may be released by your appointing

officer at any time in accordance with Civil Service Commission Rule 117 - Probationary Period.

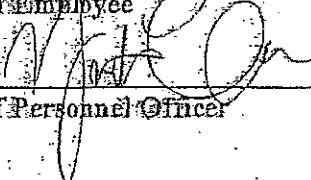
Please sign below acknowledging that you understand this notice and have received a copy of it.



Signature of Employee

2-18-11

Date



Signature of Personnel Officer

Original: Employee's Personnel File
cc: Employee's Immediate Supervisor
Employee

See Reverse Side for Excerpts from CSC Rule 117 - Probationary Period

Excerpts from Civil Service Commission Rule 117 - Probationary Period

RULE 117

Probationary Period

Applicability: Unless otherwise noted, the provisions of Rule 117 apply to employees in all classes.

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- 117.01.1 Any person appointed to a permanent civil service position shall serve a probationary period.
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- 117.03.4 Reappointment of resignees;
- 117.03.5 Reinstatement at the request of the employee to a permanent position in a former class or a department other than a department in which the probationary period had been completed in this former class;
- 117.03.6 Advancement from a part-time position to a full-time position except if the employee had previously served a probationary period in a full-time position in the same class in the same department;
- 117.03.7 Reversion by a promotive probationary employee to a position in a former class in which the probationary period has been completed, except if the employee has previously served a probationary period in the same department in that class.

(Issued 8/8/00)

ARTICLE II - EMPLOYMENT CONDITIONS

81. 9. A current regularly scheduled provisional employee who receives a permanent appointment in his or her class in another department shall have his or her probationary period reduced by the time served by that employee in the same classification, but all such probationary periods shall be at least three (3) months.
82. 10. The probationary period for 8237, 8238 and 8239 Public Safety Dispatchers hired on or after July 1, 2007 shall conclude six (6) months after an employee's successful completion of the Department of Emergency Management training program.
83. A probationary period may be extended by mutual agreement, in writing, between the Union and the City.
84. An employee who is granted a leave while serving a probationary period shall have such probationary period extended by the period of such leave in order to complete the required period of service. Disability leave shall extend the probationary period in all cases.

C. CONTRACTING OUT OF WORK

85. Due to the size of the bargaining unit and the diversity of the classifications and employees within the unit, which enable the employees to perform various services in the diverse communities served by the City, the Mayor and the Union agree that, for the term of this 2006-2009 Agreement, the Mayor shall instruct the City's Department Heads over whom he has budgetary authority that
86. Department heads shall not initiate and the Mayor shall not approve requests to contract out any routine work currently performed by existing employees represented by the Union; and
87. Department heads shall not lay off current bargaining unit members or eliminate existing bargaining unit positions as a result of contracting out.
88. This instruction shall not in any way affect (i) existing contracts (which shall include proposed contracts funded with monies appropriated in the 1996-97 budget), (ii) renewals, amendments or extensions of those contracts, or (iii) new contracts either for services already contracted out or arising from the City's receipt of new and/or additional federal, state, or grant funds designated for new unique programs. However, such funds shall not include growth in general fund or enterprise revenues in force and effect at the time of the signing of this Agreement.
89. The Mayor agrees that it is not the intent of the City to use the contracting out process to avoid prevailing wages, compliance with MBE/WBE requirements, or payment of health or other benefits.
90. Notwithstanding any other provision of this section, the Mayor may propose pursuant to the City's standard procedures to contract out work currently performed by existing City employees (a) where external funding sources require the use of outside third parties to perform services; or (b) in emergency situations, as determined by the Mayor and upon a majority vote of the Board of Supervisors.
91. Should the Mayor determine that the restrictions contained in this section unduly interfere with a department's or the City's ability to provide appropriate services to the diverse communities within the City, the Mayor and the Union agree to meet in order to resolve the concerns. If the Mayor and

6

From: Mandana Siyadat/DPH/SFGOV
To: Rafael Ibarra/DPH/SFGOV@SFGOV

Date: Tuesday, May 31, 2011 07:00AM
Subject: HR paper

Good morning Rafael,

I would like to talk to you before you process the paper that I signed. I would like the union rep be present also before any final decision.

I spoke with the union rep briefly on Friday. It was my understanding that she needs to sign the paper also.

Please let me know when you can meet with me this morning.

Thank you
Mandana Siyadat
Lead Technologist
Avon Comprehensive Breast Center
San Francisco General Hospital
415 206 4483

hatched

#7

From: Mandana Siyadat/DPH/SFGOV
To: Emma.Gerould@seiu1021.org

Date: Tuesday, May 31, 2011 09:23AM
Subject: Re

Hello Ms.Gerould,

I spoke briefly with you on Friday 5/27/11 about my situation at work, but unfortunately we got cut off. I need to meet with you ASAP. I am at work today until 2:30 PM. If it is possible at all I would like to see you today. This is a time sensitive matter due to the new probation they put me on, and I believe I have a case to fight back. I need your expertise, and help.

Please call me @ (415)206-8020, or TXT me @ (650)455-0362.

Thank you
Mandana Siyadat
Lead Technologist
Avon Comprehensive Breast Center
San Francisco General Hospital
415 206 4483

#8

MQSA Technologist Education and Clinical Performance Data Sheet

Name: Mandana Shiyadat Date: 6-7-11
Address: 1001 Potrero Ave Bldg 4
SAN FRANCISCO, CA 94110

Initial Experience Requirements:
40 Hours of Continuing Education Specific to Mammography (Documentation attached.) Yes No
25 Clinical exams/Supervised by a MQSA Technologist Yes No

Clinical Experience

#	Patient ID	Date	Facility	Tech Initials
1	01714604	6-7-11	AVON Breast Center	MOM
2	00831226	6-7-11		MOM
3	00201234	6-7-11		MOM
4	01649538	6-7-11		MOM
5	0169274	6-7-11		MOM
6	01120703	6-7-11		MOM
7	05198004	6-7-11		MOM
8	05227217	6-7-11		MOM
9	00767851	6-7-11		MOM
10	00843741	6-7-11		MOM
11	05059789	6-8-11		CBA
12	01341836	6-8-11		CBA
13	05226874	6-8-11		CBA
14	01091406	6-8-11		CBA
15	01275432	6-8-11		CBA
16	01680960	6-8-11		CBA
17	01729614	6-8-11		CBA
18	01697068	6-8-11		CBA

#

	Patient ID	Date	Facility	Tech Initials
19	05138513	6-8-11	Avon Breast Center	CBA
20	05226394	6-8-11		CBA
21	05192954	6-8-11		CBA
22	00401551	6-8-11		CBA
23	05163219	6-8-11		CBA
24	05235700	6-8-11		CBA
25	05102165	6-8-11		CBA

Facilities: (List all.)

Name: Avon Breast Center Name: _____
 Address: 1001 Potrero Ave Bldg 4 Address: _____
San Francisco, CA 94110 _____

Supervising Technologist: (List all.)

Technologist Name: MAGINTY, Mary
 Facility: Avon Breast Center
 Technologist is MQSA Certified: Yes No

Technologist Name: CORAZON ANDAYA
 Facility: AVON BREAST CENTER
 Technologist is MQSA Certified: Yes No

Technologist Name: _____
 Facility: _____
 Technologist is MQSA Certified: Yes No

Technologist Name: _____
 Facility: _____
 Technologist is MQSA Certified: Yes No

#9

To: Mandana Siyadat

From: Brian Moser Avon Supervisor and Rafael Ibarra Interim Director

Date: 6/9/11

Re: Proposed schedule

Going forward the schedule will be as follows:

Tuesday and Wednesday – Diagnostic Main department to continue training and orientation

Thursday and Friday – Mammo – may be assigned to a room to help you maintain the requirements for mammo

Sterotactic Biopsy assigned – Third Wednesday of the month – Thursday or Friday in the Diagnostic Main Department for that week

Beginning June 27 the scheduled hours will be 7:00 am – 5:30 pm to have an overlap shift.

This schedule is subject to change based on departmental needs.

#11

From: Nancy Toscano/DPH/SFGOV
To: Brian Moser/DPH/SFGOV@SFGOV
cc: Mandana Siyadat/DPH/SFGOV@SFGOV, Istrachowski@sghrad.ucsf.edu

Date: Wednesday, June 22, 2011 05:41PM
Subject: Shari Training

Hi Brian,

I was not able to review mammo positioning with Shari Zinn this week. She left early on Tuesday shortly after you had given me this task and she was not assigned to mammo on Wednesday (although she was here for a couple of hours to train Heather in US procedures). I will make it a priority next Monday when I come back. Since Shari is assigned to mammo on Friday this may be a good time for Mandana to handle this issue.

Thanks.

Have a good weekend.

Nancy Toscano

#12

From: Mandana Siyadat/DPH/SFGOV
To: Istrachowski@sfghrad.ucsf.edu
cc: Brian Moser/DPH/SFGOV@SFGOV

Date: Tuesday, June 21, 2011 10:29AM
Subject: SHari Zinn's films

Hi Lori,

I just want to keep you informed as to why I was unable to speak with Shari Zinn regarding her suboptimal films as you requested. The series of events is listed below:

-Wednesday June 15,11 you asked me to speak to Shari about her films. I said I would talk to her and work with her on her positioning.

-Later that day,Brian Moser Avon's supervisor told me that I was to perform patient exams and would not be in charge in Avon on Thursday June 16,11. At that time, I told him you had given me an assignment and he told me he will take care of it.

- On Friday June 17,11, per Brian Moser's assignment which was given to via email, I was in the Main Hospital. While Shari Zinn was in charge in Avon.

- Per our conversation on Friday June 17,11 I gave the cases to Brian Moser and explained to him what your intentions were regarding the films. I asked him to give the cases to Nancy Toscano on Monday, Since she works on Monday, and I don't, plus I am assigned to be in the Main Hospital on Tuesday June 21,11, and Wednesday June 22,11.

Therefore, if you need to follow up on this matter please see Brian Moser and/or Nancy Toscano.

Thank you

Mandana Siyadat
Lead Technologist
Avon Comprehensive Breast Center
San Francisco General Hospital
415 206 4483

From: Mandana Siyadat/DPH/SFGOV
To: Emma.Gerould@seiu1021.org

Date: Friday, July 01, 2011 09:38AM
Subject: Re meeting

Good morning Emma,

I received a call from you yesterday 06/30/11@ 10:20 AM to inform me of your schedule change, and letting me know that our previously schedule meeting for 6/30/11@ 11:00 AM with Rafael Ibarra, and Brian Moser was cancelled. I left you 2 txt, and 1 voice mail trying to contact you, but I did not get any respond. I don't know if you reached Rafael Ibarra after our telephone conversations or not, but he will be on vacation next week, so the meeting has to be postponed to the following week. He will be back 7/12/11.

I am very stressed at work due to mismanagement of the department, and I want union's support. I do understand that you have other responsibilities, but I am an union member, I pay dues for days like this.

I don't know how to get a hold of you. I need to know where I stand, and I need, and want your expertise and support.

PLEASE CALL ME OR TXT ME @ [REDACTED] to let me know when is the reschedule meeting.

Thank you
Mandana Siyadat
Lead Technologist
Avon Comprehensive Breast Center
San Francisco General Hospital
415 206 4483

From: Mandana Siyadat/DPH/SFGOV
To: Rafael Ibarra/DPH/SFGOV@SFGOV
cc: Brian Moser/DPH/SFGOV@SFGOV

Date: Thursday, June 30, 2011 05:03PM
Subject: Monthly QC

Brian Moser approached me on Thursday afternoon @4:15 in the work room at Avon , and told me that he asked Mary Mcginty to do The Monthly QC by herself tomorrow July 1,2011, and for me not to help her, or answer any questions regarding the QC.

I offered to oversee her performance, but he replied that he would like to see how strong she is, and he would ask Nancy Toscano, or myself to check her work later.

I did ask him to put it in writing, since I am the QC tehç on record with the State, and ultimately responsible for the QC, but he told me that he is not going to put it in writing, and he will take responsibility. He asked me to put it in writing if I wish.

Thank you for your attention

Mandana Siyadat
Lead Technologist
Avon Comprehensive Breast Center
San Francisco General Hospital
415 206 4483

#17

From: Mandana Siyadat/DPH/SFGOV
To: Rafael Ibarra/DPH/SFGOV

Date: Wednesday, July 13, 2011 06:48PM
Subject: Harassment

Brian Moser Called me in to his office on July 12, 2011 at 7:50 AM and in an aggressive and abusive manner told me that I am not allowed in Avon unless I have the permission of Rafael Ibarra, Rj Merck, or Brian Moser. (See letter to Moser).

I told him: "Stop harassing me." I was in Avon at request of the charge tech Nancy Toscono.

As Acting Director of the Radiology Department I am calling to your attention the fact that Brian Moser is harassing me in an abusive manner on a dally basis.

I consider you the representative of the Administration of SFGH and expect you to address and put an end to Brian Moser Chronic harassment of me immediately.

Thank you for your attention to these matters.

Mandana Siyadat
Lead Technologist
Avon Comprehensive Breast Center
San Francisco General Hospital
415 206 4483

#18

From: Mandana Siyadat/DPH/SFGOV
To: Sherminah Jafarieh/DPH/SFGOV@SFGOV

Date: Wednesday, July 20, 2011 04:31PM

Subject: Re: follow up

Hi sherminah,

At this time the union is involved. I am not sure how informed you are of the situation, however I would like to tell you my side of the story, but at this time I need to consult with the union rep before I meet with you.

Thank you

Mandana Siyadat
Lead Technologist
Avon Comprehensive Breast Center
San Francisco General Hospital
415 206 4483

-----Sherminah Jafarieh/DPH/SFGOV wrote: -----

To: Mandana Siyadat/DPH/SFGOV@SFGOV
From: Sherminah Jafarieh/DPH/SFGOV
Date: 07/13/2011 09:09PM
Subject: follow up

Hi Mandana,

I am very sorry I have not been available to meet- you can always come by my office. I have had to reschedule many meetings this month due to the opening of the new community wellness center. I am working late and on the weekends as the event is this Friday. I will make myself more available after. Again, I in no means singled you out it was simply a matter everything happening at once.

I really do look to the managers and supervisors being able to manage departmental operations and staffing concerns. I understand that there has been challenges with you and Brian and I sincerely hoped that they could be addressed together- without the need for Rafael or myself.

If things have escalated then please do schedule a time to meet with me next week if you think it is still necessary.

Sherminah

Sherminah Jafarieh, M.S.
Associate Hospital Administrator
Director of Diagnostic & Wellness Services
San Francisco General Hospital & Trauma Center

Office: (415) 206-5804

Fax: (415) 206-3434
Email: shermineh.jafarieh@sfdph.org

#19

From: Mandana Siyadat/DPH/SFGOV
To: Emma.Gerould@seiu1021.org

Date: Wednesday, July 20, 2011 04:43PM
Subject: Fw: Re: follow up

FYI

Hi Emma, just want to keep you in the loop.

Also I txt you regarding rescheduling our appointment. Rafael is available tomorrow @ 4:00 I don't want to drag this out any longer. I am very tired of his abusive manner. This is a legal issue, and they have to accommodate. Please let me know what is the outcome.

Thank you
Mandana Siyadat
Lead Technologist
Avon Comprehensive Breast Center
San Francisco General Hospital
415 206 4483

-----Forwarded by Mandana Siyadat/DPH/SFGOV on 07/20/2011 04:32PM -----

To: Shermineh Jafarieh/DPH/SFGOV@SFGOV
From: Mandana Siyadat/DPH/SFGOV
Date: 07/20/2011 04:31PM
Subject: Re: follow up

Hi shermineh,

At this time the union is involved. I am not sure how informed you are of the situation, however I would like to tell you my side of the story, but at this time I need to consult with the union rep before I meet with you.

Thank you

Mandana Siyadat
Lead Technologist
Avon Comprehensive Breast Center
San Francisco General Hospital
415 206 4483

-----Shermineh Jafarieh/DPH/SFGOV wrote: -----

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From: Shermineh Jafarieh/DPH/SFGOV
Date: 07/13/2011 09:09PM
Subject: follow up

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If things have escalated then please do schedule a time to meet with me next week if you think it is still necessary.

Shermineh

Shermineh Jafarieh, M.S.
Associate Hospital Administrator
Director of Diagnostic & Wellness Services
San Francisco General Hospital & Trauma Center

Office: (415) 206-5804
Fax: (415) 206-3434
Email: shermineh.jafarieh@sfdph.org

21

From: Mandana Siyadat/DPH/SFGOV
To: ed.warshauer@seiu1021.org

Date: Thursday, July 21, 2011 06:52PM
Subject: Fw: Re: Mandana's Schedule

Mandana Siyadat
Lead Technologist
Avon Comprehensive Breast Center
San Francisco General Hospital
415 206 4483

-----Forwarded by Mandana Siyadat/DPH/SFGOV on 07/21/2011 06:51PM -----

To: Brian.Moser/DPH/SFGOV@SFGOV
From: Mandana Siyadat/DPH/SFGOV
cc: Rafael Ibarra/DPH/SFGOV@SFGOV, Emma.Gerould@seiu1021.org
Subject: Re: Mandana's Schedule

Today 7/21/2011 @ 3:40 PM while I was in an exam room with a Patient Mary Maginty knocked on my door, and told me that you asked to see me, I told her I am in the middle of an exam, and said to call you. I called you and asked what is this in regard to, and told you I was in the middle of an exam. You did not tell me the reason, and told me just come here when you are done.

After I finished the exam @ 4:00 PM I came to your office. Rafael Ibarra gave me my new schedule, and asked me to read it, and initial it. I replied that I will not discuss nor sign anything without union representation. You implied that I am refusing my assignment, and this is insubordination.

Just to clarify I did not refuse any assignment, I just simply will not meet with you, or sign anything without the union representation.

In the future I will be happy to meet with you, but not without union representation.

Mandana Siyadat
Lead Technologist
Avon Comprehensive Breast Center
San Francisco General Hospital
415 206 4483

-----Brian Moser/DPH/SFGOV wrote: -----

To: "Emma Gerould" <Emma.Gerould@seiu1021.org>, Mandana Siyadat/DPH/SFGOV@SFGOV
From: Brian Moser/DPH/SFGOV
Date: 07/21/2011 04:11PM
cc: "Rafael Ibarra" <Rafael.Ibarra@sfdph.org>
Subject: Mandana's Schedule

Hi Emma,

Attached is the schedule we agreed to on 7/14/2011 and gave to Mandana today.

Thank You,

Brian Moser CRT.ARRT (R)(CT)
AVON Breast Imaging Center Supervisor
Department of Radiology, San Francisco General Hospital.
(415) 206-3122

[attachment "Mandana schedule.doc" removed by Mandana Siyadat/DPH/SFGOV]

22

From: Mandana Siyadat/DPH/SFGOV
To: Istrachowski@sfghrad.ucsf.edu
cc: Rafael Ibarra/DPH/SFGOV@SFGOV, Brian Moser/DPH/SFGOV@SFGOV,
Emma.Gerould@seiu1021.org

Date: Friday, July 22, 2011 05:03PM

Subject:

Per instruction of Rafael Ibarra, and Brian Moser as of July 14,2011 I will no longer perform or be the responsible party for Mammography QC.

If you have any further direction please inform me in writing.

Mandana Siyadat
Lead Technologist
Avon Comprehensive Breast Center
San Francisco General Hospital
415 206 4483

#23



U.S. Food and Drug Administration

Home > Radiation-Emitting Products > Mammography Quality Standards Act and Program > Guidance (MQSA)

Radiation-Emitting Products

Reestablishing the Radiologic Technologist Continuing Experience Requirement

Citation:

900.12(a)(2)(iv)(B) *Requalification. Radiologic technologists who fail to meet the continuing experience requirements of paragraph (a)(2)(iv)(A) of this section shall perform a minimum of 25 mammography examinations under the direct supervision of a qualified radiologic technologist, before resuming the performance of unsupervised mammography examinations.*



When a radiologic technologist (RT) fails to meet the continuing experience requirement of performing 200 mammograms in the "previous 24 months," the RT must not perform mammograms independently until the RT re-qualifies. The RT can re-qualify by performing 25 mammograms under direct supervision. FDA considers the "previous 24 months" to begin from the facility inspection date, or the date of the most recent calendar quarter preceding the inspection, or any date in between.

When a facility is inspected within the 6-month period following the date the RT re-qualified, FDA does NOT intend to cite the facility if the RT has not performed a total of 200 mammograms in the previous 24 months. We consider this the 6-month exemption period. If the facility is inspected any time after the 6-month exemption period has expired (even 1 day after) and the RT has not performed a total of 200 mammograms in the previous 24 months, FDA DOES intend to cite the facility. In summary, as long as the RT has performed at least 200 mammograms by the facility's next inspection, the RT is compliant with MQSA regulations.

Example #1: An RT has been performing mammography for more than two years and is hired by a new facility on 9/3/2007. The RT has performed only 100 mammograms since 9/1/2005. The RT performs 25 mammograms under direct supervision by 9/25/2007. The facility is inspected on 1/15/2008. At the time of the inspection, this RT has performed 150 mammograms, which includes the 25 under supervision, since 9/1/2005. Should the facility be cited?

No, because the RT's continuing experience requirement falls under the 6-month exemption period, which expires on 3/24/2008.

Example #2: This same facility is inspected on 4/15/2008 and the RT has performed 175 mammograms, which includes the 25 under supervision, since 4/1/2006. Should the facility be cited?

Yes, because the 6-month exemption period after requalification has passed and the RT has not performed the required 200 mammograms.

Example #3: This same facility is inspected on 4/15/2008 and the RT has performed 200 mammograms, which includes the 25 under direct supervision, since 4/1/2006, but the RT had performed only 175 mammograms by 3/31/08 (a date after the 6-month exemption period). Should the facility be cited?

No, because the RT has performed the required 200 mammograms by the date of the inspection.

Discussion:

Requalification does not affect or change the date on which such individuals met their initial qualification requirements, therefore, the starting dates on which such individuals must meet their continuing requirements remains the same.

Requalification only allows the radiological technologist to perform mammograms independently again, it does not waive meeting the requirement of 200 mammographic examinations in 24 months. Upon requalification, the radiological technologist will be exempt from an adverse finding for the continuing experience requirement for a period of 6 months after the requalification date. This policy will give the radiological technologist the time needed to practice in order to meet the continuing experience requirement by the end of the 6 months exemption period.

Documentation: It will generally be sufficient if the technologist's file contains a letter, table, or printout from each facility at which he or she performs mammography examinations, signed by a responsible facility official or the person performing the direct supervision. The document should state who provided the direct supervision and that the technologist performed a given number of examinations at that facility in a given time period. It is assumed that these numbers are based upon more extensive records, such as facility logs, that can be reviewed if there are any questions. The facility logs themselves can then be used as documentation. Provision of summary letters, tables, or printouts will speed up the inspection and rarely will the more detailed records be requested.

Questions:

1. A radiologic technologist only performed 80 mammographic examinations independently in the 24 months prior to the facility's inspection. If the radiologic technologist performs 25 exams within six months under the direct supervision of a qualified radiologic technologist, can he or she resume performing mammographic examinations independently? Is there anything else the technologist needs to be concerned about with respect to his or her continuing experience? ¹
2. Under the interim regulations, FDA had a continuing experience policy stating that once interpreting physicians requalified to work independently, they were exempt from an adverse finding for this requirement for a period of six months after the requalification date. Will this policy continue and will it be expanded under the final regulations to include radiologic technologists? ²
3. Can simulated examinations (person not irradiated) count toward the initial, or continuing, or requalification experience?

#24

NOTES

3/9/11 - 3/11/11

yr-2011

(3/9/11)	01274178	01282932 (3/11)
(3/9/11)	01749710	05137513 (3/11)
(3/10/11)	05231460	01201201 (3/11)
(3/10/11)	01302763	01505021 (3/11)
(3/10/11)	01454119	00528188 (3/11)
(3/10/11)	05235541	
(3/10/11)	01440545	
(3/10/11)	05234723	
(3/10/11)	05204855	
(3/11/11)	05042428	
(3/11/11)	00823087	
(3/11/11)	01774001	
(3/11/11)	00515384	
(3/11/11)	01506720	
(3/11/11)	00916564	
(3/11/11)	01484157	
(3/11/11)	01354100	
(3/11/11)	01514687	
(3/11/11)	00695656	
(3/11/11)	01736076	

TXT-PD-1314-1

5

July 19, 2011

To whom it may concern,

I, Cora Andaya, Senior Technologist (Mammographer), here at SFGH, Radiology Dept. attest that I supervised Mandana Sujadat in performing 25 supervised mammogram examinations from these period or dates between March 9 and March 11, 2011.

Attached are list of performed patients medical record numbers of proof which were done on these period of time:

Sincerely,
Cora Andaya

MR# 01E 1178 Age DOB:

223

Ord#: 90005 DOS: 03/09/2011
Dr:

27
Screen

MAM 6475 - MAM Screenings Disita Acc #:

4

MR# 01555388 Age DOB:

12:30 Screen

Ord#: 90015 DOS: 03/09/2011
Dr:

4

MAM 6475 - MAM Screenings Disita Acc #:

MR# 01615867 Age DOB:

12:00 Screen

Ord#: 90011 DOS: 03/09/2011
Dr:

4

MAM 6475 - MAM Screenings Disita Acc #:

MR# 01745710 Age DOB:

12:00 Screen

Ord#: 90002 DOS: 03/09/2011
Dr: HINES, JONAS

4

MAM 6475 - MAM Screenings Disita Acc #:

6

MR# 00705363 Age DOB:

2:15 Screen

Ord#: 90001 DOS: 03/09/2011
Dr: KANE, ADRIENNE

4

MAM 6475 - MAM Screenings Disita Acc #:

MR# 01091039 Age DOB:

1:15 Screen

Ord#: 90012 DOS: 03/09/2011
Dr: BAGDORF, BEVERLY103

4

MR# 05224471 Age: [redacted] DOB: [redacted]

Ord#: 90005 DOS: 03/10/2011

Dr: WONG, GREGORY

MAM 6478 - MAM Dias RT Distal

Right breast
asymmetry

DIAGNOSTIC CENTER

32

MR# 05207344 Age: [redacted] DOB: [redacted]

Ord#: 90003 DOS: 03/10/2011

Dr: SIMONS, ANNE B.

MAM 6478 - MAM Dias RT Distal

Calcif

DIAGNOSTIC CENTER

MR# 05246578 Age: [redacted] DOB: [redacted]

Ord#: 90003 DOS: 03/10/2011

Dr: NG, BETTY

MAM 6477 - MAM Dias LT Distal

new asymmetry

DIAGNOSTIC CENTER

MR# 01302763 Age: [redacted] DOB: [redacted]

Ord#: 90023 DOS: 03/10/2011

Dr: KIM, DIANE

MAM 6477 - MAM Dias LT Distal

left breast lump

ULTRA ULTRASOUND

DIAGNOSTIC CENTER

MR# 01454119 Age: [redacted] DOB: [redacted]

Ord#: 90011 DOS: 03/10/2011

Dr: JAMES, CATHERINE

MAM 6476 - MAM Dias Bilat Distal

Bi-lat work up

DIAGNOSTIC CENTER

MR# 05165200 Age: [redacted] DOB: 105

Dr. Joe

MRH 01710995 Age: [redacted] DOB: [redacted]

Order# 90006 DOS: 03/10/2011
Dr. HUNG, LILY J.

MAM 1478 - MAM Dias RT Digital Acc # 3171520

MRH 01776828 Age: [redacted] DOB: [redacted]

Order# 90003 DOS: 03/10/2011
Dr. STRELKOFF, KATHERINE

MAM 1476 - MAM Dias Bilat Disit Acc # 3171520

MRH 05235541 Age: [redacted] DOB: [redacted]

Order# 90007 DOS: 03/10/2011
Dr. MAK, BARBARA W

MAM 1478 - MAM Dias RT Digital Acc # 3171520

MRH 01633469 Age: [redacted] DOB: [redacted]

Order# 90004 DOS: 03/10/2011
Dr. HUNG, ZHI H.

