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STANDARD TORT CLAIM FORM

General Liability Claim Form #SF210

Pursuant to RCW 4.96, this form is for filing a tort claim against Clark County Washington. Information requested on this form is required by 4.09.100 and may be subject to public disclosure. Claim forms cannot be submitted electronically (via e-mail or fax.)

PLEASE TYPE OR PRINT IN INK

Mail or deliver Clark County Risk Management
Original claim Attn: Risk Manager
To: PO Box 5000
1300 Franklin St, Ste 644
Vancouver, WA 98666-5000

RECEIVED

OCT 27 2016

CLARK COUNTY
RISK MANAGEMENT

CLAIMANT INFORMATION

1. Claimant's Name: Nolan _____ Erin _____ Colleen _____ Date of Birth: 08/18/1965 _____
Last First Middle (mm/dd/yy)

2. Current residential address: _____
Address City State Zip

3. Mailing address (if different) _____
Address City State Zip

4. Residential address at the time of incident (if different from current address): _____
Address City State Zip

5. Claimant's daytime telephone number (include area code) _____

6. Claimant's email address: c/o Tom Boothe tsb@boothouse.com

INCIDENT INFORMATION

7. Date of the incident: See attached Exhibit 1.

8. If the incident occurred over a period of time, date of first and last occurrences: See attached Exhibit 1.

9. Location of incident:

Washington, Clark County _____ Vancouver _____ Clark County Sheriff's Office
State and County City, if applicable Place where occurred

10. If the incident occurred on a street or highway:

Name of street or highway _____ milepost number _____ At the intersection with or nearest intersecting street _____

11. County agency or department alleged responsible for damage/injury:

Clark County and Clark County Sheriff's Office _____

12. Names, addresses, and telephone numbers of all persons involved in or witness to this incident:

Kevin Allais, Sergeant, Clark County Sheriff's Office

Candy Arata, formerly CCSO Human Resources Department Manager, Clark County Sheriff's Office

Chuck Atkins, Sheriff, Clark County Sheriff's Office

Cherie Baker, Background Investigator, Public Safety Testing

Kim Beltran, Custody Commander, Clark County Sheriff's Office

Ric Bishop, Jail Chief, Clark County Sheriff's Office

Cindy Bull, Deputy Sheriff, Clark County Sheriff's Office

Jill Callies, Amphitheater Manager

John Chapman, Chief Criminal Deputy, Clark County Sheriff's Office

Mike Cook, Undersheriff, Clark County Sheriff's Office

Cathy Doriot, Sergeant, Ridgefield Police Department

Joe Dunegan, former Undersheriff, Clark County Sheriff's Office

Mike Evans, former Chief Criminal Deputy, Clark County Sheriff's Office

Steven Fox, Deputy, Clark County Sheriff's Office

Shane Gardner, former Sergeant, Clark County Sheriff's Office

Mary Ann Gentry, Interim Supervisor, Clark County Sheriff's Office

Jim Hansen, Risk Manager, Clark County Sheriff's Office

Phil Harju, Cowlitz Tribal Attorney

Linda Hayes, Sergeant, Clark County Sheriff's Office

Bambi Heup, Retired, Portland Police Bureau

Lois Hickey, County Human Resources Representative, Clark County Sheriff's Office

John Horch, Commander, Clark County Sheriff's Office

Denny Hunter, Retired Deputy County Prosecuting Attorney, Clark County

KC Kasberg, Commander, Clark County Sheriff's Office

Sean Lemoine, Attorney for the Commander's Guild and the Civil/Support Guild, Clark County Sheriff's Office

Garry Lucas, former Sheriff, Clark County Sheriff's Office

Jim Mains, Gardner Campaign Manager

Mike McCabe, Commander/President of the Commander's Guild, Clark County Sheriff's Office

