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FILED

B MAR 05 2018

SUPERIOR COURT OF CALIFORNIA  
COUNTY OF HUMBOLDT

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SUPERIOR COURT, STATE OF CALIFORNIA  
COUNTY OF HUMBOLDT

DR180139

CHIRSTINA STILLWELL, in individual,  
individually and on behalf of others similarly  
situated.

Plaintiff,

vs.

GARBERVILLE SANITARY DISTRICT; a  
Governmental Special District; and RALPH  
EMERSON, and individual; and DOES 1  
through 25.

Defendants.

Case No.:

**COMPLAINT FOR DAMAGES AND  
EQUITABLE RELIEF**

1. California Labor Code Section 1102.5 (B)
2. PAGA Claim, Ca. Labor Code §§ 2699,  
for Violation of Ca. Labor Code §§  
1102.5.
3. Equitable and Injunctive Relief Pursuant  
to Labor Codes Section 1102.61-1102.62)
4. Defamation

DEMAND FOR JURY TRIAL

COMES NOW, Plaintiff TINA STILLWELL and as and for her complaint herein alleges  
as follows:

1           1.       Plaintiff CHRISTINA STILLWELL is a resident of Garberville, Humboldt  
2 County, California. Beginning in 2009, and at all times relevant hereto, plaintiff was an  
3 employee of the Garberville Sanitary District. Plaintiff also files this action on behalf of other  
4 current and former employees of Defendant pursuant to Labor Code §§ 2698, *et seq.*, of the  
5 Private Attorneys General Act of 2004 (“PAGA”) and California Code of Civil Procedure  
6 §1021.5, seeking penalties, attorneys’ fees, and injunctive relief.

7           2.       Defendant GARBERVILLE SANIATRY DISTRICT (“GSD” or “District”) is,  
8 and at all times relevant hereto was a duly organized Independent Special District of the State of  
9 California, within the meaning of California Government Code §§56044, 17520, 56036, 50075.5  
10 and California Constitution, Article 13C, §1 governed by a five member elected Board of  
11 Directors, with the capacity to sue and be sued. GSD is located in Humboldt County. The GSD  
12 employs, pays compensation for, controls, supervises and directs all personnel of the District,  
13 including its General Manager and Does 1 through 25. All actions, customs, policies and  
14 practices of the District and its agents are the legal responsibility of GSD. At all relevant times,  
15 GSD was responsible for ensuring that the actions, customs, policies and practices of the District,  
16 and its employees and agents, complied with the laws of the State of California. Defendant GSD  
17 is sued in its own right and on the basis of respondent superior for the acts of its supervisory  
18 personnel, and members of its Board of Directors, sued herein as Does 1 through 25.

19           3.       Defendant RALPH EMERSON (“EMERSON”), at all relevant times, herein was  
20 employed by GSD as its General Manager and reported directly to the Board of Directors.  
21 EMERSON was responsible for the day- to-day operations of the District, and for supervising,  
22 directing, controlling, hiring, firing and disciplining GSD employees, all subject to the final  
23 approval of the Board of Directors. EMERSON was responsible for ensuring that necessary and  
24 adequate policies and practices were adopted and implemented by the District to comply with the  
25 laws of the State of California, including without limitation Labor Code Section 1102.5.

26           4.       Plaintiff does not know the true names and capacities of Defendants Does 1  
27 through 25, inclusive, and therefore sues them under fictitious names pursuant to California  
28 Code of Civil Procedure Section 474. Plaintiff is informed and believes that each fictitiously

1 named defendant is responsible in some manner for the acts and occurrences alleged herein, and  
2 that each fictitiously-named defendant is therefore jointly and severally liable to Plaintiff for the  
3 damages suffered by her, as hereinafter set forth. Plaintiff will seek leave of Court to amend this  
4 Complaint when the identities of the fictitiously named defendants are known. Unless otherwise  
5 stated, any mention of, reference to or allegation against any named defendant in a cause of  
6 action stated in this Complaint, is intended to include and apply to all of the fictitiously-named  
7 defendants identified in that cause of action. Plaintiff is informed and believes, and on that basis  
8 alleges that each of the defendants herein, including the fictitiously-named defendants, is and  
9 was at all times referred to herein, the agent, representative and/or employee of one another, and  
10 was acting within the course and scope of said agency, representation and/or employment and  
11 was acting with the knowledge and consent of each of the remaining defendants and under their  
12 direct supervision and control.

