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Superior Court of California
County of Stanislaus
Clerk of the Court
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SUPERIOR COURT OF THE STATE OF CALIFORNIA,
IN AND FOR THE COUNTY OF STANISLAUS

JANICE KEATING

Plaintiff,

vs.

MODESTO IRRIGATION DISTRICT;
ROBERT FROBOSE and DOES 1 TO 100,
inclusive,

Defendants

Case No: CV-24-003639

COMPLAINT FOR DAMAGES.

[UNLIMITED CIVIL CASE]

COMES NOW PLAINTIFF JANICE KEATING (hereinafter referred to as "Plaintiff")
and alleges against Defendants, MODESTO IRRIGATION DISTRICT; ROBERT FROBOSE.
and DOES 1 TO 100, (collectively "Defendants") as follows:

1. Plaintiff is an individual and who was, at all times hereinafter mentioned, a
resident of Stanislaus County, California. Plaintiff is a female.

2. Defendant, MODESTO IRRIGATION DISTRICT ("MID") is a public
municipality located in Stanislaus County, California.

3. Plaintiff is informed and believes and based upon such information and belief
alleges ROBERT FROBOSE ("FROBOSE") is an individual who resides in the County of

1 Stanislaus, CA and at all relevant times was a board member of Defendant MID and employed
2 by and/or an agent of Defendant MID.

3 4. Defendants DOES 1-100, inclusive, are persons, corporations, or other entities
4 that have done or will do acts otherwise alleged in this Complaint. Plaintiff is informed and
5 believes, and on such information and belief alleges, that Defendants DOES 1 through 100
6 inclusive, at all times mentioned herein have acted and are continuing to act in concert with some
7 or all of the Defendants named herein, and that each of them has participated in the acts and
8 transactions which are the subject of this Complaint. The true names and capacities of DOES 1
9 through 100, whether individual, corporate, or otherwise, are unknown to plaintiff at this time,
10 who therefore sues such Defendants under such fictitious names, pursuant to the provisions of
11 section 474 of the California Code of Civil Procedure. Plaintiff will ask leave of the court to
12 amend the complaint to allege the true names and capacities of such Defendants at such time as
13 the same have been ascertained.

14 5. At all times herein mentioned, each of the defendants were, and are, the agents,
15 servants and employees of each of the remaining defendants herein and were at all times acting
16 in the course and scope of said agency and/or employment.

17 STATEMENT OF FACTS

18 6. In November 2022, Plaintiff was elected as a board member for Division 2 of
19 Defendant MID's Board of Directors. During this same election, Defendant FROBOSE was
20 elected as board member for Division 3 of Defendant MID's Board of Directors. Plaintiff was
21 the first female elected as an MID board member in the 135-year history of the board.

22 7. In December of 2022, Plaintiff and Defendant FROBOSE began working as
23 agents/employees of MID. As part of their onboarding process, Plaintiff and FROBOSE were
24 mandated to receive training in sexual harassment – including training regarding compliance
25 with the Brown Act and Fair Political Practices Commission regulations.

1 8. As part of their roles at MID, Plaintiff and Defendant FROBOSE were instructed
2 to visit the major water facilities owned/maintained by MID.

3 9. On January 17, 2023, Plaintiff, FROBOSE and other MID employees/agents
4 including, Melissa Williams and Wesley Milliband, inspected the LaGrange Dam in Stanislaus
5 County, California. While on the LaGrange Dam inspection, Defendant FROBOSE, on at least
6 three occasions, stood in very close proximity to Plaintiff and pressuring Plaintiff concerning the
7 hiring of special counsel for the board. FROBOSE stood close enough so that Plaintiff could not
8 walk away or avoid the conversation. It is clear from the repeated nature of Defendant
9 FROBOSE's close proximity and intense conversations with Plaintiff, that Defendant FROBOSE
10 was attempting to intimidate Plaintiff. Defendant FROBOSE is a male and significantly taller
11 and more imposing than Plaintiff. Defendant FROBOSE did not have any conversations in close
12 proximity with any males on the LaGrange Dam inspection. The actions of Defendant
13 FROBOSE were so overtly inappropriate that both Mr. Milliband and Ms. Williams contacted
14 Plaintiff to ask if she was okay and whether Plaintiff would like each of them to make a
15 complaint regarding Defendant FROBOSE on her behalf. Mr. Milliband and Ms. Williams
16 ultimately did not file any complaints on Plaintiff's behalf.

17 10. After Plaintiff left the LaGrange Dam, Defendant FROBOSE continued to
18 pressure Plaintiff about the hiring of Ronda Lucas as specific counsel for the board. Plaintiff
19 identified to Defendant FROBOSE that the conversation was inappropriate, as well as the
20 inappropriateness of Defendant FROBOSE's actions at the LaGrange Dam.

