

1 IRWIN M. ZALKIN, ESQ. (#89957)
 2 DEVIN M. STOREY, ESQ. (#234271)
 ALEXANDER S. ZALKIN, ESQ. (#280813)
 3 RYAN M. COHEN, ESQ. (#261313)
 The Zalkin Law Firm, P.C.
 4 12555 High Bluff Drive, Suite 301
 San Diego, CA 92130
 Tel: 858-259-3011
 Fax: 858-259-3015
 5 Email: Irwin@zalkin.com
dms@zalkin.com
 6 alex@zalkin.com
ryan@zalkin.com
 7

8 WILLIAM LITVAK, ESQ. (#90533)
 ERIC P. MARKUS, ESQ. (#281971)
 Dapeer, Rosenblit & Litvak, LLP
 9 11500 W. Olympic Blvd., Suite 550
 Los Angeles, CA 90064-1524
 10 Tel: 310-477-5575
 Fax: 310-477-7090
 11 Email: wlitvak@drllaw.com
emarkus@drllaw.com
 12

13 Attorneys for Plaintiff

14 **UNITED STATES DISTRICT COURT**
 15 **NORTHERN DISTRICT OF CALIFORNIA**

16 **HEATHER MARLOWE**, an individual,)

17 Plaintiff,)

18 vs.)

19 **CITY AND COUNTY OF SAN FRANCISCO**, a governmental entity;)
 20 **SUZY LOFTUS**, individually and in her)
 official capacity as President of the San)
 21 Francisco Police Commission; **GREG)
 22 SURH**, individually and in his official)
 capacity as Chief of Police of the San)
 23 Francisco Police Department; **MIKAIL)
 24 ALI**, individually and in his official)
 capacity of Deputy Chief of the San)
 25 Francisco Police Department; **JOE)
 26 CORDES**, individually and in his official)
 capacity as an officer of the San Francisco)
 Police Department; and Does 6 through)
 100, inclusive,)

27 Defendants.)
 28

Case No.: 3:16-cv-00076-MMC

SECOND AMENDED COMPLAINT FOR DAMAGES

- 1. **VIOLATION OF EQUAL PROTECTION, 42 U.S.C. § 1983**
- 2. **VIOLATION OF EQUAL PROTECTION, CALIFORNIA CONSTITUTION ARTICLE 1, § 7**

[DEMAND FOR JURY TRIAL]

Date of Filing: October 21, 2016

NATURE OF ACTION

1
2 1. Plaintiff is an individual who reported her sexual assault to the San Francisco Police
3 Department (“SFPD”). The SFPD failed to investigate diligently the allegations made
4 by Plaintiff, including failing to test Plaintiff’s rape kit for over two years. In or around
5 February 2014, Plaintiff learned that the SFPD further failed to investigate the rape kits
6 of thousands of other victims of sexual assault or otherwise investigate those crimes.
7 The City of San Francisco further failed to divert available resources to the investigation
8 of sexual assaults, choosing instead to utilize those funds to investigate crimes not
9 directly affecting women, such that Plaintiff and, on information and belief, all other
10 women in San Francisco did not and do not feel secure in their person and are forced to
11 reside in a hostile living environment. Plaintiff seeks damages resulting from violations
12 of equal protection under the United States Constitution. In addition, Plaintiff seeks
13 injunctive relief under both the United States Constitution and the California
14 Constitution requiring Defendants to test all “back logged” rape kits, and enjoining
15 Defendants from continuing with their institutional policy of failing and/or refusing to
16 properly investigate sexual assaults and test rape kits.

