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COMPLAINT

KRISTEN T. ODLAUG VS. CITY AND COUNTY OF SAN FRANCISCO et al

001C00934024

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**FILED**  
San Francisco County Superior Court

APR 13 2004

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BY: J. P. Ponce  
Deputy Clerk

5 Attorneys for Plaintiff  
6 KRISTEN T. ODLAUG

CASE MANAGEMENT CONFERENCE SET  
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**SUMMONS ISSUED**

10 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
11 IN AND FOR THE CITY AND COUNTY OF SAN FRANCISCO

13 KRISTEN T. ODLAUG,  
14 Plaintiff,

No. **CCC 04430509**

16 v.  
17 CITY AND COUNTY OF SAN  
18 FRANCISCO, ROBERT PALU,  
19 Defendants.

VERIFIED COMPLAINT  
FOR DAMAGES  
Employment/Civil Rights

20 Comes now Plaintiff KRISTEN T. ODLAUG and alleges the following:

21 PRELIMINARY STATEMENT

22  
23 1. KRISTEN T. ODLAUG, a uniformed member of the San Francisco Fire Department  
24 ("SFFD"), brings this action for damages and injunctive relief against defendants CITY AND  
25 COUNTY OF SAN FRANCISCO ("CCSF") and ROBERT PALU for sexual harassment,  
26 discrimination, retaliation, and negligence. The SFFD and Palu subjected Firefighter ("FF") Odlaug  
27

1 to a hostile work environment polluted by vile language, physical assault, and intimidation. SFFD's  
2 failure to enforce its regulations prohibiting the consumption of alcohol by on-duty firefighters  
3 exacerbated the harassment suffered by FF Odlaug in that many of those who harassed her, including  
4 Palu, were under the influence of alcohol. The SFFD has habitually failed to (1) enforce its policies  
5 forbidding sexual harassment and drinking on the job; (2) supervise its personnel to prevent sexual  
6 harassment and drinking on the job; (3) train and discipline firefighters who engage in sexual  
7 harassment and drinking on the job; and (4) protect employees who oppose sexual harassment and  
8 drinking on the job.  
9

#### 10 JURISDICTION AND VENUE

- 11
- 12 2. Plaintiff's claims arise under the statutory and common law of the State of California.
  - 13 3. The actions giving rise to this lawsuit occurred in the City and County of San Francisco.

#### 14 PARTIES

- 15 4. Plaintiff KRISTEN T. ODLAUG has been employed by defendant CCSF as a H-2  
16 Firefighter since 1999.
- 17 5. Defendant CITY AND COUNTY OF SAN FRANCISCO is a public entity.
- 18 6. Defendant ROBERT PALU has been employed by CCSF as a uniformed member of the  
19 SFFD since prior to 1999. On information and belief, he has held the rank of Fire Department  
20 Lieutenant since on or about January 2003.  
21

#### 22 STATEMENT OF FACTS

- 23 7. Plaintiff Kristen Odlaug is a woman who has been an H-2 Firefighter with the San  
24 Francisco Fire Department since January 25, 1999.
- 25 8. The San Francisco Fire Department is an agency of the City and County of San Francisco.  
26  
27

1 9. At all times since joining the SFFD FF Odlaug has been subjected to discrimination and a  
2 hostile work environment based upon her sex. This discrimination and harassment has been  
3 exacerbated by the use and misuse of alcohol by members of the SFFD.  
4

5 10. On June 28, 2000, the SFFD assigned FF Odlaug to the Emergency Communications  
6 Department.

7 11. On or about August 21, 2000, FF Odlaug went on leave as a result of on the job injuries  
8 she sustained at a fire.

9 12. While she was on leave and afterwards, SFFD Battalion Chief Douglas Goodin challenged  
10 FF Odlaug's injury status and attempted to have her light duty restrictions removed so that she would  
11 be assigned to his command at the Communications Center.  
12

13 13. When FF Odlaug returned from injury leave on April 5, 2001 with restrictions based on  
14 her injuries, the Chief of the SFFD assigned her to Station 14 and the Surf Rescue Program for which  
15 she is an instructor. Battalion Chief Goodin continued to insist that FF Odlaug be assigned to the  
16 Communications Center and sought to have her work restrictions removed so that she could be  
17 assigned to his command.  
18

19 14. After FF Odlaug complained about Chief Goodin's actions to the Chief of the SFFD, she  
20 was reassigned to the Communications Center.