13 5. Jurisdiction is proper in the State of California, because it is the location of both  
14 defendants' principal place of business and all of the events, omission and activities regarding  
15 this action occurred within the State of California. Venue is proper in the Superior Court of  
16 California for the County of Humboldt because it is where Defendant GSD has its principal place  
17 of business, and where Plaintiff resides.

#### 18 19 **GENERAL ALLEGATIONS**

20 6. In September 2009 plaintiff was hired by GSD in the capacity of an  
21 Administrative Assistant. Plaintiff's duties and responsibilities included the processing and  
22 handling of rate payments by the customers of the District; providing administrative support to  
23 the General Manager and the Board of Directors; preparing and organizing information packets  
24 for Board members in advance of the meetings of the Board; and processing expense reports and  
25 vendor invoices; including purchase orders made by the General Manager.

26 7. EMERSON was hired by GSD pursuant to contract. At the time of hiring,  
27 EMERSON knew or should have known that plaintiff had been an employee since 2009, that she  
28 had been a resident of Garberville since her childhood, that she was well known in the

1 community and had a reputation for trust and honesty within the community, that the community  
2 of Garberville, is an unincorporated town, that long term members of the community enjoyed the  
3 benefit, burden and responsibility of being well known, valued and evaluated, , that she attended  
4 high school with one of the GSD board members, and that he knew or should have known of the  
5 nature and issues related to their long standing community and personal relationship and  
6 notwithstanding the foregoing engaged in a course of conduct and behavior that violated  
7 Plaintiff's rights.

8 8. During the course of her employment plaintiff generally received excellent  
9 performance reviews and earned a reputation among her peers, members of the public and  
10 members of the Board of Directors as a hard-working, professional, courteous and reliable  
11 employee especially among the general public who were customers of the District and resided in  
12 the community of Garberville.

13 9. Since EMERSON was hired as the General Manager, he frequently harassed  
14 plaintiff and engaged in inappropriate conduct toward her and other employees, including  
15 berating her in front of others, often yelling and becoming irate. On one occasion, EMERSON  
16 stormed into plaintiff's office and work area, locked the office door behind him so that only the  
17 two were in the room, turned off the office lights and angrily reprimanded her based on a false  
18 accusation that she had not timely prepared certain reports she was working on. By this and  
19 similar misconduct, EMERSON violated the District's policies regarding harassment and  
20 creating a hostile work environment. Despite EMERSON's conduct plaintiff continued to do her  
21 job satisfactorily, and throughout most of her employment received only minor letters of  
22 reprimands issued by EMERSON, even those were based in incorrect information.

23 10.. In early 2016, plaintiff learned that EMERSON was working for other entities at  
24 the same time as he was working for GSD Thereafter plaintiff observed and realized that  
25 EMERSON was often absent from the GSD during times when she believed he should have been  
26 working for the District.

27 11. In June 2016, a member of the GSD Board of Directors asked plaintiff how her  
28 work was going. Plaintiff responded she would like an opportunity to talk with her when the

1 Board Member had time. The Board member did not follow up with Plaintiff on her request.  
2 Thereafter, Plaintiff was instructed by EMERSON that she was not to contact or talk with  
3 members of the Board.

4 12. During the course of performing her work, plaintiff came across receipts which  
5 reflected that EMERSON had purchased equipment and supplies from vendors for the District,  
6 but which were to be delivered to another entity by which he was employed. Plaintiff knew that  
7 it was against the GSD policies, rules and regulations to use GSD funds to purchase goods or  
8 services for other entities and which provided no value or benefit to the GSD. Plaintiff asked for  
9 clarification from EMERSON about such transactions; EMERSON directed her to allocate those  
10 invoices to a GSD account. Plaintiff was concerned about that allocation and direction because  
11 she knew the purchased items were not to be used for GSD business.

12 13. In November 2016, the annual audit of the GSD's affairs and business was  
13 commenced. During the course of that audit plaintiff talked with the auditor about her concerns  
14 that EMERSON was working for multiple entities while at the same time he was being  
15 compensated by GSD. Plaintiff also informed the auditor of the improper financial transactions  
16 and showed the auditor the invoices and receipts she had discovered reflecting the misuse of  
17 GSD funds.

18 14. In December 2016, the auditor prepared her report. The auditor included  
19 comments in her audit letter reflecting that her audit had disclosed that EMERSON was engaged  
20 in multiple employment, failed to keep accurate time records reflecting the time he devoted to  
21 GSD and his other employment, and had engaged in other improper conduct and  
22 mismanagement.