17 **PARTIES, JURISDICTION AND VENUE**

- 18 2. Plaintiff Heather Marlowe (“Marlowe”) is an individual, and at all times relevant was a
19 citizen and resident of the County of San Francisco, State of California. Marlowe is a
20 woman, and therefore a member of a protected class.
- 21 3. Defendant City and County of San Francisco (“San Francisco”), is a consolidated city-
22 county located in California, and operates the SFPD.
- 23 4. Defendant Suzy Loftus was, at all times relevant, President of the San Francisco Police
24 Commission. As stated on its website (<http://sf-police.org/index.aspx?page=2572>), “The
25 mission of the Police Commission is to set policy for the Police Department...”
- 26 5. Defendant Greg Suhr is, and was at all times relevant, the Chief of Police of the SFPD.
27 Defendant Suhr is responsible for overseeing the entire SFPD.
- 28 6. Defendant Mikail Ali is, and was at all times relevant, Deputy Chief of the SFPD in

1 charge of the Forensic Division, which includes oversight of the SFPD forensic lab.

2 7. Defendant Joe Cordes was at all times relevant, an officer with the SFPD.

3 8. This action is brought pursuant to 42 U.S.C. § 1983, the Constitution of the State of
4 California, and the common law.

5 9. This Court has original jurisdiction over this matter pursuant to 28 U.S.C. § 1331 and §
6 1343, and supplemental jurisdiction pursuant to 28 U.S.C. § 1367.

7 10. Venue is proper in this district, pursuant to 28 U.S.C. § 1391, because the Defendants
8 reside in this district and all wrongful acts and injuries occurred in this district.

9 **ALLEGATIONS OF WRONGFUL CONDUCT**

10 11. On May 16, 2010, Marlowe attended Bay to Breakers, a city-sponsored race, with a
11 group of friends.

12 12. While at Bay to Breakers, Marlowe was handed a beer in a red plastic cup by a male
13 attendee, and Marlowe drank the beer.

14 13. Subsequently, Marlowe began feeling much more inebriated than would have been
15 normal given her moderate alcohol consumption up to that point. Marlowe regained
16 consciousness inside an unfamiliar home approximately 8 hours after she was last seen
17 at Bay to Breakers. Marlowe was physically injured, experienced vaginal and pelvic
18 pain, was nauseous and vomited several times, was dazed, confused, and had no memory
19 of what had occurred in the house.

20 14. Marlowe asked a man sitting in the bed with her what had happened. The man told
21 Marlowe, “we had sex.” At this point, Marlowe realized that she had been drugged and
22 raped.

23 15. After gathering herself, Marlowe went to the nearest emergency room and contacted
24 SFPD. SFPD arrived thereafter, and drove Marlowe to San Francisco General Hospital
25 (“Hospital”).

26 16. While at Hospital, Marlowe underwent a “rape kit” procedure performed by a Sexual
27 Assault Nurse Examiner (“SANE”) nurse.

28 17. The SANE nurse collected biological material from several parts of Marlowe’s body.

- 1 18. At the end of the “rape kit” examination, Marlowe was assured by Hospital and SFPD
2 that the results would be processed, and the results would be returned to her within
3 fourteen (14) to sixty (60) days.
- 4 19. Around May 17, 2010, Marlowe returned to the neighborhood where she believed the
5 house was located in which the rape occurred. She recognized what she believed to be
6 the house in which it occurred, and immediately called Officer Joe Cordes of the SFPD.
- 7 20. Around May 24, 2010, Marlowe met Cordes at the house that she had identified. They
8 knocked on the door and a man answered. Cordes demanded that Marlowe enter the
9 home while Cordes distracted the owner to see if Marlowe could identify the home as
10 the scene of her rape.
- 11 21. Cordes’ actions contributed to and increased the risk of harm to Marlowe, as well as
12 changed the risk of harm that otherwise existed. Marlowe was terrified that she would
13 encounter her rapist inside the home with no protection from Cordes or any other officer
14 of the SFPD.
- 15 22. As Marlowe searched the home, the homeowner repeatedly yelled at Marlowe and
16 Cordes that Cordes had no search warrant.
- 17 23. Marlowe could not reasonably identify the home as the location of her rape.
- 18 24. Around May 25, 2010, Marlowe searched google for what she believed was the name of
19 her rapist. She found a picture of a man that resembled what she could remember of her
20 rapist (“Suspect”). Marlowe informed Cordes of this new information.
- 21 25. Around May 27, 2010, Marlowe met Cordes at the police station. Cordes instructed
22 Marlowe to make contact with Suspect, and flirt with him in order to elicit a confession
23 that Suspect had indeed raped Marlowe. Cordes also instructed Marlowe to set up a date
24 with Suspect to prove that Marlowe could identify Suspect in a crowd. Cordes told
25 Marlowe that if she refused to engage in these actions, SFPD would cease its
26 investigation of her rape.
- 27 26. Around June 8, 2010, Marlowe again met with Cordes at the police station to clarify
28 what Cordes wanted Marlowe to do. At this time, Cordes strongly discouraged Marlowe

