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KATHLEEN CARROLL

**IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SACRAMENTO**

KATHLEEN CARROLL;

Plaintiff,

vs.

STATE OF CALIFORNIA ACTING BY
AND THROUGH THE CALIFORNIA
COMMISSION ON TEACHER
CREDENTIALING; DALE JANSSEN, in
his individual capacity; MARY
ARMSTRONG, in her individual capacity;
LEE POPE, in his individual capacity;
CHRISTA HILL, in her individual
capacity; ANI KINDALL, in her individual
capacity; and DOES 1 through 10,
inclusive,

Defendants.

Case No.

**VERIFIED COMPLAINT FOR
DAMAGES**

Employment/Civil Rights

Jury Trial Demanded

Plaintiff Kathleen Carroll complains against defendants California Commission on
Teacher Credentialing, Dale Janssen, Mary Armstrong, Lee Pope, Christa Hill, and Ani
Kindall as follows:

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2. Plaintiff's claims arise under the statutory law of the State of California.
3. The actions giving rise to this lawsuit occurred in the County of Sacramento.

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3. The actions giving rise to this lawsuit occurred in the County of Sacramento.

Carroll v. CTC, et al., No. Verified Complaint—2

1 **PARTIES**

2 4. At all relevant times, plaintiff Kathleen Carroll was a resident of Sacramento
3 County.

4 5. At all relevant times, defendant California Commission on Teacher Credentialing
5 was a State agency located in Sacramento County.

6 6. At all relevant times, defendant Dale Janssen was a resident of Sacramento
7 County.

8 7. At all relevant times, defendant Mary Armstrong was a resident of Yolo County.

9 8. At all relevant times, defendant Lee Pope was a resident of Sacramento County.

10 9. At all relevant times, defendant Christa Hill was a resident of Solano County.

11 10. At all relevant times, defendant Ani Kindall was a resident of Yolo County.

12 11. The true names and capacities of the defendants named herein as Does 1 through
13 10, inclusive, whether individual, corporate, associate, or otherwise are unknown to
14 plaintiff, who therefore sues such defendants by fictitious names pursuant to Code of
15 Civil Procedure section 474. Plaintiff is informed and believes, and thereon alleges, that
16 each of the fictitiously named defendants is responsible in the manner set forth herein,
17 or some other manner for the occurrences alleged herein and that the damages as
18 alleged herein were proximately caused by their conduct. Plaintiff is informed and
19 believes, and thereon alleges, that each of the fictitiously named defendants is a
20 California resident. Plaintiff will amend this complaint to show the true names and
21 capacities of each of the fictitiously named defendants when such names and capacities
22 have been determined.
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24 **STATEMENT OF FACTS**

25 12. Plaintiff Kathleen Carroll is a licensed California attorney who was employed as a
26 Staff Counsel by defendant California Commission on Teacher Credentialing ("CTC")
27 starting in October 2006.

28 13. Ms. Carroll satisfactorily performed her duties as a Staff Counsel.

1 14. In August of 2009, Ms. Carroll heard CTC General Counsel Mary Armstrong tell
2 the full Commission that there were little backlogs of document processing at any given
3 time within the CTC.

4 15. Ms. Carroll believed that a potentially very serious backlog of unprocessed
5 reports, cases, and documentary evidence concerning California credential applicants
6 and credential holders (“educators”) existed within CTC; and that CTC’s
7 mismanagement of this evidence jeopardized not only schoolchildren’s safety, but also
8 the due process and other legal rights of educators. Ms. Carroll believed that the
9 foregoing was a violation of Education Code §§ 44240 through 44248, 44320 through
10 44355, and 44420 through 44440; Government Code section 11340 *et seq*; the
11 Fourteenth Amendment of the U.S. Constitution; and of Ms. Armstrong’s duty to be
12 truthful to her client, the CTC and the California public.

13 16. On or about January 21, 2010, Ms. Carroll reported to CTC Chair Ting Sun that
14 Ms. Armstrong had not been truthful in her comments to the Commission in August of
15 2009 about the processing of disciplinary records and cases, and that she had personal
16 knowledge that cases involving mandatory offenses were part of a large backlog of
17 unprocessed misconduct allegation reports and cases at CTC.

