

CLAIM AGAINST THE CITY OF OAKLAND

Please return the completed form to the Office of the City Attorney, One Frank H. Ogawa Plaza, 6th Floor, Oakland, CA 94612. Additional sheets may be attached as necessary. Enclose a **postage paid envelope** if you require a filing receipt.

received via email 7/17/23
C36380 - LO

1) CLAIMANT'S NAME: Leronne L. Armstrong
2) ADDRESS: [REDACTED] City: Oakland State: CA Zip: [REDACTED]
HOME #: N/A DRIVER'S LICENSE: [REDACTED]
WORK #: N/A SOCIAL SECURITY #: [REDACTED]
CELL #: [REDACTED] COVERED BY MEDICARE? No IF YES, MEDICARE #:
#: N/A DATE OF BIRTH: [REDACTED] OCCUPATION: Police Chief (former)
AUTO INSURANCE NAME AND POLICY # N/A
(if applicable)

3) IF AMOUNT CLAIMED IS LESS THAN \$10,000, AMOUNT OF CLAIM: \$ N/A

(Attach copies of expenses substantiating the basis of computation for the amount being claimed)

IF AMOUNT CLAIMED EXCEEDS \$10,000, WOULD THE CLAIM BE A LIMITED CIVIL CASE (Less than \$25,000)? Yes
No Unsure

4) ADDRESS TO WHICH NOTICES ARE TO BE SENT, IF DIFFERENT FROM LINES 1 & 2:

NAME: William J. Edelman, Esq., Delahunty & Edelman LLP

ADDRESS: 4 Embarcadero Ctr., Suite 1400 City: San Francisco State: CA Zip: 94111

PHONE# (415) 891-6225

5) DATE OF INCIDENT: January 19, 2023 TIME OF INCIDENT: 5:59 p.m.

SPECIFIC LOCATION OF INCIDENT* (Address): 1 Frank H. Ogawa Plaza, Oakland, CA 94612

6) DESCRIBE THE INCIDENT INCLUDING YOUR REASON FOR BELIEVING THE CITY IS LIABLE FOR YOUR DAMAGES: Mayor Sheng Thao and City Administrator Edward Reiskin retaliated against Chief Armstrong by placing him on administrative leave, and ultimately disciplining and terminating him on February 15, 2023, after Chief Armstrong made protected whistleblower complaints about federal Monitor Warshaw, in violation of Labor Code § 1102.5 and Chief Armstrong's First Amendment rights. (See attached for details.)

7) DESCRIBE ALL DAMAGES WHICH YOU BELIEVE YOU HAVE INCURRED AS A RESULT OF THE INCIDENT: Loss of past and future earnings and benefits since the termination, mental anguish, attorneys' fees, lost future earnings potential.

8) NAME(S) OF PUBLIC EMPLOYEE(S) CAUSING THE DAMAGES YOU ARE CLAIMING: Mayor Sheng Thao, City Administrator Edward Reiskin, Interim City Administrator G. Harold Duffey

9) WERE PARAMEDICS CALLED? No

10) IF YOU WENT TO A DOCTOR, LIST THE NAME, ADDRESS & TELEPHONE NUMBER:

N/A Date of

1st Visit: _____ Is there a police report on file? No.

X [Signature]
Signature of Claimant or Representative

X July 17, 2023
Date

****Complete the diagram on the back of this form showing the location of the incident****

Any person who, with the intent to defraud, presents any false or fraudulent claim may be punished by imprisonment or fine or both. Claims must be filed within 6 months of the incident. See Government Code §§ 900 et seq.* (Revised 11/01/18)

