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8 **SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO**
(Central)
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11 EMILY R. OUTLAW,

12 Plaintiff,

13 vs.

14 SAN DIEGO METROPOLITAN
15 TRANSIT SYSTEM, a California public
agency; and DOES 1 to 20,

16 Defendants.
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CASE NO.

COMPLAINT FOR DAMAGES:

1. **Unlawful Retaliation In Employment (Labor Code §1102.5(b)(c); and**
2. **Unlawful Retaliation In Employment (Government Code §12940(h)).**

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19 Plaintiff Emily R. Outlaw alleges:

20 **NATURE OF THE ACTION**

21 1. This is a case where defendant San Diego Metropolitan Transit System ("MTS"),
22 retaliated against plaintiff Emily R. Outlaw, its Chief Information Officer or CIO, starting on April
23 20, 2023 just months after her direct supervisor, its Chief Executive Officer or CEO, Sharon Cooney,
24 gave Outlaw an "Exceeds Job Requirements" performance review for her work at the MTS in 2021-
25 2022 and rewarded her with a 6.5% raise in salary instead of the then MTS standard raise, 3%.

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1 **PARTIES**

2 7. Outlaw is, and at all relevant times was, a resident of San Diego County, California.

3 8. The MTS is, and at all relevant times was, a duly organized public agency, organized
4 and existing under the laws of California that operates a mass public transit system throughout San
5 Diego County.

6 9. The true names and capacities, whether individual or otherwise, of defendants Does
7 1 through 20, and the facts giving rise to their liability, are unknown to Outlaw, who uses such
8 fictitious names pursuant to CCP §474. Outlaw is informed and believes that each of the Doe
9 defendants is responsible in some manner, either by act or omission, or otherwise, for the
10 occurrences alleged in this complaint, or otherwise caused her damages. Each of the defendants was
11 the agent or employee of the other defendants, and in doing the acts alleged in this complaint, was
12 acting in the course and scope of such agency and employment. Each of the defendants engaged in,
13 joined in, conspired, and aided and abetted the other defendants in carrying out the wrongful acts
14 alleged in this complaint, and each defendant ratified and authorized the wrongful acts of the other
15 defendants.

16 **FIRST CAUSE OF ACTION**
17 **(Unlawful Retaliation In Employment, Labor Code §1102.5(b)(c))**
18 **Against All Defendants)**

19 10. Outlaw realleges paragraphs 1 through 9.

20 11. Outlaw is an Information Technology specialist, leader and top level manager. After
21 graduating from Ohio University in 2002 with a degree in Business Administration with an emphasis
22 on Management of Information Systems or IT, Outlaw worked her way up in virtually every IT
23 related position at various companies. She earned promotions to the top management level in 2008
24 and to the vice-president of IT operations at three companies beginning in 2014.

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1 12. The MTS hired Outlaw as its CIO on September 7, 2021 to lead its IT department.
2 She quickly proved to her direct report, the MTS’s CEO, Cooney, that she had the ability to and did
3 perform all her job functions at a high level. In Outlaw’s first performance review in October 2022
4 for 2021-2022, Cooney graded her overall job performance at 4.28 on a scale of 1 to 5. Cooney then
5 rewarded Outlaw with a raise in salary of 6.5% as opposed to the MTS standard raise of 3%. The
6 2021-2022 performance review showed not only that Outlaw had earned the trust and respect of the
7 MTS’s CEO, Cooney, but also that of the other six members of the MTS’s top management team.
8 She had an excellent working relationship with Cooney from her hiring in September 2021. After
9 the October 2022 performance review, Outlaw’s top-notch work and excellent working relationship
10 with Cooney continued through April 20, 2023. Then things changed.

11 13. Around March 28, 2023, a former public relations employee of the MTS, one Grecia
12 Figueroa, sued the MTS, including of its board members, a San Diego County Supervisor and then
13 State Senate candidate, Nathan Fletcher, for sexual or gender harassment and discrimination and
14 retaliation. The Figueroa lawsuit garnered a huge amount of coverage in the local media, including
15 the Voice of San Diego and the San Diego Union Tribune who queried— what did the MTS know
16 about Figueroa’s claims and when did they know it. The MTS answered in an April 6, 2023 press
17 release that stated the agency did not know about Figueroa’s claims until the day after she filed her
18 lawsuit, March 29, 2023. This press release was false. The MTS, through its Chief Human Resources
19 Officer, Jeff Stumbo, had actually learned about Figueroa’s claims around February 17, 2023 through
20 an email with an attached letter from Figuerora’s lawyer to him. On information and belief, the MTS
21 knew about Figueroa’s sexual or gender harassment and retaliation claims against the MTS and
22 Nathan Fletcher before February 17, 2023.