1 from further pursuing her case, indicating that it was too much work for the SFPD to
2 investigate and prosecute a rape in which alcohol was involved.

3 27. Nonetheless, Marlowe continued to pursue the investigation. Marlowe created an alias
4 and began communicating with Suspect. Marlowe purchased a disposable mobile phone
5 in order to text with Suspect, without revealing her true phone number. Eventually,
6 Marlowe set up a “date” with Suspect, as required by Cordes. Suspect canceled the
7 “date” and subsequently cancelled a second “date” that the two had set up.

8 28. Marlowe then contacted SFPD and informed them that she refused to continue to
9 privately investigate her case. In response, SFPD informed Marlowe that they had
10 brought Suspect in for questioning and had obtained a DNA sample from him.

11 29. Marlowe was also told that Suspect’s DNA was sent to the lab for processing, and that
12 the results of her “rape kit” should be available “any day now.”

13 30. Marlowe contacted SFPD on December 14, 2010 to request an update on the processing
14 of her rape kit. On December 15, 2010, Marlowe received a call back from Officer
15 Hutchings, informing Marlowe that neither her rape kit, nor Suspect’s DNA had yet
16 been processed. Hutchings told Marlowe to call back in six months to check if her rape
17 kit, and Suspect’s DNA had been processed.

18 31. On or about May 15th, 2011, Marlowe contacted SFPD to follow up on the status of her
19 rape kit processing. Marlowe was told that because there was such a “backlog” at the lab
20 of more “important crimes” that it could substantially more time until the processing of
21 her rape kit. She was told that Suspect’s DNA may also be in a different lab, but that
22 SFPD did not know the exact the location of Suspect’s DNA. Marlowe was told to keep
23 “following up,” and that eventually the “rape kit” would be processed.

24 32. On or about December 2011, Marlowe contacted SFPD. Marlowe was again told that
25 the lab was backed up but that they will eventually get the rape kit processed. Marlowe
26 was also told that SFPD was having trouble locating Suspect’s DNA could not be
27 located by SFPD.

28 33. Around August 28, 2012, Marlowe went to the SFPD station to follow up on the status

1 of her rape kit. Marlowe was told that due to the passage of time, her case was
2 considered “inactive” and was placed in a storage facility. SFPD also told Marlowe that
3 because she was “a woman,” “weighs less than men,” and has her “menstruations,” that
4 Marlowe should not have been out partying with the rest of the city on the day she was
5 drugged, kidnapped, and forcibly raped.

6 34. Despite these comments, Marlowe asked SFPD to retrieve her case from storage. SFPD
7 again told Marlowe to follow up in six months.

8 35. Around September 25, 2012, Marlowe reached out to a third party, well connected
9 woman (“Woman”) who had seen a performance written and performed by Marlowe
10 about her experience with the SFPD’s investigation of her rape. Woman connected
11 Marlowe with a person at Victim’s Services, an entity affiliated with SFPD.

12 36. After several attempts Marlowe was unable to connect with this Victim’s services
13 representative. Woman then offered to reach out to California Attorney General Kamala
14 Harris and San Francisco Police Commissioner Suzy Loftus to get Marlowe’s rape kit
15 tested.

16 37. On October 18, 2012, Loftus informed Marlowe that her rape kit had been sent to the lab
17 to be processed.