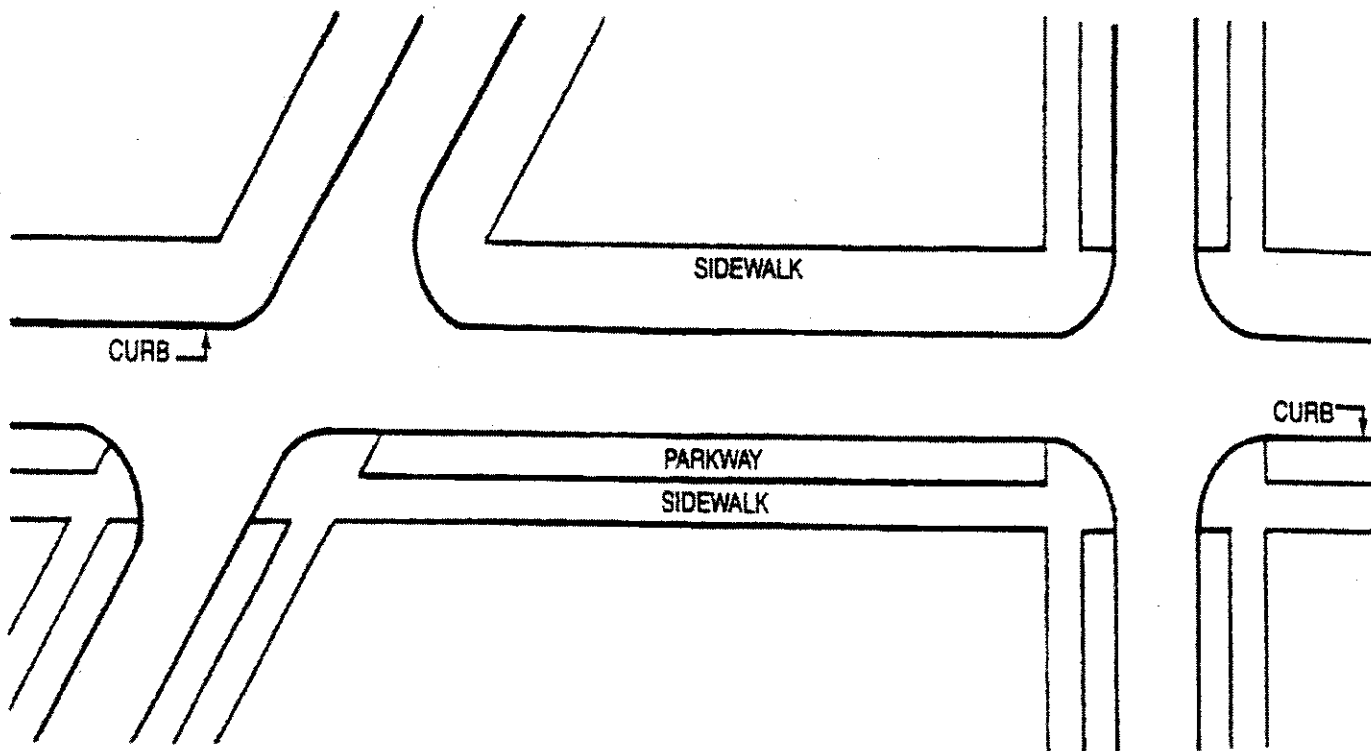
PLEASE READ CAREFULLY

If claim is for injury and you are still under doctor's care, indicate that on the form and submit medical bills to date with status of your condition. If property damage is involved, submit two estimates of repairs or paid invoices to substantiate amount claimed. If the accident involved a vehicle, give the following information:

LICENSE NO.: N/A YEAR/MAKE OF THE VEHICLE: N/A

For all auto accident claims, place on the following diagram the names of streets, including North, East, South and West; indicate the place of the accident by an "X" and by showing house numbers or distances to street corners. If a City vehicle was involved, designate by letter "A" the location of the city vehicle when you first saw it, and by "B" the location of yourself or your vehicle at the time;

If your claim involves some other type of incident, use the diagram below to indicate the location where the incident occurred, showing addresses, landmarks or a photograph if necessary depicting the exact site. Failure to complete the diagram or provide a photo of the site may result in delays in the acceptance of your claim as sufficient according to CA Government Code §§ 900 et seq.



ATTACHMENT TO CLAIM AGAINST THE CITY OF OAKLAND

(Claimant LeRonne L. Armstrong)

Former Oakland Chief of Police LeRonne L. Armstrong (“Armstrong” or “Chief Armstrong”), by and through his attorneys, hereby submits this claim for unlawful retaliation that violated Labor Code § 1102.5 and Chief Armstrong’s First Amendment rights.