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1 14. Stumbo claimed he did not see the February 17, 2023 email and letter from Figueroa’s
2 lawyer, saying it must have gone to his “spam folder.” Outlaw and her IT team were tasked by the
3 MTS to investigate the matter to determine if Stumbo’s “spam folder story” was, in fact, correct. On
4 April 20, 2023, just before a MTS board meeting where the Figueroa lawsuit was to be discussed,
5 Outlaw reported the results of the IT investigation to Cooney in the CEO’s office. Outlaw told her
6 the February 17, 2023 email from Figueroa’s lawyer to Stumbo had gone to his spam folder, but that
7 Stumbo had opened and read the email and had forwarded it to the MTS’s outside counsel. Cooney
8 looked stunned and abruptly left her office without any comment, leaving Outlaw alone there.

9 15. On April 3, 2023, as part of the MTS’s investigation of Figueroa’s allegations in her
10 lawsuit, Outlaw was ordered to have her team retrieve the “Jabber” one-on-one instant messages
11 between Figueroa and other persons. Outlaw informed the MTS that she and her team could not do
12 this because the MTS’s provider’s express policies prohibited this and to retrieve these Jabber
13 messages would have required the IT employees to hack into Figueroa’s private communications.
14 So, Outlaw refused to have her IT team try to retrieve the Jabber messages.

15 16. Outlaw engaged in protected whistleblower activity under Labor Code§1102.5(b).
16 She told Cooney on April 20, 2023 that, contrary to the MTS’s April 6, 2023 press release it was
17 unaware of Figueroa’s claims until around March 29, 2023, her IT team’s investigation had revealed
18 that the Chief Human Resources Officer, Stumbo, had read the February 17, 2023 email notifying
19 the MTS about Figueroa’s claims against the MTS and one of its board members, Nathan Fletcher.
20 Through this, Outlaw reported and disclosed to her direct supervisor, the MTS’s CEO, Cooney, what
21 Outlaw reasonably believed was a violation of or non-compliance with a state statute, California’s
22 open and transparent government law, the Brown Act, Government Code§54956 and/or a violation
23 of or non-compliance with a local rule or regulation, MTS Policy 56.1.1.g., a misrepresentation of
24 information in or on the MTS’s documents.

25 17. Outlaw also engaged in protected whistleblower activity under Labor Code§1102.5(c)
26 when she refused to violate state laws against an invasion of a person’s privacy by refusing to hack
27 into or instructing her IT team to hack into Figueroa’s private “Jabber” instant messages.

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1 18. The MTS retaliated against Outlaw for engaging in protected activity and violated
2 Labor Code§1102.5(b)(c) as follows:

3 a. After April 20, 2023, Outlaw’s excellent working relationship with her direct
4 supervisor, the CEO, Cooney, deteriorated. Cooney stopped responding to communications from
5 Outlaw and when the two did interact, Cooney was short, curt, abrasive and rude;

6 b. Cooney lowered Outlaw’s 2021-2022 “Exceeds Job Requirements” grade of 4.68
7 to “Meets Job Requirements” or 2.67 in her 2022-2023 performance review and noted Outlaw
8 needed to improve her job performance in multiple areas;

9 c. Cooney did not give Outlaw a raise for her 2024 salary, not even the MTS’s then
10 standard 4% raise, and;

11 d. From December 8, 2023 through February 13, 2024, the MTS placed Outlaw on
12 paid administrative leave for false and/or pretextual reasons.

13 19. Labor Code§1102.5(b) prohibits any employer from retaliating against an employee
14 for the employee reporting or disclosing information to a person with authority over him or her, or
15 who has the authority to investigate, discover, or correct the violation or noncompliance, or to a law
16 enforcement agency, if the employee has reasonable cause to believe that the information discloses
17 a violation of or noncompliance with a state or federal statute, or a violation of or noncompliance
18 with a local, state, or federal rule or regulation, regardless of whether disclosing the information is
19 part of the employee’s job duties. A report made by an employee of a government agency, such as
20 the MTS, to his or her employer, constitutes a disclosure of information to a government or law
21 enforcement agency. Thus, as alleged in paragraphs 14 and 16, Outlaw engaged in protected activity
22 under Labor Code§1102.5(b).

23 20. Labor Code§1102.5(c) prohibits an employer from retaliating against an employee
24 for the employee refusing to participate in an activity that would result in a violation of or
25 noncompliance with a federal or state statute or local rule or regulation. As alleged in paragraphs 15
26 and 17, Outlaw engaged in protected activity under section 1102.5©.

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e. Any other proper relief.

Date: March 19, 2024

Gilleon Law Firm, APC

James C. Mitchell
James C. Mitchell, Attorneys for Plaintiff
Emily R. Outlaw