18 17. On or about January 26, 2010, Ms. Carroll reported to CTC Director Dale Janssen
19 that misconduct allegation reports and cases were not being timely processed, that
20 mandatory actions against credential applicants and holders were being held up, and
21 that educators who could potentially cause harm to children, including allegations
22 involving sexual misconduct, were still holding their credentials. Ms. Carroll also
23 reported to Mr. Janssen that the CTC discipline process lacked quality control and that
24 low level employees were improperly making case prioritization decisions. Ms. Carroll
25 further reported to Mr. Janssen the high level of cronyism, nepotism, and favoritism
26 that negatively impacted the working environment within the discipline division of the
27 CTC, as well as the fear of retaliation among CTC employees within that division.

1 18. In or about January of 2010, Mr. Janssen ordered an outside, private attorney to
2 conduct an investigation into Ms. Carroll's reports. Ms. Carroll discussed some of her
3 concerns with the investigator. The investigation lasted until May 2010, and was
4 intended to discredit Ms. Carroll and justify taking adverse actions against her. Ms.
5 Armstrong and CTC Senior Staff Counsel Ani Kindall disclosed to the investigator Ms.
6 Carroll's private medical information, which had no relevance to the investigation of Ms.
7 Carroll's reports. The investigator concluded that General Counsel Armstrong did not lie
8 to the Commission in her remarks about the state of the backlog.

9 19. Assistant General Counsel Lee Pope, Ms. Armstrong, and Ms. Kindall became
10 aware of Ms. Carroll's reports either prior to or during the investigation.

11 20. In May of 2010, the California Joint Legislative Audit Committee, at Senator
12 Darrell Steinberg's request, authorized the Bureau of State Audits ("BSA") to conduct a
13 formal audit of CTC's educator discipline process and the issue of nepotism, favoritism,
14 and potential conflicts of interest. The audit resulted from Ms. Carroll's December 2009
15 contact with the BSA Whistleblower Hotline, and subsequent report to Senator
16 Steinberg in February of 2010.

17 21. In June of 2010, Mr. Janssen, Ms. Armstrong, Mr. Pope, and Director of
18 Administrative Services Christa Hill decided that Ms. Carroll would be the sole CTC
19 employee to be laid off as a fiscal year 2010–2011 cost-cutting measure. When they
20 realized that a layoff process would not remove Ms. Carroll from CTC quickly enough
21 before the BSA auditors arrived at CTC, they decided to abandon the attempted layoff
22 and instead proceed with an adverse action.

23 22. On a number of occasions, Ms. Carroll resisted or refused to take actions that she
24 reasonably believed violated the law or her duties as an attorney, including, but not
25 limited to, the following:

- 26 (a) In advance of an August 2010 meeting of the Committee of Credentials
27 ("Committee"), Ms. Armstrong instructed Ms. Carroll to tell the Committee that she
28 could not complete her research regarding guidelines for determining what conduct

1 by a teacher constituted overstepping boundaries with a student. Ms. Carroll
2 believed that with more time she could present the research and told Ms. Armstrong
3 that they owed the Committee a duty of full disclosure. On this basis, Ms. Carroll
4 refused to tell the Committee that the research could not be done, which she believed
5 would be a violation of Business and Professions Code §§ 6067 and 6068.

6 (b) In August of 2010, Ms. Armstrong assigned Ms. Carroll a case involving a
7 credential applicant. Ms. Carroll told Ms. Armstrong she would not sign a letter
8 requesting more information from the applicant because she believed that such a
9 request would be a violation of the court order in *Hewitt v. Commission on Teacher*
10 *Credentialing*, which limited the types of information that could be requested by the
11 CTC, and a violation of 5 California Code of Regulations § 80308.