I. BACKGROUND

A. Chief Armstrong’s Background

Chief Armstrong worked for the Oakland Police Department for over 20 years. Born and raised in West Oakland, Chief Armstrong started as a patrol officer and rose all the way to the top of the Department, holding a variety of supervisory and specialized roles at the Oakland PD before being sworn-in as Chief in February 2021. He worked hard to earn that position and the trust of the community, bringing impressive credentials and leadership training to the role. For example, he holds a Bachelor’s degree in Criminal Justice as well as a Master’s Degree in Organizational Leadership, and he has attended several highly-selective, well-regarded police leadership training programs including the Police Executive Research Forum (P.E.R.F.) Senior Management Institute for Police Executives, California POST Leadership School, and the FBI National Academy. After assuming the role of Chief in 2021, Armstrong brought his unique background as an African-American and native of Oakland to the significant challenges facing the Oakland Police Department.

B. Oakland’s Federal Monitorship

At the time Armstrong became Chief – and to this day – the Oakland Police Department has long operated under a federal monitorship stemming from a 2003 settlement of a federal civil rights lawsuit alleging systemic police misconduct (the *Allen* case). Specifically, the federal lawsuit resulted in a Negotiated Settlement Agreement (NSA) and later an Amended Memorandum of Understanding (AMOU) setting forth a total of approximately 52 specific “Tasks” that are the focus of federal oversight. The NSA Tasks cover nearly every aspect of policing, including the internal affairs process, integrity tests, use of force, academy and field

training, supervision, detentions/arrests, community policing, and consistency of discipline. Most tasks have numerous requirements that must be implemented and maintained. The Monitor reviews and reports on compliance with each Task and makes a finding of “in compliance,” “out of compliance,” or “partial compliance.” The role of Monitor and Compliance Director has been held by the same federal Court-Appointed individual, Robert Warshaw (“Warshaw,” the “Monitor,” or “Monitor Warshaw”), since 2014, and Warshaw also served as Monitor between 2010 and 2014.

C. Prior Complaints about Monitor Warshaw

Monitor Warshaw’s lengthy tenure in Oakland has been marked by repeated complaints from prior Oakland Police Chiefs that the Monitor has unfairly criticized Oakland police leadership and acted in ways to extend his own lucrative monitorship role. For example, the Chief immediately preceding Chief Armstrong, Chief Kirkpatrick, publicly stated that “[t]he only reason the police department is ‘out of compliance’ [with the NSA] is not because of its officers, policies or procedures. It is because Warshaw wants to keep milking Oakland for money.” *See* <https://www.sfchronicle.com/crime/article/Ouster-of-Oakland-chief-inflames-tensions-over-15101813.php> (referencing similar comments from prior Oakland Police leaders and Warshaw’s reluctance to speak with media in Oakland or Arizona where he also served as monitor for a lengthy period); <https://www.ktvu.com/news/2-former-opd-chiefs-city-councilman-criticize-federal-oversight-of-police-lawsuit-pending> (similar). After Chief Kirkpatrick was terminated as Chief of Oakland PD and she leveled those criticisms at Monitor Warshaw, she sued the City of Oakland for retaliation and a violation of her First Amendment rights. After Chief Kirkpatrick obtained a favorable jury verdict on her retaliation claim, the city of Oakland agreed to settle the case for \$1.5 million. *See* <https://www.kron4.com/news/former-oakland-police-chief-to-receive-1-5-million-settlement/>.¹

¹ To be clear, Chief Kirkpatrick’s retaliation complaint stemmed from her protected activity complaining about misconduct by then-Police-Commissioners, not her complaints about Monitor Warshaw.

D. Chief Armstrong's Termination

On January 18, 2023, U.S. District Judge Orrick ordered the public release of a summary report prepared by an outside law firm reporting to federal monitor Robert Warshaw purporting to investigate whether the Oakland PD had mishandled certain internal investigations. That Summary Report addressed two incidents: (i) the Oakland PD's investigation of a possible hit-and-run by Oakland Police Sergeant Michael Chung at his residence in San Francisco; and (ii) the Oakland PD's investigation of the same Sergeant's later involvement in an incident involving his unreported discharge of a firearm in an elevator of an Oakland PD facility. The Summary report concluded that the Chief should be disciplined for failing to properly supervise the hit-and-run investigation.