Kathy McNicholas, Officer, Vancouver Police Department

Kevin McVicker, Retired Deputy, Clark County Sheriff's Office

Theresa Miller, Support Specialist, Clark County Sheriff's Office

Breanne Nelson, CCSO Human Resources Manager, Clark County Sheriff's Office

Pandora Pierce, former Records Manager, Clark County Sheriff's Office

Francine Reis, former County Human Resources Director, Clark County

Rod Rowan, Erin Nolan's Partner

Scott Schanaker, Sergeant, Clark County Sheriff's Office

Alex Schoening, Sergeant, Clark County Sheriff's Office

Kari Schulz, Evidence/Logistics Manager, Clark County Sheriff's Office

Steven Shea, Civil Chief, Clark County Sheriff's Office

Emily Sheldrick, County Prosecuting Attorney, Clark County

Bill Sofianos, Sergeant, Clark County Sheriff's Office

Rick Torres, Sergeant, Clark County Sheriff's Office

Brent Waddell, Sergeant, Clark County Sheriff's Office

Walter Warren, Commander, Clark County Sheriff's Office

Tina Wiggs, Deputy, Clark County Sheriff's Office

Robin Yakhour, Deputy, Clark County Sheriff's Office

Ron Zito, County Human Resources Director, Clark County

13. Names, addresses, and telephone numbers of all county employees having knowledge about this incident:
Please refer to the witnesses above. Most of the witnesses above are County employees. Claimant believes that the witness addresses and telephone numbers are available to Clark County by and through their directories and personnel files.

14. Names, addresses, and telephone numbers of all individuals not already identified in #12 and #13 above that have knowledge regarding the liability issues involved in this incident, or knowledge of the Claimant's resulting damages. Please include a brief description as to the nature and extent of each person's knowledge. Attach additional sheets if necessary. This information will be obtained through the formal discovery process, and the request at this time exceeds the statutory requirements of RCW 4.96.020.

15. Describe the cause of the injury or damages. Explain the extent of the property loss or medical, physical, or mental injuries.

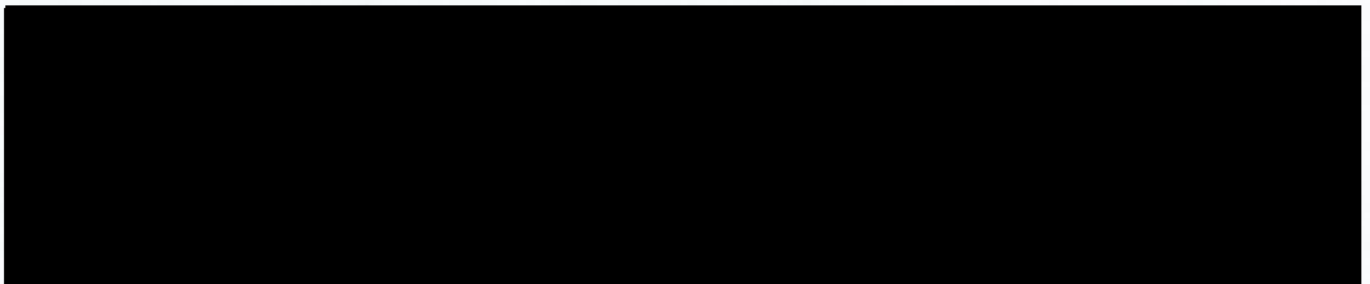
Attach additional sheets if necessary.

See attached Exhibit 1.

16. Has this incident been reported to law enforcement, safety, or security personnel? If so, when and to whom?

See attached Exhibit 1.

17. Names, addresses, and telephone numbers of treating medical care providers.



18. Please attach documents which support the claim's allegations (photos, police reports, estimates, etc.)
This information will be obtained through the formal discovery process, and the request at this time exceeds the statutory requirements of RCW 4.96.020.

19. I claim damages from Clark County in the sum of \$2,000,000.00.

The Claimant must sign this form unless he or she is incapacitated, a minor, or a nonresident of the state, in which case, it may be signed on behalf of the Claimant by any relative, attorney, or agent representing the Claimant.

Pursuant to RCW 4.96.020(3)(b)(iii), I verify as claimant's attorney that the foregoing is true and correct to the best of my knowledge and belief.

Thomas S. Boothe

Thomas S. Boothe, WSBA #21759

7635 SW Westmoor Way

Portland, OR 97225

Multnomah County

10/24/14
Date

TORT CLAIM NOTICE

TO : Clark County Risk Management
Attn.: Risk Manager
PO Box 5000
1300 Franklin St., Ste 644
Vancouver, WA 98666-5000

Claimant : Ms. Erin Nolan

**Actual Residence
of Claimant** :



Time, Date and Location of Incidents:

The incidents occurred over a multiyear period and are briefly summarized below.