18 38. On October 20, 2012, SFPD informed Marlowe that her rape kit was tested and placed in
19 their DNA database known as CODIS. SFPD knew at that time that they had not tested
20 thousands of rape kits and that there were serious problems and irregularities with the
21 rape kits that had been tested. SFPD did not at any time inform Marlowe of these facts
22 known to them.

23 39. In November 2012, Marlowe learned of a national epidemic of law enforcement
24 agencies failing to process thousands of rape kits nationwide. Marlowe attempted to
25 contact Loftus to determine whether the SFPD suffered from the same failures as well as
26 SFPD’s procedures for processing rape kits, but Loftus never responded.

27 40. Subsequently, Loftus invited Marlowe to speak about her experience at a City Police
28 Commissioner’s meeting.

- 1 41. On May 8, 2013, at the City Commissioner's meeting, city representatives gave a
2 glowing review of the SFPD lab and represented to Marlowe and the public that every
3 rape kit in its possession had been processed, and that there was no backlog of untested
4 rape kits.
- 5 42. Due to pressure by the media at the meeting, SFPD promised to perform an audit to
6 substantiate their claims that there was no backlog of rape kits, and that all rape kits had
7 been processed.
- 8 43. On January 14, 2014, Marlowe filed a Citizen's Complaint with Defendant San
9 Francisco.
- 10 44. Around February 20, 2014, SFPD announced the results of their audit. SFPD admitted
11 that they were in possession of several thousand untested rape kits. This was the first
12 time Marlowe learned of the substantial nature of the problem in San Francisco,
13 specifically.
- 14 45. On December 10, 2014, SFPD issued a press release stating that SFPD would only be
15 testing 753 of the several thousand untested rape kits it had identified in its audit.
- 16 46. Around March 28, 2015, Marlowe read an article in the San Francisco Chronicle that
17 outlined several ways in which the SFPD forensic lab was deficient, including but not
18 limited to, "irregularities" in the handling of several pieces of forensic evidence
19 including rape kit evidence, as well as employment and retention of technicians that had
20 failed proficiency tests.
- 21 47. Doubtful that her rape kit had in fact been processed, or processed correctly, Marlowe
22 made a Public Records Request under the Freedom of Information Act. On May 5, 2015
23 Marlowe learned that the results of her rape kit, and any other information pertaining to
24 it, were not "public records" subject to a Freedom of Information Act request.
- 25 48. In July of 2016, for the very first time, Marlowe received *documentation* confirming that
26 her rape kit had, in fact, been processed in 2012, more than two years after her rape but
27 indicating that there were deficiencies with the markers obtained that did not allow for a
28 comparison with either the State of Federal databases of DNA evidence. Since receiving

1 this documentation, Plaintiff has been requesting that SFPD re-test her rape kit or
2 provide her with her rape kit evidence for her to be able to have it re-tested at an
3 independent lab. To date, her requests have been ignored.

4 **SAN FRANCISCO'S POLICIES, PRACTICES AND CUSTOMS**

5 49. Defendant San Francisco had the policy, practice and/or custom of failing to diligently
6 investigate sexual assault allegations. As illustrated by this case, on information and
7 belief, Plaintiff alleges that in no other crime investigation would the law enforcement
8 demand the put themselves in harm's way as part of identifying a victim, discourage the
9 victim from pursuing the investigation simply because alcohol was involved, leave the
10 victim to conduct their own investigation, and allow critical evidence to be ignored for
11 years. According to SFPD's own internal audit, several thousand rape kits, including
12 753 dating back to 2003, in SFPD's possession were not processed as of December 10,
13 2014.

14 50. Defendants failed to:

- 15 a. Assure that evidence was not lost;
- 16 b. Determine if an offense was committed;
- 17 c. Arrange for the timely analysis and evaluation of evidence;
- 18 d. Determine if other crimes may have been committed by the suspect;

19 51. On information and belief, the failure to investigate crimes of sexual assault were
20 consistent with an institutional practice of the SFPD, which was known to and ratified
21 by the City and County of San Francisco and its agents, the Defendant San Francisco
22 having failed to take any effective action to prevent the SFPD police personnel from
23 continuing to engage in such misconduct. The investigation by SFPD in this case and
24 rape cases in general as compared to the investigation of other crimes by SFPD has a
25 discriminatory impact on women insofar as women, according to federal crime statistics,
26 comprise over 90% of sexual assault victims. Defendants' failures and institutional
27 practices further serve to remove the "deterrence effect" diligent police investigation and
28 DNA testing has on would-be sexual assailants.