Chief Armstrong had a telephone call with Mayor Sheng Thao and City Administrator Edward Reiskin on January 19, 2023. During that telephone call, Chief Armstrong urged the Mayor to wait and gather more information before taking action. The Chief told the Mayor that contrary to the conclusions in the report, the Chief was not actually the problem -- the Monitor was the problem because he was making false accusations that would benefit him by extending his Monitorship, and the real facts would not support the inflammatory conclusions. The Mayor responded during the call, however, that she had spoken with the Monitor and based on her conversation she believed the City had to place him on leave because if she did not, then the Monitor would do so and make the City look bad. Later that same day on January 19, the Mayor placed Chief Armstrong on administrative leave via letter signed by City Administrator Edward Reiskin.

On January 23, 2023, Armstrong responded to the Mayor's decision to put him on administrative leave and publicly asked the Mayor to reinstate him immediately. Specifically, Armstrong made public statements widely reported on by local and national media.² The

² Chief Armstrong's full statements responding to be placed on leave can be reviewed at <https://www.youtube.com/watch?v=V9AfB1zHkYA> (first part); and <https://www.youtube.com/watch?v=-4Gxju0gD7g> (second part).

Mayor was aware of the details of those public statements, as reflected in her later reference to them during her termination of Chief Armstrong (discussed in more detail below), and back-channel communications from the Mayor's office to Chief Armstrong immediately preceding his press conference where the Mayor indicated she knew he was about to be critical of the Monitor but she asked Chief Armstrong not to criticize the Mayor's office.

During his public statements, Armstrong openly criticized Monitor Warshaw, (i) noting that the Monitor's conclusions were plainly inconsistent with the truth and the reports' own recitation of the facts, (ii) stating that the Monitor had a financial motivation to levy such unfair criticisms to extend Oakland's federal oversight and thus his monitorship, and (iii) characterizing the report as "a last ditch effort to destroy the credibility of me, destroy the credibility of this department, and to make the community believe that, again, OPD is involved in some shady business – and that's not what this is." *Id.* first part at 5:49.

Chief Armstrong also received from the City a more detailed confidential report from the Monitor's team purporting to provide the evidence and support for the conclusions in the summary report about the hit-and-run investigation ("Confidential Report 1" or "Hit and Run Report"). Later, the Mayor and Chief received the Monitor's more detailed confidential report regarding the elevator discharge incident and the Oakland PD's investigation of the incident ("Confidential Report 2" or the "Elevator Investigation Report"). Notably, although the Chief was named as a subject officer in the Elevator Investigation Report, the report did not conclude that Chief Armstrong violated any policies in his handling of the incident nor recommend any discipline of the Chief in connection with that investigation. *Id.*³

Reflecting the significant reservoir of trust and good will Armstrong had built with the community through his leadership and accomplishments as Chief, community leaders rallied

³ Prior to his termination, Chief Armstrong never received a third confidential report specific to the Sergeant's responsibility for the elevator discharge incident. The Chief is currently unaware whether the Mayor reviewed or relied on that third report, which Chief Armstrong had no opportunity to review or respond to, prior to Armstrong's termination. Chief Armstrong was not a subject officer in that report and it made no findings regarding Chief Armstrong.

around the Chief. Numerous groups publicly criticized the Mayor for rushing to place Chief Armstrong on leave and called for his immediate reinstatement. *See* <https://oaklandside.org/2023/01/24/chief-leronne-armstrong-large-downtown-rally-naacp/> (noting the presence of the Oakland NAACP, faith leaders, 100 Black Men of the Bay Area, Oakland Chinatown Chamber of Commerce, and others). Those public demonstrations in favor of the Chief were also covered extensively by local media, and included additional public comments by Chief Armstrong critical of Monitor Warshaw. *Id.*; <https://www.ktvu.com/news/naacp-rallies-behind-oakland-police-chief-placed-on-administrative-leave>.

On February 7, 2023, Chief Armstrong (via counsel) sent a letter to the Mayor, cc'ing the Police Commission, detailing why the Summary Report's conclusions were inaccurate and inconsistent with the detailed report and underlying audio recordings regarding the hit-and-run incident (the "Letter"). Chief Armstrong received no response from the Mayor's office. Chief Armstrong's (protected) reports to the Mayor included the press conference discussed above, the Letter, and additional public statements critical of the Monitor directed toward the Mayor and covered by the news media.