Details of Incidents:

Erin Nolan worked in a hostile work environment at Clark County Sheriff's Office (CCSO).

In 2005, CCSO offered Nolan was promotion to the position of Chief Civil Deputy, yet the promotion was conditioned upon her taking a 2.5% raise, rather than the 5% provided for in policy. Policy and practice mandated that any employee moving from one classification to another was entitled to a 5% increase; Nolan was the exception. When the promotion was finalized, she actually received a 2.4% raise, placing her pay \$11 dollars above the black female Chief Deputy, but behind the two male Chief Deputies. Subsequent male promotions generated larger raises than Nolan received. After involving the County attorney, something closer to pay equity was obtained by Nolan.

In 2011, Nolan learned of other gender pay inequities, which she brought to the attention of her superiors. Again in 2013, CCSO created inequity to which Nolan objected when a white male was promoted to a Chief's position was given an above-policy raise, putting him at the top of the Chief's pay scale and above Nolan's pay after having been a Chief for six years.

While at the Battleground Harvest Days Parade in July of 2014, Nolan learned that Sheriff Atkins had told people that if elected, Nolan would be gone. On November 13, 2014, while Nolan was out of town at a training conference, she learned that The Columbian had an article that read, "...Cooke, Shea and Chapman will replace command staff gearing up to retire, including Undersheriff Joe Dunegan, Chief Criminal Deputy Mike Evans and Chief Civil Deputy Erin Nolan." Nolan was neither eligible to retire nor contemplating it.

When Nolan reached out to both County HR Director Francine Reis and PA Emily Sheldrick regarding the process and her rights in the circumstance, Nolan was told she would be receiving information the following week. On the same day, Sheriff's HR Representative Bre Nelson told Nolan that Sheriff's HR Manager Candy Arata was working on getting Nolan notice, but that it would be after Thanksgiving; Nelson told her they were also working on the pay.

Nolan began seeing a counselor late in 2014 to help her address her anxiety over the unexpected transition and the uncertainty of her pay and future position.

By the first week of December, Nolan learned that CCSO HR director Candy Arata took the position CCSO had "no legal obligation whatsoever to communicate" with Nolan regarding the issue.

On December 6, Nolan learned that CCSO planned to "sequester" Nolan to Central Precinct until she left the department

On December 11, Nolan met with incoming Civil Chief Shea in her office. She thought the meeting was to talk about projects in progress, work, etc. Instead, Shea asserted that Nolan had issues with her managers.

On December 20, Nolan learned she was going to West Precinct from a general email Undersheriff Mike Cooke sent the Commanders and Chiefs regarding assignments

On January 22, 2015, Nolan learned previously ordered equipment for her had been cancelled.

On January 29, at the Sheriff's Office Annual Awards Ceremony, Chief John Chapman passed over recognizing Deputy Robin Yakhour until the end of the event when he had her stand after bringing male award recipients to the stage for recognition.

From February into March of 2015, Nolan saw Records Manager Pandora Pierce targeted, isolated and then put on leave for no apparent reason.

Nolan's role at the amphitheater next came under fire, as her decisions and recommendations were diminished or ignored. As Nolan found her responsibilities being reduced, her input being ignored and her position becoming more isolated, her stress increased.

On July 7, Nolan received notification that the request for her SHRM dues to be paid as it had been in the past was denied as outside her duties.

On July 21, Nolan and others received an email from Shea indicating that her “primary duty weapon was not of Glock manufacture” and that the only duty weapon issued and supported was the Glock 17. Three of the nine impacted employees were women who had greater efficiency and accuracy with a smaller grip.

Throughout the summer of 2015, Chapman continued to undercut Nolan, who found herself increasingly marginalized. She also saw what was being done to Pierce, an excellent employee, which increased her anxiety and stress.

On February 1, 2016, Nolan received her 2015 performance evaluation from Chapman. It had the lowest marks she received in a decade. When Nolan asked for specific instances and explanation supporting the low marks, she was denied.

On April 11, Nolan was at lunch with the Commanders when Commander Mike McCabe, President of the Commander’s Guild, was discussing a meeting he was at the previous week with Cooke and Chapman. In reference to the new deputies being hired, McCabe said Cooke commented, “We’re just hiring a bunch of pussies.”