23 15. It was the custom and practice of the auditor to circulate a draft of her audit letter  
24 to a committee of the Board of Directors for their comments. On January 30, 2017, after having  
25 reviewed the draft audit letter, EMERSON emailed plaintiff directing her not to have any further  
26 contact with the auditor.

27 16. Plaintiff is informed and believes and, on that basis, alleges that on February 21,  
28 2107, EMERSON drafted a proposed response to the audit letter to be adopted by the Chair of

1 the Board of Directors as her own. In that proposed letter, EMERSON referred to the source of  
2 some of the auditor's noted deficiencies as a "disgruntled employee" referring to plaintiff. In the  
3 final version of the Board's letter in response to the audit such disparaging comments were  
4 omitted. The auditor was also asked to modify her findings and audit letter but declined to do so.

5 17. On January 24, 2017, the GSD Board of Directors adopted for the first time  
6 adopted a Resolution to approve the adoption of a Whistleblower Policy as part of its personnel  
7 policies, fashioned after the California Labor Department's template for such policies under  
8 Labor Code Section 1102.5. That policy post-dated plaintiff's disclosure of the improprieties and  
9 financial malfeasance of EMERSON to the auditor and had never been provided to plaintiff or  
10 any other employee of the District.

11 18. On March 27, 2017, EMERSON issued a letter to plaintiff in which he advised  
12 her of his intent and recommendation to terminate her employment with District. That letter  
13 referred to several stale incidents of alleged poor performance by plaintiff, none of which had  
14 resulted in any disciplinary action. The only recent incident that letter references was an  
15 unfounded allegation made by EMERSON that on February 24, 2017 (3 days after the reference  
16 by EMERSON to plaintiff as a "disgruntled employee"), plaintiff had criticized another  
17 employee's job performance. Plaintiff was immediately placed on administrative leave.

18 19. Plaintiff provided a detailed written response to the claims made in the February  
19 24<sup>th</sup> intent to terminate letter. Notwithstanding plaintiff's response, no independent investigation  
20 into those allegations was made by GSD.

21 20. By letter dated June 5, 2107, plaintiff was informed that her employment with the  
22 GSD was terminated.

23 21. Plaintiff filed a tort claim with respect to this matter on August 11, 2017. The  
24 claim was rejected by GSD on September 7, 2107. This Complaint is timely filed.

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**FIRST CAUSE OF ACTION  
(CALIFORNIA LABOR CODE SECTION 1102.5 (b))**

(Against All Defendants)

22. Plaintiff re-alleges and incorporates by reference as though fully set forth herein the allegations contained in paragraphs 1 through 21 above.

23. This cause of action arises under California Labor Code Section 1102.5(b) which states in pertinent part that “An employer, or any person acting on behalf of the employer, shall not retaliate against an employee for disclosing information, or because the employer believes that the employee disclosed or may disclose information, .... to a person with authority over the employee or another employee who has the authority to investigate, discover, or correct the violation or noncompliance, .... 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.”

24. Defendants failed to develop and implement policies and procedures for prompt and proper investigation of allegations of retaliation against an employee for disclosing information she had reasonable cause to believe that the information disclosed violated a local, state, or federal rule or regulation.

25. The information Plaintiff disclosed as outlined above to the auditor and others, was information which she had reasonable cause to believe constituted misuse and misappropriation of public funds which defendants, and each of them, had a fiduciary duty to safeguard and protect for the sole benefit of the public rate payers and the GSD and which defendants had the fiduciary duty to avoid acquiring a personal interest in.

26. By wrongfully terminating plaintiff’s employment in retaliation for plaintiff performing her ethical and moral duty to report wrongdoing by EMERSON to the District’s auditor and thereby to the Board of Directors, Defendants violated section 1102.5 (b) of the California Labor Code.

27. As a result of Defendants’ retaliatory conduct, plaintiff has suffered and will

1 continue to suffer substantial losses in earnings, health insurance, retirement benefits and other  
2 fringe benefits, and has incurred attorney fees, all to her damage in amounts to be proved at trial.  
3 Plaintiff claims such amounts as damages together with prejudgment interest pursuant to Civil  
4 Code Section 37287 and/or other provisions of law providing for prejudgment interest.

5 28. As a further result of the aforementioned wrongful conduct of defendants,  
6 plaintiff suffered, and continues to suffer, anxiety, humiliation, mental anguish embarrassment,  
7 worry, sleeplessness, emotional distress, loss of reputation, and other incidental damages and  
8 out-of-pocket expenses, all to plaintiff's general damage in amounts to be proven at trial.