12 23. The BSA commenced its audit in approximately June of 2010. Ms. Carroll
13 cooperated fully with the BSA auditors between June and September of 2010. Ms.
14 Carroll reported the conduct by Ms. Armstrong, Mr. Pope, Ms. Kindall, and others
15 within the CTC to BSA auditors, including, but not limited to, the following:

16 (a) allowing questions to appear on credential application forms that were outside
17 the scope of what the CTC can legally investigate;

18 (b) discriminating and retaliating against CTC employees and educators, including,
19 but not limited to, discrimination based on perceived mental health disabilities, and
20 retaliating against anyone who questioned their practices;

21 (c) maintaining underground regulations, e.g., internal procedures in the absence of
22 a rule-making process;

23 (d) failing to give notice to educators of the offenses that would subject them to
24 discipline;

25 (e) opening cases against teachers without legal authority;

26 (f) deciding case outcomes without review by the Committee or CTC;

27 (g) improperly influencing case outcomes, e.g., tampering with the selection and
28 composition of the Committee;

- 1 (h) altering documents, e.g., the documents' receipt dates;
2 (i) failing to follow the requirements of *Morrison v. State Board of Education*, both
3 internally and in communications with the Department of Justice;
4 (j) entering into "staff settlements" without review by the CTC or the Committee;
5 (k) promoting the existence of a high level of nepotism, cronyism, favoritism, and
6 potential conflicts of interest throughout CTC; and
7 (l) the very serious backlog of unprocessed reports, cases, and documentary
8 evidence concerning California educators within CTC.

9 Ms. Carroll believed that the foregoing were violations of Education Code §§ 44240
10 through 44248, 44320 through 44355, and 44420 through 44440; 5 California Code of
11 Regulations § 80308; the Family Educational Rights and Privacy Act (20 U.S.C. § 1232g
12 and 34 C.F.R. part 99); the Bagley-Keene Act (Government Code §§ 11120 through
13 11132); Government Code section 11340 *et seq*; and the Fourteen Amendment of the
14 U.S. Constitution.

15 24. Each of the defendants were aware of Ms. Carroll's cooperation with the BSA
16 audit.

17 25. Before the BSA could complete its audit, in or about September of 2010, Ms.
18 Carroll was denied union representation she sought to have for a meeting with Mr. Pope
19 and Ms. Hill, abruptly put on administrative leave in that meeting, denied a scheduled
20 merit salary adjustment, and then summarily terminated from state service on specious
21 charges, effective November 29, 2010. Mr. Pope participated in the placement of Ms.
22 Carroll on administrative leave and denial of her merit salary adjustment. Mr. Janssen,
23 Ms. Armstrong, Mr. Pope, and Ms. Hill participated in the termination of Ms. Carroll.
24 Ms. Kindall had substantial influence on Mr. Janssen, Ms. Armstrong, and Mr. Pope
25 with respect to each of the adverse actions, including, but not limited to, making false
26 allegations that were used to justify Ms. Carroll's termination. Defendants also
27 attempted to prevent Ms. Carroll from obtaining unemployment benefits.
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1 26. In April 2011, the State Auditor confirmed Ms. Carroll reports of serious
2 mismanagement and significant document processing backlogs, a rampant level of
3 nepotism and favoritism that existed throughout the CTC, unlawful delegation of
4 decision making authority to CTC staff, and a high level of fear of retaliation among CTC
5 employees.

6 27. Soon thereafter, Mr. Janssen, Ms. Armstrong, and Mr. Pope were removed or left
7 their positions at the CTC.

8 28. On or about November 29, 2010, Ms. Carroll timely appealed the adverse action
9 terminating her employment to the State Personnel Board ("SPB"). On or about March
10 28, 2011, Ms. Carroll filed a Whistleblower Retaliation Complaint with the SPB under
11 Government Code §§ 8547, *et seq.* and 19683, and California Code of Regulations
12 section 67.1, *et seq.* These matters were consolidated and heard before a SPB
13 Administrative Law Judge who rendered his proposed decision denying Ms. Carroll's
14 appeal on April 16, 2012. The SPB adopted the ALJ's proposed decision on May 7, 2012.
15 The decision was served upon Ms. Carroll on May 11, 2012.

16 29. On July 3, 2012, Ms. Carroll presented a completed Government Claims Form to
17 the California Victim Compensation and Government Claims Board regarding the
18 matters described herein. On July 12, 2012, the California Victim Compensation and
19 Government Claims Board rejected Ms. Carroll's claim.