MAM 1478 - MAM Dias RT Digital Acc # 3171520

MRH 05225329 Age: [redacted] DOB: [redacted]

Order# 90002 DOS: 03/10/2011
Dr. NG, BETTY

MAM 1476 - MAM Dias Bilat Disit Acc # 3171520

MMS

MR# 01440545 Ass: [redacted] DOB: 04/17/1958

229

Ord#: 90010 DOS: [redacted]
Dr: SCHEIB, MARY R.

MAM 6476 - MAM Dias Bilat Distl - Ass # [redacted]

ULTRASOUND

11:30

Heart Checkup

Joe
Noyes

Hm

MR# 05174897 Ass: [redacted] DOB: [redacted]

Ord#: 90015 DOS: 03/10/2011
Dr: TREIT, KATHRYN

MAM 6476 - MAM Dias Bilat Distl - Ass # [redacted]

Joe

CBA

MR# 01782862 Ass: [redacted] DOB: [redacted]

Ord#: 90001 DOS: 03/10/2011
Dr: CARR, DIANE

MAM 6475 - MAM Screening Distl - Ass # [redacted]

CBA

MR# 05230217 Ass: [redacted] DOB: [redacted]

Ord#: 90005 DOS: 03/10/2011
Dr: YATABE, KAY

MAM 6475 - MAM Screening Distl - Ass # [redacted]

CBA

MR# 01035690 Ass: [redacted] DOB: [redacted]

Ord#: 90002 DOS: 03/10/2011
Dr: MORGAN, JUSTIN U.

MAM 6475 - MAM Screening Distl - Ass # [redacted]

CBA

MR# 01790971 Ass: [redacted] DOB: [redacted]

Ord#: 90001 DOS: 03/10/2011
Dr: ORENGOMCFARLANE, MICHELLE

Screen

DIAGNOSTIC FILMS CHECKED BY

MR# 00735750 Age: [redacted] DOB: [redacted]

Ord#: 90002 DOS: 03/10/2011
Dr: ALVAREZ, RICARDO

MAM 6475 - MAM Screenins Disita Acc# 302055

MR# 00889323 Age: [redacted] DOB: [redacted]

Ord#: 90006 DOS: 03/10/2011
Dr: SCHEIB, MARY A.

MAM 6476 - MAM Dias Bilat Disit

ULTRASOUND

DIAGNOSTIC FILMS CHECKED BY

MR# 01396975 Age: [redacted] DOB: [redacted]

Ord#: 90001 DOS: 03/10/2011
Dr: BAGDORF, BEVERLY

MAM 6476 - MAM Dias Bilat Disit Acc# 302055

ULTRASOUND

DIAGNOSTIC FILMS CHECKED BY

MR# 05234723 Age: [redacted] DOB: [redacted]

Ord#: 90008 DOS: 03/10/2011
Dr: ALVARADO, MICHAEL D.

MAM 6476 - MAM Dias Bilat Disit Acc# 302055

DIAGNOSTIC FILMS CHECKED BY

MR# 01568551 Age: [redacted] DOB: [redacted]

Ord#: 90008 DOS: 03/10/2011
Dr: BARNHART, NENA

MAM 6475 - MAM Screenins Disita Acc# 302055

GLU
MR#
Ord#
Dr:
MAM

LIN
MR#
Ord#
Dr:
MAM

MAT
MR#
Ord#
Dr:
MAM

Impetuous

*MMS
CBA*

231

MR# 04855 Age [redacted] DOB [redacted]
Ord#: 90013 DOS: 03/10/2011
Dr: CARR, DIANE

Impetuous
DX

MAM 6476 - MAM Dias Bilat Dist

DIAGNOSTIC FILMS CHECKED BY

16

new

MR# 05160521 Age [redacted] DOB [redacted]
Ord#: 90019 DOS: 03/10/2011
Dr: ROSS-MANASHIL, KELLY

RT breast
S/P
needle bx

MAM 6476 - MAM Dias Bilat Dist

DIAGNOSTIC FILMS CHECKED BY

mass

MR# 05233776 Age [redacted] DOB [redacted]
Ord#: 90006 DOS: 03/10/2011
Dr: ROSS-MANASHIL, KELLY

Hur

MAM 6476 - MAM Dias Bilat Dist

ULTRASOUND

DIAGNOSTIC FILMS CHECKED BY

right
Impetuous

MR# 01686675 Age [redacted] DOB [redacted]
Ord#: 90005 DOS: 03/10/2011
Dr: SCHEIB, MARY

left
mass

MAM 6476 - US Breast LT in MAM

DIAGNOSTIC FILMS CHECKED BY

ULTRASOUND

MRH 05223127 Age [redacted]

Ord#: 90003 DOS: 03/11/2011

Dr: SHAPIRO, JENNIFER

MAM 6475 - MAM Screening

SLZ

MRH 01205204 Age [redacted]

Ord#: 90007 DOS: 03/11/2011

Dr: HUANG, ZHI H.

MAM 6475 - MAM Screening

MAM

MRH 05042428 Age [redacted]

Ord#: 90007 DOS: 03/11/2011

Dr: LUM-KAKU, LIM TIAN

MAM 6475 - MAM Screening

MMS
CBA

MRH 00823087 Age [redacted]

Ord#: 90001 DOS: 03/11/2011

Dr: SOBEL, VALERIE A.

MAM 6475 - MAM Screening

MMS
CBA

MRH 01783994 Age [redacted]

Ord#: 90001 DOS: 03/11/2011

Dr: BIBBINS-DOMINGO, YITRAN

MAM 6475 - MAM Screening

MAM

8:00

(27)

017746J1 Age DOB:

Ord#: 90004 DOS: 03/11/2011

Dr: HARBATKIN, DAWN S.

MAM 6475 - MAM Screenins Disita Acc #: 3172148

Screen

(5)

en

8:45

MRH 01735897 Age DOB:

Ord#: 90012 DOS: 03/11/2011

Dr: BIBBINS-DOMINGO, KIRSTEN

MAM 6475 - MAM Screenins Disita Acc #: 3172148

Screen

(5)

en

8:30

MRH 05247451 Age DOB:

Ord#: 90002 DOS: 03/11/2011

Dr: TSE, JULIE K

MAM 6475 - MAM Screenins Disita Acc #: 3172148

Screen

(5)

en

8:45

MRH 01592841 Age DOB:

Ord#: 90005 DOS: 03/11/2011

Dr: ALVERIO, NILDA

MAM 6475 - MAM Screenins Disita Acc #: 3172148

Screen

(4)

en

8:00

MRH 01511404 Age DOB:

Ord#: 90004 DOS: 03/11/2011

Dr: SCHOEMFELD, NHOMI C

MAM 6475 - MAM Screenins Disita Acc #: 3172148

Screen

(1)

en

9:45

MRH 01245602 Age: 61 DOB:

Ord#: 90012 DOS: 03/11/2011

Screen

(1)

234

9:15

MMS
CBA

MR# 00515384 Age DOB:

Ord#: 90002 DOS: 03/11/2011
Dr: POUND, DANIEL R.

MAM 6475 - MAM Screening Disita Acc #: 3172213

(4)

10:00

MMS
CBA

MR# 01506720 Age DOB:

Ord#: 90033 DOS: 03/11/2011
Dr: MURPHY, MARY C.

MAM 6475 - MAM Screening Disita Acc #: 3172213

(4)

9:00

MMS
CBA

MR# 00916564 Age DOB:

Ord#: 90032 DOS: 03/11/2011
Dr: BERMAN, PETER

MAM 6475 - MAM Screening Disita Acc #: 3172213

(5)

9:45

MMS

MR# 00860167 Age DOB:

Ord#: 90001 DOS: 03/11/2011
Dr: MAGNUSON, SUSHMA

MAM 6475 - MAM Screening Disita Acc #: 3172234

(4)

9:30

MMS

MR# 05213400 Age DOB:

Ord#: 90014 DOS: 03/11/2011
Dr: JAMES, CATHERINE T.

MAM 6475 - MAM Screening Disita Acc #: 3172235

(4)

10:15

MMS

MR# 05145462 Age DOB:

Ord#: 90007 DOS: 03/11/2011
Dr: HORTON, CLAIRE

(4)

MRH 01339370 Age: [redacted] 7 10:15 screen

Ord#: 90011 DOS: 03/11/2011
Dr: FRANICEVICH, JAMES

MAM 6475 - MAM Screenins Disita Acc #: 3172316

MRH 01484157 Age: [redacted] DOB: [redacted]

Ord#: 90032 DOS: 03/11/2011

Dr: SINGZON, TRUDY

MAM 6475 - MAM Screenins Disita Acc #: 3172316 4

MRH 00580720 Age: [redacted] DOB: [redacted]

Ord#: 90021 DOS: 03/11/2011

Dr: WANDS, ALAN

MAM 6475 - MAM Screenins Disita Acc #: 3172316 5

MRH 05168017 Age: [redacted] DOB: [redacted]

Ord#: 90012 DOS: 03/11/2011

Dr: GOLDBERG, ANNE LISE 3

MAM 6475 - MAM Screenins Disita Acc #: 3172316

MRH 01354600 Age: [redacted] DOB: [redacted]

Ord#: 90023 DOS: 03/11/2011

Dr: ALVERIO, NILDA 2

MAM 6475 - MAM Screenins Disita Acc #: 3172316

MRH 01620124 Age: [redacted] DOB: [redacted]

Ord#: 90001 DOS: 03/11/2011

Dr: HAMMER, HALI 5

MAM 6475 - MAM Screenins Disita Acc #: 3172316

MAM 6475 - MAM Scr vns. Disita Acc #: 3172364

(4)

MR# 01514687 Age: DOB:

10:45

Ord#: 90008 DOS: 03/11/2011

Dr: MCKINNEY, RICHARD G.

MAM 6475 - MAM Screening Disita Acc #: 3172367

(6)

MR# 05166492 Age DOB:

11:15

Ord#: 90011 DOS: 03/11/2011

Dr: GEORGE, SUSAN M.

MAM 6475 - MAM Screening Disita Acc #: 3172368

(4)

MR# 00875490 Age DOB:

11:00

Ord#: 90001 DOS: 03/11/2011

Dr: GOLDBERG, ANNELISE

MAM 6475 - MAM Screening Disita Acc #: 3172369

(4)

MR# 00895855 Age: DOB:

11:30

Ord#: 90012 DOS: 03/11/2011

Dr: MILLER, ANGELA K.

MAM 6475 - MAM Screening Disita Acc #: 3172364

(5)

MR# 01372180 Age DOB:

11:45

Ord#: 90033 DOS: 03/11/2011

Dr: HUANG, SANDRA

MAM 6475 - MAM Screening Disita Acc #: 3172370

(4)

Ord# 80029 DOS: [redacted]
Dr: MILLER, ANGELA K
MAM 6475 - MAM Screening District Account: 6172574

MR# 01736076 Age [redacted] DOB: [redacted] 11:30
Ord# 90002 DOS: 03/11/2011
Dr: SCHOEMFELD, NAOMI E
MAM 6475 - MAM Screening District Account: 6172574

MR# 01282932 Age [redacted] DOB: [redacted] 12:00
Ord# 90001 DOS: 03/11/2011
Dr: PRICE-HANSON, DOUGLAS R
MAM 6475 - MAM Screening District Account: 6172574

MR# 05137513 Age [redacted] DOB: [redacted] 12:30
Ord# 90019 DOS: 03/11/2011
Dr: SIMONS, ANNE B.
MAM 6475 - MAM Screening District Account: 6172574

MR# 01047191 Age [redacted] DOB: [redacted] 2:15
Ord# 90023 DOS: 03/11/2011
Dr: ROLL, FREDERICK JOSEPH
MAM 6475 - MAM Screening District Account: 6172574

MR# 01201201 Age [redacted] DOB: [redacted] 2:00
Ord# 90051 DOS: 03/11/2011
Dr: SOBEL, VALERIE R.
MAM 6475 - MAM Screening District Account: 6172574

TT 2'f

From: "Emma Gerould" <Emma.Gerould@seju1021.org>
To: <mandana.siyadat@sfdph.org>

Date: Wednesday, August 10, 2011 07:14PM
Subject: Your probation

Hi Mandanna, Rafael did not agree to the 2 week reduction to your probation. However, he did agree to not count your vacation towards your probation. Normally, if you are on probation and you go on vacation the City extends your probation for however long you were on vacation. This way your probation ends on August 31st (instead of a week later). I am meeting with Ed Kinchley tomorrow to transfer over your case. I hope you had a restful vacation. Emma
Sent from my iPhone

From: Mandana Siyadat/DPH/SFGOV
To: Brian Moser/DPH/SFGOV@SFGOV
cc: Rafael Ibarra/DPH/SFGOV@SFGOV, Ed Kinchley/DPH/SFGOV@SFGOV

Date: Thursday, October 06, 2011 11:16AM
Subject: Re: Training

If that is the case why has Cora, Yvonne, Nancy T. Mary, Helen who all have already been trained on the selenia been given training again.

In the posting in the Sfgh web side stated:
"Application training is open to all SFGH Mammography Technologists"

Why are you denying me training. Why are you singling me out again.

Mandana Siyadat
Lead Technologist
Avon Comprehensive Breast Center
San Francisco General Hospital
415 206 4483

-----Brian Moser/DPH/SFGOV wrote: -----

To: Mandana Siyadat/DPH/SFGOV@SFGOV
From: Brian Moser/DPH/SFGOV
Date: 10/06/2011 09:03AM
Subject: Re: Training

Hi Mandana,

This applications training was for the technologists who had not participated in it before. You already had training on the Hologic Selenia and as you know we are very short in staff with the Ceretom Applications as well.

Thank You,

Brian Moser CRT.ARRT (R)(CT)
AVON Breast Imaging Center Supervisor
Department of Radiology, San Francisco General Hospital
(415) 206-3122
Mandana Siyadat/DPH/SFGOV

**Mandana
Siyadat/DPH/SFGOV**

10/06/2011 07:29 AM

To: Brian Moser/DPH/SFGOV@SFGOV
cc: Rafael Ibarra/DPH/SFGOV@SFGOV
Subject: Training

When am I going to have my training on the new Hologic Selenia Unit? Other Mammography Techs seem to have had training already.

I have not been given a chance to train as of today.

Mandana Siyadat

Lead Technologist

Avon Comprehensive Breast Center

San Francisco General Hospital

415 206 4483

From: Ed Kinchley/DPH/SFGOV
To: Brian Moser/DPH/SFGOV@SFGOV
cc: Mandana Siyadat/DPH/SFGOV@SFGOV, Rafael Ibarra/DPH/SFGOV@SFGOV,
Gus.Feldman@seiu1021.org

Date: Thursday, October 06, 2011 01:00PM
Subject: Mandana Siyadat

Mr. Moser,

This is to request a meeting to discuss a possible grievance regarding your attempt to conduct a Performance Appraisal meeting with Ms. Siyadat with another supervisor in the room. Performance Appraisal meetings should be confidential, and without others present. Ms. Siyadat requested that the other supervisor not be present.

Also, Ms. Siyadat asked you for a copy of the Appraisal, and you told her she would get a copy of it after it has been signed by the Reviewer. As you know, Ms. Siyadat has a right to meet with the Reviewer before the Reviewer signs the Appraisal. She would like to meet with the Reviewer. Please give her a copy of the Appraisal.

I can be contacted to set up a meeting by email, or at hospital ext. 65514.

Sincerely,
Ed Kinchley
Shop Steward
SEIU 1021

- Attachment 1: Interview Notes from September 30, 2011
and November 29, 2011 Meetings with
Mandana Siyadat
- Attachment 2: Interview Notes from Meetings with
Mandana Siyadat between September 2011
and October 2012
- Attachment 3: Interview notes from January 17, 2013
Meeting with Mandana Siyadat

EXHIBIT B

Complainant's Written Complaint/Interview
Notes prepared by Zachary Williams, DPH EEO

Complainant claimed that her supervisor, Brian Moser, Radiologic Technologist Supervisor at the Avon Breast Cancer Center, made unwelcome verbal comments towards her on the basis of her gender and national origin on three occasions. She stated that the first comment occurred on February 18, 2011 when he told her that a volatile patient was "just like Iranian women." Complainant added that Mr. Moser "snickered" and indicated that he was referring to her when he made a hand gesture in her direction. She stated that there were no witnesses present and she did not report the incident because she believed it to be a one-time occurrence.

Complainant claimed that on May 10, 2011, Mr. Moser again pointed towards her and told her that an upset patient was "like Iranian women." Mr. Moser then snickered after she told him that she didn't appreciate his comments and corrected his pronunciation of the word 'Iranian.' I asked her if she reported the incident to anyone else. In response, Complainant said that she reported it to Rafael Ibarra, Interim Director of Radiology. According to Complainant, Mr. Ibarra advised her to file a complainant of harassment if she desired to do so before the 180-day filing deadline.

Finally, Complainant alleged that Mr. Moser also inappropriately commented on her appearance in May 2011 when he told her, "Oh, you got a haircut, so you don't have to use too much shampoo." When I first asked Complainant why she believes that Mr. Moser made the comment because of her gender or national origin, she could not articulate why, stating that it was just part of Mr. Moser's pattern of inappropriate comments. In my subsequent interview of her, she again alleged that Mr. Moser made the comment about her haircut. When I asked her why Mr. Moser made the comment because of her protected category, she said, "Maybe it means that I'm a dirty Iranian." Complainant stated that there were no witnesses to either of the incidents in May 2011.

According to Complainant, around the time that she transitioned to full-time and Permanent Civil Service in February 2011, Rafael Ibarra, Interim Director of Radiology, asked her if she would be open to occasionally helping out at the main Radiology Department when it was understaffed. Complainant stated that she agreed to help out in the main department when necessary because she hadn't worked there in several years. She added that the discussion was very informal and Mr. Ibarra did not in any way propose that she work in the main department on a permanent basis.

Complainant continued to work four days per week at the Avon Center. However, on June 9, 2011, Brian Moser and Mr. Ibarra advised her of her new schedule. Complainant stated that at the June 9th meeting, she and her union representative learned that she was to work two days in the main department and two days in the Avon Center per week. According to Complainant, Mr. Ibarra advised her that he needed to her work two days in each location because he didn't want to have two Charge Techs working in the Avon Center on the same day. She also stated that Mr. Ibarra told her that he needed more help in the main Radiology Department.

I asked Complainant why she felt that Mr. Moser wanted to reduce her working hours at the Avon Center because of her national origin and gender. Initially, she was unable to articulate why Mr. Moser adjusted her schedule because of her protected category. Instead, she stated that Mr. Moser wanted to force her out of the Avon Center and cited Mr. Moser's decision to reassign her responsibility as Charge

Tech and QC Tech to a less-senior coworker (Mary McGinty). When I pressed Complainant for clarification as to why Mr. Moser's decision was due to her protected category, she cited Mr. Moser's alleged comments to her. Additionally, she stated that he favored Ms. McGinty because she is blond-haired, blue-eyed and Caucasian. Complainant added that Mr. Moser allowed Nancy Toscano (Caucasian) to retain her responsibility as Charge Tech. When I then asked Complainant to describe her relationship with Ms. McGinty, she stated that they get along "fine", but remarked that she has "always wanted my job."

Complainant stated that she has been the Charge Technician in the Avon Breast Cancer Center since October 2007. She transitioned to full-time and Permanent Civil Service in early February 2011 and worked from Tuesday to Friday at the Avon Center. Soon afterwards, Nancy Toscano (Caucasian) was appointed to a part-time 2469 Radiologic Diagnostic Technician III in the Avon Center to also act as a Charge Tech. Complainant stated that Brian Moser then assigned her the Charge Tech duties on Thursdays and Fridays and to Ms. Toscano on Mondays to Wednesdays. Complainant explained that as the Charge Tech, she supervised the technicians and coordinated all of the imaging activities at the Avon Center. Complainant was also responsible for maintaining the diagnostic equipment as the Quality Control Technician; a role she said is typically assigned to the Charge Tech, but does not include any additional compensation.

Complainant claimed that in early June 2011, Mr. Moser reassigned her Charge Tech responsibilities to Mary McGinty, a 2468 Radiologic Diagnostic Technician II. I asked Complainant how Mr. Moser assigned the Charge Tech role and why he reassigned her responsibilities because of her gender and national origin. Complainant stated that Mr. Moser singled her out by reassigning the Charge Tech role on the Thursdays and Fridays when she was working at the Avon Center to Ms. McGinty, a less-senior coworker (Class 2468) who is blonde-haired, blue-eyed and Caucasian. Complainant said that Ms. McGinty was working full-time, but Mr. Moser failed to assign her the Charge Tech responsibilities when the other Charge Tech, Nancy Toscano (Caucasian), was working on Mondays to Wednesdays. Complainant believes that Mr. Moser's action runs counter to Mr. Ibarra's explanation to her in which he stated that he did not want two Charge Techs working in Avon on the same day. She advised me that Mr. Moser never advised her of the reason for the change and she only learned of the change when she viewed the assignment board each morning. She also showed me photos on her cell phone of the assignment board for several days to prove that Ms. McGinty was assigned the Charge Tech role. Finally, Complainant acknowledged that she continued to receive the same rate of pay as a 2469 Diagnostic Imaging Technician III even though she was not assigned the Charge Tech duties.

With regard to the QC Tech role, Complainant acknowledged that she had requested that she no longer perform the responsibilities. She stated that she told Mr. Ibarra that she did not feel comfortable being registered with the State of California and the U.S. FDA as the Avon Center's QC Technician if she was no longer working at the Center on a daily basis. She advised me that she was concerned that she would be held liable if inspectors found that the radiologic equipment was not properly maintained. According to Complainant, Mr. Moser then removed her from the QC role on July 22, 2011 and reassigned it to Ms. McGinty.

Intake interview of Complainant (Mandana Siyadat)
Notes prepared by Zachary Williams, DPH EEO

I interviewed Complainant several times during the course of the investigation, beginning on October 11, 2011. Complainant stated that she has been a Class 2469 Diagnostic Imaging Technologist III (DIT III) since 2007. She stated she that has worked at San Francisco General Hospital (SFGH) for over 20 years.

Complainant alleged that Mr. Moser subjected her to a hostile work environment for the following reasons:

a. Inappropriate Comments Based on Complainant's National Origin and Gender

Complainant claimed that her supervisor, Brian Moser, Radiologic Technologist Supervisor at the Avon Breast Cancer Center, made three separate unwelcome verbal comments towards her on the basis of her gender and national origin. She stated that the first comment occurred on February 18, 2011 when he told her that a volatile patient was "just like Iranian women." Complainant added that Mr. Moser "snickered" and indicated that he was referring to her when he made a hand gesture in her direction. She stated that there were no witnesses present and she did not report the incident because she believed it to be a one-time occurrence.

Complainant claimed that on May 10, 2011, Mr. Moser again pointed towards her and told her that an upset patient was "like Iranian women." Mr. Moser then snickered after she told him that she didn't appreciate his comments and corrected his pronunciation of the word 'Iranian.' I asked Complainant if she reported the incident to anyone else. In response, she stated that she reported the incident to Rafael Ibarra, Interim Director of Radiology. According to Complainant, Mr. Ibarra advised her to file a complainant if she desired to do so. Complainant stated that she made several attempts, beginning on May 12, 2011, to meet with Shermineh Jafarieh, Associate Hospital Administrator so she could discuss what she "perceived as Moser's ethic prejudice." Complainant claimed that she was never able to tell Ms. Jafarieh about the alleged incidents because of Ms. Jafarieh's availability.

Finally, Complainant alleged that Mr. Moser inappropriately commented on her appearance sometime in May 2011 when he told her, "Oh, you got a haircut, so you don't have to use too much shampoo." When I first asked Complainant why she believes that Mr. Moser made the comment because of her gender or national origin, she could not articulate why, stating that it was just part of Mr. Moser's pattern of inappropriate comments. In my subsequent interview of her, she again alleged that Mr. Moser made the comment about her haircut. When I again asked her why she felt Mr. Moser made the comment because of her protected category, she said, "Maybe it means that I'm a dirty Iranian." Complainant stated that there were no witnesses to either of the incidents in May 2011.

b. Extension of Probation Based on False Accusation of Non-Compliance and Falsification of Documentation

Complainant acknowledged that in March 2011, she had fallen out of compliance with the U. S. FDA's regulations and the Mammography Quality Standards Act (MQSA). She stated that the U. S. FDA requires that technologists comply with the MQSA by maintaining a minimum of 200 mammograms within the previous 24 months. She stated that the technologist cannot perform mammograms independently if they are out of compliance and can only obtain requalification by performing 25 mammograms under the supervision of another technologist. She explained that her mammography totals were below 200 because she had temporarily taken on some of the Supervisor's responsibilities after the Avon Center's previous Supervisor, Theresa McGinley, retired in early 2010 (March 5, 2010). She stated that Brian Moser was not hired until October 2010.

Complainant stated that Mr. Moser asked her on March 9, 2011, to perform 25 supervised mammograms ahead of the annual inspection that was to take place on April 26, 2011. Complainant stated that she immediately performed the 25 mammograms as required by March 11, 2011. She stated that Cora Andaya, 2468 Diagnostic Imaging Technologist II (DIT II), supervised her when she performed the 25 mammograms. In the initial intake interview, Complainant claimed that Cora Andaya wrote her own initials on the 'MQSA Technologist Education and Clinical Performance Data Sheet' to certify that she had supervised Complainant's mammograms. Complainant submitted a copy of this form with her prepared chronology. Complainant advised me that she presented the MQSA form to Mr. Moser who told her to "hold on to it." She further stated that Mr. Moser didn't review the form.

In a subsequent intake interview with Complainant, I presented her with a copy of the MQSA form that contained a handwritten note from Ms. Andaya. Ms. Andaya's note indicated that the initials were not her own. I asked Complainant why she would have written Ms. Andaya's initials and to describe Mr. Moser's response. Complainant stated that the MQSA sheet is not an official form. She explained that there is an official logbook where a technologist must write his or her own initials after performing each mammogram. She then admitted that she wrote Ms. Andaya's initials. She explained that she only wrote Ms. Andaya's initials because Mr. Moser pressured her to perform the 25 mammograms. She stated that when she presented the sheet to Mr. Moser, he told her to keep it and not show it to anyone. Complainant stated that she told Mr. Moser that it was not necessary to hide the sheet during the inspection.

Complainant stated that the Avon Center passed the annual inspection on April 26, 2011. She stated that her complaint is about Mr. Moser's actions after the inspection. She stated that on May 19, 2011, Mr. Moser checked her numbers and noticed that she had only performed 194 mammograms from May 19, 2009 to May 18, 2011. According to Complainant, Robert J. (RJ) Merck produces a report of the 24-month mammography totals for Avon's technologists and an updated report is posted in Avon at the beginning each month so the technologists can track their numbers. Complainant believes that Mr. Moser singled her out by running her numbers on May 19, 2011. She stated that Mr. Moser then extended her probation, which was to end on June 3, 2011, because she did not have 200 mammograms. Complainant stated that Mr. Moser, "in his enthusiasm to discriminate against me and drive me out of the Avon Breast Center, ignored the provision that we have 6 months to accomplish 200 mammograms after completing the 25 supervised mammograms, and the management went along with him without looking at the facts that I attempted to present with the union rep being present."

Complainant stated that Mr. Moser extended her probation by three months to September 3, 2011, after initially seeking a six-month extension. She explained that Mr. Moser told her that he was doing her a favor by extending her probation so she could maintain her status in her position, as opposed to letting her go. She stated that he required that she perform an additional 25 supervised mammograms as a condition of the extension. Complainant stated that she performed the 25 mammograms on June 7-8, 2011 under the supervision of Ms. Andaya and Ms. McGinty. She stated that on July 28, 2011, she presented evidence to show that she was never out of compliance since March 2011 because she was in an exemption period. She explained that her evidence included a handwritten note from Ms. Andaya to show that she had performed 25 supervised mammograms in March 2011. She advised me that she and her union representative, Emma Gerould, asked Mr. Moser and Mr. Ibarra to reduce her probation based on this evidence, but later learned that they did not agree to shorten it.

c. Change of Schedule

According to Complainant, around the time that she transitioned to full-time and Permanent Civil Service in February 2011, Rafael Ibarra, Interim Director of Radiology, asked her if she would be open to occasionally helping out at the main Radiology Department when it was understaffed. Complainant stated that she agreed to help out in the main department when necessary because she hadn't worked there in several years. She added that the discussion was very informal and Mr. Ibarra did not in any way propose that she work in the main department on a permanent basis.