On February 9, 2023, the Police Commission announced that it intended to set up a "discipline committee" to look into Chief Armstrong's status on leave and make its own findings about what, if any, discipline would be appropriate in light of the reports issued by the Monitor's team. *See* <https://oaklandside.org/2023/02/10/oakland-police-commission-to-create-a-discipline-committee-in-bid-to-take-control-of-chief-armstrong-case/>. The Police Commission's special discipline committee was scheduled to meet on February 15, 2023 at 8:00 p.m. *See* <https://cao-94612.s3.amazonaws.com/documents/Discipline-Committee-Meeting-2.15.23.pdf>.

On February 15, 2023, at 4:00 p.m. PT, the Mayor held a press conference hours before the Police Commission was scheduled to hold its own meeting to discuss the Chief's status on leave. The Mayor announced that she had decided to terminate Chief Armstrong. Fifteen

minutes before the press conference, the City of Oakland notified Chief Armstrong that he was going to be (i) disciplined and (ii) terminated. Specifically the City notified Chief Armstrong that he was being disciplined with a 30-day suspension for “gross dereliction of duty” and “performance of duty” – the two violations referenced in the Hit and Run Report – while simultaneously being terminated “without cause.” The termination notice was signed by the Mayor.

During her press conference, the Mayor made clear she was terminating Chief Armstrong for accusing Monitor Warshaw of unfairly criticizing the Chief because the Monitor stood to personally benefit from extended oversight. Specifically, the Mayor stated that her decision to terminate Chief Armstrong was based on her opinion that the Oakland Police Department needed to “welcome opportunities for improvement rather than immediately rejecting criticism.” <https://www.youtube.com/watch?v=W5nP35DmsDA> at 1:10. The Mayor further elaborated the “Chief Armstrong made a number of statements that troubled me.” *Id.* at 1:50. She criticized Chief Armstrong for disagreeing with the Monitor’s Summary Report’s conclusions. *Id.* Without any analysis of the underlying facts or reasoned discussion of the details of the relevant investigations, the Mayor continued to fault Chief Armstrong for disagreeing with the Monitor’s conclusions. *Id.* Openly declining to offer any factual justification based on the details of the reports and the Chief’s refutation of the Monitor’s analysis, the Mayor opined that her review of the reports revealed “systemic” problems at the Oakland PD.

Moreover, the Mayor continued to explain that her decision was based on the Monitor’s negative conclusions about the Chief and the fact the federal Judge who appointed the Monitor had noted concern about the contents of the reports overall (though notably, the Judge made no statements about the report’s conclusions about the Chief specifically). Critically, the Mayor explained she was unwilling to employ a Police Chief who disagreed with the Monitor: “We must be confident that our Chief will be effective in making sustainable improvements *that can be recognized by the federal monitor, the federal court, and the people of Oakland.*” *Id.* at 4:00

(emphasis added). Erasing all doubt, the Mayor continued: “It’s an absolute requirement, that my administration, including the Chief of Police, be able to work closely with the Monitoring team . . .” *Id.* at 4:57.

Later that evening, the Police Commission met and issued its own statement responding to the Mayor’s rushed termination of the Chief. <https://cao-94612.s3.amazonaws.com/documents/2.15.23-Police-Commission-Special-Meeting-Minutes.pdf>. In that statement, the Commission noted the Mayor’s decision to preempt the Commission’s process, and issued a “heartfelt farewell to Chief Armstrong,” stating that he had “led the Department through:

- An incredibly challenging pandemic with a huge surge in violent crime;
- Who has brought OPD into compliance with 51 out of 52 of the NSA Tasks;
- Who has brought OPD into Sustainability after 20 years of federal oversight;
- Who has crafted one of the most, if not the most diverse leadership team in the country.”

Id. The Commission further commented on “[t]he questionable quality, sufficiency, and credibility of the outside investigations” that the Mayor relied in in deciding to terminate Chief Armstrong. *Id.* Community leaders again rallied in support of Chief Armstrong and against his termination. *See, e.g.*, <https://abc7news.com/oakland-police-chief-leronne-armstrong-fired-naacp-rally-reinstate-mayor-sheng-thao/12850236/>;
<https://www.postnewsgroup.com/community-leaders-respond-to-the-firing-of-chief-leronne-armstrong-mayor-sheng-thao-is-wrong/>.

II. ARGUMENT

A. The Criticisms of Chief Armstrong’s Performance Were Pretextual

The utter lack of support for the arguments criticizing the Chief show that the Mayor’s stated reasons for questioning the Chief’s judgment about the Police Department were a pretext. Rather, as explained in the following sections, the Mayor’s decision to terminate Chief

Armstrong boiled down to retaliation for Armstrong's statutorily and First-Amendment protected criticisms of Monitor Warshaw.