21 11. The following day, January 18, 2023, Plaintiff had a meeting with Defendant
22 MID's then general manager, Ed Franciosa, regarding the inappropriate actions of FROBOSE
23 and the intimidation to hire Ms. Lucas as special counsel. Mr. Franciosa identified he would
24 investigate the issues with FROBOSE and that staff did not support the hiring of Ms. Lucas.

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1 12. On January 20, 2023, Plaintiff received a public meeting agenda regarding the
2 hiring of special counsel. Plaintiff, in seeking to know the terms of the proposed hiring, asked
3 MID's then general counsel, Wesley Miliband, for a copy of the proposed contract. Mr. Miliband
4 refused to provide the proposed contract. From the conversation, it was clear to Plaintiff that Mr.
5 Miliband was aware of Plaintiffs complaints to Mr. Franciosa and that the documents would not
6 be provided to as a result of the complaints.

7 13. On January 24, 2023, the MID board voted on the retention of special counsel.
8 Given the content of the vote, it was clear that the remaining board members had discussed the
9 matter prior to the hearing. During the meeting, Defendant FROBOSE chastised Plaintiff for her
10 inquiries regarding the hiring of special counsel and the board's actions leading up to the vote.
11 At one point, Defendant FROBOSE told Plaintiff "You need to shut up." MID's general counsel.
12 Mr. Miliband, refused to consider Plaintiff's complaints regarding Brown Act violations and
13 refused to provide substantive responses to Plaintiff regarding conflicts of interest and other
14 related legal issues in hiring Ms. Lucas. Plaintiff was the only vote opposing the hiring of Ms.
15 Lucas as special counsel.

16 14. After the conclusion of the special counsel vote, Defendant FROBOSE continued
17 to create a hostile working environment for Plaintiff by being inappropriately rude, disrespectful,
18 and combative towards her. When Plaintiff would discuss matters in Board meetings, Defendant
19 FROBOSE would snort, interrupt Plaintiff, and shake his head as if she was speaking nonsense
20 and telling her, on at least one occasion, "You don't know what you're talking about". Defendant
21 FROBOSE would talk in a demeaning manner to Plaintiff and was personally combative.
22 Defendant FROBOSE did not act in this demeaning and combative manner with any of the male
23 Board Members.

24 15. By this time, it had also become clear that Defendant FROBOSE's hostile
25 treatment of Plaintiff was substantially motivated by the fact that she is a woman and that she

1 had previously complained about his inappropriate actions. On several occasions, Defendant
2 FROBOSE made comments intended to demean Plaintiff and other women. For example, as
3 Plaintiff walked by Defendant FROBOSE one day, Defendant FROBOSE stated, "I would
4 comment on your dress, but I have taken the required sexual harassment training." This
5 statement was intended to objectify Plaintiff.

6 16. Each of the remaining Board Members with whom Plaintiff has worked at
7 Defendant MID (e.g., Larry Byrd, John Boer IV and Nick Blom Jr.) were never subjected to
8 Defendant FROBOSE's hostile actions and, of course, they are all male.

9 17. During this period of time, Mr. Miliband, Mr. Franciosa and the other Board
10 Members suggested that Plaintiff should try harder to ignore Defendant FROBOSE's hostile
11 behavior and to not engage with him when she was attacked. Defendant's agents offered to move
12 Plaintiff's seat at board meeting to be further away from Defendant FROBOSE. Despite these
13 suggestions to change Plaintiff's behavior, Defendant MID and its agents made no attempt to
14 curb Defendant FROBOSE's inappropriate actions. Clearly, it is well known by Defendant MID
15 that Plaintiff was working in a hostile work environment, and that the hostility is substantially
16 motivated by her gender and because of her complaints regarding Defendant FROBOSE's
17 inappropriate behavior.

18 18. As a result of Defendant FROBOSE's actions and Defendant MID's refusal to
19 protect Plaintiff, Plaintiff was attacked by Defendant FROBOSE on virtually every issue she
20 brought up in board meetings. Plaintiff has developed fear to attend Board meetings given the
21 abuse she receives. Plaintiff arrives just prior to the Board meetings and leaves shortly after the
22 conclusion in order to keep harassment to a minimum.

23 19. Despite the promise to do so, MID has never conducted an investigation into
24 Plaintiff's complaints regarding Defendant FROBOSE's actions. Alternatively, Plaintiff has been
25 punished as a result of making complaints. Plaintiff is now summarily ignored by all Board

1 Members and her input is not considered. All of the male Board members typically do not
2 support Plaintiff's proposals, regardless of the subject, and do not entertain conversations with
3 Plaintiff on Board issues. It is clear that Plaintiff is a pariah on the Board.