Complainant stated that she performed 25 supervised mammograms on June 7-8, 2011 because Mr. Moser required her to do so when he extended her probation from June 3, 2011 to September 3, 2011. She stated that Mr. Moser and Mr. Ibarra then advised her of her new schedule in a meeting on June 9, 2011. Complainant stated that at the June 9th meeting, she and her union representative learned that she was to work two days in the main department and two days in the Avon Center per week. According to Complainant, Mr. Ibarra advised her that he needed her to work two days in each location because he didn't want to have two Charge Techs working in the Avon Center on the same day. She also stated that Mr. Ibarra told her that he needed more help in the main Radiology Department.

I asked Complainant why she felt that Mr. Moser wanted to reduce her working hours at the Avon Center because of her national origin and gender. Initially, she was unable to clearly articulate why Mr. Moser adjusted her schedule because of her protected category. Instead, she stated that Mr. Moser wanted to force her out of the Avon Center. She cited Mr. Moser's decision to reassign the supervisory responsibilities associated with her 2469 DIT III position and role as Charge Tech and QC Tech to her less-senior coworker, Mary McGinty. When I pressed Complainant for clarification as to why Mr. Moser's decision was due to her protected category, she cited Mr. Moser's alleged comments to her. Additionally, she stated that he favored Ms. McGinty because she is "blond-haired and blue-eyed." Complainant added that Mr. Moser continued to assign the Charge Tech assignment to Nancy Toscano on Mondays to Wednesdays. When I asked Complainant to describe her relationship with Ms. McGinty, she stated that they get along "fine", but remarked, "She has always wanted my job."

d. Reassignment of Supervisory Responsibilities

Complainant stated that she had been the assigned Charge Tech in the Avon Breast Cancer Center since October 2007 and generally worked 39 hours per week from Tuesdays to Fridays. Complainant explained that as the Charge Tech, she primarily supervised the technologists and coordinated all of the imaging activities in the Avon Center. Complainant was also responsible for maintaining the diagnostic equipment as the Quality Control Tech; a role she said is typically assigned to the Charge Tech, but does not include any additional compensation.

She stated that in April 2011, Nancy Toscano was appointed to a part-time 2469 DIT III position in the Avon Center. Complainant stated that Mr. Moser then split the weekly supervisory role as Charge Tech between Ms. Toscano and herself – Ms. Toscano was the assigned Charge Tech on Mondays to Wednesdays while Complainant was in charge on Thursdays and Fridays.

Complainant stated that her complaint is regarding Mr. Moser's actions after he extended her probation in May 2011. She stated that after she performed an additional 25 mammograms as a condition of her extended probation on June 7-8, 2011, Mr. Moser reassigned her supervisory responsibilities to Mary McGinty, a 2468 DIT II. I asked Complainant how Mr. Moser assigned the Charge Tech role and why he reassigned her responsibilities because of her gender and national origin. Complainant stated that Mr. Moser singled her out by reassigning her supervisory responsibilities as the Charge Tech on the Thursdays and Fridays when she was working at the Avon Center to Ms. McGinty, a less-senior coworker who is "blonde-haired and blue-eyed." Complainant said that Ms. McGinty was working full-time, but Mr. Moser failed to reassign the supervisory duties for the other Charge Tech, Nancy Toscano (Caucasian), who worked on Mondays to Wednesdays. She complained that she was left to perform patient exams when she was at the Avon Center. She acknowledged that she continued to receive the same rate of pay as a 2469 DIT III even though Mr. Moser did not assign her the supervisory responsibilities that are inherent to her classification. She also acknowledged that Ms. McGinty has not been promoted, but has retained her Class 2468 DIT II position.

Complainant believes that Mr. Moser's action runs counter to Mr. Ibarra's explanation to her in which he stated that he did not want two Charge Techs working in Avon on the same day. She advised me that Mr. Moser never informed her of the change in assignment or the reason for the change. She stated that she only learned of the change when she viewed the assignment board each morning. Complainant acknowledged that Ms. McGinty has retained her Class 2468 DIT II position.

In Complainant's written complaint, she stated that Mr. Moser removed her from her role as QC Tech. As supporting documentation, she submitted an email that she sent to Mr. Moser, Mr. Ibarra, Emma Gerould, and Dr. Lori Strachowski. In the email she stated, "Per instruction of Rafael Ibarra and Brian Moser as of July 14, 2011, I will no longer perform or be the responsible party for Mammography QC." However, when I later advised her that it is my understanding that she voluntarily relinquished the responsibility, she acknowledged that she had requested that she no longer perform the responsibilities. She stated that she told Mr. Ibarra that she did not feel comfortable being registered with the State of California and the U. S. FDA as the Avon Center's

QC Tech if she was no longer working at the Center on a daily basis. She advised me that she was concerned she would be held liable if inspectors found that the radiologic equipment was not properly maintained. According to Complainant, Mr. Moser then removed her from the QC role on July 22, 2011 and reassigned it to Ms. McGinty.

Complainant showed me some photos on her cell phone of the assignment board for several days to prove that Mr. Moser had assigned the Charge Tech and QC Tech role to Ms. McGinty. She later provided me with printed copies of the photos after she had previously stated that she did not know how to retrieve the images from her phone. She explained that her kids assisted her with retrieving image. She further stated that she did not take photos of the assignment board for every Thursday and Friday that she was assigned to the Avon Center.

The photos indicated that Ms. McGinty was the assigned Charge Tech on the majority of the Thursday and Fridays in July and August 2011. However, the images also indicated that Shari Zinn (Caucasian) was also assigned to the Charge Tech role on a Thursday and Friday at the end of June 2011. Furthermore, Complainant was assigned the QC Tech role on several days in August 2011, after the point in which she relinquished the role in July 2011. I asked Complainant if this was the case. She admitted that Mr. Moser did not only assign the supervisory role to Mary McGinty. She acknowledged that the initials 'MMS' is for Mandana M. Siyadat and 'MJM' is for Mary J. McGinty.

e. Angrily Questioning Why she is at the Avon Center

Complainant stated that on Tuesday, July 12, 2011, she reported directly to the Main Radiology Department at her scheduled start time of 6:30 am. She stated that she then went over to the Avon Center because the Charge Tech at Avon, Nancy Toscano, had requested assistance with performing the daily and weekly QC until 8:30 am. She stated that Ms. Toscano notified Donald Chin that Complainant would return at 8:30 am. Complainant stated that Mr. Chin was the assigned Charge Tech of the Main Radiology Department.

According to Complainant, Mr. Moser called her into his office at 7:50 am and angrily asked why she was at the Avon Center when she was scheduled to work at the Main Department. She stated that Mr. Moser continued to address her in an abusive, hostile tone even after she explained that Ms. Toscano had requested the assistance. She stated that she even brought in Ms. Toscano to support her explanation. Complainant stated that Mr. Moser told Ms. Toscano to leave after hearing her explanation. She stated that Mr. Moser continued to yell at her and told her that she was not to change her schedule without his permission or that of Mr. Ibarra or Robert (RJ) Merck. Complainant stated that his behavior prompted her to tell him, "Stop harassing me!" Complainant submitted an email to show that she notified Mr. Ibarra about Mr. Moser's behavior. She does not know if Mr. Ibarra addressed the matter with Mr. Moser.

f. Accusing her of Insubordination

Complainant acknowledged that she and her union representative, Emma Gerould, met with Mr. Moser and Mr. Ibarra on July 14, 2011 to discuss her schedule. She stated that Mr. Moser proposed a change to her schedule that would have required her to work from 7:00 am to 5:30

pm instead of 6:30 am to 5:00 pm. She stated that she and Ms. Gerould were scheduled to have a follow-up meeting on July 20, 2011 with Mr. Moser and Mr. Ibarra, but Mr. Ibarra told her that Mr. Moser would not be able to meet until July 28th. She stated that Mr. Ibarra also told her that he was free to meet the following day on July 21st. Complainant stated that she was unable to reach Ms. Gerould to see if she was available.

Complainant stated that she was performing a patient exam on July 21st when Mr. Moser called her to his office. She explained that when she arrived at Mr. Moser's office, Mr. Moser presented her with the proposed schedule and asked her to sign it. She stated that Mr. Moser accused her of insubordination and refusing the assignment when she told him that she "didn't want to meet with him or sign anything without union representation." She stated that Mr. Ibarra told Mr. Moser that her actions were not insubordination. Complainant acknowledged that her work hours remained the same following the meeting.

g. Denial of Training

Complainant alleged that on July 12, 2011, Brian Moser denied her request for training on the new 'Eviva' equipment that is used for stereotactic biopsies. She stated that she missed the training that was offered when she was on leave for her breast cancer surgery in April 2011. She stated that she complained to Rafael Ibarra, but he advised her that "Brian has discretion to do whatever he wants to do he is the Supervisor." Complainant stated that Mr. Moser never explained his reason for denying her request for training.

Complainant further alleged that Mr. Moser denied her request for training on the 'Hologic Selenia' equipment in October 2011. She stated that the training was listed as "open to all SFGH Mammography Technologists." She stated that Mr. Moser told her that the training was open for technologists who had not previously received the training. Complainant stated that Mr. Moser never responded to her email when she asked him why he allowed Cora Andaya, Yvonne Whitlock, Nancy Toscano, and Huayun (Helen) Niu to attend the training, as they had been trained on the equipment in the past.

h. PAR Meeting with Additional Supervisor Present and Negative Appraisal

Complainant stated that Brian Moser called her into his office on October 6, 2011 to discuss her performance appraisal. She claimed that Mr. Moser singled her out by having Joselito Cruz sit in on her evaluation. According to Complainant, Mr. Moser demanded that she sit down even after she complained that Mr. Cruz's presence was a violation of her privacy. She stated that she told him that she would only sit down if Mr. Cruz left the room. She stated that Mr. Moser told her that he wanted to have a witness because he is new to the evaluation process. Complainant stated that she did not sit down and signed the evaluation without reviewing it. To her knowledge, "Moser had conducted the evaluations for most mammography technologists without another supervisor in the room." She complained that Mr. Moser had never told her about the performance issues prior to issuing her the negative evaluation.



CONFIDENTIAL

DHR EEO

Complainant: Mandana Siyadat	EEO File No./Name: 1652
EEO Investigator: Matthew Valdez	Date & Time: January 17, 2013 @ 1:00pm-3:00pm
Representative: Gus Feldman, SEIU Local 1021	
Location: DHR, 1 South Van Ness, 4 th Floor	Pages: 5

I. BACKGROUND

Ms. Siyadat is currently a 2469 Diagnostic Imaging Technician III. This position is called the Charge Tech.

Ms. Siyadat worked at Avon from the time it opened in 2007. After her probation was over in September 2011, she wanted to move. She asked to be in the PM shift at the main Radiology Department (Main) since they did not have any Charge Techs. She said Main had too many Charge Techs during the day. They gave her six (6) months to try out the PM schedule. This change occurred in November 2011.

Ms. Siyadat said that Charge Techs are in charge of whole sections of the department, such as MRI, CT, Ultrasound, etc. They assign duties, perform the QC, and generally run the area they are working in.

Currently Ms. Siyadat reports to Joselito Cruz. She has been reporting to Mr. Cruz since November 2011. While she was at Avon, she reported to Brian Moser from the time he began there in late 2010. She said before that, she was in charge while they were looking for a new supervisor after the previous one left.

Ms. Siyadat has been employed with DPH for 24 years. Her current work schedule is Monday to Thursday from 1:00 pm to 11:30pm.

II. SUPPLEMENTAL QUESTIONS TO ALLEGATIONS FROM INITIAL COMPLAINT LETTER

A. Charge Tech

Ms. Siyadat said that as a Charge Tech at Avon, she ran the department. She performed the QC duties. She explained that mammography is different. You have to have the Charge Tech assigned with the state as well. She said she performed mammograms, biopsies, scheduling, and patient care. She said that as Charge Tech 80% of her work was administrative and 20% was working with patients.

B. Reassignment to Main

The duties at Avon are the ones listed above. They perform mammograms and biopsies there. At Main, they do not perform mammograms or biopsies. She said she still does go to Avon to perform mammograms because she has to keep her numbers up. At Main, she still does quality control, but its different aspects of radiography. When inspection occurs every year, everyone has to be up to date. It's not one modality at Main. It's much more intense. She said it's also taking care of ER and the trauma rooms. She said at Main, they also do interviewing and hiring. She said these are new tasks.

She said Avon is a separate entity. With mammography, you have to be certified. Only females can do it. Techs have to get state and federal licenses. She said her position was opened when she moved to the Main Department. They posted the position but it was posted for anyone to apply.

She said that when the Avon center was started, they wanted to have a dedicated breast mammo tech there. She had a shoulder injury at work a long time ago, and she couldn't do just mammos. There were some dedicated mammo techs.

The previous director wouldn't let anyone do just mammos. He said everyone needs to be able to do everything. They changed the practice of dedicated mammo techs and people go back and forth between Avon and Main. The practice has been that all the techs rotate. With Moser, people stay at Avon. The practice is that everyone rotates, but Moser lets a few stay.

III. SUPPLEMENTAL QUESTIONS TO ALLEGATIONS FROM SUPPLEMENTAL COMPLAINT

A. Probation Extension

Ms. Siyadat said initially Mr. Moser wanted to fire her, but Ms. Ibarra told Mr. Moser that you can't just fire people. Mr. Moser's reasoning was she had less than 200 mammos so he wanted to let her go. She was at home and received a call from Mr. Ibarra that she should report to Main. When she returned to work, she went to his office. She met with Mr. Moser and Mr. Ibarra and they had paperwork from HR that extended her probation. She said that they told her that because she did not have compliance so they best they could do is extend her probation. She said originally they wanted to extend by six (6) months, but they union got it down to three (3) months.

Ms. Siyadat said that according to the FDA rules, she was never out of compliance. She said she was not out of compliance in March 2011. She said that she did the 25 supervised mammos to go along with it and avoid conflict since she had to do get her numbers up anyway. She wanted to get her numbers up to 200 before the inspection. In the FDA rules, the only day that matters is the date of the inspection. That's when you have to have a minimum of 200 mammos in the previous 24 months. Ms. Siyadat said she believes Mr. Moser knew the rule because he said he had run seven (7) mammo clinics in New York.

Ms. Siyadat said Mr. Moser and Mr. Ibarra told her she was threat to the mammography department so they are helping her out by extending her a favor.

Ms. Siyadat said that at the time, the first Monday of each month, the numbers come out automatically. She was at 202. The day she called in sick on May 18, 2011, Mr. Moser asked RJ Merck to run the numbers specifically for that day.

Ms. Siyadat acknowledged that her numbers were low. She said during the time there was no supervisor at Avon, she was performing the roles of Charge Tech, QC tech, and the supervisor so she did not have enough time to do the mammograms. She said there were too many things going on. She said that's why her numbers had dropped so low.

Ms. Siyadat said that along with performing the 25 supervised mammograms, Mr. Moser split her time between Main and Avon and he wanted to change her hours.

Ms. Siyadat said that Mr. Moser made her do her supervised mammograms with Mary McGinty even though other techs were available. Ms. McGinty is the tech that Mr. Moser assigned the Charge Tech duties to after they were taken away.

I asked Ms. Siyadat about the medical restrictions that she had when she returned to work on April 26, 2011 from her surgery. Ms. Siyadat confirmed that she was unable to lift her arm to perform mammograms. She was restricted from lifting her arm for four (4) weeks. The restrictions ended toward the end of May.

B. Denial of Training

When asked who decided who attends trainings, Ms. Siyadat said that it depends on the training, if it is an all-day training or a part-day training. She said the supervisor decides, but the Charge Tech can as well. The supervisor and the charge tech coordinate the schedules for trainings.

1. July 12, 2011 training (EVIVA needle for stereotactic biopsy)

Ms. Siyadat said the stereo machine is for biopsies. They have companies come and demonstrate the needles and products. She said these are needles going into people's bodies so they need to know how to use them. She said at one point there were machines that they were using for the EVIVAS so they needed to know how to run the machine. The other technologists received training in April when she was out sick. The training was offered again and she asked if she could go. This training was occurring again for a new doctor. She said she asked him to attend but he did not respond.

Ms. Siyadat said that the trainings should be documented. She said that she has everyone sign/initial to show that they received the training. She said she always made sure that everything was documented because as QC Tech she was the responsible party. She said she does not know how Mr. Moser does it.

2. October 6, 2011 training (new Hologic Selenia)

Ms. Siyadat could not recall when the training was. She does not recall if it took place on October 6, 2011 when she sent the email. She said Nancy Toscano was the Charge Tech at Avon at the time. She said they should have information on when the Hologic training was done.

Ms. Siyadat said she installed a Hologic when she was there so she received training before. She said that the training in October 2011 was new because there are new apps and new software that gets put on the mammography machines so she needs to know how to use it.

Ms. Siyadat said Mr. Moser did not respond to her email when she asked why other employees were permitted to retake the training. He did not respond.

I asked what Mr. Moser was referring when he mentioned the Ceretom applications. She said there was a training on the Ceretom training going on inside the Main department. It may have been going on at the same time. She said she was not involved in the Ceretom training since that is for CT.

I asked Ms. Siyadat why she needed the Hologic training if she was working full-time at Main in October 2011. She said that she still does perform mammograms so she wanted it. She has to still maintain her numbers to keep her license so she still goes to Avon to do mammograms. She said the training is for people who want to use that machine so she needs the training to perform her job.

C. Performance Evaluation Rating

Ms. Siyadat said that was the very first time that she or anyone had ever received that rating. She said she had previously received exceeded expectations. She said nothing was ever documented and she was not told about these things.

D. Retaliatory harassment (other allegations + insubordination threat and second supervisor during PPAR)

1. Insubordination Threat

Ms. Siyadat said Mr. Moser kept canceling the meetings. She said on July 21, 2012, they had a meeting scheduled for that morning, but Ms. Moser canceled it. She said later she was performing a mammography and Mr. Moser sent Mary McGinty to get her. She told Ms. McGinty that she was with a patient. After she was done with the patient, she met with Mr. Moser. Mr. Ibarra was there as well. She said earlier they told her they couldn't meet with her, and now they could when her union rep wasn't there.

They gave her a new schedule and told her to sign it. She said she would not sign it without her union rep present. Mr. Moser asked her if she was refusing her assignment and told her that is insubordination. Mr. Ibarra told Mr. Moser that it was not insubordination.

2. PPAR Meeting

Ms. Siyadat said that usually for the performance evaluation meetings, you go into the room with just the supervisor and go over the evaluation. The employee says whether or not they agree.

She said that when she got in the room, Mr. Moser was standing and Joselito Cruz was sitting. She asked what Mr. Cruz was doing there and Mr. Moser told her he was doing the evaluation. Mr. Moser told her that Mr. Cruz is a supervisor so he can be there. Ms. Siyadat asked to postpone the meeting so she could have someone

there at the meeting as well. Mr. Moser told her she had to do it and that Mr. Cruz is a supervisor. She said she isn't sure if Mr. Cruz left or not. Mr. Moser gave her the evaluation, but she didn't sign for it and left.

Ms. Siyadat said that Avon is open Monday through Friday from 6:30am to 5:00pm. She said it is open to patients beginning at 7:30am. Ms. Siyadat said that her schedule at that time was 6:30am to 5:00pm on Tuesdays through Fridays. She had to perform the QC in the morning since she was taking care of her mother. She said that Mr. Moser and Mr. Ibarra tried to change her schedule to 7:00am to 5:30pm. Ms. Siyadat said the proposed time changes were never implemented. On the location change was. She said other employees like Yvonne Whitlock worked from 6:30am to 5:00pm like she did.

Since the end of November of 2011, Ms. Siyadat's schedule has been 11:30am to 10pm at Main.

I asked Ms. Siyadat what remedies she was seeking. She said that she wanted a written apology letter. She said that she wanted the things that she had written in her original letter. She said that they can't extend Moser's probation but she still wants the other things.

Ms. Siyadat said that Mr. Ibarra is also responsible for what happened. She said that he did not do anything about the things that Mr. Moser was doing. Whenever she complained to him, Mr. Ibarra told her "He's the supervisor and he can do what he wants." She said that Shermineh Jafarich did not do anything either and Cathy Abela told her to go the union.

Ms. Siyadat's union representative, Mr. Feldman, stated that on December 18, 2012, he contacted Zachary Williams to apprise him of recent incidents that had happened, but they never heard back from him. Ms. Siyadat explained that they are moving Mr. Moser out of Avon and into the Main Department. She has had unpleasant interactions with him and she thinks he is trying to intimidate her because nothing has happened to him so far. She told the Director of Radiology, David Sostarich, her concerns and he told her that she would have to work for him sometime.

Ms. Siyadat explained that when she was working on reference checks in her office, the printer in her office was not working so she had to go back and forth between her office and another printer. When she returned from her office after picking up a printout, Mr. Moser was sitting in her chair and talking with another employee that shares her office. She told him that was her chair and asked him to get up. Mr. Moser got up. She said that after that Mr. Moser began speaking very loudly while she was on the phone making the reference checks. She eventually asked Mr. Moser and the other employee to talk outside of the office because she was trying to make phone calls. This occurred in December 2012.

Prior to that, on the day of the disaster drill, Ms. Siyadat had just arrived to work and Mr. Moser approached her and began demanding that she do something for him. She told him that she had just arrived and had not yet put her belongings down. Mr. Moser yelled at her and demanded that she do what he told her to do right then. She said that he would not allow her to put her belongings away. She said that she walked away and immediately reported his conduct to Mr. Sostarich.

Charge of Discrimination

EXHIBIT C

CHARGE OF DISCRIMINATION

(To be Completed by EEO Staff In Consultation with Complainant)

1. Name of Complainant: Marbara Simbart
 Address: [REDACTED] Work Phone: (415) 206-8000
 Home Phone: [REDACTED]

2. Respondent Department: SFGH Radiology / DPH
 Worksite: _____ Telephone No.: _____
 Address: _____

3. Complainant's Current Employment Status (circle one): PCS Classification: _____
 TCS LT NCS PV PC TE PROB NOT A CITY EMPLOYEE.

4. Basis of Discrimination (specify):
- Race: _____
 - Color: _____
 - Religion: _____
 - Creed: _____
 - Sex: _____
 - National Origin: Iranian
 - Ethnicity: _____
 - Age: _____
 - Disability/Medical Condition: _____
 - Political Affiliation: _____
 - Sexual Orientation: _____
 - Ancestry: _____
 - Marital or Domestic Partner Status: _____
 - Gender Identity: Female
 - Parental Status: _____
 - Other Non-Merit Factors: _____
 - Retaliation: _____
5. Issue complained of:
- Denial of Employment
 - Denial of Training
 - Denial of Promotion
 - Denial of Reasonable Accommodation
 - Termination
 - Lay-off
 - Constructive Discharge
 - Disciplinary Action
 - Harassment
 - Work Assignment
 - Sexual Harassment
 - Compensation
 - Other (please specify): _____

6. Has the Complainant filed the complaint with any other local, state or federal agency? Yes No
 If yes, please specify: _____

7. Has the Complainant filed a grievance or lawsuit? Yes No
 If yes, please specify: _____

8. Is the Complainant represented by a Union or an Attorney? Yes No
 Name: Ed Kirochleg Organization/Firm: SEIU
 Address: _____ Phone No.: _____

9. Describe specifically and in detail the circumstances of the alleged discrimination. Please include date(s) of adverse employment action(s).

Brian Moser subjected Complainant to a hostile work environment because of gender and national origin. Complainant alleged that Moser made a series of comments from February 2011 to July 2011.

Complainant alleged that Brian Moser treated her unfairly by removing the responsibilities of QC Tech and Charge Tech. Complainant claimed that Moser reassigned those responsibilities to Mary McInity (Caucasian), ~~2468~~ 2468 Diagnostic Imaging Tech II, the class below Complainant's.

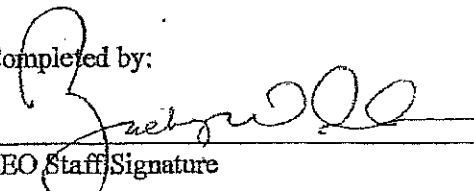
Lastly, Complainant claimed that Moser changed her work schedule in May 2011 because of her protected category. Complainant claimed that she did not agree to schedule change with her change to full-time.

10. Has the Complainant taken any action to resolve the issue(s)? If yes, please specify.

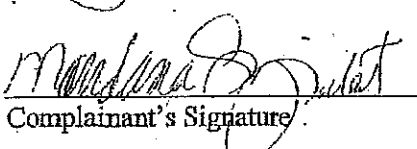
11. Remedy or corrective action desired by Complainant:

12. Is the Complainant willing to participate in an informal resolution process? Yes No

Completed by:


EEO Staff Signature

11/29/11
Date


Complainant's Signature

11/29/11
Date

- Attachment 1: Interviews of Brian Moser
- Attachment 2: Interviews of Rafael Ibarra
- Attachment 3: Interviews of Nancy Toscano
- Attachment 4: Interview of Robert J. (RJ) Merck
- Attachment 5: Interview of Shermineh Jafarieh
- Attachment 6: Interview of Cathy Abela
- Attachment 7: Interview of Joselito Cruz
- Attachment 8: Interviews of Shari Zinn
- Attachment 9: Interview of Corazon (Cora) Andaya
- Attachment 10: Interview of Dr. Loretta Strachowski
- Attachment 11: Interviews of Fred Evans
- Attachment 12: Interview of Sylvia Romero-Pagan
- Attachment 13: Interview of Marla Armstron
- Attachment 14: Interview of Hilary Bunlert
- Attachment 15: Interview of Mary McGinty

EXHIBIT D

Attachment 1

Interview of Accused (Brian Moser)
Notes prepared by Zachary Williams, DPH EEO

Brian Moser is a 2496 Radiologic Technologist Supervisor and oversees the Avon Comprehensive Breast Cancer Center at SFGH. He has been employed by the City and DPH since October 4, 2010.

Brian Moser denied that he commented on Complainant's national origin and gender by telling her that she was similar to a volatile patient. He also denied that he spoke to Complainant about her haircut. Mr. Moser remarked that he doesn't know why the alleged comment about her haircut would be considered inappropriate and/or a reflection of her national origin and gender. When I asked Mr. Moser why Complainant would make these claims, he reasoned that she was "probably upset about her performance appraisal" which he described as a fair assessment. He explained that their work relationship was challenging since he was hired as the new supervisor at the Avon Center in October 2010. He added that Complainant was "not on the same page" with him with regard to the changes that he implemented and referenced his comments in her performance appraisal. Mr. Moser then restated that he has never had any discussions with her about anything related to her gender or national origin.

With regard to the written statement from Fred Evans describing Mr. Moser's alleged comments, Mr. Moser stated that he never told Mr. Evans that Complainant is a "dumb Indian woman." He also denied that he has ever referred to female staff as "bitches" or stated that women complain too much. Mr. Moser was unable to offer an explanation as to why Mr. Evans would have made these claims and stated, "I don't know why Fred would say that." According to Mr. Moser, he has actually heard female staff joke amongst themselves that the largely-female staff leads to frequent complaining, thus making it a challenging environment for men. He added that he has never participated in the jokes.

Brian Moser denied that he accused her of forgery, extended her probation, and required her to perform 25 additional supervised mammograms because she is an Iranian Woman. He stated that he couldn't believe that there is an investigation into her claims because "the evidence is there." According to Mr. Moser, he and Mr. Ibarra discovered that Complainant had forged the 'Technologist Productivity' form after he had asked her to perform 25 mammograms under supervision to get back in compliance with the MQSA in March 2011. He stated that when he asked Complainant if the initials on the document were Cora Andaya's, she told him "yes" in front her union representative, Emma Gerould. Mr. Moser said that he later found out that Complainant had lied because Cora Andaya admitted that she had not written the initials. Mr. Moser provided me with a copy of the document that contains a written note from Ms. Andaya indicating that she didn't write her own initials. Mr. Moser acknowledged that he did not take disciplinary action or notify the credentialing body, the ARRT. He stated, "She could have been fired."