20 **FIRST CLAIM FOR RELIEF FOR VIOLATION OF**
21 **THE CALIFORNIA WHISTLEBLOWER PROTECTION ACT**
22 **(against defendant California Commission on Teacher Credentialing)**
(Gov. Code, § 8547, *et seq.*)

23 30. Plaintiff incorporates by reference paragraphs 1 through 29 above as though fully
24 set forth herein.

25 31. By virtue of the foregoing, defendant CTC engaged in acts of retaliation against
26 plaintiff for having made protected disclosures in violation of Government Code section
27 8547, *et seq.*
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1 **SECOND CLAIM FOR RELIEF FOR VIOLATION OF**
2 **LABOR CODE SECTION 1102.5**
3 **(against defendant California Commission on Teacher Credentialing)**
4 **(Lab. Code, § 1102.5.)**

5 32. Plaintiff incorporates by reference paragraphs 1 through 31 above as though fully
6 set forth herein.

7 33. By virtue of the foregoing, defendant CTC retaliated against plaintiff for
8 disclosing what she reasonably believed were violations of federal and state laws to a
9 government agency in violation of Labor Code section 1102.5.

10 34. By virtue of the foregoing, defendant CTC retaliated against plaintiff for refusing
11 to participate in an activity that would result in a violation of federal and state laws in
12 violation of Labor Code section 1102.5.

13 **THIRD CLAIM FOR VIOLATION OF FREE SPEECH RIGHTS**
14 **(against defendants Dale Janssen, Mary Armstrong,**
15 **Lee Pope, Christa Hill, and Ani Kindall)**
16 **(42 U.S.C., § 1983.)**

17 35. Plaintiff incorporates by reference paragraphs 1 through 34 above as though fully
18 set forth herein.

19 36. By virtue of the foregoing, defendants Dale Janssen, Mary Armstrong, Lee Pope,
20 Christa Hill, and Ani Kindall, acting under color of state law, wrongfully deprived
21 plaintiff of her free speech rights guaranteed under the Constitution of the United States
22 by participating in adverse employment actions against plaintiff in retaliation for her
23 speech addressing issues of public concern in her capacity as a private citizen.

24 **DAMAGES**

25 37. As a result of the actions of defendant, plaintiff has been injured and has suffered
26 damages as follows:

- 27 a. She has lost compensation and other employment-related benefits to which
28 she has been entitled and will lose such compensation and benefits in the future;
- b. She has suffered from emotional distress, embarrassment and humiliation,
and has suffered damage to her professional reputation and standing;

1 c. She has incurred out-of-pocket expenses for health care benefits.

2 **PUNITIVE DAMAGES**

3 38. In taking the actions alleged above, defendants Dale Janssen, Mary Armstrong,
4 Lee Pope, Christa Hill, and Ani Kindall engaged in the conduct alleged herein with
5 malice, oppression, and reckless disregard of plaintiff's right to be free of retaliation for
6 engaging in protected free speech. Accordingly, plaintiff is entitled to punitive damages
7 against defendants Dale Janssen, Mary Armstrong, Lee Pope, Christa Hill, and Ani
8 Kindall in this action.

9
10 WHEREFORE, plaintiff requests that this Court grant her relief as follows:

11 (1) Injunctive relief to require defendant to reinstate her as Staff Counsel together
12 with all pay, benefits, seniority, and emoluments of that position; and treat her without
13 retaliation;

14 (2) Compensatory damages for lost wages and benefits, in an amount to be
15 determined;

16 (3) Interest at the legal rate;

17 (4) General damages for emotional distress, pain and suffering, in an amount to be
18 determined;

19 (5) Special damages for out-of-pocket expenses;

20 (6) Punitive damages, in an amount to be determined;

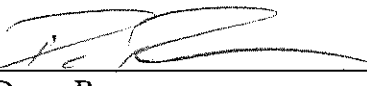
21 (7) Attorney's fees;

22 (8) Costs of suit; and

23 (9) Such other and further relief as the Court may deem proper.
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2 Dated: November 13, 2012

3 SIEGEL & YEE

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5 By: 
6 Dean Royer

7 Attorneys for plaintiff
8 Kathleen Carroll
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I am the plaintiff to this action, and I have read the foregoing Verified Complaint for Damages and know its contents. The matters stated in the Verified Complaint for Damages are true based on my own knowledge.

Kathleen Carroll
Kathleen Carroll