On April 13, Nolan sent an email to Sheriff Chuck Atkins: “Sheriff, I wanted to speak privately with you, but I don’t know when our paths would cross again, so I apologize for sending this via email. Today in the cross briefing you made a comment with regard to the ongoing conversation and banter about the rubber foot. You said words to the effect “did he scream like a little girl?” I was uncomfortable and I tried to make light of it and move the conversation forward, but believe it was heard not only by me, but by several others in the room.” Sgt. Linda Hayes and Deputy Tina Wiggs were both present. Nolan was not the only person discomforted by it.

In the same meeting, another male personnel was wearing a shirt that read: “If a man is in the forest and there’s no woman there to tell him he’s wrong, is he still wrong?” Nolan expressed her concern that when humor becomes gender related and derogatory, it can be a negative in the workplace. Atkins acknowledged the inappropriateness.

On June 1, Nolan was asked to retrieve Pierce’s personal items from downtown. It was upsetting to Nolan that she had to deliver the items for the reasons she did. It also reminded her of the increasing targeting and marginalization of women in CCSO. When Nolan brought her concerns to Atkins, he challenged her concerns.

On June 22, Nolan brought to CCSO management her concerns that material being contemplated could be inappropriate for the workplace because of its sexualized images of woman on the front and back.

On July 6, less than three hours after conclusion of an early afternoon phone call from Mitch Cogen interrogating her about what she knew relevant to *Easterly v. Clark County*, Nolan received notice to meet in Cooke’s office the following morning. The meeting notice was entitled “Workplace Issues” and read: “Re: Follow-up on conversation with Sheriff Atkins on

Commander's dissatisfaction, West Precinct morale, and expectations." Required attendees were Cooke, Chapman, Nolan and Sheriff's Human Resources (HR) Representative Bre Nelson. When Nolan sought union representation, her request was denied.

When Nolan met with Cooke, Chapman and Nelson in Cooke's office on July 7, 2016, Cooke told Nolan that the meeting was between "the employer and the employee". She repeated her request for representation, but was again denied. During the meeting she was told that she was the problem, that following her conversation with Atkins, Cooke told her she was right, there were issues, and that morale was low because of her. Nolan was told that good people were leaving because of her; that people saw her car at the precinct and wanted to keep driving; that her communications were improper and that they had had enough. She was told that her peer commanders unanimously agreed that she was the problem. Cooke told her that they were going to do a full assessment of her leadership and that it would likely result in a work plan and mandatory counseling for her.

Nolan called Kaiser Permanente and asked to speak to someone in Mental Health services to get a referral and to her doctor. Nolan had already been seeing a counselor, but was concerned that she was having increasing anxiety. It felt to her while walking to her car that she could hardly breathe and her heart was beating out of her chest.

On July 20, Nolan and McCabe met with Chapman. In that meeting, Chapman defined the "new normal" that Nolan could expect as a consequence of talking to the Sheriff. Chapman told her that he would not meet with her without a third party present and set out conditions under which she was to perform her work.

Over the following weeks, Nolan found herself increasingly marginalized and felt herself under attack. Nolan found her responsibilities and programs being eliminated or further scaled back. Chapman was subjecting her work to increased scrutiny afforded only to her. He denied her training opportunities that he had specifically recommended for her. She saw a pattern that brought to mind what had been done to Pierce. Nolan's stress reactions amplified.

The Sheriff's Office continued its assessment of Nolan without making clear there were any underlying complaints to warrant it. Despite multiple requests and efforts to gain knowledge of what triggered the hyper-scrutiny, Nolan could not find out. Her stress amplified.

Nolan observed that males were being increasingly advanced and given training opportunities. Nolan became increasingly concerned that department command staff was fostering an environment in which male employees were free to oppose female supervisors on the basis of gender. She was concerned that males were being afforded opportunities that females in enforcement were not. She was not being allowed the same level of decision-making as her male peer commanders, and she learned she was being excluded from call outs occurring in her precinct.