I asked Mr. Moser why the Department was not cited in the inspection since Complainant had forged the document. In response he stated, "I don't know... we got lucky." I asked Mr. Moser if he ever reviewed the logbook or database to determine if they show that Complainant had in fact performed 25 mammograms under the supervision of Ms. Andaya in March 2011. He did not

directly respond to my question when he stated that he couldn't recall if he had done so. He stated, "What's important is that she [Complainant] didn't follow my simple instructions to fill out the sheet." He added, "She knows the regulations." He further explained, "The MQSA form is shown to inspectors if they show up... we can't use the logbook because it has patient information." He also stated that the information for each mammogram must be the same on the MQSA sheet, the logbook and the computer database.

Brian Moser acknowledged that he checked Complainant's mammography totals on May 19, 2011. He noted that all the technologists' numbers are visible on the same report. However, he advised me that he "usually monitors more closely the numbers for any technologist who is on the threshold." He stated that in his experience, it is rare for a technologist to have difficulty maintaining his or her mammography totals. He admitted that a Charge Tech might not have as much time as a junior technologist to perform mammograms on a regular basis. However, he stated, "Charge Techs should prioritize what is important... in this case her numbers are important." When I asked him if he observes what Complainant does on a daily basis to determine her workload, he acknowledged that he does not. He stated, "She sometimes said that she has to do QC... but QC the daily should only take ten minutes per day and maybe 30 minutes to an hour for weekly and monthly QC." He further stated, "She has consistently been asked to maintain her numbers." He added, "We get 50-80 patients per day."

Brian Moser acknowledged that he asked Complainant to perform 25 supervised mammograms on June 7-8, 2011 after he saw that her mammography totals were below 200 on May 19th. I asked Mr. Moser if the FDA's 6-month period of exemption applied to Complainant since it appeared that she had performed 25 supervised mammograms in March 2011. Mr. Moser immediately stated, "Those mammograms are invalid because of the forged document." He explained that he required her to perform 25 more mammograms in June as one of the conditions of her extended probation. He further stated that the extended probation was an opportunity for Complainant to simply perform mammograms so she wouldn't to worry about her numbers in the future. Mr. Moser stated that he consulted with the Labor Relations Division in DPH HR regarding the extension of Complainant's probation.

Brian Moser denied that he was responsible for the change to Complainant's schedule. He stated, "She and Rafael agreed to two days in both places." He further stated that he and Mr. Ibarra later met with Complainant in June 2011 when she agreed to the schedule in the presence of Emma Gerould. It's his understanding that Mr. Ibarra wanted to limit the amount of coverage in the Avon Center by Charge Techs. He stated that Complainant and Nancy Toscano were supposed to split the weekly coverage in Avon. Mr. Moser doesn't recall Complainant ever complaining about the schedule.

We discussed Complainant's claim that he had reassigned her supervisory responsibilities to Mary McGinty. He acknowledged that he stopped assigning her the Charge Tech assignment. He stated, "We were trying to help her maintain her numbers." He further explained, "We had to structure her day to help her maintain her numbers so it wouldn't be a problem later." I asked Mr. Moser if he considered assigning the Charge Tech role to other technologists. He advised me that Yvonne [Whitlock] doesn't like being in charge and neither does Cora [Andaya] because "she didn't want to be in trouble." Mr. Moser stated that he temporarily had Shari Zinn in charge,

but later assigned the role to Mary McGinty. He stated, "Mary assumes the role a lot because she is available five days a week and has a QC background." When I asked him if he explained the change in assignment to Complainant, he stated, "Yes when we met with her about her schedule... we even gave her a memo."

Brian Moser advised me that the Quality Control Technician is responsible for ensuring that the mammography equipment is operating correctly. He stated that the responsibility is not considered a promotion and there are no associated monetary benefits. He stated that he removed the responsibility from Complainant because she requested that she no longer have to perform the tasks. Per Mr. Moser, Complainant's rationale was that she did not want to continue being listed as the QC Technician with the State of California if she was not working full-time in the Avon Center. Mr. Moser added that Complainant made the request in conjunction with her union representative. When asked if he sought an explanation from Complainant, he stated that he did not. Mr. Moser did not pursue the matter because he believes that the role of QC Tech "requires dedication." Mr. Moser stated that he has not reassigned the QC responsibilities to any one individual.

Brian Moser denied Complainant's claim that he yelled at her on July 12, 2011 for being at the Avon Center. He stated, "I've never yelled at an employee." He stated, "She had a clearly defined schedule but she consistently reported to the wrong area." I asked Mr. Moser if it was typical for the Charge Tech at Avon to request technologists from the Main Department to perform QC. He stated, "Nancy [Toscano] and Mandana are friends and have traveled to Italy together." He added, "It's not typical for the Charge Tech to ask for help because she can do the QC by herself." Mr. Moser reiterated that it should only take 15 minutes and maybe up to an hour to perform QC. He stated that Charge Techs sometimes arrive early to perform the QC before the Center opens for patients at 7:30 am.

Mr. Moser denied that he accused Complainant of insubordination when she refused to sign his proposed amendment to her schedule without union representation. He stated that he "simply asked her if she was refusing the schedule." He added, "I never said insubordination." He stated that he proposed to shift her start time from 6:30 am to 7:00 am because there wasn't a need for her to arrive an hour before the Center opened. He stated that he never implemented the schedule because "the union pushed back."

With regard to Complainant's PAR meeting, Mr. Moser acknowledged that he brought Joselito Cruz to the meeting. He could not recall if Mr. Merck was available to attend. However, he stated that he consulted with HR and understood that "it was acceptable to have two supervisors." Mr. Moser stated, "She has a history of saying that she didn't know she was supposed to do something...like following her schedule."

I asked Mr. Moser if RJ Merck agreed to the content of the appraisal. He stated, "RJ agreed." He advised me that he even told Mr. Merck not to sign it if he didn't agree with the appraisal. I asked Mr. Moser if he ever met with Complainant to discuss his concerns about her performance. He stated, "I have repeatedly told her." He stated, "I would never write something that is not true in an employee's evaluation." Mr. Moser added, "Have you seen her appraisal...she didn't

complain at all about discrimination in her evaluation.” He remarked, “I have never disciplined her...in fact, she was promoted!”

Brian Moser could not recall if Complainant attended the training on July 12, 2011 but submitted an email to show that he actually requested that Complainant and Nancy Toscano attend the session. He stated that he doesn't have any records to show if she attended the training or not.

He stated that the Department makes the best effort to provide training for everyone. However, he explained that the Department sometimes cannot meet the demand for training because of staffing limitations. Mr. Moser stated that he was not responsible for deciding who can attend because it falls within the responsibilities of the Charge Tech. He stated, “Applications training is typically coordinated by the charge techs and not myself. Unfortunately, not all techs are able to attend all applications sessions due to staffing needs as the department must still function and it is not uncommon.” He stated that Nancy Toscano may have been the assigned Charge Tech who was responsible for deciding who should attend the training.

Mr. Moser also does not know if Complainant attended the training in October 2011. He again stated that the decisions about training are for the Charge Techs to make because they manage the staffing. He sought to explain why Complainant may not have been allowed to attend the training. He stated, “On the e-mail I told her that we happened to have 2 applications sessions going on the same day so that would have made staffing very short and impossible to have all techs participate.”

Mr. Moser further stated that Complainant was no longer working at the Avon Center in October 2011 because she had incurred a work injury on September 1, 2011. When I asked him why she would email him about his alleged denial of training, he stated, “Because she's trying to stir things up.” He reiterated that it is not uncommon for a technologist to be denied training for a staffing reason. He added that Complainant had already received the training.

Finally, Mr. Moser advised me that Complainant made all of her claims because she was unhappy with her performance appraisal. He stated that she never made her claims before that point in time. He stated that everything in her appraisal was true but acknowledged that he has not documented any of the incidents he cited in her evaluation. He provided me with a copy of notes that Mr. Merck had written in 2010 regarding Complainant's performance. Mr. Moser also provided me with a copy of a Written Warning to Complainant from another Supervisor, Frank Cubias (Hispanic male), 2496 Radiologic Technologist Supervisor. Mr. Moser stated that the documents show that other Supervisors share his views on Complainant's performance.



CONFIDENTIAL

DHR EEO

Respondent: Brian Moser	EEO File No./Name: 1652
EEO Investigator: Matthew Valdez	Date & Time: February 8, 2013 @ 9:00am to 11:00am; March 7, 2013 @ 10:00am to 12:25pm; March 12, 2013 (phone), March 19, 2013 (phone); April 3, 2013 (phone).
Representative: Peter Finn, Teamsters Local 856	
Location: DHR, 1 South Van Ness, 4 th Floor	Pages: 8

February 8, 2013

Mr. Moser said that everything was done in conjunction with the interim director. I asked whether by interim director, he was referring to Rafael Ibarra. He said he was. He said that the decisions would have come from his boss.

Mr. Moser did not recall telling Zachary Williams that he reassigned the Charge Tech responsibilities because he assigned the role to several techs so they could share the responsibility, Ms. Siyadat went on medical leave in April 2011, and Ms. Siyadat had medical restrictions that barred her from performing mammograms. He said that he would never say that regarding Ms. Siyadat's medical leave and medical restrictions. He said he did assign the role to other techs so he could cross-train the other technologists. He said that Mr. Ibarra made those decisions.

Mr. Moser said that reassigning Ms. Siyadat's Charge Tech duties so she could focus on performing mammograms "would be called helping someone become successful." He explained that her numbers fell way below the requirement. He said that she was reassigned by Mr. Ibarra and that it was to help maintain her numbers.

Mr. Moser said that the summary of the interviews from Mr. Williams is not accurate. He said that all decisions that were made were made in collaboration with Mr. Ibarra and that it is inaccurate to say that he made those decisions on his own.

A. Reassignment to Main

Mr. Moser said that the change to Ms. Siyadat's work location schedule was made by Mr. Ibarra.

B. January 2013 Allegations

Mr. Moser said that he works at Avon and the Main department. His officer is at Avon. At the Main department, he is responsible for equipment management and whatever his supervisor asks him to do. He handles problems with the equipment, machines that are down, and repairs. He also handles inventory related to the equipment. He does not have an office in the Main department.

Mr. Moser does not typically see Ms. Siyadat while he is at Main. He said he hasn't seen her more than 30 seconds in the previous six (6) or seven (7) months. He said it is probably more than that. He stays away from her.

He said that last time he saw her there was just a few days ago. They did not interact, but he may have said "Hi." He said at the time, he was in the Charge Tech office with Jimmy Ho and Donald Chin.

C. Disaster Drill

I asked Mr. Moser if he recalled when the last disaster drill was. Mr. Moser said he knows that there are disaster drills, but doesn't recall when they have occurred. He recalls them occurring, but does not recall seeing Ms. Siyadat on the day of the last disaster drill. He does not recall interacting with Ms. Siyadat at during November 2012 or December 2012.

Mr. Moser said he does not recall giving Ms. Siyadat any assignments while she was at the Main department. He said he has never yelled at any employees.

Mr. Moser said that he has a vague recollection that on the day of the last disaster drill, he gave Mr. Ho and Mr. Chin the DOSR forms. When there is a disaster drill, there is a report of equipment status that needs to go to the command center. He assigned it to them. He does not recall assigning the work to Ms. Siyadat unless she was standing there with the other Charge Techs.

D. Charge Tech Office

Mr. Moser is not sure if the charge techs have an assigned desk. In the officer at the Main department, there are only two desks. He thinks it is a shared office. He does not ask who they belong to. He usually sees Donald in the desk on the right and Jimmy on the left. Sometimes Jimmy is on the right as well. He has never seen Donald on the left.

When Mr. Moser is in the office, he usually stands. Sometimes he sits on the file cabinet or in one of the open chairs. I asked if he recalled a time that he and Ms. Siyadat were in the office at the same time. He recalled a time she was in the office, but could not recall if he was sitting in a chair, on the file cabinet, or standing. He said she yelled at him, "Get out of here, we need to move these file cabinets. She was with Furman or someone else. He said she was disrespectful. He then stepped outside of the office. He thinks the door may have been closed after he stepped outside. He said he may have finished the conversation he was having in the office while she was in there, but does not recall. He said Ms. Siyadat was not using the phone at the time.

He said he has never done anything like that. He said he knows that he cannot exhibit the same behavior as her. He said that he thinks that the office is not hers and that the chair isn't hers. She said that Mr. Ho and Mr. Chin sit in those chairs. He always seems them in there.

March 7, 2013

Mr. Moser asked what the retaliation charge related to as his understanding was that he was being accused of discrimination for the allegations from 2011 and retaliation for the allegations from January 2013. I explained that Ms. Siyadat initially filed a complaint alleging discrimination, harassment, and retaliation and that in January 2013 she made additional allegations of retaliation. Mr. Moser asked what complaint there was for retaliation in 2011. I explained that Ms. Siyadat alleged that in May 2011 after he made an inappropriate comment about Iranian women, she told him that she does not appreciate comments about her ethnicity and that she made a complaint to Rafael Ibarra about the comment. Mr. Moser said that Mr. Ibarra never told him about any complaints. He said that it would be Mr. Ibarra's job as his supervisor to handle a complaint like that and that Mr. Ibarra should have reported it. He said he never knew about that complaint so he couldn't have retaliated against her. Mr. Moser also said he does not recall Ms. Siyadat telling him not to make comments about her ethnicity.

A. Reassignment of Charge Tech duties

I told Mr. Moser that according to Zachary Williams, he told Mr. Williams that he never formally reassigned Ms. Siyadat's Charge Tech responsibilities and never told her that he had done so; that he assigned the role to several technologists so they could share the responsibility; that he rotated the Charge Tech assignment amongst the technologist so they could share the responsibility because Ms. Siyadat went on medical leave in April 2011; and that Ms. Siyadat had medical restrictions barring her from lifting her arm to perform mammograms so he understood that she could not act as Charge Tech while she was on limited duty status. I asked Mr. Moser if he recalled telling Mr. Williams that information. Mr. Moser said it "doesn't sound that accurate." He said he needed other to be trained as Charge Tech. He said that he noticed inconsistencies with the Charge Tech coverage in the department so he needed to be sure that the others could do it. He said he may have been misquoted. He added that he did not assign the Charge Tech duties to others because of Ms. Siyadat's medical leave and restrictions, but because Ms. Siyadat was not able to do them at that time.

Mr. Moser said that he had Ms. Siyadat focus on performing mammograms because she had fallen out of compliance with the qualifications for mammography. He said that her numbers had fallen below the minimum and he needed to have her get her numbers up. He said that she had been previously told that she needed to get her numbers up but she did not do so. He said that if he had a concern about her doing the mammograms on her own so he had to make sure that she met her numbers. He said he was trying to make sure that she is well on track to meet her numbers. Mr. Moser said the state has the right to walk in at any time. I asked whether he was referring to the State or to the FDA. He explained that the State conducts the inspections for the FDA. He said that at any time they can come in and inspect the records.

I noted that Avon had passed the annual inspection in April 2011 and asked why they would come back for another inspection the next month. Mr. Moser explained that an inspector at any time. For example, if the state receives a report or complaint from a patient, the state can come in at any time and perform an inspection. Mr. Moser is trying to protect the facility. As the supervisor, he is responsible for credentialing requirements. Ms. Siyadat was uncooperative. Rafael Ibarra and RJ Merck had told her in the past to maintain her numbers. Mr.

Moser noticed that she was often below 200. Ms. Siyadat was instructed to make sure her numbers were maintained. Mr. Moser was making sure that the facility was protected.

I asked Mr. Moser what he meant by "out of compliance" because the FDA regulations regarding technologists who perform mammograms state that "the radiologic technologists shall have performed a minimum of 200 mammography examinations during the 24 months immediately preceding the date of the facility's annual MQSA inspection or the last day of the calendar quarter preceding the inspection or any date in between the two." Mr. Moser said that even if she has 199 mammograms, he cannot have that person doing mammograms. That would be considered an unlicensed person performing mammograms and that is the highest level of citation they could receive. Receiving a citation for an unlicensed person makes it sound like they had the janitor or secretary doing the mammograms so he wants to make sure that the technologist are well within the safety threshold.

I asked whether that means each technologist must have 200 mammograms in the previous two years each day that they come in. Mr. Moser said that each technologist has to have 200 mammograms every day that they come to work. That's the standard of care. He has a lot of experience with FDA inspectors and inspections are also up to the inspector's interpretation of the regulations. He needs to make sure that every technologist is well above 200 for that reason as well. Also he wants to make sure that the technologists' numbers stay up since you don't know what the numbers were like two (2) years ago. It's a moving time period so the numbers are always decreasing.

Mr. Ibarra and RJ Merck also told her that she needed to maintain her numbers. They also told Mr. Moser to make sure that she has her numbers. Mr. Moser said that he told her on many occasions to maintain her numbers. Those occasions were verbal.

I asked Mr. Moser why he did not make her do the mammograms until June if her numbers were below 200 since at least January 2011. He said that she had been instructed to do them and she was not realizing the importance of doing it.

The Charge Tech is responsible for the work flow. They manage assignments, make sure the QC is done, and help on mammograms when needed. The Charge Techs should be performing mammograms almost on a daily basis. Mr. Moser does not know if the current Charge Techs perform mammograms on a daily basis. He does not monitor their performance.

Mr. Moser acknowledged that the Charge Techs would have perform few mammograms than the other technologists but said that they would not be out of compliance. He said he has never had this issue with Charge Techs in the past.

Mr. Moser told Zachary Williams, DPH EEO, "We were trying to help her maintain her numbers" and "We had to structure her day to help her maintain her numbers so it wouldn't be a problem later." Mr. Moser said that that was a discussion he had with Rafael Ibarra and RJ Merck. It was an issue going back a long time. Rafael told Mr. Moser to assign Ms. Siyadat cases. Rafael told him to have her do mammograms because there was a concern about her maintaining her numbers. I asked if he had her do mammography work, and Mr. Moser replied that he told her to maintain her numbers. He said that he told her to maintain the numbers so she could take it upon herself to do mammograms. He had to reassign her duties to make her do the mammograms because she did not do them herself.

I told him that it was my understanding that that Rafael instructed him to have her do mammograms because he was not assigning Ms. Siyadat cases. Mr. Moser said that Mr. Ibarra asked him to have her do mammograms because she did not take it upon herself to do them when she was told to previously by him, Mr. Ibarra, and Mr. Merck. He said that as Charge Tech, she assigns the cases to the technologists and can assign them to herself. She was not doing them. He said there is more than enough time to do the mammograms. He had to reassign her duties to make her do the mammograms.

Mr. Moser said he told Ms. Siyadat several times to maintain her numbers. He said he told to maintain them "when she fell out her compliance." I asked when that was. He was not sure.

Mr. Moser said that Ms. Siyadat was not within the grace period. He said that at a meeting with him, Rafael, and her union representative, Emma Gould, Ms. Siyadat told them that that the initials on the document were her own. He said that she lied. He said that Cora Andaya told him that those were not his initials. He said Ms. Siyadat is a liar and forged the document. He said it is a violation to produce that document and that could get them cited.

Mr. Moser said that Ms. Siyadat has received written reprimands for forging documents and falsifying time sheets. I told Mr. Moser that it was my understanding those written reprimands were rescinded. Mr. Finn said that Ms. Siyadat is not credible and did not understand why there was an investigation. I explained that the written reprimands were rescinded so they are not relevant. Mr. Moser said that other supervisors have the same concerns that he has and that she admitted that she forged the document.

I asked Mr. Moser where on the document it states that the tech must write their own initials. Mr. Finn said if it was Mandana's initials it wouldn't say "CBA." I explained that my understanding is that column is the technologist who supervised the mammograms. Mr. Moser said that Ms. Siyadat admitted that she lied and she isn't credible.

I asked Mr. Moser if it is his responsibility to ensure that Ms. Siyadat had performed the 25 supervised mammograms as instructed. I asked why he did not notice that those were not Ms. Andaya's initials when Ms. Siyadat turned in the document. He said that he doesn't think he looked at the document. He stated that he trusted that she had done what he told her to do.

Mr. Moser did not know if Ms. Siyadat had 200 mammograms on the day of the inspection and wasn't sure when specifically the inspection had occurred. He said that if the inspector comes in, you have to be able to show 200. Mr. Moser said that he does not know if the inspector looked at the document. He said they fill out a sheet that lists all of the requirements and they check them off to make sure everyone has the 200.

Mr. Moser said he does not recall when it was discovered that Ms. Siyadat had not performed the 25 supervised mammograms.

I asked Mr. Moser why he had Ms. Siyadat perform the 25 supervised mammograms in May 2011 if he had the sheet from March 2011 showing that she performed them already. He said that Mr. Ibarra told him to ask Ms. Andaya if those were her initials. He did so and she said that they were not. Mr. Moser said that is when he learned that she was out of compliance. Prior to that, he believed that Ms. Siyadat had performed them but

when he learned that Ms. Siyadat forged the document, she was out of compliance. He said that he could have reported her and she could lose her license for that.

Mr. Finn asked for a copy of the document. I told him that I cannot provide him with any documents. He asked Mr. Moser if he could get a copy of it and Mr. Moser told him that he could. Mr. Finn said Sue Currin should see it.

B. Probation Extension

Mr. Moser said that he was involved in discussions about the probation extension. He said they were given options to extend her probation or terminate her. Mr. Moser said that Mr. Ibarra made the decision to extend her probation. Mr. Finn said that the email from Mr. Ibarra to Ms. Jafarieh shows that it was not Mr. Moser's decision.

C. Denial of Training

Mr. Moser said that he does not assign people to trainings. Usually the Charge Techs organize the applications trainings. He schedules the trainings, but he does not select who attends them. He said they usually try to make sure everyone is involved but he does not select who goes to the trainings.

Mr. Moser said that who attends the trainings is not always documented. He said sometimes it is documented and sometimes it is not. If there is a certificate that the technologists receive, then it is documented.

1. July 7, 2011 Training

I showed Mr. Moser the emails he provided to Zachary Williams in support of his statement that he requested Ms. Siyadat attend the training. I showed him the email from July 7, 2011 email about a CPR training. Mr. Finn said that the email was an example showing that Mr. Moser allows Ms. Siyadat to attend trainings.

I showed Mr. Moser the email regarding an applications training for the new radiologist and fellows. The email was copied to Ms. Siyadat and Nancy Toscano. In the exchange regarding times, Ms. Siyadat and Ms. Toscano were not copied. I asked Mr. Moser why in the final email that included the date and times of the applications training, Ms. Toscano was added back in on the cc line, but Ms. Siyadat was not. Mr. Moser did not know why.

2. October 6, 2011 Training

Mr. Moser said that on October 6, 2011, Ms. Siyadat may have been on medical leave due to an injury Ms. Siyadat sustained in September 2011. Mr. Moser provided me with documentation related to the workers' compensation claim. Mr. Moser said that Ms. Siyadat went out on leave on September 8, 2011. He received a notice of an extension on October 26, 2011.

Mr. Moser could not recall if he responded to Ms. Siyadat's reply in which she asked why other techs who had already received the training had been allowed to retrain. He said that the Charge Techs do the scheduling for the trainings.

D. PPAR Meeting

RJ Merck was not there the day of the PPAR meeting. Rafael Ibarra told him to ask Joselito Cruz. Mr. Moser said that Human Resources told him that there is not regulation about there being a second person at the PPAR meeting.

Mr. Finn, Mr. Moser's representative, explained that sometimes a supervisor will want another supervisor present when meeting with a difficult employee. Mr. Moser said that Ms. Siyadat is difficult and they wanted to have another supervisor there for the meeting. He added that there is no rule that says you cannot do that. He said that it was recommended by someone else and that it went through Mr. Ibarra.

Mr. Moser said I should speak with RJ Merck and Francisco Cubias. He said they both issued her reprimands for falsifying documents.

Thank witness for participating in interview.

Remind witness not to discuss with anyone the investigation or information we discussed.

Remind witness there is no retaliation for participating in the investigation and if witness believes she is experiencing retaliation to contact me, DHR EEO, or the department personnel officer.

March 12, 2013 – 9:58 AM

Mr. Moser called me and said that he learned from Jimmy Ho that Ms. Siyadat wants to "update the office." He said that Mr. Ho told him that has been his office for years. Mr. Moser said that this shows that the office is not Ms. Siyadat's. He said I should ask find out whose office it is. He said he believes that the investigation is interfering with his career. He has been reassigned to supervise the 2424 X-Ray Laboratory Aides.

March 19, 2013 – 11:36 AM

Mr. Moser called me and asked if I had talked to the Director of Radiology, David Sostarich, yet to ascertain whether the office is Ms. Siyadat's or not. I clarified with Mr. Moser that I did not tell him I would speak with Mr. Sostarich. Mr. Moser said that since Ms. Siyadat is saying that is her office, I should find out whose office it is. He said that the office belongs to Mr. Ho and Donald Chin. He said that Mr. Ho said it was has been his office for years. He said I should ask Mr. Sostarich whose office it is and that Mr. Sostarich will tell me that it is not Ms. Siyadat's.

Mr. Moser also said that told Mr. Sostarich that during the interview, I said that Ms. Siyadat reported his conduct on the day of the disaster drill to Mr. Sostarich. He said that Mr. Sostarich told him that Ms. Siyadat never complained to him. He said that that shows that Ms. Siyadat is not credible and that she is making things up. I reminded Mr. Moser that the investigation is a confidential process. I reminded him that at the beginning and the end of the interview I told him that he was not to discuss anything we had discussed in the

interview with others to maintain the integrity of the investigation. Mr. Moser said he understood, but that I should speak with Mr. Sostarich.

April 3, 2013 – 3:53 PM

Mr. Moser called me and asked if I had spoken with Mr. Sostarich. I reminded him that the investigation is a confidential process and that it would be inappropriate for me to provide him information about the investigation. He said that I should talk with Mr. Sostarich to determine whose office that was and because Mr. Sostarich told him that Ms. Siyadat did not complain to him as she alleged.

Mr. Moser said that they also extended Ms. Siyadat's probation for reasons other than being out of compliance, but they were told by Human Resources to only include the compliance issue. Mr. Moser said that they told him to put those other issues her in performance evaluation. Mr. Moser could not recall what the issues were but said that they are the ones that were in the performance evaluation. He said the issues were probably about her behavior and her attitude but could not recall the specifics. He said that he was told to put those issues in the evaluation because the evaluation is not contestable.

Mr. Moser said he and Mr. Ibarra talked with Cathy Abela and Michael Brown from Human Resources. They told him to only include her being out of compliance on the probation extension. He said that he was just doing what he was told to do by Human Resources.

Mr. Moser also said that Ms. Siyadat has made the unilateral decision to show up at Avon and work. He said that she just walks into Avon and does what she wants. I told Mr. Moser that it was my understanding that the Charge Tech at Avon occasionally asks Ms. Siyadat to help at Avon. Mr. Moser said that Nancy Toscano and Ms. Siyadat are friends and they do not need help at Avon.

I clarified with Mr. Moser that the memorandum he received about the confidentiality of the investigation relates to matters of the investigation, not to other issues. I explained that if Ms. Siyadat is just showing up when she wants to, he may speak with her supervisor about that because that is unrelated to the investigation. I told him that he may not discuss information he learned from me during the interview.

Mr. Moser asked if Ms. Siyadat received the same memorandum he had received. I told Mr. Moser that I am unaware of Ms. Siyadat sharing information about the investigation. Mr. Moser said that he had told Zachary Williams that Ms. Siyadat had been asking the other technologists if they had been called yet for interviews. I told Mr. Moser that I cannot speak to DPH EEO's actions. I explained that he received the memorandum because he had called me and admitted to me directly that he shared information with Mr. Sostarich that we discussed during our interview. Mr. Moser stated that I should investigate Ms. Siyadat for that and for saying that she complained to Mr. Sostarich.