9 29. Plaintiff is further entitled to an injunction directing her reinstatement to her  
10 former or equivalent position pursuant to Section 1102.5 *et seq.* of the Labor Code.

11 30. Defendant EMERSON's conduct described herein was despicable, was intended  
12 to cause injury to plaintiff, was carried on by him with a conscious disregard of the rights of  
13 plaintiff, subjected plaintiff to cruel and unjust hardship in disregard of plaintiff's rights, and was  
14 an intentional misrepresentation, deceit, or concealment of a material fact known to defendant  
15 EMERSON with the intention to deprive plaintiff of property, legal rights, or to otherwise cause  
16 injury, such as to constitute malice, oppression or fraud under California Civil Code, Section  
17 3294, thereby entitling plaintiff to punitive damages against individual defendant EMERSON in  
18 an amount appropriate to punish or to set an example of such defendant.

19  
20 **SECOND CAUSE OF ACTION**  
21 **(Individual and Representative Claim via PAGA, California**  
22 **Labor Code §§ 2699, *et seq.*, for Violation of**  
23 **California Labor Code §§ 1102.5, *et seq.*)**

24 (Against Defendant GSD and Does 1 through 25)

25 31. Plaintiff re-alleges and incorporates herein by this reference the allegations in the  
26 paragraphs 1 through 30, as though set forth herein.

27 32. Plaintiff is an aggrieved employee as defined in Labor Code § 2699(a). She  
28 brings this cause on behalf of herself and other current or former employees affected by the  
Labor Code violations alleged in this complaint.



1           33. Defendants have committed the following violations of the California Labor Code  
2 against Plaintiff and, on information and belief, against other current or former employees while  
3 they were and are employed by Defendants:

- 4           a. Defendants violated Labor Code § 1102.5, subdivisions (b) by retaliating  
5 against Plaintiff and other aggrieved employees and agents of the District  
6 because she or they disclosed information that plaintiff and others similarly  
7 situated had reasonable cause to believe such information indicated that the  
8 General Manager had violated State or local rules and regulations or other  
9 laws.
- 10           b. Defendants violated Labor Code section 1102.8 by failing to post and  
11 promulgate notice to employees of their whistleblower rights and  
12 protections.

13           34. Pursuant to Labor Codes Sections 2699(a), *et seq.*, Plaintiff, on behalf of herself  
14 and other similarly situated aggrieved employees, seeks to recover civil penalties, as otherwise  
15 provided by statute, for which Defendants are liable as a result of their violations of the above-  
16 mentioned Labor Code sections in an amount to be proven at trial.

17           35. Plaintiff also seeks injunctive relief ordering Defendants to, among other things,  
18 hire a professional to train its personnel in how to comply with California Labor Code §§ 1102.5  
19 *et seq.*

20           36. On August 15, 2017, plaintiff sent a written notice to Defendant GSD and to the  
21 California Labor and Workforce Development Agency (“LWDA”) giving notice of Defendants’  
22 violations of California Labor Code Section 1102.5 *et seq.*, and plaintiff’s intent to bring a claim  
23 for civil penalties under the Private Attorney General Act, Labor Code Sections 2698 *et seq.*  
24 LWDA failed to issue a notice to plaintiff and defendants of its intent to investigate the  
25 allegations within the time prescribed by statute.

26           37. Plaintiff has complied with the requirements for aggrieved employees to  
27 commence a civil action, pursuant to the Private Attorney General Act. Accordingly, Plaintiff  
28 will prosecute this cause of action to recover civil penalties and other relief against Defendant

1 GSD arising from its violations of the above-mentioned Labor Code provisions. Plaintiff will  
2 seek to recover her attorney fees and costs to which they are entitled under California Labor  
3 Code section 2699.

4  
5 **THIRD CAUSE OF ACTION**  
6 **(For Equitable and Injunctive Relief Pursuant to**  
7 **Labor Codes Section 1102.61-1102.62)**

8  
9 (Against Defendant GSD)

10 38. Plaintiff re-alleges and incorporates herein by this reference the allegations in the  
11 paragraphs 1 through 37, as though set forth herein.

12 39. Plaintiff suffered retaliation in the form of her wrongful termination from  
13 employment because she exercised her rights and protections guaranteed her by Labor Code  
14 Section 1102.5. As a result of the defendant's unlawful conduct, Plaintiff has been deprived of  
15 her living and right to enjoy employment with Defendant GSD and continues to suffer damages  
16 as alleged above. By this cause of action Plaintiff seeks equitable relief in the form of an order  
17 of this court directing her reinstatement to her former or equivalent position and ordering  
18 defendants to cease and desist retaliating or otherwise harassing her in the course of her future  
19 employment.