In his letter to the Mayor, Chief Armstrong laid out in detail why the Monitor's reports concluding he had violated policies were completely devoid of merit and were clearly contradicted by the Monitor's own factual conclusions as well as the Chief's underlying audio-recorded interview statements. Repeating verbatim the Letter's arguments and analysis of the flaws in the Summary Report and Hit and Run Report would be redundant, and Chief Armstrong therefore incorporates the arguments in the Letter (which is in the possession of the City) by reference. At a high-level, however, the Letter made clear that:

- (i) the Hit and Run Report's conclusion that Chief Armstrong's statements were not credible were based on six predicate conclusions, but each of the six predicate conclusions were either contradicted by the report's own factual conclusions or the content of the audio-recorded statements (Letter at 2-6);
- (ii) the Hit and Run Report faulted the Chief for supposedly misstating the reporting structure in the department, for "declining" to show a video of the suspected hit-and-run incident at a disciplinary decision-making meeting, and for "shutting down" questioning at that meeting, but none of those conclusions had factual support (Letter at 6-8);
- (iii) the report's suggestion that the Chief committed misconduct was, to say the least, puzzling in light of the Monitoring team's active participation (without raising objections) in the incidents the report concluded amounted to misconduct (Letter at 8); and
- (iv) the report's analysis of specific Manual of Rules ("MOR") policy violations was fundamentally flawed because it argued that a heading of the MOR that set forth no actual rule was violated, it referenced a "gross dereliction of duty" MOR that does not apply in substance and conspicuously failed to cite the actual (inapplicable) "gross dereliction of duty" MOR, and it accused the Chief of

failing to perform his duties without specifying which duties were at issue
(Letter at 9-10).

The transparently flimsy and illogical nature of the report's findings and conclusions were outlined not only by Chief Armstrong himself, but later by journalists paying close attention to the facts. *E.g.*, <https://www.mercurynews.com/2023/04/01/borenstein-oakland-police-chief-was-unfairly-fired-confidential-reports-show/>.

B. Chief Armstrong's Termination was Retaliatory (Labor Code § 1102.5).

California Labor Code Section 1102.5(b) forbids retaliation if an employee disclosed, or the employer believes he/she disclosed or may disclose, information to those with authority over the employee the employer's "violation or noncompliance," or for providing information to . . . any public body conducting an investigation, hearing, or inquiry, if the employee has reasonable cause to believe that the information discloses a violation of state or federal statute, or a violation of or noncompliance with a local, state, or federal rule or regulation, regardless of whether disclosing the information is part of the employee's job duties." Labor Code § 1102.5(b). "An employee engages in activity protected by the statute when the employee discloses reasonably based suspicions of illegal activity. To have a reasonably based suspicion of illegal activity, the employee must be able to point to some legal foundation for his suspicion—some statute, rule or regulation which may have been violated by the conduct he disclosed." *Ross v. Cnty. of Riverside*, 36 Cal. App. 5th 580, 592 (2019) (internal quotation marks and citations omitted).

Labor Code Section 1102.6 governs how whistleblower claims brought under Section 1102.5 are evaluated and presented. The plaintiff bears the burden to establish, by a preponderance of the evidence, that retaliation was a contributing factor in a challenged employment action. Where this showing is made, the "burden shifts to the employer to demonstrate, by clear and convincing evidence, that it would have taken the action in question for legitimate, independent reasons even had the plaintiff not engaged in protected activity." *Lawson v. PPG Architectural Finishes, Inc.*, 12 Cal. 5th 703, 718 (2022). It is not subject to

reasonable dispute that the Chief suffered an adverse employment action when the Mayor terminated him, so the only remaining questions are whether he engaged in protected activity and whether the termination was retaliatory or made for a legitimate reason.