Attachment 2

Interview of Rafael Ibarra

Notes prepared by Zachary Williams, DPH EEO

I interviewed Rafael Ibarra (Hispanic male) several times during the course of the investigation because he supervised Brian Moser. Additionally, Mr. Ibarra was involved in Complainant's schedule change.

Rafael Ibarra is a 2468 Diagnostic Imaging Technologist III. His office is located in the Main Radiology Department. He was the Interim Director of Radiology from June 2010 until October 2011 when DPH hired David Sostarich for the permanent role. He denied that Mr. Moser or the Department harassed Complainant because she is an Iranian woman. Similarly, he denied that her schedule was changed because she complained about Brian Moser.

Rafael Ibarra recalled that Complainant had told him that Mr. Moser made a joke to her about her being an Iranian woman. Mr. Ibarra couldn't recall the exact date when Complainant visited his office, but believes it may have been between February and May 2011. He admitted that he didn't speak to Mr. Moser about Complainant's claim. He explained that he did not do so because Complainant didn't provide him with any details. He stated that she made the claim in passing. He stated that he advised Complainant to contact DPH EEO if she wished to file a complaint. Mr. Ibarra acknowledged that this was the only time that Complainant ever made a claim of this nature.

I advised Mr. Ibarra that his responsibility as a manager went beyond directing an employee to EEO. I advised him that he was responsible for conducting his own investigation, reviewing the facts, and determining what disciplinary action, if any, is necessary and appropriate. He stated, "I understand...I see what you're saying. It was a learning experience for me."

Mr. Ibarra refuted Complainant's claim that Mr. Moser was responsible for the change in her schedule to two days per week in each location. Instead, Mr. Ibarra stated that he himself had proposed the schedule to her, she agreed to it, and he ultimately decided when to implement it. Mr. Ibarra stated that Complainant had repeatedly asked him for a full-time, Permanent Civil Service position since he became the Interim Director. It was his understanding that Complainant was on a Provisional, 0.5 FTE requisition, but usually worked up to 39 hours per week. Mr. Ibarra advised me that the Radiology Department had a 0.5 FTE, Class 2469-requisition that was frozen throughout the majority of 2010 because of the City's budget. He stated that he asked Yvette Gamble, Operations Manager of DPH HR, if he could convert Complainant's position to full-time by combining her 0.5 FTE requisition with the vacant 0.5 FTE requisition. He recalled that Ms. Gamble advised him that both requisitions must be vacant before they can be combined. Mr. Ibarra stated that it was sometime in December 2010 or January 2011 when he told Complainant that he couldn't convert her position to full-time for this reason. He stated that Complainant then came back to him later with documentation showing that she was actually in a full-time position, but had voluntarily reduced her hours in 2007.

According Mr. Ibarra, DPH HR began the process of restoring Complainant's schedule to full-time in January 2011. He stated that he also sought to use the requisition to hire a part-time Class 2469 DIT III in the Avon Center. I asked him why he felt it was still necessary to create a part-

time position. He stated, "You know how the City is...they will take the req if you don't use it." He further stated that Dr. Strachowski wanted another Charge Tech because Complainant "was not always around."

At a monthly meeting that he held for the Department's supervisors in January 2011, he advised them that he was restoring Complainant's position to full-time and hiring a part-time 2469 DIT III. Mr. Ibarra stated that RJ Merck, Joselito Cruz, and Brian Moser were at the meeting. He advised me that Mr. Cruz and Mr. Merck questioned why the Avon Center would have a full-time Supervisor in Brian Moser and 1.6 FTE coverage by 2469 DIT III's with Complainant position and the new part-time position. They told him, "Outside of the Main Department, most sections such as CT, US, and IR have 1.0 FTE coverage by the Charge Tech (2469 DIT III)." Mr. Ibarra advised me that the Main Department usually has 3.0 FTE coverage by Charge Techs (Class 2469 DIT III) because they are responsible for tasks such as managing equipment, scheduling daily assignments and leave, orientating new employees, and monitoring licensing. The Charge Techs of the Main Department also oversees units such as Fluoroscopy, Surgery, and Orthopedics, which do not have a regularly assigned 2469 DIT III.

Mr. Ibarra stated that he and the Supervisors agreed that he would propose a schedule to Complainant whereby she would work two days in the Main Department and two days in the Avon Center once the part-time 2469 DIT III was hired. I asked him why he couldn't restore Complainant's schedule to full-time and assign the part-time position to the Main Department. In response, he advised me that the requisition was tied to the Avon Center. Mr. Ibarra stated that he proposed the schedule to Complainant in January 2011, before she became full-time. He advised me that the discussion was informal. He stated that he told her the rationale for the schedule and she agreed to the proposal. He advised me that Complainant became a full-time employee and was appointed to Permanent Civil Service in February 2011. He acknowledged that Complainant never complained about the schedule. He stated that she was happy to become full-time and PCS for the retirement benefits. He also stated that she told him, "Good, I could use a break from Avon." Mr. Ibarra expressed frustration that Complainant had claimed that she never agreed to the schedule. He stated, "I should have gotten it in writing."

Rafael Ibarra stated that he posted an announcement for the part-time position in February 2011, around the same time that Complainant became full-time. He stated that the Department appointed Nancy Toscano to the position on April 18, 2011. I asked him why he waited until June 9, 2011 to implement the changes to Complainant's schedule. According to Mr. Ibarra, her schedule was set to start once the part-time position was filled. He didn't change Complainant's schedule in April 2011 because Mr. Moser had determined that her mammography totals were under the required minimum of 200 in March 2011. He explained that he and Mr. Moser realized that it was necessary to have Complainant focus on performing mammograms so she wouldn't have to worry about performing them on a daily basis to maintain her license. He stated, "We needed Mandana to be a tech for a while to get her numbers up [...] Avon is a highly regulated place...it's the only place where we have quotas for the techs." He added, "It doesn't come up often that someone doesn't have their numbers."

He presented me with a copy of a "Tech Productivity Report" to show that several technologists had performed over two thousand mammograms in the previous 24 months. He acknowledged

that as the Charge Tech, Complainant was not responsible for performing mammograms on a daily basis. However, he remarked that the technologist's numbers must always been up to the standard because an inspection can happen at any time. He pointed out that Theresa McGinley's total almost equaled that of Complainant's; Ms. McGinley retired in March 2010 from her position as the Supervisor of the Avon Center.

Rafael Ibarra further stated that Charge Techs in subsections such as Avon, CT, and ultrasound differ from Charge Techs in the Main Department in that the former are "really like working Charge Techs." He advised me that since each subsection only has one Charge Tech per day, "the Charge Tech must be ready to get in there" whenever a problem occurs. He stated that the Charge Tech also needs to be able to assist with any specialized diagnostic and has to be ready to fill in during the lunch periods and other absences by the junior technologists. He stated that if there are problems in the Main Department, the junior technologists can look to any of the 3-4 2469 DIT III's that work on a given day.

We discussed Complainant's claim that Mr. Moser accused her of falsifying documentation. He advised me that Mr. Moser asked Complainant to perform 25 mammograms under the supervision of another technologist in March 2011 because she fell out of compliance. Mr. Ibarra explained that Complainant initially claimed that Cora Andaya wrote her own initials certifying that she supervised Complainant's mammograms. However, when presented with a signed note from Ms. Andaya indicating that the initials were not her own, Complainant admitted that she wrote Ms. Andaya's initials because she was "worried about passing the inspection." He further stated that the document included mammograms that were performed prior to March 2011. Mr. Ibarra advised me that Complainant's license could have been suspended or revoked had he or Mr. Moser notified the credentialing body, the American Registry of Radiologic Technologists (ARRT), of the falsification of records. He acknowledged that he and Mr. Moser did not subject Complainant to any disciplinary action or notify the ARRT. He stated that he advised her not to falsify documents in the future.

I showed Mr. Ibarra copies from the logbook showing that Complainant had performed the 25 required mammograms in March 2011 to obtain requalification. He checked the Department's database and acknowledged that she may have performed the mammograms under Cora Andaya's supervision. However, he stated that the records from the logbook and database are technically invalidated because of the falsified document. He did not know why the forged document was not discovered during the annual inspection of the Avon Center on April 26, 2011.

We discussed Complainant's claim that Mr. Moser singled her out by checking her numbers on May 19, 2011 and extending her probation based on a false claim. Mr. Ibarra acknowledged that Complainant performed 25 mammograms under supervision on June 7-8, 2011 as a condition of her extended probation. He acknowledged that he now realizes that Complainant may have been correct in her interpretation of the FDA's regulations when she stated that she was exempt from needing to have at least 200 mammograms until September 3, 2011. Mr. Ibarra stated that at the time, he trusted Mr. Moser's interpretation because he was more familiar with mammography. However, Mr. Ibarra believes that it was within Mr. Moser's responsibility to monitor her mammography totals. He stated that the extension of her probationary period was not just aimed

at getting her mammography total above 200. He reminded me that the goal was to allow her perform as many mammograms as possible so her numbers wouldn't be a problem in the future. He stated, "That's why we didn't have her in charge later on." He further stated that her probation was a chance for her to show that she could raise her numbers. He advised me Complainant had taken about a week of leave which would have resulted in an extension of her probationary period beyond September 3, 2011, but he and Mr. Moser did not count the leave against her.

I asked Mr. Ibarra if Mr. Moser removed Complainant's supervisory responsibilities. According to Mr. Ibarra, Complainant was the assigned Charge Tech on Thursdays and Fridays while Nancy Toscano was in charge on Mondays to Wednesdays. On the Tuesdays and Wednesdays that Complainant was not in charge, she was assigned to perform mammograms like any other technologist. He stated that in and around the time that Complainant began her new schedule on June 9, 2011, he recommended to Mr. Moser that he temporarily assign the supervisory responsibilities to Mary McGinty on the Thursdays and Fridays that Complainant was assigned to Avon.

He explained his rationale for the recommendation. First, he wanted Complainant to focus on raising her mammography total since she was now only assigned to Avon for two days per week. Second, Mr. Ibarra recognized that "a lot of friction" existed between Mr. Moser and Complainant. He explained that Cora Andaya left him a voicemail in which she stated that Ms. McGinty may get along better with Mr. Moser. Mr. Ibarra recalled that the change in assignment for Ms. McGinty and Complainant may have begun in May 2011. He stated, "Brian even gave Shari [Zinn] a chance to be in charge but she didn't work out." Mr. Ibarra stated that he initially planned that the assignment would be temporary until Complainant's numbers increased. However, she incurred a work-related injury at the Avon Center in September 2011 and was placed on a temporary work assignment in the Main Department. He advised me that she filed a Worker's Compensation claim on September 1, 2011 and then submitted a request on November 2, 2011 that she be assigned exclusively to the Main Department.

Rafael Ibarra confirmed that Brian Moser did remove the QC Tech responsibilities from Complainant. However, Mr. Ibarra explained that Complainant had actually requested that she no longer have the responsibility. According to Mr. Ibarra, Complainant's reasoning was that she didn't want to be registered with the State of California as the Avon Center's QC Tech if she wasn't able to work in the Center on a daily basis. He added that Complainant made the request in consultation with her union representative. Consequently, Mr. Moser reassigned the QC Tech duties to other Technologists.

Mr. Ibarra acknowledged that Complainant sent him an email about Mr. Moser's conduct on July 12, 2011. He confirmed that he called Mr. Moser to discuss the alleged incident. He could not recall the details surrounding the incident but denied that Mr. Moser's actions were because Complainant is an Iranian woman. Mr. Ibarra advised me that he "can see Brian getting upset about Mandana being there [at Avon]." According to Mr. Ibarra, Mr. Moser told him, "It's the first time I've failed in my career with an employee...I've given up on her." Mr. Moser stated that Mr. Moser felt that Complainant was generally "insubordinate." Mr. Ibarra advised me that Complainant repeatedly disregarded her assigned schedule and was counseled by RJ Merck and

Frank Cubias (Hispanic male), 2496 Radiologic Technologist Supervisor for her failure to correctly sign-in and out.

Mr. Ibarra confirmed that Mr. Moser told Complainant that she was acting in an insubordinate manner when she didn't want to sign off on a change to her schedule without union representation. He stated that the meeting was in July 2011 when he and Mr. Moser sought to move Complainant's start time from 6:30 am to 7:00 am. Mr. Ibarra felt that there was no reason for Complainant to arrive an hour before the Avon Center opened at 7:30 am. He stated that Mr. Moser did not yell when he claimed that Complainant was insubordinate. Mr. Ibarra believes that Mr. Moser responded to Complainant's refusal to sign the document because he felt that Complainant has always disregarded his instructions. Mr. Ibarra stated that when he told Mr. Moser that Complainant's refusal was not insubordination, the matter was ended at that point. He added that they never implemented the schedule because "the union wouldn't go along with it."

I asked Mr. Ibarra if he had firsthand knowledge regarding Mr. Moser's decision to have Joselito Cruz present in Complainant's PAR meeting. Mr. Ibarra acknowledged that Mr. Moser approached him about having a second supervisor in the meeting with Complainant. He advised me that he told Mr. Moser it's better to meet with Complainant alone because it's "typically how we do it." Mr. Ibarra acknowledged that he recommended that Mr. Moser bring Mr. Cruz. I asked Mr. Ibarra to explain why he recommended Mr. Cruz as opposed to RJ Merck whom had supervised Complainant during the review period. Mr. Ibarra stated that Mr. Moser was concerned and nervous about meeting alone with Complainant. Mr. Ibarra stated that he considered Mr. Cruz to be more "objective and level-headed" than Mr. Merck who had previously supervised Complainant. He further stated that the "neutral" Mr. Cruz would be present "to protect both parties."

Mr. Ibarra acknowledged that he doesn't think Complainant got a "fair appraisal" because Mr. Moser never talked to her about her deficiencies. He advised me that the new Director of Radiology, David Sostarich, agreed to withhold the submission Complainant's performance appraisal so a new evaluation can be submitted under the supervision of Complainant's current supervisor, Mr. Cruz. Mr. Cruz has reported that Complainant is performing well.

Rafael Ibarra did not appear to have any firsthand knowledge as to whether Mr. Moser denied Complainant's request for training on July 12, 2011. He stated that the Department generally tries to provide training for all the technologists when possible. He advised me that the Department has to ensure that there is adequate staffing before technologists are allowed to enroll in training. He further stated, "We usually try to get the core people in first...the ones who are actually doing the exams." Mr. Ibarra also did not have any direct knowledge about Complainant's request for training in October 2011. However he stated, "if she got denied, it's probably because she wasn't doing those types of exams since she wasn't in Avon." He stated that Complainant was working four days per week in the Main Department after she injured her hand in the Avon Center on September 1, 2011.

I asked Mr. Ibarra to describe the relationship between Mr. Moser and Complainant. Mr. Ibarra explained that Mr. Moser and Complainant were unable to get along. Mr. Ibarra noted that Complainant has always had a strong personality and fights for what she believes in. On the

other hand, he stated that Mr. Moser believed that Complainant was "too disruptive." He advised me that Mr. Moser complained that Complainant was actively seeking to undermine his authority by turning the staff against him after he was hired in October 2010. Mr. Ibarra said that Mr. Moser alleged that Complainant told staff to disregard his instructions after he left a staff meeting; Mr. Moser learned from staff that Complainant said, "don't listen to Brian because he doesn't know what he's talking about." When I asked Mr. Ibarra if he or Mr. Moser counseled Complainant about her behavior, he stated that he advised Mr. Moser to do so and document the meeting. Mr. Ibarra remarked that Mr. Moser instead preferred to document the incident along with other events in her performance appraisal.

With regard to Mr. Moser's managerial style, Mr. Ibarra said that Mr. Moser failed to communicate effectively with Complainant. He explained that Mr. Moser did not actively seek to meet with Complainant and/or send her emails to discuss how she could improve her performance, including when he alleged that she fell out of compliance with the U. S. FDA. Mr. Ibarra said there were several times when he advised Mr. Moser to communicate with Complainant about her performance and other workplace issues. He added that Complainant told him that Mr. Moser was unwilling to discuss her performance.

Zachary's ?
 Ibarra/DPH/SFGOV
 ry Williams/DPH/SFGOV@SFGOV

ay, September 13, 2012 09:47AM

Follow Up questions

Rafael E. Ibarra

Radiology Manager

San Francisco General Hospital and Trauma Center
 1001 Potrero Avenue, 1X2
 San Francisco, CA 94110
 Voice - 415-206-4512
 Pager - 415-327-9722
 Fax - 415-206-4548
 Email - rafael.ibarra@sfdph.org

-----Zachary Williams/DPH/SFGOV wrote:-----

To: Rafael Ibarra/DPH/SFGOV@SFGOV
 From: Zachary Williams/DPH/SFGOV
 Date: 09/12/2012 02:27PM
 Subject: Follow Up questions

Hi Rafael,

I just got back from a meeting. I will call you in couple minutes. I meant to send you the questions before I left. Here they are:

Why couldn't we have more than one Charge Tech in Avon? Was it a budgetary reason? Or was is the standard practice of the Radiology Dept to only have one Charge Tech in Avon? Most Section in radiology have 1 Charge Tech FTE per section such as CT,US,IR, however the main department has 3 FTE's due to covering several duties such as Student Coordinator, equipment, scheduling, approving time off, daily assignments, orientation of new employees, licensing, compliance of medical clearance, covering areas with no charge techs such as Fluoroscopy, surgery, orthopedics, diagnostics, ordering supplies to name a few.

Due to the fact that Avon has 1 full FTE supervisor, two .6 Charge tech and Main department with all the other sections CT,MR,US,IR has only one FTE supervising it was decided to have Mandana help out in the main department. I discuss this with Mandana prior to her becoming a Full time FTE and she agreed saying I could use a break from Avon.

In the supervisor meeting there was resistance to having 1.6 FTE charge tech and a Full time Supervisor 1.0 FTE in Avon. I took that under consideration proposed that we split Mandana's duties between the main department and Avon. One the other reasons was the friction between Brian and Mandana was effecting the moral in Avon.

If it was a problem having more than one Charge Tech in Avon, why didn't we keep Mandana there full time and have Nancy in Avon? ~~In the~~ interview for hiring the part time we stated it was for Avon Charge tech. Due to the Mandana having low exam numbers in mammo we felt she needed do-cases to bring her up to good level so wouldn't fall out of compliance again as she did before doing the Charge tech role.

Why didn't we start Mandana's new schedule in April as soon as Nancy became a DIT III? Why did we wait until June to give Mandana the new schedule? Due to fact she was out of compliance in March and needed to stay in Mammo until she was compliant

Do we have any emails or other documents that shows the chronological process for Nancy's processing for the DIT III position? Yes, I will give you the postings and hiring paperwork

Was Mandana's and Nancy's position tied directly to Avon? Were they hired to work in Avon? The positions were designated to Avon by our department.

How long has Nancy worked in Avon? Was she working in Avon before April 2011? She worked in Avon for about 5yrs as a DIT2 prior to her promotion to DIT3

By the way, do you know why Brian denied Mandana's request for training on July 12, 2011 and in October? She gave me an email from July 12, 2011 when she told you that Brian didn't allow her to take the training for Eviva equipment. She said that you told her that Brian had discretion because he is the supervisor. I think that's fine. My question is do you know why Brian denied her request? Also, do you know why Brian denied her request for training in October? He told her that the training was only open to those hadn't received the training in the past. But Mandana said SFGH had it open to all technologists. She also told Brian that Cora, Mary, Yvonne, and Helen had already received the training. She said that Brian never responded to her. At the time I believe she was still on Worker's comp and wasn't going to Avon. ~~The training~~ was prioritized for the staff that have to use the equipment.

Thanks.

Zachary Williams
DPH EEQ/CC Programs Specialist
(415) 554-2596
(415) 554-2594 (fax)

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DHR EEO

Respondent: Rafael Ibarra	EEO File No./Name: 1652
EEO Investigator: Matthew Valdez	Date & Time: February 5, 2013
Representative: None	
Location: DHR, 1 South Van Ness, 4 th Floor	Pages: 7

I. BACKGROUND

Rafael Ibarra is a 2469 Diagnostic Imaging Technologist III (2469 DIT III). In this position he works as a Charge Tech in the main Radiology Department. He is responsible for the daily operations at Main. There are many subsections and he is responsible for most of them.

At the time the allegations occurred, Mr. Ibarra was the Acting Director of Radiology. In this capacity, he was responsible for running the Department. He was responsible for directing the budgets, handling overtime, dealing with the supervisors, handling complaints and HR matters, and all other administrative matters of the Department. He was appointed to the acting position.

Mr. Ibarra currently reports David Sostarich, Director of Radiology. At the time of the allegations, he reported to Shermineh Jafarieh, 0941 Manager VI. Mr. Ibarra has been reporting to Mr. Sostarich since October 2011. Mr. Ibarra has worked at San Francisco General Hospital for 34 years. He currently works Monday through Thursday from 7:30am to 6:00pm.

II. SUPPLEMENTAL QUESTIONS TO ALLEGATIONS FROM INITIAL COMPLAINT LETTER

A. Charge Tech Duties Reassignment

Mr. Ibarra said that 2469 DIT IIIs are the Charge Techs. Only a 2469 DIT III can be a Charge Tech. A 2468 Diagnostic Imaging Technician II (2468 DIT II) or a 2467 Diagnostic Imaging Technician I (2467 DIT I) can serve as an Acting Charge Tech sometimes, but that is only an acting position.

The duties of the Charge Techs range from running an entire area to being a student coordinator. They hand out assignments and run the section. They are the front line managers. He said they are "sort of like a foreman."

Mr. Ibarra said at Avon Comprehensive Breast Care Center (Avon), the DITs have to do 200 mammograms in two (2) years. He said "It's a license issue." He said that Mandana Siyadat had done 22 mammograms in two (2) years. He said she was at the borderline of compliance and that was a situation that had never happened before. Mr. Ibarra said that he does not know what the regulations are for mammography and that he went by what Mr. Moser told him. He said he trusted that Mr. Moser knew the regulations. Mr. Moser also explained the regulations to HR.

Mr. Ibarra said that if you're the Charge Tech, you're not going to be doing mammograms. Since she was not doing the mammograms while she was Charge Tech, they took the role away from her. He said she was on probation at the time. They allowed her to make up those exams. Mr. Ibarra said that "in her best interests" they wanted to get her up to 1000 so that it wouldn't be an issue again in the future.

Mr. Ibarra explained that Ms. Siyadat had fallen out of compliance in March 2011. In May 2011, Mr. Moser said she was out of compliance again.

In March 2011, Mr. Moser told Mr. Ibarra that Ms. Siyadat was out of compliance. Mr. Moser had RJ Merck run the numbers. Mr. Ibarra did not look at the regulations. He said he trusted Mr. Moser. Mr. Ibarra stated that at that time Mr. Moser "really wanted to stick it to her." He said that Ms. Moser wanted to report Ms. Siyadat to the State. Ms. Jafarieh was in the room during this conversation and told Mr. Moser, "No, you can't make this vengeful."

Mr. Ibarra said When she was below 200 they wanted her to make it up.

Mr. Ibarra said that Ms. Siyadat was not doing any cases. He said that he received complaints from the staff that she doesn't do any cases. He added though that Mr. Merck and Mr. Moser did not assign her to do cases. When asked if the complaints were made before Mr. Moser was hired or after, he said that the complaints about her not doing any cases were made before Mr. Moser come to Avon.

I asked if she was not doing cases because she had taken on many additional responsibilities at Avon while there was no supervisor. He said she did do that. I asked if Mr. Moser does cases. He said Mr. Moser can't do them because he's a man. I asked Mr. Ibarra what Mr. Moser does. Mr. Ibarra responded, "That's a good question." He said he used to receive complaints from the techs that Mr. Moser is never around and about his demeanor.

Mr. Ibarra said that what happened was "experimental" and that it did not seem right to have a man run Avon because men cannot perform the mammograms. Ms. Jafarieh was in charge of Avon, and Dr. Lori Strachowski was the medical director of Avon. They were the ones who made the decision to hire Mr. Moser so they were protective of him at first. Mr. Ibarra said that he made complaints to Ms. Jafarieh about Mr. Moser's performance, but she told him it was because he is new. She told him, "It'll be okay." In the PPAR that Mr. Ibarra prepared for Mr. Moser, he had put in those same complaints about his performance, but Dr. Strachowski told him not to be so hard on Mr. Moser. Mr. Ibarra said that Dr. Strachowski told him, "He'll leave," if he was hard on him. Mr. Ibarra believes that they were worried about how it would reflect on them because it was their decision to hire Mr. Moser. He felt that he could not do anything because of that and because he was the Interim Director, not the permanent Director.

Mr. Ibarra said there was an inspection in April 2011. I asked if Ms. Siyadat had performed 200 mammograms on the day of the inspection. Mr. Ibarra said that she did not have 200, but then he said he was not sure. He said that RJ Merck would be able to get the numbers.

Mr. Ibarra said that Ms. Siyadat falsified a document. He said that mammography is the only area where the techs have to maintain a certain number of mammographies. In March 2011, Mr. Moser instructed her to perform supervised mammos because she was out of compliance. She filled out the sheet that documented the mammos, but she wrote the initials for Cora Andaya. Mr. Ibarra asked Ms. Andaya if she wrote the initials and she said she did not.

I asked what happened when they learned that she falsified the document. Mr. Ibarra said that Mr. Moser did not follow up with her about it. I asked if they had documented it and Mr. Ibarra said that Mr. Moser did not document the incident. He said that Mr. Moser did not follow up with her at all. I asked Mr. Ibarra what he did and he told her not to do that next time. He said that she told him that she wanted to help the department.

Mr. Ibarra acknowledged that Ms. Andaya wrote a letter stating that she had, in fact, supervised the mammograms that were documented. Mr. Ibarra thinks that Ms. Siyadat also believed Mr. Moser about the regulations. He said that she never brought up what the regulations say until June 2011 after she met with her union. He said that he sees now that she was correct about the regulations, but he also said that he was not willing to lift the whole probation because she was going to pass anyway and there was going to be lots of paperwork. They did reduce the probation about a week though.

Mr. Ibarra said that in the beginning, he was trying to get Mr. Moser and Ms. Siyadat to work together, but Ms. Jafarieh told him he was spending too much time trying to get them to work together. She told him that they needed to go their separate ways and hash it out. Mr. Ibarra said that other employees were complaining about Mr. Moser too. I asked Mr. Ibarra what the other employees complained about. Mr. Ibarra said that they complained that Mr. Moser would not listen to them, was not receptive to their concerns, and that he would not talk to patients. He said that Mr. Moser refused to come out to talk to complaining patients. Mr. Ibarra said that these complaints to him were verbal and he did not document them.

Mr. Ibarra stopped trying to deal with the situation because Ms. Jafarieh instructed him to stop. Mr. Ibarra said that in April 2011 or May 2011, "it started to heat up." In May 2011, Mr. Moser came back to him and told him that Ms. Siyadat was still out of compliance. He said there was a concern about it in March 2011 and then a concern about it again in May 2011. When Ms. Siyadat was told that she was out of compliance in May 2011, she brought the falsified document to them and told them she did them all supervised. He said that she said she was exempt from the 200 requirement because the regulations state that techs who do the supervised mammograms are exempt from the requirement for 6 months. He said that was the first time he looked at the document.

Mr. Ibarra acknowledged that Ms. Siyadat performed the supervised mammograms. He said that he was concerned that she had lied about the initials. He said he asked her if Ms. Andaya had initialed and she told him yes. After he told her that Ms. Andaya told him that she did not initial the document herself, she admitted that she had initialed for Ms. Andaya.

B. Reassignment to Main

I asked Mr. Moser why Ms. Siyadat (full-time) was moved to Main part time instead of Ms. Toscano (part-time), since they needed full-time coverage at Avon and part-time coverage at Main. Supervisors can make the assignments. Mr. Ibarra said that his thought pattern was that Mr. Moser did not want her as a Charge Tech. Mr. Moser said she undermined him. Mr. Ibarra thought since he can make assignments and since Mr. Moser could not work with Ms. Siyadat, he moved her to Main. He said, "That is the real reason. The real reason is that he did not want her there."