In late July, Nolan was diagnosed with post-traumatic stress secondary to the conditions under which she was working. She was receiving medical treatment for anxiety and sleep disturbance. Despite receiving instructions from her medical doctor to leave the department, she

remained, concerned about the ongoing medical treatment still required for her live-in partner and the continued need for medical benefits for herself and her children. She believed she had worked too long and too hard to be forced out of the organization that she had dedicated her adult life to improving. The stress, however, was debilitating at times, causing her to sleep up to fourteen hours a day on weekend days and feel physically ill when she went to work. She was seeing her original counselor some days and the Kaiser referred counselor other days, sometimes twice per week.

In August of 2016, Nolan learned the department would be circulating a questionnaire regarding Nolan. Nolan had not seen anything like it while she was in the department. This increased Nolan's feelings of stress and isolation.

On September 1, Cooke sent an email to select staff, including some whom Nolan had not supervised since 2014. The email made it clear that it was not an "assessment of the leadership at West Precinct", but rather a "performance evaluation for Erin Nolan". Nolan was not copied on Cooke's correspondence or notifications. Nolan came into her office and found the "Waldron" survey. The introduction at the top of the document erased any possible doubt that the survey was directed specifically at Nolan. It read: "Waldron is beginning the evaluation process for West Precinct Commander, Erin Nolan." Later that day, Nolan learned the department had sent the questionnaire to others in the community. Nolan increasingly despaired about having a future with the department.

The survey read, "The raw data from this survey will be sent directly to Waldron for analysis in order to complete the evaluation process for West Precinct Commander Erin Nolan and the work environment at the Precinct." For Nolan, it increasingly resembled CCSO's efforts to marginalize and destroy the career of Pierce. Organizationally, the Sheriff's Office has longstanding policies, practices and contractual provisions for complaints, discipline, investigations and performance management. The process Nolan was being subjected to did not resemble any prior process. No complaint, nor complainant, had been identified, and when asked, Chapman told her they were "fighting Mr. Anonymous". Nolan feared for her future and believed that the evaluation was an attempt to find something for which to discipline her. In September, she expressed her concerns to Ron Zito of County HR.

On September 26, Nolan got an electronic invite to a meeting in Chapman's office the following day. Those invited were Nolan, Zito, Nelson and Chapman. The subject was "West Precinct and Performance Assessment." Nolan received a second email from Chapman and copied to McCabe which read: "Erin, This discussion has the potential to lead to discipline. Please feel free to bring Guild representation to the meeting."

The morning of the meeting, McCabe told Nolan, "Hey, you're gonna love this one. There's a new term out there, being 'Noland'". McCabe explained that Sgt. Bill Sofianos texted him and told him that if someone tried to stand up to this administration, they had to be careful or they might get "Noland". Nolan asked McCabe if he would send her a copy of the message. McCabe agreed.

McCabe and Sean Lemoine, the attorney for the Commander's Guild and the Civil/Support Guild, met at the Sheriff's Office before the meeting and talked briefly before

going in. In the meeting, Chapman accused Nolan of “misrepresenting the truth” when she spoke with Zito about the retaliatory performance evaluation process that was underway and the fact that she feared for her job. Nolan feared for her job and broke down at the end of the meeting. Lemoine confirmed for Chapman in the meeting that Nolan was not misrepresenting the truth; she feared for her job because he told her she should be afraid.

The meeting evoked such emotion in Nolan and validated all of the concerns that had been accruing over the course of the past eighteen months. Now Chapman was calling her veracity into question while she was trying to report continued and ongoing retaliation to the representative from Central HR.

As a result of the hostile work environment, Nolan experienced weight gain, intermittent sleepless nights, intermittent lack of energy in order to stay awake, hyper-vigilance, anxiety, and extraordinary stress over the increased scrutiny, isolation, and bullying she experienced. She faced daily discomfort with peers, subordinates and citizens who she knew were evaluating her performance. She was concerned that, because she had not been provided due process, she had to document items mentioned by Chapman to prove, if necessary, that she was performing as expected. She had been taking selfies when she wore her uniform to prove she was in compliance with Chapman’s expectations. Nolan was not aware of another employee in the Sheriff’s Office or the County that was being subjected to this level of continued scrutiny, isolation, bullying and harassment.

Her medical doctor recommended anti-depressant medication, but Nolan chose to try to address the working conditions through counseling, running, and the necessary medication as needed, rather than a daily medicine regimen.

The action of attempting to discipline Nolan, who was bringing her concerns of retaliation to the Central HR Manager, was retaliatory as well.