1 52. On information and belief, Defendant San Francisco had prior notice of the reckless,
2 willful and wanton, deliberate and/or intentional actions of their employees and agents,
3 but took no steps to train them, correct abuses of authority, or discourage the unlawful
4 use of authority. The failure to properly train their employees and agents included the
5 failure to instruct them as officers of the peace and in applicable laws of California.

6 53. On information and belief, Defendant San Francisco authorized, tolerated as institutional
7 practices, and ratified the misconduct above by:

- 8 a. Failing to properly supervise SFPD personnel;
- 9 b. Failing to properly train SFPD personnel;
- 10 c. Failing to properly discipline, restrict, and control employees, including but not
11 limited to, investigating crimes of sexual assault against females;
- 12 d. Failing to take adequate precautions in the hiring, promotion and retention of
13 police personnel;
- 14 e. Failing to protect and ensure evidence is not lost or mishandled;
- 15 f. Failing to establish and/or assure the functioning of a bona fide and meaningful
16 departmental system for dealing with complaints of sexual assault, but instead
17 responding to such complaints with bureaucratic power and official denials
18 calculated to mislead the public; and,
- 19 g. Failing to ensure that sufficient resources and staff were allotted for the
20 investigation of sexual assault cases.

21 54. Defendants Loftus, Suhr and Ali were all individually, and collectively, responsible for
22 creating and perpetuating the policy of failing to promptly and equitably investigate rape
23 cases including insuring the timely testing of rape kits. Defendants failed to adhere to
24 the same standards of care required for the investigation of other crimes when
25 investigating rape complaints.

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28 ///

FIRST CAUSE OF ACTION

42 U.S.C. § 1983 – VIOLATION OF EQUAL PROTECTION

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2
3 55. Plaintiff incorporates paragraphs 1 to 54 as if fully stated herein.

4 56. At all times relevant hereto, Plaintiff was a woman living in San Francisco, California.
5 Plaintiff's claims for denial of equal protection are brought for redress individually as a
6 female citizen of San Francisco and to ensure that Defendants do not impair or defeat the
7 public rights of all women in San Francisco to feel safe and secure in their person.

8 57. On or about February 20, 2014, Plaintiff learned that Defendants and the SFPD had a
9 custom, policy and practice of failing to investigate sexual assaults. On that date, the
10 SFPD admitted they were in possession of several thousand rape kits that they had failed
11 and/or refused to test as part of their investigation – or, lack thereof – of rape and sexual
12 assault complaints by women.

13 58. At all times relevant hereto, sexual assault was perpetrated almost entirely against
14 females. According to federal crime statistics, females constitute over 90% of sexual
15 assault victims.

16 59. One of the primary functions of law enforcement, including the SFPD, is deterrence of
17 crime. Active investigation and resolution of sexual assault cases serves to deter past
18 and potential offenders from perpetrating sexual assaults in the future.

19 60. At all times relevant hereto, Defendants and the SFPD had an institutional custom,
20 policy, practice and procedure of failing and/or refusing to investigate sexual assault
21 crimes such that said failure and/or indifference constituted an express policy.
22 Defendants' admission that thousands of rape kits had gone untested for years
23 establishes that their institutional policy of failing to investigate sexual assaults was
24 intentional.

25 61. At all times relevant hereto, Defendants and the SFPD received and possessed funds and
26 resources to utilize for the purpose of law enforcement and investigation of crimes.

27 62. At all times relevant hereto, Defendants failed and/or refused to direct sufficient
28 resources towards the prevention, investigation and resolution of sexual assault crimes.