Mr. Ibarra also said that since Ms. Siyadat needed to get her mammo numbers up, he thought it would be a good time for Ms. Siyadat to focus on mammograms. If she was focusing on getting the numbers up, that would minimize her interactions with Mr. Moser.

Mr. Ibarra wanted to keep Mr. Moser and Ms. Siyadat away from each other and since they wanted her numbers up and since he and Ms. Siyadat previously talked about the possibility of her working part-time at Main, this would be a good time to do that. He added Ms. Siyadat would have gone back to being Charge Tech if she had her numbers up.

Mr. Ibarra said that "in a hospital, you want to be up to code. It's a patient care issue. It's a regulatory issue. If you are not compliant, you have to go home. Every day you want employees to be in compliance." He believed what Mr. Moser told him. He said maybe he should not have. He said that when Mr. Moser was hired, he wrote nice responses to questions on applications, but, "he can't write worth beans. What he was as an applicant is not the person who came."

He counseled Brian several times but "it was a lost cause." Mr. Ibarra said Mr. Moser "hated the woman. And she hated him." He said one morning, Mr. Moser and Ms. Siyadat had a fight and he sent Ms. Siyadat outside. Mr. Ibarra said that Ms. Siyadat told him that Mr. Moser was not assigning her cases. Mr. Ibarra had to go tell Mr. Moser that Ms. Siyadat "needs to do her numbers."

Mr. Ibarra said that in September 2011, Dr. Strachowski called him and asked when Mr. Moser's probation was going to end. He said that Dr. Strachowski said, "I don't know about this Brian. Can we get rid of him?" He said Dr. Strachowski was having regrets about hiring Mr. Moser.

Mr. Ibarra asked HR about releasing Mr. Moser, but HR told him that there is no way he can get rid of Mr. Moser because it was just three (3) days before the end of Mr. Moser's probation. Mr. Ibarra could not recall who in HR told him that. He said that it was Yvette Gamble, Cathy Abela, or Jason G. He said that whatever the process was at that point, they made it sound like they could not do it. He said HR told him that they needed documents and there was not enough time to get it all together.

He said no one put their complaints about Mr. Moser in writing. He said that Dr. Strachowski just said it was not working out. Mr. Ibarra said that, for example, Mr. Moser was supposed to write a Heart Grant to get money for Avon. Instead, he gave it to Natasha, one of the other doctors at Avon, to write and then tried to pass it off as his own. Dr. Strachowski told Mr. Ibarra that Mr. Moser was hired "because he was supposed to be a good writer and could do these things." Mr. Ibarra said that Mr. Moser just wasn't working out.

Mr. Ibarra said that by this time, Ms. Siyadat and Dr. Strachowski were the only ones complaining about Mr. Moser. The complaints from the other technologists had stopped by this time.

Mr. Ibarra said that he is giving an overview of the feeling he had about the working relationship between Mr. Moser and Ms. Siyadat. He said that after she was moved to the Main Department, when they were trying to get her for signing in late, a lot of that was being prompted by Mr. Moser. He said that Francisco Cubias wrote her up twice for the same thing so the second one had to be rescinded. Ms. Siyadat told him that they were targeting her and that other employees did not sign in at all. Mr. Ibarra said that he gave Ms. Siyadat the sign-in sheets so she could grieve the write ups. Mr. Ibarra said he gave the sheets to her because he saw that others were not signing in as well and he did not think she should be written up. I pointed out that Mr. Moser did not issue the written warnings. Mr. Ibarra said that Mr. Moser was always following up with the supervisors at Main, even though he works at Avon. He said, "It felt like they were talking about it as though, 'yeah, we're gonna get her on this.'"

I asked Mr. Ibarra what he did to correct the behavior. Mr. Ibarra said that he gave Ms. Siyadat the sign-in sheets. I asked if he took any action against Mr. Cubias or Mr. Merck. He did not. Mr. Ibarra said that he felt that he could not because he was just the Interim Director. His permanent position is below theirs. He said that Mr. Sostarich, the new Director of Radiology, told him that he understood and that as acting he does not have that same authority to tell them to knock it off.

Credibility

I asked Mr. Ibarra why he did not mention the goal of getting Ms. Siyadat to 1000 mammograms when he met with Zachary Williams. He said that Mr. Williams' questions were more pinpointed than the ones I asked him so he did not get to explain as much as he did with me. Mr. Ibarra said that he is just trying to be honest. He said it's been two years and he's trying to recall things as best he could. He said when he met with Mr. Williams again, he thought he was adding to what he had told Zachary before so he did not mention everything he did in previous conversations with Mr. Williams.

Mr. Ibarra said Mr. Moser could have been right too. He was not there at Avon so he could go only by what he was told by Mr. Moser. Mr. Ibarra said that Mr. Moser said that he had "nine centers or something in New York" and that he "built them from the ground up." Mr. Ibarra said Mr. Moser seemed like he really knew what he was talking about. He trusted Mr. Moser.

III. SUPPLEMENTAL QUESTIONS TO ALLEGATIONS FROM SUPPLEMENTAL COMPLAINT

A. Probation Extension

Mr. Ibarra said Ms. Siyadat's probation was extended to get her compliant with the regulations. They wanted to get her back in the swing of things as far as performing mammograms.

Mr. Ibarra said there were other issues so HR probably suggested extending the probation by six (6) months. He said they changed to later to three (3) months. He stated that he thinks they probably started with six (6) months so that they could seem like they are trying to be nice when they change it to three (3).

Mr. Ibarra said that the HR representatives they worked with were Michael Brown and Cathy Abela. He said he only went to one meeting with them. Mr. Moser was the one who worked with HR on the extension. He said that the other issues were things like she told the staff not to listen to Mr. Moser and moving her desk. He said that the things that Mr. Moser wrote in the performance appraisal were the other issues. He said that HR felt it would be too much to include the other issues and that they wanted to focus on the immediate issues, which was the compliance issue.

I showed Mr. Ibarra the May 25, 2011 memorandum from him and Mr. Moser to Cathy Abela. I pointed out the second paragraph that states, "Attached is a summary of the discussion we had with Mandana Siyadat on May 24, 2011, and asked him if he had a copy of that summary. He asked if we had already received it, and I told him that I don't believe we had. He said he does not know if he has it, but he can check.

Mr. Ibarra commented that previously, Avon was run by Ms. Siyadat's best friend, Theresa McGinley. Ms. McGinley was doing Ms. Siyadat's evaluations.

He said that the doctors and Ms. Jafarieh hated the way that Ms. McGinley ran the center. They felt that she was "too much of a tech." He said they did not want Mr. Moser to be working on cases. They just wanted him to run things. When I asked what he meant by "run things" and what Mr. Moser does at the center, Mr. Ibarra laughed and said "Good question." He said that one of the complaints from the technologists is that Mr. Moser was never there. He was always outside smoking. He added, "To this day you still can't find him." He said that Mr. Moser was supposed to run the center, revamp the system, do outreach. He said that He was supposed to run the center, revamp the system, do outreach. He said they wanted to go in a different direction than Avon had been going. They wanted to expand Avon more and thought Mr. Moser would do that.

I asked Mr. Ibarra if he told that Ms. Siyadat that Mr. Moser wants to "let her go." Mr. Ibarra said they could not really fire her since she was permanent before. He said Mr. Moser didn't want to pass her probation. He did not recall if Mr. Moser told him that specifically, but he said that was the intent. He explained he had a feeling that it was heading that way. He said since he believed that was where it was going, he wanted to alert Ms. Siyadat that that is where it was heading.

He said everyone was rushing to get the extension done before the end of her probation.

B. Denial of Training

Mr. Ibarra said that at Avon, Mr. Moser with the Charge Techs get to decide who gets to attend trainings. He said that they try to get the principal people who will be using the machine trained first. He said he thought that Ms. Siyadat was not performing the procedures that he trainings were on anyway. He did not have any specific knowledge about the trainings at Avon though.

C. Performance Evaluation Rating

Mr. Ibarra said that the FY 2010/2011 was the "very first time she, or anyone, had received that rating [Does Not Meet Expectations]." He said that she had previously received Exceeds Expectations. Mr. Ibarra said that he withheld that PPAR. I asked what he meant and he said that he did not send it to HR to be put in her personnel file. He wanted to let her new supervisor, Joselito Cruz, issue a PPAR for her.

D. PPAR Meeting

Mr. Ibarra said that Mr. Moser never wanted to meet with Ms. Siyadat alone. He did not want to meet with her about the PPAR. Mr. Ibarra asked HR if they could have another supervisor sit in on the meeting and HR told them that they could. He said that it was for the protection of both Mr. Moser and Ms. Siyadat. He said Mr. Merck was not available so he asked Mr. Cruz if he could sit in on the meeting.

IS THERE ANYTHING I HAVE NOT ASKED YOU THAT YOU THINK WOULD BE RELEVANT TO THE INVESTIGATION?

Mr. Ibarra said, "It's just a shame that this happened because we have to take care of patients." He said Ms. Siyadat could have done better and Mr. Moser could have done better. Mr. Ibarra said he did not have good direction on what to do. He did not know how to handle the situation. Mr. Ibarra said he wishes he had more leadership in telling people to stop it.

Thank witness for participating in interview.

Remind witness not to discuss with anyone the investigation or information we discussed.

Remind witness there is no retaliation for participating in the investigation and if witness believes she is experiencing retaliation to contact me, DHR EEO, or the department personnel officer.

Attachment 3



CONFIDENTIAL

DHR EEO INVESTIGATION OF EMPLOYMENT DISCRIMINATION COMPLAINT

WITNESS INTERVIEW NOTES

Respondent: Nancy Toscano	EEO File No./Name: 1652
EEO Investigator: Matthew Valdez	Date & Time: March 27, 2013 @ 2pm-3:45pm
Location: DHR, 1 South Van Ness, 4 th Floor	Pages: 5

I. BACKGROUND

Ms. Toscano is a 2469 Diagnostic Imaging Technologist III. She works part-time. She has been in this position since April 2011. She works at Avon. Ms. Toscano has been employed by the City and County of San Francisco and the Department of Public Health since 1990.

In her position as a 2469 Diagnostic Imaging Technologist III, Ms. Toscano runs the day to day operations of the Avon Breast Center, meets with patients, and addresses problems that arise with the medical staff and the technical staff. She also handles problems that arise with the equipment and patient issues that arise. She also performs mammograms when needed. She performs mammograms on a weekly basis. She estimated that she performs about five (5) mammograms per week. She said that she has to also perform mammograms for her license. She has to do 200 cases per two (2) years. It is up to the technologists to make sure they have their numbers. Ms. Toscano will jump in and help out with a backlog of cases. She said it never happens that a technologist does not perform the 200.

Ms. Toscano said that the reporting structure is in transition. She said previously she reported to Brian Moser, but she currently reports to David Sostarich, the director of radiology. She also reports to Dr. Lori Strachowski, the medical director. She has been reporting Mr. Sostarich since January 2013. They have been in the process of moving Mr. Moser out of Avon. She reported to Mr. Moser from October 2010 to January 2013. She said that she was told that December 2012, Mr. Moser was going to be out of there over the holidays in December 2012, but he is still there sometimes.

Ms. Toscano works part-time. She works Monday through Wednesdays from 8am to 4pm. Another 2469 Diagnostic Imaging Technologist III, Mary McGinty, works at Avon full-time. The plan is to have the two Charge Techs run the whole center after Mr. Moser moves out of Avon.

II. DENIAL OF TRAINING

Ms. Toscano explained that applications trainings are when the company who makes the equipment comes in and trains the techs. The applications trainings occur when there is new equipment. Usually the company will

give units for continuing education. The regulations require that the techs earn a certain number of continuing education units for their license.

Avon does not keep good records on who attends the training. Usually they say "today so-and-so and so-and-so will take training, and tomorrow so-and-so and so-and-so," and then hope they catch everyone. If they receive units for continuing education, they usually get a certificate and the techs keep track of their own.

I asked Ms. Toscano if trainings are mandatory. She said that if a technologist does not attend the training, they will get trained by one of the techs that is familiar with the system. She said it depends on what the machine is too because not everyone will perform the procedures that the machine is for. She said that if it is a whole new system, then everyone who will be using the machine needs to be trained since no one knows how to use it or is familiar with it.

Avon is several different types of machines and equipment: mammography machines, faxatrons, needles, and needle biopsy systems. Not all of the techs would be using all of those machines. Later, if they need to start using those machines, other techs who already know how to use the machine will train them on it.

When a training is scheduled, Mr. Moser will say "Let's get people trained" and then leave it to the Charge Techs. In the past, the supervisors documented how attended. They kept records of that to make sure everyone got trained. With Mr. Moser, it became more lax.

Depending on what the training is for, the companies might be at Avon for more than one day. The big companies are more time tracked and will be there just that day so the training will only be offered that day. But other companies are more flexible.

Ms. Toscano hasn't been involved in schedule trainings lately. She said that before she went on maternity leave, Ms. Siyadat was mostly responsible for that. Ms. Toscano said that she does not recall scheduling people who were to attend trainings. Ms. Toscano was on maternity leave from October 31, 2011 to the end of June 2012. Since she returned from maternity leave, Ms. McGinty has been those things. She said that there has not been much new stuff since she returned.

Ms. Siyadat was at Avon until shortly before Ms. Toscano went out on maternity leave. Ms. McGinty was the acting Charge Tech.

A. July 12, 2011 Training

Ms. Toscano recalled that there was a training for the EVIVA needle. She said that the machine itself was new. Only the needle was new. I showed Ms. Toscano the July 8, 2011 email chain from Mr. Moser regarding a training. Ms. Toscano confirmed that the training being discussed was for the EVIVA needle for the stereotactic biopsy. She identified it by the times noted. She said that they perform those procedures at certain times. Ms. Toscano stated that the two fellows mentioned in the email are also doctors.

Ms. Toscano said that she usually watches the demos and then attends the training after if she wants to. She said it is good to learn from the people who make the equipment.

Ms. Toscano said that Mr. Moser made the decision to deny Ms. Siyadat training. She said Mr. Moser had to approve when Ms. Siyadat was permitted to go to Avon. She said that in one instance, she asked Ms. Siyadat to help her with the QC and Mr. Moser told her that she is not permitted to have Ms. Siyadat go to Avon without his permission. He had to approve any time that Ms. Siyadat went to Avon.

Ms. Toscano said that Ms. Siyadat told her that she wanted to attend the training. Ms. Toscano asked Mr. Moser if she could attend but Mr. Moser did not respond. She said that he may have said "Let's get these people trained first" or didn't respond at all. She said she let him know that Ms. Siyadat was interesting in attending the training in an in person conversation.

Ms. Toscano says that they received a certificate for the EVIVA needle training.

Ms. Toscano does not know if Ms. Siyadat ever learned how to use the needle, but stated that she would need to learn how to use it to do the biopsies.

B. October 6, 2011 Training

Ms. Toscano recalled the October 6, 2011 training. It was for a new Hologic Selenia, which is an x-ray machine used for mammography. They had received a Hologic Selenia years ago when they had the previous supervisor. Ms. Siyadat was there at that time and helped set that machine up. It is located in room 2. They also had one in the mammography van. In October 2011, they received two (2) new ones, and that's why there were a training.

Ms. Toscano recalled that Mr. Moser asked her what type of training they should have since they already had a Hologic Selenia in room 2. They discussed having QC training because the technologists already knew how to use the machine since they had one already. Having training on the QC would let other people help out with performing the QC. Ms. Siyadat was not doing the QC at the time.

The technologists who attended the training received certificates for attending.

III. SCHEDULE CHANGE

Ms. Toscano explained that after Theresa McGinley, former 2496 Radiologic Technologist Supervisor at Avon, left, Ms. Siyadat had to take over for Ms. McGinley's responsibilities. Ms. Siyadat was performing the duties of the supervisor and the Charge Tech. Ms. Siyadat asked Ms. Toscano to act as the Charge Tech because she had experience acting as Charge Tech in other areas.

When Mr. Moser was hired, Ms. Siyadat was the Charge Tech and Ms. Toscano was acting as Charge Tech still. She said that Mr. Moser was okay with that arrangement. Later, there was a Charge Tech position open at Avon. Mr. Moser asked her if she was interested in taking it. She said Mr. Moser kept pushing for her to take the position. Ms. Toscano asked Rafael Ibarra, the interim Director of Radiology, how they planned to work it with two (2) Charge Techs. She told Mr. Ibarra that she doesn't want to push anyone out. Mr. Ibarra told her that both Charge Techs would be there. Ms. Toscano cannot recall if she talked with Mr. Moser about having two (2) Charge Techs at Avon. Ms. Toscano then agreed to take the position.

Ms. Toscano could not recall when that conversation was. After the conversation, she filled out an application online. There was a posting with a list of job duties. I showed her a job announcement (posted February 11, 2011) and asked if that was the announcement she had seen. She said that she recalled the announcement but that was not the position she applied for. She stated that the part-time position in that announcement was for mammography and CT. She said that she had background in CT as well as mammography, and that everyone assumed the position was created for her because it was for both mammography and CT. Ms. Toscano said she did not apply for that position because she did not want to do CT. She stated that she applied for a different listing that was only for mammography.

Ms. Toscano also stated that Mr. Moser required that she get his approval before asking Ms. Siyadat to help out at Avon when needed. She has never had to do so before and does not have to do so for anyone else. She explained that after Ms. Siyadat was put on a new schedule, there was a day when they were really short staffed at Avon. She asked Ms. Siyadat to come to Avon to help out because they needed someone to help due to the staffing issues. When Mr. Moser arrived, he got upset with her for asking Ms. Siyadat to go over to Avon. He told her that Ms. Siyadat is not allowed to go to Avon except on specified days, unless she had approval to do so. Ms. Toscano said that Mr. Moser does not go into work until after they open. Mr. Moser said Ms. Siyadat has to have the approval of himself or another supervisor.

Ms. Toscano asked Mr. Moser what Ms. Siyadat's work schedule was so she would know what days Ms. Siyadat is allowed to be at Avon. She told Ms. Moser that he never gave her a copy of Ms. Siyadat's schedule. Mr. Moser refused to tell her what Ms. Siyadat's schedule was. He just told her, "You know her schedule." She said that she believes that because she and Ms. Siyadat are friends, he assumed that she knew Ms. Siyadat's schedule.

Ms. Toscano sent Mr. Moser an email asking Mr. Moser for a copy of Ms. Siyadat's schedule. Mr. Moser did not reply to the email. Ms. Toscano said that Mr. Moser never responds to emails and just ignores them. She later had a conversation with Mr. Moser and he told her that he would not answer her email. She asked again for Ms. Siyadat's schedule and he gave it to her verbally. Ms. Toscano documented the conversation on a printed copy of the email she had sent to Mr. Moser. She provided the email to me.

Ms. Toscano does not know why Ms. Siyadat's time was split. She said that Ms. Siyadat and Mr. Moser had different ideas of how things could apply. The previous female supervisors were very hands-on and helped with patients and other issues. Mr. Moser delegated everything to the Charge Techs.

IV. OTHER ISSUES

Ms. Toscano said that the federal MQSA inspection is conducted annually and is conducted by the State of California. It's a dual state/federal inspection. The inspectors check personnel records, check they they do physicist reports, and check that they do the QC tasks. The inspection happens once a year. It usually occurs in March.

I asked Ms. Toscano if the State of California can perform an inspection at any time, such as if they receive a patient complaint. Ms. Toscano stated that the State can inspect whenever, but when they do, it is not the MQSA inspection they are performing. That only happens once a year. She said that the machines also have to be reviewed by the physicist and the report sent to the state. Those have to be tested and the State looks at that too.

Ms. Toscano stated that the FDA requires that the technologists to have performed 200 mammograms. She said that just recently had the inspection for this year. I asked what happens if a technologist does not have the required 200 mammograms. She said that does not happen. She said that they always give advance notice of the inspection. She said it is usually a two-week notice. If a technologist does not have the 200, the technologist can pull their numbers up before the inspection occurs. If they don't or can't, the technologist can perform 25 assisted mammograms and that would give the technologist six (6) months to get to 200 mammograms. She said that she does not think it is a big deal if the technologist does not have the 200 because they will just be told that they have to do the 25 assisted mammograms and then bring their numbers back up.

Ms. Toscano stated that as Charge Tech, she spends most of her time on administrative and operational tasks, rather than performing mammograms and dealing with patients. She said that about about 90% of her time is spent on operations and about 10% on patients. She said that Ms. McGinty is more involved with patients than she is.

IS THERE ANYTHING I HAVE NOT ASKED YOU THAT YOU THINK WOULD BE RELEVANT TO THE INVESTIGATION?

Ms. Toscano stated she and Ms. Siyadat are friends. They have known each other since Ms. Toscano started working for DPH in 1990. They mostly see each other at work. They used to go to lunch together a lot. They do not socialize very much outside of work. However, in 1999, they took a trip to Italy together.

Ms. Toscano stated that she feels that she is being harassed and that the same thing that that happened to Ms. Siyadat is happening to her. She feels that Mr. Moser is trying to push her out of Avon. Mr. Moser once asked where her loyalties lie, with him or with Ms. Siyadat. He told Ms. Toscano that he could not trust her.

She stated that she feels that Mr. Moser is promoting Ms. McGinty over her even though Ms. Toscano has much more experience than Ms. McGinty. For example, while Ms. Toscano was on maternity leave, Mr. Moser called her and asked her to come in for the MQSA inspection in March 2012. He asked her to look over all the books and everything. He wanted someone to come in to do it because Ms. McGinty had never done it before. Ms. Toscano went in and looked at the books.

While she was there, Mr. Moser asked if her she ever checks the listings for job openings. He told her, "There's nothing there that would interest you. It's all tech 2 positions." Later, someone told Ms. Toscano that there was a full-time 2469 Diagnostic Imaging Technologist III position posted. This was the position that Ms. McGinty was appointed to. Ms. Toscano said that she talked with DPH Human Resources and they told her that she did not need to apply for the position. Ms. Toscano went online and applied anyway. She said she never heard back and that position went to Ms. McGinty.

Ms. Toscano talked with Director of Radiology, David Sostarich, about a full-time position. He told her that when she is ready he can put the pieces together to create a full-time position for her.

Interview of Nancy Toscano

Notes prepared by Zachary Williams, DPH EEO

Nancy Toscano stated that she has not witnessed any of the incidents described by Complainant. However, she stated that she could see Mr. Moser making comments of that nature. When I asked her why, she described an incident which she believes occurred sometime between January and April 2011. Ms. Toscano stated that she, Complainant, and other female staff were having a casual conversation in the lobby when Mr. Moser entered with male construction workers. She claimed that Mr. Moser jokingly asked her and the other Techs, "Can one of you go get us a beer?" Ms. Toscano stated that she and her peers, except for Complainant, remained silent and ignored the comment. She stated that Complainant responded by saying, "How about vodka instead?"

Nancy Toscano acknowledged that she is a friend of Complainant. She could not say that Mr. Moser changed Complainant's schedule because she is an Iranian woman. However, she believes that Mr. Moser treated Complainant differently. Ms. Toscano stated that after Complainant's schedule changed in June 2011, Mr. Moser would become upset if he saw her working at the Avon Center on the days she was assigned to the Main Department. Ms. Toscano explained that it is a common practice for the Avon Center's Charge Tech to request a technician from the Main Department when the Center was short-staffed. She added that the Charge Tech was generally not required to seek approval from a supervisor. When she was the Charge Tech on Mondays to Wednesdays, she sometimes preferred to request that Complainant come to the Avon Center for the additional coverage. She said that she was surprised when Mr. Moser called Complainant into his office to ask why she was at the Avon Center. Ms. Toscano also stated that Mr. Moser explicitly told her on two occasions to check with him before requesting Complainant. According to Ms. Toscano, he told her that Complainant "has a schedule because the Department doesn't want two Charge Techs working on the same day." Ms. Toscano said that this was the first and only time that she's ever seen a supervisor demand that a Charge Tech obtain approval for staffing requests.

Nancy Toscano could not support Complainant's claim that Mr. Moser reassigned her duties because of her national origin and gender. Instead, she stated that it's possible that Mr. Moser had others act as the Charge Tech so Complainant could perform patient mammograms to obtain requalification with the U.S. FDA. She added that she doesn't know how low Complainant's numbers were, but they could have been below the necessary total. Ms. Toscano stated that Complainant may not have had the opportunity to perform many mammograms because she took on duties in addition to her Charge Tech responsibilities when the Department was attempting to hire for Supervisor's position at the Avon Center. Finally, Ms. Toscano acknowledged that Mr. Moser stopped assigning the Charge Tech role to Complainant. However, she remarked that he didn't always assign the role to Ms. McGinty. She stated that at first, Mr. Moser rotated the responsibility among several technicians, but later assigned the role solely to Ms. McGinty.

Interview of Nancy Toscano
Notes prepared by Zachary Williams, DPH EEO

I conducted a telephone interview of Nancy Toscano because she was regularly assigned the Charge Tech role in the Avon Center. Complainant also repeatedly asked that I interview Ms. Toscano. However, Complainant could not articulate why Ms. Toscano would be witness to the alleged comments or would have firsthand knowledge of the alleged discriminatory actions. The telephone interview was conducted in April 2012 while Ms. Toscano was on maternity leave. She stated that her leave began on October 25, 2011.

Nancy Toscano stated that she was appointed to a part-time, Class 2469 position in April 2011 and worked Mondays to Wednesdays at the Avon Center. She stated that Brian Moser assigned her to the Charge Tech role on those Mondays to Wednesdays.

Nancy Toscano acknowledged that Complainant had told her that I would contact her for an interview. She also acknowledged that she is a friend of Complainant. However, Ms. Toscano said that she has never witnessed any of the alleged comments. She added that she "can't say for sure" that Mr. Moser treated Complainant differently because she is an Iranian woman. However, Ms. Toscano does believe that Mr. Moser treated Complainant differently.

Ms. Toscano explained that after Complainant began working in two locations, Mr. Moser would become upset if he saw her working at the Avon Center on the days she was assigned to the Main Department. Ms. Toscano explained that it is a common practice for the Avon Center's Charge Tech to request a technologist from the Main Department when the Center was short-staffed. She added that the Charge Tech was generally not required to seek approval from a supervisor. When she was the Charge Tech on Mondays to Wednesdays, she sometimes preferred to request that Complainant come to the Avon Center for the additional coverage.

She said she was surprised when Mr. Moser called Complainant into his office to ask why she was at the Avon Center. Ms. Toscano also stated that Mr. Moser explicitly told her on two occasions to check with him before requesting Complainant. According to Ms. Toscano, Mr. Moser told her that Complainant "has a schedule because the Department doesn't want two Charge Techs working on the same day." Ms. Toscano said that this was the first and only time that she's ever seen a supervisor demand that a Charge Tech obtain approval for staffing requests. She does not remember Mr. Moser yelling but recalls that he was upset.

Nancy Toscano stated that although she has not witnessed any of the alleged comments, she remarked that she "could see him making comments like that." When I asked her why, she described an incident which she believes occurred sometime between January and April [2011] when the construction at the hospital started. Ms. Toscano stated that she, Complainant, and other female staff were having a casual conversation in the lobby when Mr. Moser entered with male construction workers. She claimed that Mr. Moser jokingly asked her and the other Techs, "Can one of you go get us a beer?" Ms. Toscano stated that she and her peers, except for Complainant, remained silent and ignored the comment. She stated that Complainant responded by saying, "How about vodka instead?"

Nancy Toscano could not support Complainant's claim that Mr. Moser reassigned her duties because of her national origin and gender. Instead, she stated that it's possible that Mr. Moser had other technologists act as the Charge Tech so Complainant could perform patient mammograms to obtain requalification with the U. S. FDA. She added, "I don't know how low Mandana's numbers were, but they could have been below the required total." Ms. Toscano stated that Complainant may not have had the opportunity to perform many mammograms because she took on duties in addition to her leadership responsibilities as Charge Tech when the Department was attempting to hire for the Supervisor's position at the Avon Center. Finally, Ms. Toscano acknowledged that Mr. Moser stopped assigning the Charge Tech role to Complainant. However, she remarked that "it wasn't always Mary [McGinty]." She stated that Mr. Moser initially rotated the responsibility among several technologists, but later assigned the role solely to Ms. McGinty. Ms. Toscano could not recall when Mr. Moser made the changes in assignments.