Chief Armstrong engaged in protected activity when he reported to the Mayor and Police Commission his belief that the Monitor's reports' criticisms of him were so factually baseless and inaccurate that they revealed the Monitor's true motivation was not to engage in good-faith monitoring of Oakland, but to extend his oversight responsibilities for personal gain with the cooperation of Oakland city leadership. Such conduct by the Monitor represents Chief Armstrong's report of a reasonable belief of the Monitor's violation of numerous laws by attempting to misuse the Monitor's official position through false statements for personal gain – and aiding and abetting the same by Oakland leadership. That conduct violated many statutes proscribing bribery, abuse of authority, contempt of court, mail fraud, wire fraud, and honest services fraud (and aiding and abetting/conspiring to do the same), including but not limited to: California Penal Code § 68(a); 18 U.S.C §§ 201, 402, 1341, 1343, 1346; Oakland Municipal Code §§ 2.24.100, 2.25.06.

The Mayor's own statements and the surrounding context preclude the Mayor from showing by clear and convincing evidence that she terminated Chief Armstrong for a legitimate reason. In particular, the Mayor's express statements tying her decision to terminate Chief Armstrong to the Chief's public statements criticizing the Monitor's conduct and conflict of interest establish the retaliatory motive. The rushed nature of the Mayor's decision – acting to preempt the Police Commission's own investigation and to cut-off the growing drumbeat of public support for the Chief – further confirms that the Mayor acted not because of any misconduct by the Chief or concern about his ability to lead effectively, but in retaliation for challenging the Monitor.

C. The City's Termination Violated Chief Armstrong's First Amendment Rights (42 U.S.C. § 1983).

Public employees may not be constitutionally compelled to relinquish their First Amendment rights as private citizens to speak about matters of public concern relating to the operation of their places of employment. *See Pickering v. Board of Ed. of Township High School Dist. 205, Will County, Ill.*, 391 U.S. 563, 568 (1968). Rather, “[t]he First Amendment limits the ability of a public employer to leverage the employment relationship to restrict, incidentally or intentionally, the liberties employees enjoy in their capacities as private citizens.” *Garcetti v. Ceballos*, 547 U.S. 410, 419 (2006). Retaliating against a public employee for the employee’s protected speech is a violation of 42 U.S.C. § 1983.

A five-part test governs retaliation claims: (a) whether plaintiff spoke on a matter of public concern; (b) whether plaintiff spoke as a private citizen or public employee; (c) whether plaintiff’s protected speech was a substantial or motivating factor in the adverse employment action; (d) whether the employer was justified in treating plaintiff differently from members of the general public; and (e) whether the employer would have taken the adverse action even absent the protected speech. *See Eng v. Cooley*, 552 F.3d 1062, 1070 (9th Cir. 2009); *Barone v. City of Springfield, Or.*, 902 F.3d 1091 (9th Cir. 2018).

Here, regarding the first two parts of the test, Chief Armstrong’s statements about the Monitor were matters of public concern because they discussed wrongdoing at highest levels of City management in conjunction with a federally Court-Appointed monitor. The conduct the Chief complained about addressed corrupt acts, self-serving conduct, and violations of law. In sum, the Chief’s speech bore directly on critical issues of governmental mismanagement at the policy level involving an essential public safety agency – they were not mere employment grievances. The Chief’s reports, made while he was on leave, were not offered in the ordinary course of his job duties, which involved managing OPD’s day-to-day operations. Instead, his speech was made in his capacity as a concerned citizen, and involved reports that were necessary to root out public corruption. In addition, The Chief directed his protected speech to the only city personnel potentially capable of standing up to the Monitor’s misconduct by demanding that Oakland’s oversight be fair and backed by evidence and reasonable judgment.

Regarding the fourth part of the test, the Chief's protected speech did not disrupt the City's ability to control its work environment or the relationships between coworkers within OPD; rather, the speech was aimed at protecting the OPD's integrity and the ability of its personnel to continue operating effectively. Nor did the Chief's speech impair his ability to perform his job duties or obstruct OPD's routine operations – again, the exact opposite is true. The remaining parts of the test overlap with the analysis under § 1102.5, and Chief Armstrong has established those for the reasons discussed in the previous section.

* * *

Statutory requirements:

Late Claim Explanation:

N/A because this claim is not late. The first instance of retaliation occurred on January 19, 2023, less than six months before the date of this claim. Additional retaliation occurred on February 15, 2023, less than six months before the date of this claim.

Specific Damage or Injury Description:

See form (loss of past and future earnings and benefits since the termination, mental anguish, attorneys' fees, lost future earnings potential).

Circumstances that Led to Damage or Injury

See Background section above.

Reason the City is Liable

See Argument section above.