1 63. In or around 2012, Defendants received certain grants to be utilized for the purpose of
2 furthering DNA-related investigations. Defendants have failed to sufficiently utilize
3 these resources towards the testing of rape kits and/or other DNA evidence collected
4 from sexual assault victims as a necessary part of sexual assault investigations.

5 64. Defendants and the SFPD have admitted that they failed to adequately staff the SFPD
6 crime lab and divert resources towards it such that rape kits were and/or are only tested
7 in cases involving *unknown suspects*.

8 65. According to federal crime statistics, only 20-25% of sexual assaults are committed by
9 unknown assailants.

10 66. Defendants and SFPD affirmed their custom, policy and practice of failing and/or
11 refusing to investigate sexual assaults when they subsequently announced that they
12 would only commit to testing 753 of the several thousand untested rape kits. In making
13 that announcement, Defendants and the SFPD publicly confirmed that thousands of
14 sexual assault cases had not and would not be adequately investigated.

15 67. By publicly announcing that several thousand sexual assaults had been and would be,
16 essentially, disregarded, Defendants and the SFPD evidenced a deliberate indifference to
17 such crimes. Defendants' institutional policy of indifference eliminated and/or negated
18 the deterrent effect that diligent police presence and investigation would have on would-
19 be perpetrators of sexual assault. Defendant's conduct as alleged herein has thus created
20 a substantial danger of and increased the risk of sexual assaults in San Francisco, and
21 has further rendered Plaintiff and, on information and belief, all other women in San
22 Francisco, California to feel unsafe in their person.

23 68. Defendant's failures as alleged hereinabove have created a hostile living environment
24 for Plaintiff and all women in the City of San Francisco due to their comprising over
25 90% of sexual assault victims. Defendant's failures further constitute discriminatory
26 conduct insofar as Plaintiff and all other women of San Francisco are by and large the
27 only class of citizens adversely impacted by Defendants' deliberate indifference.

28

1 69. Defendants had a duty to diligently investigate *all* crimes. Defendants breached this
2 duty by routinely and systemically failing and/or refusing to divert the human and
3 financial resources necessary to do so. Defendants' deliberate indifference to sexual
4 assault crimes, which was an institutional policy so pervasive as to rise to the level of
5 intentional conduct, serves to deprive Plaintiff of equal protection under the law on the
6 basis of her gender.

7 70. In committing the acts and/or failures as alleged herein, Defendants were at all times
8 relevant hereto acting under the color of the State. The constitutional injury inflicted by
9 Defendants was caused by a person(s) with final policymaking authority at the City and
10 County of San Francisco. Defendants knew about the above-described conduct and
11 facilitated it, approved it, condoned it, and/or turned a blind eye to it.

12 71. In addition to violating the right to the equal protection of the law guaranteed under the
13 Constitution of the State of California, the above-described conduct of Defendants
14 constitutes a violation of 42 U.S.C., Section 1983. Plaintiff is entitled to compensatory
15 damages for emotional pain, suffering, mental anguish and other non-pecuniary losses,
16 and injunctive relief pursuant to 42 U.S.C., Section 1983 for violation of her civil rights
17 under the U.S. Constitution; and injunctive relief under the California Constitution.

18 **THIRD CAUSE OF ACTION**

19 **CALIFORNIA CONSTITUTION ARTICLE 1, § 7 – VIOLATION OF EQUAL**
20 **PROTECTION**

21 72. Plaintiff incorporates paragraphs 1 to 72 as if fully stated herein.

22 73. Defendants violated Plaintiff's civil rights by having an express policy of failing to
23 properly investigate sexual assault reports made by women that, when enforced, caused
24 a constitutional deprivation to Plaintiff, all female victims of sexual assault in San
25 Francisco, and all women residing in San Francisco; or, by having a widespread practice
26 and/or custom of failing to properly investigate sexual assault reports made by women
27 that, although not authorized by written law or express municipal policy, was so
28 permanent and well settled as to constitute a custom or usage with the force of law.

1 74. This policy was intentional and, when enforced, had a discriminatory impact on women.