21 15. The incidents of harassment, discrimination, and abuse of alcohol by on-duty members of  
22 the Fire Department to which FF Odlaug has been subjected include, but are not limited to, the  
23 following:  
24

- 25 (a) While assigned to Station 2 in late 1999 and early 2000, Odlaug was offered  
26 alcoholic beverages and pressured to drink alcoholic beverages by fellow  
27 firefighters;

- 1 (b) James Vargas, one of the firefighters at Station 2, typically signed in on the Station  
2 sign-in board as "Vargasm;"
- 3 (c) While assigned to Station 14 from approximately April 8, 2001, through  
4 September 2003, Odlaug was harassed by then Firefighter Palu, who subjected her  
5 to a hostile work environment by making sexist and racist comments, using vulgar  
6 language, sexual groping, and sexual gestures;
- 7  
8 (d) On one occasion when FF Odlaug commented while driving a truck near Ocean  
9 Beach, that "it smells like fish out here," FF Palu's response was, "Put your legs  
10 together;"
- 11  
12 (e) On another occasion FF Palu commented to FF Odlaug, "You were married to a  
13 black guy, fucking you would be like throwing a hot dog down a hallway;"
- 14 (f) FF Palu commented to FF Odlaug, "Why would anyone fuck you, you have a big  
15 ass and no tits;"
- 16 (g) Commenting about FF Odlaug's then fiancé, FF Palu said to FF Odlaug,  
17 "Filipinos, they have small dicks," and "What did you have for dinner last night,  
18 dog?"
- 19  
20 (h) On an occasion while FF Odlaug was bent over using a dust pan while cleaning the  
21 floor, FF Palu grabbed her head and pulled it towards his crotch, saying, "since you  
22 are down there...;"
- 23 (i) On two occasions during 2001, FF Palu, wearing only his underwear, attempted to  
24 get into bed with FF Odlaug in the firefighters' dormitory;
- 25  
26 (j) In June 2001, FF Palu ridiculed a Jewish firefighter by stating, "You know those  
27 Jews, they got their fingerprints burned off in the ovens;"

- 1 (k) In October 2002, when FF Odlaug complained to another Fire Department officer  
2 about FF Palu's purchase of a bottle of vodka while preparing dinner at Station 14,  
3 FF Palu called her a "snitch" and told her to mind her "own fucking business;"  
4
- 5 (l) In November 2002, FF Palu humiliated FF Odlaug in front of other officers by  
6 stating, in reference to her buttocks, "she is sitting on the candy I want;"
- 7 (m) In December 2002, FF Palu prepared a cake in the shape of a vagina and a penis  
8 and attempted to serve it at a Station 14 dinner;
- 9 (n) On or about January 2003, FF Gregory Blatman exposed his genitals to FF Odlaug;
- 10 (o) On or about January 31, 2003, on Palu's first day as an acting lieutenant, he stated  
11 that the first order he was going to give FF Odlaug was to get a jug of alcohol and  
12 to meet him in the officers' room;
- 13
- 14 (p) On June 14, 2003, at a retirement party at Station 14, several firefighters became  
15 intoxicated; when Battalion Chief Douglas Goodin arrived to investigate the  
16 incident, he pretended not to notice the drinking or the alcohol at the station;  
17 several firefighters suggested that FF Odlaug had written an anonymous email  
18 message to Fire Department leadership about this incident;
- 19
- 20 (q) On several occasions Lieutenant Palu advised FF Odlaug that he would like to "put  
21 a bullet in ... the head" of the person who reported the drinking at Station 14 on  
22 June 14, 2003;
- 23
- 24 (r) On July 18, 2003, while they were both on a truck returning from a surf rescue  
25 drill, FF Clyde Watarai, who was naked, bent over, pulled his buttocks cheeks  
26 apart, and asked FF Odlaug to "look at the purple star," and then sat on her lap;
- 27

- 1 (s) On another occasion, FF Watari took FF Odlaug's underwear from the Station 14  
2 clothes dryer and wore it outside his shorts;
- 3 (t) On various occasions at Station 14 FF Watari and FF Greg Blatman intentionally  
4 exposed their genitals to FF Odlaug;
- 5 (u) On several occasions FF Watari grabbed FF Odlaug and attempted to hug or kiss  
6 her against her will and urged to have sexual relations with him;
- 7 (v) On August 15, 2003, FF Odlaug found a large, live rat in her locker at Station 14;
- 8 (w) On September 1, 2003, Lieutenant Palu came up behind FF Odlaug, grabbed her  
9 waist, and began "humping" her from behind; later that day he said to her, "Oh,  
10 you smell like Filipino, did you get some last night?"
- 11 (x) On September 4, 2003, while on the Station 14 truck, Lieutenant Palu referred to a  
12 woman on the street as a "little Chinese fuck toy," and then said to FF Odlaug,  
13 "you are getting married so you don't have to give blow jobs any more." He  
14 repeated that comment to FF Odlaug the next day;
- 15 (y) After FF Dave Johnson made a complaint about Lieutenant Palu's comments to FF  
16 Odlaug in September 2003, Lieutenant Palu confronted FF Odlaug in a hostile  
17 manner and boasted that he would not be punished for his actions;
- 18 (z) After FF Odlaug made a complaint to the CCSF Department of Human Resources  
19 on September 16, 2003, Lieutenant Palu continued to harass, threaten, and  
20 humiliate her;
- 21 (aa) Following FF Odlaug's complaint to the CCSF Department of Human  
22 Resources members of the Fire Department, at Station 14 and elsewhere, subjected  
23 her to shunning, ostracism, intimidation, and humiliation;
- 24  
25  
26  
27