4 20. In April of 2023, general counsel Wesley Miliband was replaced by counsel
5 Frank Splendorio and in of May of 2023 general manager Ed Franciosa was replaced by general
6 manager Jimi Netniss. The hostile environment created by Defendant FROBOSE and fostered by
7 Defendant MID has continued through 2024 and Messrs. Splendorio and Netniss' interactions
8 with the Plaintiff have not been appreciably different than that of their predecessors. Messrs.
9 Splendorio and Netniss' continue to ignore Plaintiff's complaints and refuse to acknowledge the
10 inappropriate actions directed at Plaintiff by the MID Board, including Defendant FROBOSE.

11 21. The Department of Fair Employment and Housing provided Plaintiff with a right
12 to sue letter.

13 22. On February 5, 2024, Plaintiff filed a Government Claim pursuant to CCP § 915
14 et al. against Defendants MID, FROBOSE and other agents of Defendants. Defendants have
15 refused to provide a substantive response to Plaintiff's claim.

FIRST CAUSE OF ACTION

Violation of California Labor Code § 1102.5 et seq

(Against Defendant MODESTO IRRIGATION DISTRICT AND DOES 1 THROUGH 25)

17 23. Plaintiff incorporates by reference each and every allegation contained in
18 Paragraphs 1-22, inclusive, of this Complaint as if fully set forth herein.

19 24. At all relevant times, Plaintiff was a Board member, agent and employee of MID.

20 25. In 2023, Plaintiff made complaints regarding the inappropriate actions of
21 Defendant FROBOSE and the ratification of those actions by MID. MID had an obligation to
22 investigate these complaints and determine their validity.

23 26. Rather than unbiasedly investigating Plaintiff's claims, Defendant MID, through
24 its employees/agents, ultimately punished Plaintiff for making the complaint by continuing to
25

1 permit Defendant FROBOSE to act inappropriately, seeking to change Plaintiff's actions and not
2 Defendant FROBOSE, and ultimately making Plaintiff a pariah on the Board where all of the
3 male board members have refused to have substantive interactions with Plaintiff.

4 27. Plaintiff's disclosure of information through complaints were a contributing factor
5 in Defendant MID and its agents' actions.

6 28. As a result, Plaintiff was harmed, and the Defendant MID and its agents' conduct
7 was a substantial factor in causing Plaintiff's harm.

8 WHEREFORE, plaintiff prays judgment against defendants, as hereinafter set forth.

9 **SECOND CAUSE OF ACTION**

10 **Breach of Cal. Govt. Code §12940, et. seq.:
Discrimination on the Basis of Gender**

11 **(Against Defendant MODESTO IRRIGATION DISTRICT and DOES 1 TO 25)**

12 29. Plaintiff incorporates herein, as though fully set forth at length, each and every
13 allegation set forth in paragraphs 1 through 28 inclusive of this Complaint.

14 30. Defendant has breached its statutory and self-imposed duties owed to Plaintiff
15 under Defendant's representations, policies and procedures, and under California law, including
16 Section 12940(a) of the California Government Code.

17 31. Plaintiff is a member of the class entitled to protection under these code sections.
18 Plaintiff has exhausted her administrative remedies under the California Fair Employment and
19 Housing Act and has obtained a "Right to Sue" letter.

20 32. As a result of Defendant's conduct and breach of the code section, Plaintiff has
21 suffered and will continue to suffer damages, the exact amount of which has not yet been fully
22 ascertained but is within the jurisdiction of this Court. Plaintiff is entitled to damages in an
23 amount to be shown at the time of trial. In addition, Plaintiff has been forced as a result of
24 Defendant's breach to retain a law firm to enforce their rights and has incurred and will continue
25 to incur costs and reasonable attorneys' fees in connection therewith, recovery of which Plaintiff

1 is entitled to according to proof.

2 WHEREFORE, Plaintiff prays for judgment against Defendant as hereinafter set forth.

3 **THIRD CAUSE OF ACTION**

4 **Breach of Cal. Govt. Code §12940, et. seq.:**

5 **Harassment on the Basis of Gender Against**

6 **(Against Defendant FROBOSE and MODESTO IRRIGATION DISTRICT and DOES 1 to**
7 **25)**

8 33. Plaintiff incorporates herein, as though fully set forth at length, each and every
9 allegation set forth in paragraphs 1 through 32 inclusive of this Complaint.

10 34. Defendants have breached their statutory and self-imposed duties owed to
11 Plaintiff under California law, including Section 12940(i)(1) of the California Government Code.