20 40. Defendants' conduct violated Labor Code Section 1102.5 and Section 1102.8.  
21 Accordingly, pursuant to Labor Code section 1102.61 and 1102.62 plaintiff seeks an appropriate  
22 permanent injunction prohibiting defendant from retaliating against employees who exercise  
23 their rights under Labor Code Section 1102.5 and failing to issue notices to employees, as  
24 mandated by Labor Code section 1102.8 informing them of the whistleblower protections  
25 provided by the foregoing statutes.

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**FOURTH CAUSE OF ACTION  
(Defamation)**

(Against Defendant Ralph Emerson)

41. Plaintiff re-alleges and incorporates herein by this reference the allegations in the paragraphs 1 through 40, as though set forth herein.

42. Plaintiff is informed and believes, and based thereon alleges, that on several occasions since plaintiff reported her concerns to the auditor, that EMERSON published to members of the Board of Directors, representatives of the local media, and others that plaintiff was “a disgruntled employee”, that she was “disruptive” in the workplace, that plaintiff engaged in financial improprieties by giving “refunds or writing off late fees” to rate payers; that she was “unprofessional”, “disorganized”, “incompetent” and not “trustworthy”, or similar words to the same effect, and that she was fired by GSD due to “poor work performance”.

43. The statements reference in paragraph 42 above are false and defamatory. Plaintiff is informed and believes, and based thereon alleges, that those statements were made by defendant EMERSON to third parties with knowledge of their falsity or with reckless disregard of their truth.

44. Defendant EMERSON referred to Plaintiff by name or innuendo and those who heard the statements understood they concerned plaintiff.

45. The foregoing statements were defamatory on their face and defamatory *per se*. Said statements clearly expose Plaintiff to hatred, contempt, ridicule and/or obloquy because they have a tendency to injure plaintiff’s general and professional reputation because they suggest she is untrustworthy, engages in financial improprieties, is unprofessional in her work performance and a poor employee.

46. As a proximate result of the false and defamatory statements referenced above, Plaintiff has suffered, and will continue to suffer, loss of reputation along with shame, mortification, emotional distress and hurt feelings. Plaintiff has suffered and will suffer in the future, general and special damages including but not limited to, lost income and damage to her

1 trade, profession, occupation and future employability, in an amount to be proven at trial.

2 47. The aforementioned wrongful acts of Defendant EMERSON were done  
3 intentionally or with a conscious disregard of Plaintiff's rights, and with the intent to vex, injure  
4 or annoy Plaintiff such as to constitute oppression, fraud, or malice, thus entitling Plaintiff to  
5 exemplary and punitive damages in an amount appropriate to punish or to set an example of  
6 Defendant, and to deter such conduct in the future, in an amount to be proven at trial.

7  
8 **PRAYER FOR RELIEF**

9 WHEREFORE, Plaintiff prays for judgment against Defendants as follows:

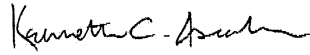
- 10 1. A preliminary injunction and a permanent injunction enjoining Defendants and  
11 their agents, servants, and employees, and all such persons acting under, in  
12 concert with, or for Defendants from continuing to retaliate against employees  
13 who exercise their rights under Labor Code Section 1102.5 *et seq.*;
- 14 2. A preliminary injunction and a permanent injunction enjoining Defendants and  
15 their agents, servants, and employees, and all such persons acting under, in  
16 concert with, or for Defendants from failing to restore plaintiff to active  
17 employment;
- 18 3. For civil penalties, special damages, and general damages in an amount to be  
19 proven at trial;
- 20 4. For punitive damages as allowed by law;
- 21 5. For Loss of income incurred and to be incurred according to proof;
- 22 6. For reasonable attorneys' fees as provided by law including but not limited to  
23 Section 1021.5 of the California Code of Civil Procedure and/or the Private  
24 Attorney General Act;
- 25 7. For costs of suit incurred herein;
- 26 8. For interest provided by law including, but not limited to, California Civil Code §  
27 3291; and
- 28 9. For such other and further relief as the court deems just and proper.

**DEMAND FOR JURY TRIAL**

Plaintiff hereby demands a trial by jury of all issues properly subject to a jury trial.

Dated:

Law Office of Kenneth C. Absalom



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Kenneth C. Absalom  
Attorney for Plaintiff