1 (bb) On November 9, 2003, FF Mortimor Joyce said to FF Odlaug, "go fuck  
2 yourself and I want to watch;"

3 (cc) On November 21, 2003, while she was on duty at Station 14, SFFD Lieutenant  
4 Steve Farac made a hostile and threatening telephone call to FF Odlaug in which  
5 he criticized her for complaining about sexual harassment and the use of alcohol  
6 by on-duty firefighters

7  
8 (dd) On or about March 20, 2004, the SFFD advised FF Odlaug that she would be  
9 excluded from participation in the SFFD Surf Rescue Certification training  
10 program for 2004.

11 EXHAUSTION OF ADMINISTRATIVE REMEDIES

12  
13 16. On or about November 7, 2002, plaintiff Odlaug filed a complaint of discrimination with  
14 respect to the matters alleged above with the California Department of Fair Employment and  
15 Housing.

16 17. On May 20, 2003, the California Department of Fair Employment and Housing issued to  
17 Odlaug a Notice of Case Closure and Right to Sue within one year with respect to the complaint filed  
18 on November 7, 2002.

19 18. On January 28, 2004, plaintiff Odlaug filed a complaint of discrimination against Robert  
20 Palu with respect to the matters alleged above with the California Department of Fair Employment  
21 and Housing.

22 19. On February 13, 2004, the California Department of Fair Employment and Housing issued  
23 to Odlaug a Notice of Case Closure and Right to Sue within one year with respect to the complaint  
24 she filed against Robert Palu on January 28, 2004.  
25  
26  
27



1           20. On January 28, 2004, plaintiff Odlaug filed a complaint of discrimination against CCSF  
2 with respect to the matters alleged above with the California Department of Fair Employment and  
3 Housing.

4  
5           21. On February 13, 2004, the California Department of Fair Employment and Housing issued  
6 to Odlaug a Notice of Case Closure and Right to Sue within one year with respect to the complaint  
7 she filed against CCSF on January 28, 2004.

8           22. On November 20, 2003, plaintiff Odlaug filed a Claim against the City and County of San  
9 Francisco with respect to the matters alleged herein.

10           23. On December 23, 2003, CCSF denied plaintiff Odlaug's claim.

11  
12                   FIRST CLAIM FOR RELIEF - DISCRIMINATION ON THE BASIS OF SEX

13                                   (Government Code § 12940)

14           24. Plaintiff Odlaug realleges and fully incorporates herein paragraphs 1-23 above.

15           25. By virtue of the foregoing, CCSF denied plaintiff Odlaug equal terms and conditions of  
16 employment, all in violation of her right not to suffer discrimination on the basis of her sex.

17  
18           26. By virtue of the foregoing, CCSF violated plaintiff Odlaug's rights under the established  
19 public policy of the State of California and under the California Fair Employment and Housing Act,  
20 Government Code § 12940, et seq.

21                   SECOND CLAIM FOR RELIEF – RETALIATION

22                                   (Government Code § 12940)

23           27. Plaintiff Odlaug realleges and fully incorporates herein paragraphs 1-26 above.

24  
25           28. On or about September 16, 2003, FF Odlaug filed a complaint with the CCSF Department  
26 of Human Resources concerning the matters alleged herein.

1 29. By virtue of the foregoing, CCSF violated plaintiff Odlaug's right to be free from  
2 retaliation for making complaints about suffering discriminatory treatment on the basis of her sex and  
3 about being harassed on the basis of her sex.

4 30. By virtue of the foregoing, CCSF violated plaintiff Odlaug's rights under the established  
5 public policy of the State of California and under the California Fair Employment and Housing Act,  
6 Government Code § 12940, et seq.