12 35. Since January of 2023, Defendant FROBOSE acted in a harassing manner
13 towards Plaintiff, all of which was outside the scope of his job duties yet known to Defendant
14 MODESTO IRRIGATION DISTRICT, resulting in Plaintiffs work environment being extremely
15 hostile.

16 36. Plaintiff is a member of the class entitled to protection under these code sections.
17 Plaintiff has exhausted her administrative remedies under the California Fair Employment and
18 Housing Act and has obtained a "Right to Sue" letter against both Defendants.

19 37. As a result of Defendants' conduct and breach of the code section, Plaintiff has
20 suffered and will continue to suffer damages, the exact amount of which has not yet been fully
21 ascertained but is within the jurisdiction of this Court. Plaintiff is entitled to damages in an
22 amount to be shown at the time of trial. In addition, Plaintiff has been forced, as a result of
23 Defendants' breach, to retain a law firm to enforce their rights and has incurred and will continue
24 to incur costs and reasonable attorneys' fees in connection therewith, recovery of which Plaintiff
25 is entitled to according to proof.

WHEREFORE, Plaintiff prays for judgment against Defendants as hereinafter set forth.

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FOURTH CAUSE OF ACTION
Breach of Cal. Govt. Code §12940, et. seq.:
Failure to Keep Harassment From Occurring
(Against Defendant MODESTO IRRIGATION DISTRICT and DOES 1 TO 25)

38. Plaintiff incorporates herein, as though fully set forth at length, each and every allegation set forth in paragraphs 1 through 37 inclusive of this Complaint.

39. Defendant has breached its statutory and self-imposed duties owed to Plaintiff under Defendant's representations, policies and procedures, and under California law, including Section 12940(k) of the California Government Code. Plaintiff is a member of the class entitled to protection under these code sections. Plaintiff has exhausted her administrative remedies under the California Fair Employment and Housing Act and has obtained a "Right to Sue" letter.

40. As a result of Defendant's conduct and breach of the code section, Plaintiff has suffered and will continue to suffer damages, the exact amount of which has not yet been fully ascertained but is within the jurisdiction of this Court. Plaintiff is entitled to damages in an amount to be shown at the time of trial. In addition, Plaintiff has been forced as a result of Defendant's breach to retain a law firm to enforce their rights and has incurred and will continue to incur costs and reasonable attorneys' fees in connection therewith, recovery of which Plaintiff is entitled to according to proof.

WHEREFORE, Plaintiff prays for judgment against Defendant as hereinafter set forth.

FIFTH CAUSE OF ACTION
Breach of Cal. Govt. Code §12940, et. seq.:
Retaliation for Making a Discrimination/Harassment Complaint
(Against Defendant MODESTO IRRIGATION DISTRICT and DOES 1 TO 25)

41. Plaintiff incorporates herein, as though fully set forth at length, each and every allegation set forth in paragraphs 1 through 40, inclusive of this Complaint. Plaintiff's Complaint for Damages

42. Defendant has breached its statutory and self-imposed duties owed to Plaintiff under Defendant's representations, policies and procedures, and under California law, including

1 Section 12940(h) of the California Government Code.

2 43. Plaintiff is a member of the class entitled to protection under these code sections.
3 Plaintiff has exhausted her administrative remedies under the California Fair Employment and
4 Housing Act and has obtained a "Right to Sue" letter.

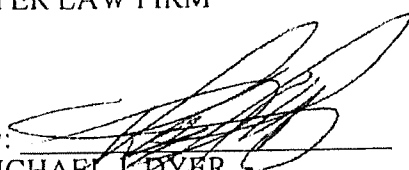
5 44. As a result of Defendant's conduct and breach of the code section, Plaintiff has
6 suffered and will continue to suffer damages, the exact amount of which has not yet been fully
7 ascertained but is within the jurisdictional limits of this Court. Plaintiff is entitled to damages,
8 general and special, and certain other incidental and consequential expenses and damages in an
9 amount which will be shown at the time of trial.

10 **WHEREFORE**, Plaintiff prays judgment against Defendants as follows:

- 11 1. For compensatory damages in an amount to be proven at trial.
12 2. For special damages in an amount to be proven at trial.
13 3. For general damages in an amount to be proven at trial.
14 4. For interest on Plaintiffs compensatory damages at the maximum rate allowed by law.
15 5. For reasonable costs.
16 6. For jury trial.
17 7. For attorney's fees and costs.
18 8. For such other and further relief as this Court deems just and proper.

19
20 DYER LAW FIRM

21
22 DATE: MAY 14, 2024

23 By: 
24 MICHAEL J. DYER
25 DUSTIN J. DYER
ZACHARY Z. HARDISTER
Attorneys for Plaintiff
JANICE KEATING