As far as Complainant's claim that she was denied training, Nancy Toscano could not recall who may have attended either of the training sessions. She acknowledged that technologists may not be able to attend training the first time it is offered. She stated that the Department "is pretty good about getting training for everyone." She could not confirm that Complainant would have been denied training because she was Iranian or a woman. She acknowledged that Charge Techs work with Supervisors to manage staffing and requests for training.

Attachment 4

Interview of Robert J. (RJ) Merck
Notes prepared by Zachary Williams, DPH EEO

On September 7, 2012, I interviewed RJ Merck (Caucasian male) because he supervised Complainant during the recent review period, July 2010 to June 2011, along with Brian Moser. Mr. Merck was Complainant's sole supervisor during the previous review period of July 2009 to June 2010. The interview lasted approximately one hour.

RJ Merck is a 2496 Radiologic Technologist Supervisor. His office is located in the Main Radiology Department. Mr. Merck primarily manages all of the data systems for the Department of Radiology. Mr. Merck stated that the previous Supervisor in the Avon Center, Theresa McGinley, left a few months before her retirement date (March 5, 2010) because she had an excess leave. He advised me that he began to supervise Complainant in the Avon Center in and around November 2009. Mr. Merck explained that he had limited supervision of Complainant because he was only present at the Avon Center for roughly two hours per day. He admitted that he had limited experience with mammography. Consequently, he was extremely grateful for Complainant's help with preparing the Avon Center for its 3-year inspection. He stated that he gave Complainant a positive performance appraisal for the period of July 2009 to June 2010 for this very reason. However, he advised me that he included written comments in her appraisal to show that he had concerns about her communication style.

I asked Mr. Merck to describe his concerns about Complainant's communication style. He gave me a copy of his personal notes in which he documented some of his interactions with Complainant. He advised me that Complainant has a "poor, combative style of communication." He further stated, "There were multiple times when she was strong-headed about regulations [...] she was about doing things for years but her interpretation was not always right." He claimed that Complainant would angrily yell when she sought to argue her positions.

RJ Merck stated that Mr. Moser was hired in October 2010 and began supervising Complainant at the Avon Center. I asked Mr. Merck if he was aware that Complainant and Mr. Moser did not get along. He stated that he first became aware of this in January 2011. Mr. Merck advised me that Mr. Ibarra was the Interim Director of Radiology and held monthly meetings at the Avon Center with all of the Department's Supervisors. Mr. Merck stated that Mr. Moser asked him at the meeting in January if he had difficulty with Complainant when he supervised her. He also stated that Mr. Moser complained that Complainant was constantly challenging his authority.

I asked Mr. Merck if he contributed to Complainant's recent performance appraisal. I also asked him if he and Mr. Moser had documentation to support the comments in the appraisal. Mr. Merck stated that Mr. Moser wrote the appraisal, as he himself had not witnessed the majority of the issues contained in the appraisal. He could not recall why he was unable to attend the PAR meeting. Mr. Merck stated, "Even though I didn't witness everything, I could see some of the things that Brian said about her as true." He stated that he was familiar with the incident when Complainant moved her desk without authorization. Mr. Merck denied that he ever gave Complainant permission to move her desk. Instead, he stated that he explicitly told her not to move her desk without approval from the incoming Supervisor, Brian Moser.

Mr. Merck also supported Mr. Moser's comments about Complainant's failure to follow the Department's timesheet procedures. Mr. Merck provided me with a memorandum that he had given Complainant to address the "anomalies in her timekeeping." Even though Mr. Merck signed off on the appraisal and indicated that he believed Mr. Moser's comments as true, he stated that he advised Mr. Moser to focus on one or two performance issues instead of everything at once. He stated that he recommended that Mr. Moser first focus on Complainant's communication style and critical thinking, particularly when it came to her interpretation of policies and regulations.

RJ Merck acknowledged that he manages the mammography data for the Avon Center and generates the technologists' productivity totals at the beginning of each month. He explained that the mammography productivity report is "a moving snapshot" of a technologist's totals for a 24-month period such that the two-year total is defined by the day that the report is generated. Mr. Merck stated, "There is no reason why she [Complainant] couldn't do the cases." He added, "The State looks at the snapshot, so you should always be ready at 200." Mr. Merck acknowledged that Mr. Moser had repeatedly asked him to generate Avon's productivity totals so he could monitor Complainant's numbers. He stated that Complainant also repeatedly asked him to produce the reports. Mr. Merck advised me that there was a point when he became annoyed and told Mr. Moser and Complainant that he would only run the reports at the beginning of the month. He explained that the software sometimes took 1-2 hours to compile the two years of data for the report. Upon my request, Mr. Merck generated the mammography productivity totals for the first five months of 2011 and provided me with the reports on September 10, 2012.

Attachment 5

Interview of Shermineh Jafarieh
Notes prepared by Zachary Williams, DPH EEO

On August 24, 2012, I interviewed Shermineh Jafarieh (Iranian female) because Complainant alleged that she attempted to complain to Ms. Jafarieh about what she "perceived as Moser's ethnic prejudice." Complainant claimed that she was unable to meet with Ms. Jafarieh. Additionally, Complainant repeatedly asked that I interview Ms. Jafarieh. However, she could not articulate why Ms. Jafarieh would be witness to the alleged comments or would have firsthand knowledge of the alleged discriminatory actions. The interview of Ms. Jafarieh lasted approximately one hour.

Shermineh Jafarieh stated that she is a 0941 Manager VI. She stated that she is an Associate Hospital Administrator at SFGH. In this role, she provides leadership support to the unit Directors, oversees the Diagnostics department, and acts as a liaison between the operational managers and the UCSF Dean's Office. She generalized her role to be more of a "leadership tie-in to the hospital administration." She is supervised by Roland Pickens, Senior Hospital Administrator. Ms. Jafarieh advised me that she "had more of a presence in Radiology since they had an Interim Director with Rafael."

Shermineh Jafarieh denied Complainant's claim that she never met with her. Ms. Jafarieh advised me that although she has an "open-door policy," she generally prefers that unit managers address personnel issues with their employees. However, she advised me that she "met with Mandana a few times to determine which process she should go through...either with Rafael or EEO." She added, "The informal meetings with Mandana began in October of 2010." Ms. Jafarieh stated that she directed Complainant to work with Mr. Ibarra because she didn't have specific claims. Ms. Jafarieh again mentioned that she prefers to have managers resolve any personnel matters.

I asked Ms. Jafarieh if Complainant ever told her that Mr. Moser made inappropriate comments. She stated, "No." She then volunteered her personal assessment - "I'm also Iranian. Looking at their personalities, they were both defiant about their vision for the Center." She advised me that prior to the hiring of Mr. Moser, Complainant had already claimed all of Radiology treated her unfairly because she is a woman." Ms. Jafarieh stated that she never could investigate the claims because Complainant "didn't have any specifics." She further stated that Complainant believed that the Department "didn't appreciate her perspective on how to run Avon."

I asked Ms. Jafarieh if the Department sought to address Complainant's concerns. She stated, "Rafael did his best to work with Brian and Mandana." To her knowledge, Mr. Ibarra met with Mr. Moser and Complainant many times and sometimes on a weekly basis. She stated that she also "met with Brian a lot." She advised me that Mr. Moser had complained that Complainant was compromising his leadership. Ms. Jafarieh stated that she is unaware of any claims that Mr. Moser made inappropriate comments similar to those alleged by Complainant. She acknowledged that Mr. Ibarra reported that some employees claimed Mr. Moser "can be abrasive or reactive, and doesn't approach people in private about personnel matters." However, she advised me that Mr. Ibarra only told her this one time. Nevertheless, she acknowledged Mr. Moser "requires a lot of leadership training because he lacks diplomacy."

As far as Complainant's claim about her compliance status, Ms. Jafarih acknowledged that she does not have any firsthand knowledge. To her knowledge, "Mandana was not compliant with the standards set forth by Brian who is the supervisor." She added, "When you have a challenging employee, the Supervisor may want greater oversight of the employee's performance."

Finally, Ms. Jafarih could not recall the specific details surrounding the change to Complainant's schedule in June 2011. Ms. Jafarih only recalled that Mr. Ibarra told her that he wanted to limit the Charge Tech coverage in Avon since another technologist (Nancy Toscano) was coming aboard. She could not recall when he advised her of his plans. She stated that Dr. Strachowski also agreed that there wasn't a need to have two Charge Techs in Avon on the same day. Additionally, Ms Jafarih stated, "Rafael told me that the schedule was justified because of a need in the main department."

Attachment 6



CONFIDENTIAL

DHR EEO

Witness: Cathy Abela	EEO File No./Name: 1652/Siyadat
EEO Investigator: Matthew Valdez	Date & Time: April 9, 2013 @ 4:20pm-4:35pm
Location: DHR, 1 South Van Ness 4 th Floor,	Pages: 1

Ms. Abela was a Senior Personnel Analyst at SFGH that Ms. Siyadat's probation was extended. Ms. Abela was unable to locate her notes and emails from her time at SFGH because in the fall of 2011, she left DPH and moved to HRC. She has since returned to DPH but she no longer has all of her files from her previous time at DPH.

Ms. Abela recalled meeting with Brian Moser. She could not recall when she met with him. She recalled Mr. Moser asking about the probation extension process. She said he talked a lot about the number of mammograms that Ms. Siyadat had performed. He told her that Ms. Siyadat had not completed a sufficient number of mammograms. She said that he had a specific number, but she couldn't recall how many. He also had documents that showed the regulations. She said that he also had a document or spreadsheet that showed how many mammograms Ms. Siyadat had done.

I asked Ms. Abela if she met with Rafael Ibarra as well. She said that she recalls Mr. Ibarra being at the meetings as well, but she does not recall Mr. Ibarra asking questions. She said that Mr. Moser is the one who asked the questions.

I asked Ms. Abela if there were any other reasons that Mr. Moser or Mr. Ibarra gave for requesting an extension of Ms. Siyadat's probation. She said that the number of mammograms was the major reason. She added that there might have been other reasons, but she doesn't recall. She said that number of mammograms was the main reason.

Ms. Abela stated that she does not recall telling Mr. Moser to focus on the compliance issue in the probation extension. She said it happened a long time ago and does not remember. She said that he remembers that he mainly talked about that issue.

Attachment 7

Interview of Joselito Cruz

Notes prepared by Zachary Williams, DPH EEO

Joselito Cruz, 2496 Radiologic Technologist Supervisor, is responsible for managing the timesheets for all staff in the Department of Radiology and submitting the documents to payroll. Mr. Cruz stated that employees in the Class 2469 Diagnostic Imaging Tech III perform are assigned the Charge Tech role as part of their general duties. He explained that whenever the Charge Technician is off, others employees, including those of Class 2468 Diagnostic Imaging Tech II can be assigned the responsibility. In those cases, the employee providing the coverage receives compensation of \$5.00 per day as a "Lead Person Premium." Mr. Cruz further explained that when the regular Charge Tech is off for an extended period of time, the employee who provides the coverage will receive 'Acting Assignment Pay' which is a 5% increase in compensation. In these cases, Mr. Cruz must first submit a written request to Yvette Gamble in the Operations Division of SFGH HR.

According to Mr. Cruz's records, Complainant continued to receive the same rate of pay as a Class 2469 from the time she became a full-time employee to the present. With regard to Mary McGinty, Mr. Cruz stated that she has never received any compensation under the "Lead Person Premium." He submitted copies of payroll records from July 1, 2011 to June 5, 2012 comparing Ms. McGinty's record to two employees who did receive the compensation: Larry Lui (Asian), Class 2468, and Ernesto Legaspi (Filipino), Class 2467.

Finally, Mr. Cruz stated that Ms. McGinty has not received any "Acting Assignment Pay" and continues to receive the same rate of pay even though Mr. Moser assigned her the Charge Tech responsibilities. He added that he and the Department have not submitted a request for Ms. McGinty to receive the compensation. Mr. Cruz remarked that the Department needs to compensate her for the work.

Attachment 8

Interview of Shari Zinn

Notes prepared by Zachary Williams, DPH EEO

Shari Zinn is a 2468 Diagnostic Imaging Tech II at the Avon Breast Cancer and was supervised by Complainant. She confirmed that she does not have any direct knowledge of any specific incidents between Complainant and Brian Moser. Instead, she quickly became emotional when discussing Brian Moser's managerial style and his relationship with Complainant, stating that Mr. Moser thinks that all women are "dopes".

Shari Zinn described Mr. Moser's way of interacting with the largely female Avon staff. She claimed that Mr. Moser has frequently referred to the female staff as "the help" when he jokes with construction workers who have visited the Avon Center. Ms. Zinn also claimed that Mr. Moser knocked on her head to imply that her brain was not following his instructions. Ms. Zinn added that Mr. Moser often makes stereotypical jokes such as "Asians are good at laundry" or "He's Jewish, so he has money."

Interview of Shari Zinn

Notes prepared by Zachary Williams, DPH EEO

On November 8, 2011, I interviewed Shari Zinn (Caucasian female) by telephone. I interviewed Ms. Zinn because Complainant repeatedly asked that I interview her. However, Complainant could not articulate why Ms. Zinn would be witness to the alleged comments or would have firsthand knowledge.

Shari Zinn stated that she is a 2468 Diagnostic Imaging Tech II at the Avon Breast Cancer. She stated that she was supervised by Complainant. She confirmed that she does not have any direct knowledge of any specific incidents between Complainant and Brian Moser. Instead, she quickly became emotional when discussing Brian Moser's managerial style and his relationship with Complainant, stating that Mr. Moser thinks that all women are "dopes." Shari Zinn then described Mr. Moser's way of interacting with the largely female Avon staff. She claimed that Mr. Moser has frequently referred to the female staff as "the help" when he jokes with construction workers who have visited the Avon Center. Ms. Zinn also claimed that Mr. Moser knocked on her head to imply that her brain was not following his instructions. Ms. Zinn added that Mr. Moser often makes stereotypical jokes such as "Asians are good at laundry" or "He's Jewish, so he has money." Ms. Zinn could not provide dates for when any of the comments were made.

Shari Zinn – November 8, 2011

Notes prepared by Zachary Williams, DPH EEO

“Moser wants things done in a certain way.”

“Brian thinks that women are dopes.”

Regarding Complainant, “in a hospital setting there are things outside of her control.” “Moser doesn’t see that as a learning opportunity – believes that Mandana is a dumb girl.”

“He is disrespectful.”

“He doesn’t let Mandana explain herself.”

No specific incidents – ongoing harassment

Regarding herself, EE stated that Moser told her, “Shut up and quit fighting! I’m trying to help you!” Disagreement between Moser and EE.

EE explained that she has episodes of heart palpitations and was also removed from some responsibilities by Moser. EE remarked that “if you aren’t Mary McGinty, you are in trouble.”

EE stated that Cora Andaya also has less responsibility.

EE stated that she had a heart palpitation and Moser didn’t understand why she wasn’t responding to him. EE claimed that Moser started knocking on her head – EE indicated that Moser thought she was mentally disabled. EE stated that the incident occurred around the time that Mandana was removed from Charge Tech. EE stated that Mary McGinty witnessed the incident.

Why gender-based?

- EE stated that when Moser first came in the unit, he thought she was gay and made an inappropriate comment towards her. EE cannot remember what the comment was.
- EE also stated Moser frequently refers to the female employees as ‘the help’ when he is talking to construction workers.
- EE claimed that Moser made a comment to her implying that she knew more information about bra’s – conversation was regarding concern that patients were not wearing bras during their visit the Avon Center.

Comments about ethnicity/national origin?

- Moser comments about “nationalities being better at different things.”
 - Jewish – “Oh, He has money”
 - Asian – “good at laundry”

Why was Mary McGinty treated better?

- “Don’t know why, maybe because she is trying to get ahead.”

Attachment 9

Interview of Corazon (Cora) Andaya
Notes prepared by Zachary Williams, DPH EEO

On August 31, 2012, I interviewed Cora Andaya (Filipino female) because she was involved in Complainant's attempts to obtain requalification due to her low mammography totals. Additionally, Complainant had repeatedly asked that I interview Ms. Andaya.

Cora Andaya is a 2468 Diagnostic Imaging Technologist II. She stated that she has been with the City for 29-30 years and has been assigned to the Avon Center since it opened in 2004. She stated that she is one of the senior technologists in terms of length of employment. At the beginning of the interview, she advised me that she tries to stay out of personnel matters and was concerned about retaliation. She stated that she prefers to stay neutral and noted, "I can only say what I know."

Cora Andaya stated that she has never witnessed Mr. Moser making inappropriate comments. She stated, "I know that Brian jokes around. With women, Brian would make jokes maybe because he's a guy." She further stated, "I don't remember him making any jokes about someone being a woman, or Mexican, or anything like that." Ms. Andaya could not recall any specific jokes. She remarked that she prefers "not to make a big thing of anything." I asked Ms. Andaya if it appeared that anyone was disturbed by Mr. Moser's jokes. In response she stated, "No. People just seemed bored by his jokes. He just likes to talk."

I asked Ms. Andaya if the initials on the MQSA Technologist Education and Clinical Performance Data Sheet were her own. I also asked her if she did in fact supervise Complainant for 25 mammograms. Ms. Andaya stated that she did supervise 25 mammograms for Complainant in March 2011. However, she acknowledged that the initials on the MQSA sheet were not her own. I asked Ms. Andaya why Complainant didn't ask her to write her initials. She stated, "I don't know. Maybe Mandana was rushing because they were on her about her numbers." She further stated, "It was a mistake by Mandana. She should have asked me to let me write my initials."

Ms. Andaya stated that she did not know Complainant had written her initials until Mr. Moser called her into his office. She stated that Mr. Moser was "pushy and aggressive like he usually is but had no signs of anger." She stated that he calmly asked her if the initials were her own. She advised me that she signed the MQSA sheet indicating that the initials were not her own because she "had to tell the truth." She told Mr. Moser that she did supervise the 25 mammograms for Complainant. She also presented the logbook to Mr. Moser to show that her initials and Complainant's were listed alongside the recorded mammograms. However, Ms. Andaya advised me that Mr. Moser "wanted the initials on the sheet to match those in the book." I asked Ms. Andaya if the MQSA sheet is an official document. She stated, "Yes. The sheet is also official because I think the inspector can ask for the sheets." She admitted that "the technologist must write their own initials and it was a mistake by Mandana."

I asked Ms. Andaya if it is common for Charge Techs to fall below the required mammography total. She said, "No. Pretty much everyone stays above it because it's easy to do at least 200 in one month." She stated that she has performed 2-3000 mammograms in the last two years. She

stated that the mammography totals are posted each month so supervisors and technologists can track the numbers." She added, "Maybe she [Complainant] didn't have 200 because she was doing other stuff." Ms. Andaya explained that "95% of the time, Charge Techs aren't doing X-rays because they are doing paperwork and are in charge...they aren't supposed to really do mammograms." However, she stated that it's the responsibility of all technologists to track their own numbers. She also mentioned that Complainant was often on family leave.

Ms. Andaya recalled that Mr. Ibarra met with her sometime between May and July 2011 to ask about her supervision of Complainant's performed mammograms. She stated that he asked her if she had supervised the mammograms or assisted with the mammograms. She told Mr. Ibarra that she supervised the mammograms and advised him that the correct initials are in the logbook. She advised me that Mr. Ibarra never questioned her about the matter again. She further stated that she gave Complainant a handwritten note in July 2011 to support her claim about the mammograms in March 2011.

Cora Andaya recalled that Complainant was at some point no longer in charge. She stated that "it happened around the time that they were trying to resolve her compliance issues." She stated that it was a mystery to everyone why Complainant was not in charge, but she stated, "Maybe because of her qualifications." Ms. Andaya stated that Complainant was assigned to perform patient exams and appeared upset.

Ms. Andaya acknowledged that Mary McGinty was in charge on the Thursdays and Fridays that Complainant was at the Avon Center. However, Ms. Andaya admitted that Mr. Moser had asked her to take on the supervisory responsibilities prior to placing Ms. McGinty in charge. She advised me that she declined Mr. Moser's request because she doesn't like "stress and politics of the job." She stated that she told him to instead consider Ms. McGinty because she knew that Ms. McGinty wanted to be in charge. She advised me that Ms. McGinty had previously applied for the Supervisor's position before Mr. Moser was hired. I asked her if there were other technologists who could assume the responsibility. She stated, "No. Rafael already knows that I don't like it and Yvonne [Whitlock] is not an option because she also doesn't like to be in charge." As far as seniority, she stated that she is the senior technologist followed by Ms. Whitlock and then Ms. McGinty. She stated that they all arrived at the Avon Center together in 2004.

As far as her personal opinion, Ms. Andaya stated, "Brian likes a Charge Tech that agrees with him and Mary does what he wants." She added, "At first we didn't understand Brian because he was trying to change the place and assert his authority, but he has backed off." She admitted that sometime in the past she had expressed concerns to Mr. Ibarra. She told Mr. Ibarra, "Brian doesn't seem to have mammo experience and doesn't know how to deal with broken machines."

Attachment 10

Interview of Dr. Loretta (Lori) Strachowski
Notes prepared by Zachary Williams, DPH EEO

On August 27, 2012, I conducted an interview of Dr. Loretta (Lori) Strachowski by telephone because she worked regularly with Complainant and Brian Moser. Additionally, Complainant repeatedly asked that I interview Dr. Strachowski. However, she could not articulate why Dr. Strachowski would be witness to the alleged comments or would have firsthand knowledge of the alleged discriminatory actions.

Dr. Lori Strachowski stated that she is the Director of Women's Imaging at the Avon Center. She stated that she is employed by UCSF, but oversees all of the imaging programs at the Center. She explained that she "only has direct supervision of the UCSF employees and it's up to Brian to implement procedures for CCSF employees." She stated that she mainly interacts with the assigned Charge Tech when she needs the Charge Tech to meet with a junior technologist's to review his/her film work.

Dr. Strachowski acknowledged that she has not witnessed any of the alleged comments. However, she readily recalled that Complainant had at one point mentioned that Mr. Moser commented about her haircut. Dr. Strachowski advised me that she herself "didn't understand what was the significance about the comment on Mandana's haircut." She added that "Mandana simply said that Brian was "racist" by commenting about her haircut." Dr. Strachowski also acknowledged that she had heard rumors of employees claiming that Mr. Moser made inappropriate comments. She was not aware of any specific claims, but advised Shermineh Jafarieh, Hospital Administrator, that she had heard the rumors.

Dr. Strachowski acknowledged that Complainant had never told her that Mr. Moser was treating her differently or harassing her. She stated that Complainant "only complained that she was trying to get her numbers up." Dr. Strachowski admitted that she is not fully aware of the FDA provisions regarding the required mammography totals. However, she explained that the Department "usually monitor's everyone's numbers so they don't fall short." She stated, "We would change their rotation schedule so they can supplement their numbers if necessary." Dr. Strachowski added, "Brian should follow the numbers and the technologist should also take responsibility."

I asked Dr. Strachowski if Complainant's low mammography totals were low because of the additional responsibilities she had taken on while the Department was hiring for the Supervisor's position. She responded by saying, "I don't think we gave her too much." She added, "My only issue with Mandana is that it seemed like she always had personal issues and is always absent. I didn't know who Mandana was communicating to about her leave but it always seemed like she was leaving early."

Dr. Strachowski recalled that Mr. Moser had at one point countermanded her instructions to Complainant. Mr. Moser's actions did not seem unusual to her because "there was already a lot of tension...it was a personal power thing between them." She admitted that she has "issues with him" and stated, "I never receive things that I ask of him." However, it is Dr. Strachowski's personal opinion that Mr. Moser does not act differently among male or female employees. She

stated, "There is no gender bias and no other bias. He does not get along with people on an individual level and will get more abrupt with some." She explained that he has a "NY-style, in your face way with everyone and will interrupt without asking first." Additionally, she believes that Complainant and Mr. Moser had a power struggle over who had authority. She explained that "Mandana was trying to enforce the old stuff from Theresa [Theresa McGinley, Previous Supervisor in the Avon Center] while Brian was trying to make changes."

With regard to Complainant's claim regarding her assignments, Dr. Strachowski stated that she does not know why Mr. Moser reassigned Complainant's supervisory responsibilities to Mary McGinty. She stated that Mr. Moser simply told her that he likes Ms. McGinty in the role. She was also surprised that Mr. Moser did not come to her about whom to select, which was what the previous Supervisor had done in the past.

Attachment 11

Interview of Fred Evans

Notes prepared by Zachary Williams, DPH EEO

Fred Evans has provided I.T. support to Complainant and the Avon Breast Cancer Center for almost three years. The investigation interviewed Mr. Evans after he gave Complainant a written statement which she then submitted to DPH EEO. See Summary of Documents Reviewed, Exhibit B₂

Mr. Evans stated that Mr. Moser began working with DPH at the Avon Center in October 2010 and "from the beginning showed signs of being a male chauvinist to several female employees who work in the Mammo Center." He stated that in and around January 2011 and July 2011, he was performing I.T. work when Mr. Moser referred to female Avon employees as "bitches" during their casual conversation. On these occasions, Mr. Evans did not respond to his comments and completed his work.

Mr. Evans then described another conversation in which Mr. Moser expressed frustration to him about having to work with the Chief Radiologist at Avon, Dr. Lori Strachowski. According to Mr. Evans, Mr. Moser told him that "women are always complaining about the smallest things." Mr. Moser also remarked that "with that many women [in Avon], there will be too many complaints." Mr. Evans does not recall when Mr. Moser made the comments. He also has not observed any conflicts between Mr. Moser and any other female staff.

As far as inappropriate comments about Complainant, Mr. Evans described comments Mr. Moser to him made around the end of May/early June 2011. Mr. Evans was performing I.T. work for Mr. Moser in the server room and advised him of previous work he had done for Complainant since she was the Charge Tech. Mr. Moser then responded to his statements by calling Complainant a "dumb Indian" woman while complaining about information that Complainant may have incorrectly given to an outside vendor.

Mr. Evans believes that Mr. Moser's comments show that "he is working in the wrong place." Mr. Evans does not know if Mr. Moser has had similar discussions with the lone male employee at Avon. He also feared that his participation in the investigation will affect his work relationship with Mr. Moser for upcoming I.T. projects.

Interview of Fred Evans

Notes prepared by Zachary Williams, DPH EEO

On October 19, 2011, I conducted an interview of Fred Evans (African-American male) by telephone. I interviewed Mr. Evans because he gave Complainant a written statement which she then submitted to DPH EEO to support her complaint.

Mr. Evans stated that he is employed as a Programmer Analyst II with the University of California, San Francisco (UCSF). He stated that he has provided information systems support to Complainant and San Francisco General Hospital's (SFGH) Avon Comprehensive Breast Cancer Center for almost three years.

Mr. Evans acknowledged that he has never witnessed any of the comments that Complainant described in her complaint. He also acknowledged that he has not heard of Mr. Moser making any comments of a similar nature to Complainant. However, he confirmed his written statement that Mr. Moser "showed signs of being a male chauvinist to several female employees who work in the Mammo Center." I asked him to describe what he meant by that statement. He stated that he was performing I. T. work when Mr. Moser referred to female Avon employees as "bitches" during their casual conversation. On these occasions, Mr. Evans stated that he did not respond to the comments and completed his work. He recalled that Mr. Moser "may have made the comments in January (2011) and July (2011)."

Mr. Evans then described another conversation in which Mr. Moser expressed frustration to him about having to work with the Chief Radiologist at Avon, Dr. Lori Strachowski. According to Mr. Evans, Mr. Moser told him that "women are always complaining about the smallest things." He added that Mr. Moser also remarked that "with that many women [in Avon], there will always be too many complaints." Mr. Evans does not recall when Mr. Moser made the comments.