8 THIRD CLAIM FOR RELIEF – SEXUAL HARASSMENT

9 (Government Code § 12940)

10 31. Plaintiff Odlaug realleges and fully incorporates herein paragraphs 1-30 above.

11 32. By virtue of the foregoing, CCSF and Palu violated plaintiff Odlaug's right to be free from  
12 harassment on the basis of her sex and subjected her to a hostile working environment on the basis of  
13 her sex.

14 33. By virtue of the foregoing, CCSF and Palu violated plaintiff Odlaug's rights under the  
15 established public policy of the State of California and under the California Fair Employment and  
16 Housing Act, Government Code § 12940, et seq.

17 FOURTH CLAIM FOR RELIEF – NEGLIGENCE

18 34. Plaintiff Odlaug realleges and fully incorporates herein paragraphs 1-33 above.

19 35. At all times relevant hereto, the CCSF and the SFFD have had stated policies against both  
20 sexual harassment and the drinking of alcoholic beverages by on-duty firefighters.

21 36. At all times relevant hereto, the CCSF and the SFFD have failed to use reasonable care (1)  
22 to enforce their policies against sexual harassment; (2) to enforce their policies against the use of  
23 alcohol by on-duty firefighters; (3) to adequately train firefighters on their policies against sexual  
24 harassment and the use of alcohol by on-duty firefighters; and (4) to adequately supervise and  
25  
26  
27

1 discipline firefighters who have violated their policies against sexual harassment and the use of  
2 alcohol by on-duty firefighters.

3 37. By virtue of the foregoing, the CCSF has negligently managed the San Francisco Fire  
4 Department and has negligently hired, promoted, and retained the employees of the SFFD.  
5

6 DAMAGES

7 38. As a result of the actions of defendants CCSF and Palu and their agents and employees,  
8 FF Odlaug has been injured and has suffered damages as follows:

9 (a) She has lost compensation to which she has been entitled and will lose such  
10 compensation in the future;

11 (b) She has suffered from emotional distress, illness, embarrassment, and humiliation,  
12 and has suffered damage to her professional reputation and standing;

13 (c) Her prospects for future employment and career advancement have been greatly  
14 diminished.  
15

16 PUNITIVE DAMAGES

17 39. In taking the actions alleged above, defendant Robert Palu acted willfully, intentionally,  
18 and maliciously in order to harm plaintiff Odlaug and to deprive her of her rights to fair and equal  
19 treatment under the laws, all without lawful justification and because of plaintiff's gender and her  
20 complaints about discrimination and harassment on the basis of her sex and her complaints about the  
21 misuse of alcohol in the San Francisco Fire Department. Accordingly, plaintiff Odlaug is entitled to  
22 punitive damages against defendant Palu in this action.  
23

24 40. Plaintiff Odlaug demands a trial by jury in this case.

25 WHEREFORE, plaintiff KRISTEN T. ODLAUG requests that this Court grant her relief as  
26 follows:  
27

- 1 (1) Injunctive relief to restore her rights and privileges as a member of the San Francisco  
2 Department and to require the SFFD to treat her without discrimination, retaliation, or  
3 harassment;  
4  
5 (2) Injunctive relief, including ongoing judicial oversight, to require the SFFD to fully enforce  
6 its policies against sexual harassment and the use of alcohol by on-duty firefighters and to  
7 adequately supervise and discipline employees who violate those policies;  
8  
9 (3) Damages for lost wages, earnings, and benefits according to proof;  
10  
11 (4) Interest on damages at the prevailing legal rate;  
12  
13 (5) Compensatory damages for humiliation, mental anguish and emotional distress;  
14  
15 (6) Punitive damages;  
16  
17 (7) Attorneys' fees;  
18  
19 (8) Costs of suit; and  
20  
21 (9) Such other and further relief as the Court may deem proper.

22 Dated: April 12, 2004

23 SIEGEL & YEE

24 By 

25 Dan Siegel

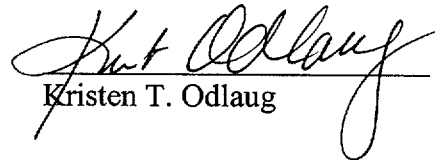
26 Attorneys for Plaintiff  
27 KRISTEN T. ODLAUG

VERIFICATION

I, KRISTEN T. ODLAUG, declare as follows:

I am the plaintiff in the above-entitled case. I have read the foregoing Verified Complaint and know the contents thereof. The same is true of my own personal knowledge, except where stated therein upon information and belief, and as to such matters, I believe it to be true.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on the 9th day of April, 2004, at Oakland, California.

  
Kristen T. Odlaug

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