2 75. The constitutional injury inflicted by Defendants was caused by a person with final
3 policymaking authority at The City and County of San Francisco.

4 76. Defendants knew about the above-described conduct and facilitated it, approved it,
5 condoned it, and/or turned a blind eye to the conduct.

6 77. The above-described conduct of Defendants constitutes a violation Article 1, § 7 of the
7 California Constitution. Plaintiff is entitled to injunctive relief.

8 **WHEREFORE**, Plaintiffs pray for the damages; costs; interest; statutory/civil penalties
9 according to law; the aforementioned injunctive relief; attorneys' fees and costs of litigation
10 pursuant to 42 U.S.C. §1988 or other applicable law; and such other relief as the court deems
11 appropriate and just.

12 **DEMAND FOR TRIAL BY JURY**

13 NOW COME Plaintiff, by and through her counsel, and hereby demands a trial by jury
14 as to all of those issues so triable as of right.

15
16 Date: October 21, 2016

Respectfully submitted,

17 By: /s/ Alexander S. Zalkin
18 Alexander S. Zalkin
19 THE ZALKIN LAW FIRM, P.C.
20 IRWIN M. ZALKIN
21 DEVIN M. STOREY
22 ALEXANDER S. ZALKIN
23 RYAN M. COHEN

24 DAPEER, ROSENBLIT & LITVAK LLP
25 WILLIAM LITVAK, ESQ.
26 ERIC P. MARKUS, ESQ.

27 Attorneys for Plaintiff
28

PROOF OF SERVICE

1 Heather Marlowe v City and County of San Francisco, et al.,
2 United States District Court, Northern District of California
3 Case No: 3:16-cv-00076-MMC

4 I, **Stephanie M. Paleo**, am employed in the city and county of San Diego, State of
5 California. I am over the age of 18 and not a party to the action; my business address is 12555
6 High Bluff Drive, Suite 301, San Diego, CA 92130.

7 On October 21, 2016, I caused to be served:

8 **SECOND AMENDED COMPLAINT FOR DAMAGES**

9 in this action by placing a true and correct copy of said documents(s) in sealed envelopes
10 addressed as follows:

11 **SEE ATTACHED SERVICE LIST**

12 (BY MAIL) I am readily familiar with the firm's practice of collection and processing
13 correspondence for mailing. Under that practice it would be deposited with the
14 U.S. Postal Service on that same day with postage thereon fully prepaid at San
15 Diego, California, in the ordinary course of business. I am aware that on
16 motion of the party served, service is presumed invalid if postal cancellation
17 date or postage meter date is more than one day after date of deposit for
18 mailing in affidavit.

19 (BY PERSONAL SERVICE) By causing to be delivered by hand to the offices of the
20 addressee(s) on the date listed above.

21 (BY OVERNIGHT DELIVERY – FEDERAL EXPRESS) I enclosed the documents in
22 an envelope or package provided by a Federal Express and addressed to the
23 persons at the addresses listed below. I placed the envelope or package for
24 collection and overnight delivery at an office of a regularly utilized drop box
25 for Federal Express.

26 XX (BY E-MAIL OR ELECTRONIC TRANSMISSION) Using the CM/ECF system. The
27 CM/ECF system will provide service of such filing(s) via Notice of Electronic
28 Filing to the persons at the emails listed below. I did not receive, within a
reasonable time after the transmission, any electronic messages or other
indication that the transmissions were unsuccessful.

I declare under penalty of perjury under the laws of the United States of America that
the foregoing is true and correct and that I am employed in the office of a member of the bar of
this Court at whose direction the service was made.

Executed on: October 21, 2016

/s/ Stephanie M. Paleo
Stephanie M. Paleo
Stephanie@zalkin.com

SERVICE LIST

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Kimberly Bliss, Esq.
Margaret Baumgartner, Esq.
Office of the City Attorney
1390 Market Street, 6th Floor
San Francisco CA 94102
Tel: 415-554-3861
Fax: 415-554-3837
Email: bliss@sfgov.org

Attorney for Defendants