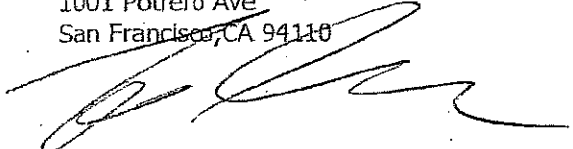

As far as witnessing any inappropriate comments about Complainant, Mr. Evans described comments Mr. Moser made to him around the end of May or early June 2011. Mr. Evans was performing I. T. work for Mr. Moser in the server room and advised him of previous work he had done for Complainant since she was the Charge Tech. Mr. Evans stated Mr. Moser responded to his statements by calling Complainant a "dumb Indian" woman while complaining about information that Complainant may have incorrectly given to an outside vendor.

Mr. Evans believes that Mr. Moser's comments show that "he is working in the wrong place." He also feared that his participation in the investigation will affect his work relationship with Mr. Moser for upcoming I. T. projects.

To Whom It May Concern I provide I.T. support for the Avon Breast Center. I have witnessed on several occasions Brian Moser Supervisor for the Avon Breast Center display unprofessional like manners to Mandana Siyadat by calling her a "dumb Indian" woman to other employees also referring to woman in period as "bitches. Mandana Siyadat has served as the Charge Tech for the Avon Mammo Tech's for many years. Since I started almost three years ago providing I.T. support for the Avon Breast Center I have taken directives from Mandana and never have encountered any racial prejudice or any non-professional manners from her. Brian Moser is a fairly new hire with the DPH has from the beginning showed signs of being a male chauvinist to several female employees who work in the Mammo center. I have discussed this behavior with Mandana and I really felt some type of disciplinary action should have taken place. I have witnessed the moral of employees in the Avon Breast Center drop considerably over the last year. If there is any additional detailed information I can provide I willing to meet in person.

Kind Regards,

Fred Evans
UCSF Radiology I.T. Support @
San Francisco General Hospital
1001 Potrero Ave
San Francisco, CA 94110

Attachment 12

Sylvia Romero-Pagan – November 4, 2011
Patient Community Navigator
Notes prepared by Zachary Williams, DPH EEO

EE first described incidents that indicates that Moser is bossy
EE stated that Moser questioned why Mandana was sitting at Patient Navigator desk and then tasked her with handling a complaint that was assigned to him
EE stated that Moser would tell people to “do this or do that”

EE stated that Moser doesn’t address people in private about their responsibilities, but out in the open
EE stated his “demeanor is demeaning” in front of everyone

Gender or national origin?

- EE hasn’t witnessed any comments about Mandana’s gender or national origin
- EE has not heard of comments made to other staff
- Moser stated that “you women make small things into big things” – jokingly plays it off but comments in front of patients
- Moser makes comments for intimidation
- Moser has free reign to make the comments – he hasn’t held any meetings on how the team can work together – he is not supervised by anyone else

Moser’s relationship with Ricky?

“No machoism between Moser and Ricky”
“Rick is very nice”

Interview of Sylvia Romero-Pagan
Notes prepared by Zachary Williams, DPH EEO

On November 4, 2011, I conducted an interview of Sylvia Romero-Pagan by telephone. I interviewed Ms. Romero-Pagan because Complainant repeatedly asked that I interview her. However, Complainant could not articulate why Ms. Romero-Pagan would be witness to the alleged comments or would have firsthand knowledge. She gave Complainant a letter to support her claim of harassment.

Sylvia Romero-Pagan is employed by UCSF as an Assistant III. Her working title is 'Patient Community Navigator.' She primarily acts as a guide for patients as they seek to access services at SFGH. Ms. Romero-Pagan's interview statements mirrored her written statements in that she did not have any information relevant to Complainant's claim. She largely complained that Mr. Moser was bossy and constantly made her feel that she was not competent in her work.

She acknowledged that she hasn't witnessed any comments by Mr. Moser about Complainant's gender or national origin. Similarly, she has not witnessed or heard of Mr. Moser making inappropriate comments to other female staff. However, Ms. Romero-Pagan claimed that Mr. Moser told her that "women make small things into big things." She said that Mr. Moser then attempted to "play it off as a joke."

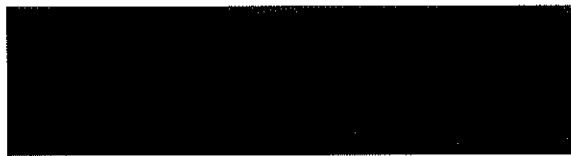
10-20-11

To: Zachary Williams

FAX # (415) 554-2594

From: Mandana Siyadat

Fax #



6 pages including the cover.

Mr. Williams please let me know

when you get these

Thank you.

October 2011

To whom it may concern;

204.

My name is Sylvia Romero-Pagan, Patient-Community Navigator, a UCSF employee at SFGH-AVON Comprehensive Breast Center. I am writing this letter to make you aware of the ongoing harassment and hostile work environment being caused by Brian Moser, Avon Center Supervisor.

Since Mr. Moser became supervisor of the center I have personally witnessed him Bully and degrade various staff members, including myself. For example, a few months ago I was in a meeting with Mr. Moser and our Community Mammo-Van Program Coordinator to discuss ways I can help with the mammo-van coordination. When I inquired as to why he needed my assistance, he responded by saying "she's too weak to do the job, she has no back bone to do an effective job". Needless to say, I felt extremely uncomfortable when I heard the comment made and embarrassed for the mammo-van coordinator as she appeared to look too scared to say anything in her defense to Mr. Moser. On another occasion, I and another Patient Navigator were working in the reception area when the other Navigator asked Mr. Moser for an update on supplies that he said he would order a few months back. His response to her was "You keep asking me the same question. What are you? My mother? Quit asking", he then laughed it off like and walked away without addressing her question.

As mentioned earlier, I have also experienced harassment and bullying by Mr. Moser. My experiences began early on when Mr. Moser first started his role as supervisor. For example on one occasion he had asked me to communicate with a staff member at Southeast Medical Center to schedule a Screening Mammo day event at Avon. At the time Mr. Moser requested I inform Southeast that they could have the event but, that it needed to take place outdoors at the mammo-van site location, which at the time was behind Ward 90 building. He decided to have the event there because as he said, "I don't want them in here hanging out", "The sooner they come and go, the better". Upon communicating the information to Southeast they became upset about not being allowed to enter the center. I then informed Brian of the situation and he immediately contacted Southeast and told them that he was sorry about my inability to communicate effectively, that he would never exclude them from the center, ect. At that moment I was made to feel as well as appear to my

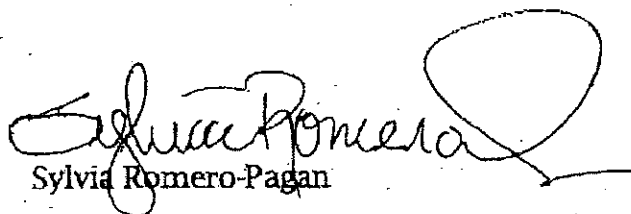
peers as being incompetent in my job. More recently, Mr. Moser bullied me in to working at the center without taking lunch. He forced me to stay because he said he had not authorized for me to work during lunch and therefore could not leave early. Mr. Moser also said to expect to work the front desk even at a last minute notice going forward, I mention this because this is a duty that is not part of my job description however, I have done it in the past to help out. Note that this incident was reported to his supervisor as well UCSF Management. Please be aware that I also disclosed the incident to the Avon Medical Director and she had requested Mr. Moser schedule a meeting with me and my Supervisor for further discussion. Please be aware that as of today he has yet to follow-up on this request.

Equally important, I, as well as the other Patient Navigators have been instructed NOT call on Mr. Moser should problems with patients arise. Instead, his instructions are to inform the Lead Technician so that she can handle all patients concerns and/or complaints. This decision was made late year shortly after Mr. Moser was informed that we had patient complaints due to schedule backups. Mr. Moser's solution was to have all of the patients be taken to the women's dressing room under the impression that they would be seen sooner if they were asked to change and wait in the waiting room. He also requested that Navigators deter patients from speaking to each other to avoid them from having discussions about their wait times. Mr. Moser also requested that patients be asked to remain sited inside the small changing stalls to further deter patient communication. When the concern about patient's rights was brought to the Lead Technician's attention, she advised to restrain from bringing patients all at once in to the dressing room as this would add stress to the patients, Mr. Moser was not very pleased with the recommendation.

As a Patient Navigator, the most important responsibility I have is to advocate on behalf of our patients who are struggling with language and financial barriers and ensure they receive the best medical attention SFGH has to offer. Therefore, it is extremely disconcerting to have the Avon supervisor show lack of compassion and respect for women whom are faced with the very real possibility of being diagnosed with breast cancer. In my humble opinion, this defeats the purpose and goal of the SFGH-Avon Comprehensive Breast Center and the hard work it has done thus far to establish itself as a leader within the San Francisco community.

Please know that my decision to come forward with this information has not been an easy one by any means. At this time I am in great fear of retaliation and of losing my job. However, I am coming forth with this information for the betterment of patient and employee rights at the Avon center. Therefore, I ask that you please look into this matter closely and take appropriate disciplinary action against Mr. Moser. Please contact me should any questions. You can reach me on my cell phone at (415) 740-7232.

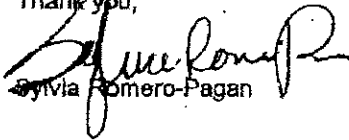
Thank you for your time to and prompt attention to matter.


Sylvia Romero-Pagan

This is a copy of my e-mail I sent to management. Please note that SFGH management requested that I ask Mr. Moser to meet once more to try and resolve on my own. I did as requested with not better results. I have yet to know if this matter was ever brought to Mr. Moser's attention or whether any disciplinary action was taken, as management has failed to follow-up with me.

Again please feel free to discuss this further.

Thank you,


Sylvia Romero-Pagan

Hi Fern,

I am sending you this e-mail to inform you of recent incidents that involve Brian Moser at the Avon Breast Center.

On Monday, August 22 at 1:15 pm, 15 minutes prior to my normal lunch hour, I was approached by Nancy Toscano, Lead Technologist to provide language assistance to a Spanish speaking patient whom was scheduled for a Fine Needle Aspiration biopsy at 1:30pm. I did as requested and remained with the patient until the patient physically left the building at 2:45pm. Upon returning to the reception area, I was informed by the front desk staff that there was a back up with Spanish and English speaking patients that required assistance filling out the SFMR forms. I then proceed to assist the patients until 3:30pm.

At approximately 3:45pm I was approached by Mary McGinty, second Lead Technologist, to cover the front desk due to Randy Wong, Avon Clerk, being out for the day. I responded by saying that I could not stay later due to the fact that I had not had lunch. I also added that management and/or Lead Technologists should have made prior coverage arrangements earlier in the day to ensure staff availability for front desk coverage.

A few minutes later I was approached by Brian and was asked to confirm I had told Mary that I was not going to cover the front desk, I responded yes, and again mentioned that it had to do with the fact that I had not taking lunch. I also mentioned the lack of communication in addressing and disclosing the center's staffing problem earlier in the day so that I may have tried to rearrange my schedule accordingly in the event I was to cover the front desk. Brian became agitated and said in rude manner that he did like me complaining or questioning his managing style and that he takes offense to that and that he did not have to confirm everything with me. Finally, he said that working during lunch was not an excuse for not to covering the front because I should have gotten prior approval by him or a Lead Technologist to do so; and that his only concern was that his center needed front desk cover that afternoon and that I had to stay as he did not want to have to pay for overtime to have another clerk brought in from the main Radiology Department. Brian also said that going forward, I should expect to cover the front desk; even at a short notice time. Needless to say I felt cornered and bullied in having to covering the front desk and assigned a new role with no further discussions with you or anyone else for that matter.

I also wanted want to point out that in the past I, and the rest of the Navigators, have graciously volunteered to step-in to help cover the front desk without hesitations. However, the requests have now become assumptions. For the record, I had approached Brian on Thursday, August 17th to try and discuss the matter however; when I tried to approach him he basically stared at me said "tomorrow". The following day I waited for him take the time to speak with me

but he never did. I also mentioned this to him during our discussion and he responded by saying that it was my fault for not being clear enough when I approached him.

Again, I'm asking for clarity and support with my role as a Navigator at the Avon Center as I now feel it is affecting my work and feel afraid of continued to be bullied by Brian and losing my job if I do not comply. Note that I have included Judy and Shermineh as they are also aware of my request for clarity in my role as Navigator and therefore would like have input from them about the situation.

Thank your attention and assistance with this matter.

-Sylvia

Attachment 13

Interview of Marla Armstrong
Notes prepared by Zachary Williams, DPH EEO

Marla Armstrong was employed with the City until August 2011. She claimed that she had resigned from her position because of the stressful work environment after Brian Moser became the supervisor. In her written statement and interview, she acknowledged that she has not witnessed any of Mr. Moser's comments toward Complainant or anyone else. However, she claimed that she has seen Complainant and other female staff crying after speaking with Mr. Moser.

Ms. Armstrong added that Mr. Moser is always questioning whether the staff can perform their job. She cited an incident that she heard about in which Mr. Moser told Loleta Carpenter (Van driver for Avon Center) that she is "mentally challenged."

Marla Armstrong – November 8, 2011
Notes prepared by Zachary Williams, DPH EEO

[No longer works in San Francisco General – left in August 2011 – traveling employee]

EE believes that Brian Moser is insulting and unappreciative of female employees.

EE stated that Moser told a coworker (Lolita Carpenter) that she is mentally challenged.

EE stated that Moser accused her of being racially biased.

EE claimed that Moser has left other employees in tears – he always questions whether they can do their jobs.

Why did she feel that female employees were treated differently or harassed? – “general feeling”
EE compared interactions at work to when women interact with mechanics – “women don’t know anything.”

How is relationship between Moser and sole male employee (Ricky)? Does Moser treat Ricky better? – “Don’t know.”

Interview of Marla Armstrong
Notes prepared by Zachary Williams, DPH EEO

On November 8, 2011, I conducted an interview of Marla Armstrong by telephone. I interviewed Ms. Armstrong because she gave Complainant a written statement which Complainant then faxed to DPH EEO to support her complaint. Complainant also repeatedly asked that I interview her. However, Complainant could not articulate why Ms. Armstrong would be witness to the alleged comments or would have firsthand knowledge.

Marla Armstrong stated that she was working as a mammographer at the Avon Center until August 2011. She advised me that she was employed as a registry employee, an employee that works under temporary contracts with hospitals throughout the country. She stated that she left her job at the Avon Center because of the hostile work environment under Brian Moser. She is now employed in Arizona.

Ms. Armstrong acknowledged that she had not witnessed or heard that Mr. Moser had made the alleged statements. Instead, she claimed that Mr. Moser was "insulting and unappreciative of the female techs." When I asked Ms. Armstrong to elaborate, she stated that she had heard a rumor that Mr. Moser told Loleta Carpenter that she was "mentally challenged." Ms. Armstrong further stated that Mr. Moser is "always questioning if we can do the job." She stated that she has seen some employees in tears after speaking with Mr. Moser, but could not provide any details such names, etc. When I asked Ms. Carpenter to again explain why she believe that Mr. Moser treated female staff differently, she stated, "general feeling...like when you go to a mechanic and the mechanic thinks that women don't know anything."

10-31-11

To: Zachary Williams

FAX # (415) 554-2594

From: Mandana Siyadat

FAX #



5 Pages including the cover

October 18, 2011

To Whom It May Concern,

This is in regards to some of the experiences I had after Brian Moser became Supervisor at the Avon Breast Center.

On 12-23-10 he came back at 4:40 p.m. to check that I had not left early on the Holiday weekend. I had not given him any reason to think that I would cheat on my time. Not to mention that I had to go into the main hospital and have a charge tech document the time I sign out.

Everything that went wrong on the Van was the technologist's/my error. In reality it was the UPS that needed to be replaced. After the battery was replaced these issues disappeared. There were artifacts on the images which it was discovered were caused by the digital detector and not the Technologist. There were also issues regarding the electric generator. I actually heard -

2.

Mr. Moser talking to probably a service engineer asking if whichever issue was being discussed at that time was technologist error.

An artifact that was seen on a Hologic exam was brought to my attention as though it were a case that I had performed on the Van. In actuality it was a case that had been done in Hologic Room 2 by another tech. This information is readily available had it been investigated before approaching me.

On 6-30-11 asked if I had installed any of the power strips on 6-24-11 because CareStream was not working in Room 2 (we had powered down the x-ray rooms in prep for installation of new rooms and moving of the Van to outside the Avon building). I had nothing to do with the installation of any of the power strips. To my knowledge I was the only tech approached with this question.

He approached Mandana Siyadat in the work room in front of several co-workers including myself and told her not to do

3.

or help Mary McGinty with any of the Q.C. Ciandana was the Lead Mammography Tech at that time and was assigned responsibility to do and perform QC as per MQSA regulations. This was probably a conversation that should have happened not in a public venue.

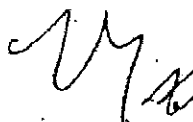
7-2-11 Mary McGinty approached me as I was entering the building to start my work day and asked if I had an annual drug screen. Evidently Mr. Moser had asked her to get this information as it was needed by the Joint Commission. If this were true Mr. Moser could have approached me before he left the day before or he could have contacted Medical Contracting Services in Dallas, TX as soon as he arrived at work that day as they are two hours ahead of California time.

○ After Mr. Moser became supervisor myself and others found the work environment became unpleasant, uncomfortable and hostile.

4.

I know he has made unpleasant and hostile remarks to several of my co-workers but I was not directly a witness to his remarks. Although I did witness the effects on my co-workers them being either insulted or crying or both.

Sincerely



Marla Armstrong

Attachment 14

Interview of Hillary Bunlert

Notes prepared by Zachary Williams, DPH EEO

Hillary Bunlert is employed by UCSF as an Administrative Assistant III. She is assigned to the Avon Center. Ms. Bunlert acknowledged that she has not witnessed any of the incidents described by Complainant. Nor does she have any knowledge pertaining to Mr. Moser's decisions regarding Complainant's duties and assignments.

Ms. Bunlert stated that Brian Moser interacts with the exclusively female Avon staff differently than he does with male individuals. She stated that he is dismissive of the female staff and tends to physically stand over them when giving instruction. She added that he tries to establish a rapport with men by acting "buddy-buddy" with them.

Ms. Bunlert claimed that Brian Moser frequently makes jokes and comments about employees such as the "the hot-headed Mexican ladies" at the front desk. She further stated that she heard him call Dr. Lori Strachowski a "bitch" after walking away from a disagreement with her. Ms. Bunlert does not know if Dr. Strachowski heard Mr. Moser's comment.

Interview of Hilary Bunlert
Notes prepared by Zachary Williams, DPH EEO

On November 2, 2011, I conducted an interview of Hilary Bunlert by telephone. I interviewed Ms. Bunlert because Complainant repeatedly asked that I interview her. However, Complainant could not articulate why Ms. Romero-Pagan would be witness to the alleged comments or would have firsthand knowledge.

Hilary Bunlert advised me that she is employed by UCSF as an Administrative Assistant III. She is assigned to the Avon Center. Ms. Bunlert acknowledged that she has not witnessed any of the incidents described by Complainant. Nor does she have any knowledge pertaining to Mr. Moser's decisions regarding Complainant's duties and assignments. She stated that "can't speak directly for Mandana." She believes that "Mandana was pushed out because she wasn't compliant with his [Mr. Moser's] instructions." However, Ms. Bunlert stated that Brian Moser interacts with the exclusively female Avon staff differently than he does with male individuals. She stated that he is dismissive of the female staff and tends to physically stand over them when giving instruction. She added that he tries to establish a rapport with men by acting "buddy-buddy" with them.

Ms. Bunlert claimed that Brian Moser frequently makes jokes and comments about employees such as the "the hot-headed Mexican ladies" at the front desk. She further stated that she heard him call Dr. Lori Strachowski a "bitch" after walking away from a disagreement with her. Ms. Bunlert does not know if Dr. Strachowski heard Mr. Moser's comment. Ms. Bunlert advised me that she "tried to correct his behavior and told him that's not ok." She stated that Mr. Moser then avoided her.

Hillary Bunlert – November 2, 2011

UCSF

Notes prepared by Zachary Williams, DPH EEO

Workplace is exclusively female.

Why is the harassment gender-based?

- Difficult to compare to others because most employees are female
- “Moser treats women differently, sexist”
- EE can’t speak directly for Mandana
- Moser is dismissive
- Moser sometimes stands over staff when giving instructions
- “Moser is buddy-buddy with men, trying to establish rapport with them” but with women “he tells them what to do”
- EE questions why he took the job
- EE believes that Moser could care less about women’s health
- EE stated that Moser called the female Medical Director a bitch when he was walking away from her after an argument about his performance
- EE stated that she has spoken to the Medical Director about Moser’s managerial style

EE stated that she was careful not to discuss Mandana with Moser because she did not want to be involved – remarked that Moser can be “vindictive”

EE stated that Moser routinely “throws comments off the cuff, in a joking way” soon after he started

Per EE, Moser says that some coworkers are “hot-headed Mexican ladies.”

EE advised Moser that the comments are “not ok”

EE later told Moser that he is disrespectful

EE has now limited his interactions with Moser and he avoids her

EE believes that “Mandana was pushed out because she is not compliant.” EE “doesn’t know if it’s about her [category], but more about an unfair abuse of power”

EE stated that she at first tried to correct his behavior since she knew he is from Queens, NY

Attachment 15

Interview of Mary McGinty
Notes prepared by Zachary Williams, DPH EEO

On September 7, 2012, I interviewed Mary McGinty (Caucasian female) because Complainant alleged that Mr. Moser reassigned her supervisory responsibilities as the Charge Tech to Ms. McGinty. The interview lasted for approximately one hour.

Mary McGinty is a full-time 2468 Diagnostic Imaging Technologist II. She stated that she has been employed with DPH since 2001. She has been assigned to the Avon Center since it opened in 2004. She stated that did not meet Brian Moser until January 2011 when she returned from medical leave due to a motorcycle accident.

At the beginning of the interview, Mary McGinty stated that she was unaware that Complainant had filed a complaint. She stated that she doesn't have any problems with Complainant but immediately advised me that she is not surprised that Complainant had filed a complaint. Ms. McGinty recalled hearing Complainant proclaim, "If they hire an outsider, I will run them out!" Ms. McGinty could only recall that Complainant made this statement before Mr. Moser was hired. She stated that Complainant and the previous Supervisor, Theresa McGinley, had worked together for 20-30 years and got along very well. Ms. McGinty claimed that Ms. McGinley permitted Complainant to "come and go as she pleases." She further stated, "They would disappear for long periods of time." Ms. McGinty also remarked that "it would have been hard for her [Complainant] not matter who was hired."

Ms. McGinty stated that she has never witnessed or heard that Mr. Moser made the alleged the comments to Complainant. Similarly, she stated that she has never heard him make comments or jokes of a similar nature to anyone. She added, "He doesn't even talk about her [Complainant]."

I asked Ms. McGinty if and when she first noticed that Mr. Moser and Complainant did not get along. She stated that it may have been when Mr. Moser asked her if she knew how to do the QC. According to Ms. McGinty, "Mandana was later ranting when she saw me doing QC but her anger wasn't directed at me." Ms. McGinty recalled that Complainant said, "I don't know why he has you doing QC!" She advised me that Mr. Moser didn't tell her why he had her perform the QC. I asked her if she was licensed to perform the QC. She explained that all technologists are licensed with the State to perform the QC, as the State's exam covers QC procedures. She further stated that although Complainant was registered with the State as the lead technologist, the Department must also have a registered backup technologist to perform the QC.

Ms. McGinty acknowledged that Mr. Moser assigned her to act as the Charge Tech. She recalls that he may have made the assignment in July 2011 because that is around the time that he may have asked her to perform the QC. She also recalled that Nancy Toscano and Complainant were splitting the daily assignment for the Charge Tech role each week. Ms. McGinty advised me that Mr. Moser never explained his reason for changing the assignments on Thursday and Friday. She recalls that Mr. Moser only told her that she will be in charge on Thursdays while Shari Zinn will be in charge on Fridays. She stated that he also told her that he initially wanted her to be in charge on both Thursday and Friday, but allowed Ms. Zinn to have Fridays because "she wanted

to try it out." Ms. McGinty advised me that Ms. Zinn was in charge on Fridays for 4-6 weeks. Mr. Moser then assigned the Fridays to Ms. McGinty.

At this point in the interview, she stated, "I find it strange that Mandana didn't mention that Shari was also in charge. It seems personal because she didn't focus on Shari but just focused on me." Ms. McGinty stated that Mr. Moser's decision surprised her and everyone else. She stated, "No one sat us down. All of a sudden Mandana was also working inside [Main Radiology] and had to do patients when she was at Avon." She stated that Complainant never directly approached her about the assignment changes. She stated that she could feel that Complainant was "riled up."

I asked Ms. McGinty if Mr. Moser provided her with training prior to assigning her the supervisory responsibilities. She stated, "No, but I've acted as the Charge Tech in the past when other Charge Techs were on leave." I asked her to describe if she had more seniority than other technologists and if that may have been a factor in Mr. Moser's decision. In response, she stated, "I don't have the most experience. But I'm assuming it's because a lot of people like Cora [Andaya] and Yvonne [Whitlock] don't want to be in charge." Additionally, she acknowledged that the Department has not compensated her in any way and she is still at the same rate of pay in her Class 2468 position.

I asked Ms. McGinty if technologists know what they need to do when they arrive at work. I also asked her to describe what role she played in issuing assignments. According to Ms. McGinty, she "tracks what people do so they get rotated into different procedures." She then fills out the assignment board so technologists know if they are assigned to a room to perform general mammograms or one for specialized procedures. As the Charge Tech, she also assists with "challenging patients." Ms. McGinty further stated, "Sometimes I will do patients but sometimes not because I'm ordering supplies and solving problems for the Director of Women's Imaging [Dr. Lori Strachowski]."

Finally, I asked Ms. McGinty if she was aware that Mr. Moser claimed that Complainant's mammography totals were below 200. She stated, "Yes." She advised me that when she herself went on maternity leave, she also had to perform 25 supervised mammograms. She acknowledged that to her knowledge, the technologist must put his or her own initials on the MQSA sheet. Ms. McGinty stated, "It's hard to fall behind in your numbers because if you think about it, we get 80 patients per day." However, she stated that Complainant "didn't do a lot of patients in 2010 because she was on leave."

Summary of Documents Reviewed

EXHIBIT E

Summary of Documents Reviewed

Exhibit A

Attachment 1: Letter of Complaint
Attachment 2: Follow-up to Complaint

Exhibit B

Interview Notes from Meetings with Mandana Siyadat

Exhibit C

Charge of Discrimination

Exhibit D

Summary of Investigative Interviews

Exhibit E

Summary of Documents Reviewed

Exhibit F

SFGH Radiology – Tech Productivity Reports for MAM from January 2, 2011 to May 19, 2011

Exhibit G

Attachment 1: U.S. FDA Mammography Quality Standards Act (MQSA) Regulations
Attachment 2: FDA Policy Guidance on the MQSA

Exhibit H

Siyadat Probation Extension Packet

Exhibit I

May 24-25, 2011 Communications from Ibarra and Moser to Abela and Jafarieh re: Siyadat's probation

Exhibit J

June 2011 Schedule Change Documents

Exhibit K

Attachment 1: Emails re: July 12, 2011 training
Attachment 2: Emails re: October 6, 2011 Trainings

Exhibit L

Attachment 1: Siyadat's July 2010 to June 2011 Performance Appraisal
Attachment 2: Siyadat's Rebuttal
Attachment 3: Siyadat's July 2009 to June 2010 Performance Appraisal for Siyadat
Attachment 4: Merck's Notes on Siyadat
Attachment 5: Siyadat's July 2011 to June 2012 Performance Appraisal for Siyadat

- Attachment 1: Tech Productivity Report from January 3, 2009 to January 2, 2011
- Attachment 2: Tech Productivity Report from February 7, 2009 to February 6, 2011
- Attachment 3: Tech Productivity Report from March 7, 2009 to March 6, 2011
- Attachment 4: Tech Productivity Report from April 4, 2009 to April 3, 2011
- Attachment 5: Tech Productivity Report from April 26, 2009 to April 25, 2011
- Attachment 6: Tech Productivity Report from May 2, 2009 to May 1, 2011
- Attachment 7: Tech Productivity Report from May 19, 2009 to May 18, 2011

EXHIBIT F