On October 6, Nolan learned Chapman was placing her on Administrative leave. Pierce had similarly been placed on leave when they began the second assessment of her. However, Chapman told Nolan that she needed to meet with Internal Affairs (IA), as the action was related to a conversation she had that morning.

Nolan drove to West Precinct, parked and went to the side door, only to find that her card key had been deactivated. She knew that walking to the front door would require her to walk through the work area where she had the conversation that morning. She turned to go to her car to call someone to open the door when the IA sergeants approached.

Nolan was allowed into the building, in full uniform, in the presence of at least one trainee deputy (whom she had not yet met), and escorted by IA. She removed her vest, radio, etc. and was provided a six-part notice. There were three allegations including “insubordination”. Nolan, as part of the complaint process has been ordered not to discuss it with anyone but Guild Representation, and Nolan fears that addressing it in this forum will subject her to further disciplinary action.

Nolan has been devastated by the action.

Nolan received a second document placing her on paid administrative leave effective that day. Sgt. Philip Sample took her keys, department cell phone, department vehicle keys, Commission card, and card key and asked her for her weapon. Nolan told him that the weapon she carried was a personal weapon. She was told that she was required to be available daily Monday through Friday, although her work schedule was Monday through Thursday. She was required to call in twice per day, at 9 a.m. and 4 p.m. Violation would "constitute insubordination and will result in disciplinary action up to and including termination." The letter she was provided closed with, "I understand that being placed on administrative leave pending an investigation may be a very stressful time for you. I encourage you to take advantage of resources that you have available to you, such as the EAP or your own healthcare provider, to help you cope during this process." The notice was signed by Chapman.

She left the building questioning how she could ever return. She sought an appointment with her Kaiser referred counselor, but found none were available. She was able to seek the other counselor on Friday. Through the weekend, she could not sleep, could not eat, could not stop crying and could not reconcile the conversation she had with the accusations.

While off work, Nolan was required to call in twice per day, five days per week. There is no known timeline for the investigation to begin into the "insubordination" allegations against Nolan. Nolan has heard public conversations regarding a newspaper article amongst friends that contained more content than the comments she made and is now facing discipline for.

Nolan noted that she was placed on leave and separated from the workplace for a conversation with people she considered "friends": Cindy Bull, who Nolan grew up with, and Theresa Miller, one of the first people to send her a text message when she was placed on leave.

On October 10, Nolan contacted the Guild to seek advice following being placed on Admin leave. She received an email response from Lemoine indicating that when she had an interview scheduled and that he would contact her an hour before.

That same day, Nolan emailed McCabe writing: "Mike, Can I get a copy of your text message with Sofianos where he references being 'Noland'? Thank you." McCabe explained he had inadvertently deleted it.

On October 11, Nolan received an unsolicited call from Commander Horch. He was interested in exploring "options for an exit strategy" for her. Nolan was furious. Horch told her that "she was only going to work two more years anyway" and that they just wanted to talk about some "options" for her to consider.

Nolan left the office that day, feeling physically and emotionally unable to return. She sought out counsel from her counselor, from her doctor and from her Kaiser counselor. On October 17, Nolan transitioned from Paid Admin leave to FMLA leave due to the impacts of the hostile work environment. She has been told by her providers that she cannot return to work at this time.

Claimant's Injury:

Erin Nolan has experienced economic damages through the threat of losing her job and benefits, reduced future employability and ongoing medical expenses. Nolan has experienced noneconomic injury through her emotional distress due to the retaliation she experienced from Clark County.

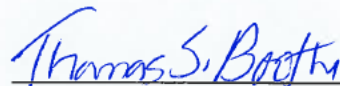
Legal Basis:

42 U.S.C. § 2000e, *et seq* (Title VII of the Civil Rights Act of 1964); RCW 49.60.010, *et seq* (Washington Law Against Discrimination); and other federal and state statutes.

Amount of damages claimed:

For the County's ability to set aside appropriate loss reserves, Nolan's total damages are presently estimated by her attorney to be \$2,000,000, exclusive of costs and attorney fees.

DATED: October 27, 2016.



Thomas S. Boothe, WSB No. 21759
Attorney for Claimant
7635 SW Westmoor Way
Portland, OR 97225-2138
(503) 292-5800
tsb@boothehouse.com