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COUNTY OF SANTA CLARA  
BE:                                          

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Attorneys for Plaintiff, Lori Casagrande

**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF SANTA CLARA**

**(UNLIMITED JURISDICTION)**

**115CV280605**

LORI CASAGRANDE, an individual,

Case No.:

Plaintiff,

v.

**COMPLAINT FOR:**

CITY OF MILPITAS, a governmental entity;  
and DOES 1-50, inclusive.

- 1. DISCRIMINATION ON THE BASIS OF AGE IN VIOLATION OF FEHA;**
- 2. RETALIATION IN VIOLATION OF FEHA;**
- 3. FAILURE TO PREVENT DISCRIMINATION IN VIOLATION OF FEHA.**

Defendants.

**Demand for Jury Trial**

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1 Plaintiff Lori Casagrande ("Plaintiff"), brings this action against Defendant City of Milpitas  
2 and Defendants DOES 1-50, and alleges as follows:

3 **PARTIES**

4 1. Plaintiff, Lori Casagrande ("Plaintiff" or "Casagrande") is, and all time mentioned in  
5 this Complaint was, a resident of Santa Clara County, California.

6 2. At all times herein, Plaintiff was an employee of Defendant City of Milpitas, covered by  
7 the Fair Employment in Housing Act ("FEHA"), California Government Code Section 12940 et. seq.,  
8 which prohibits discrimination and retaliation in employment on the basis of age.

9 3. Defendant City of Milpitas ("the City" or "City") is, and all times mentioned in this  
10 Complaint was, a governmental entity duly organized and existing under the laws of the State of  
11 California. The City is located in Santa Clara County.

12 4. Defendant City is, and all times mentioned in this complaint was, an employer pursuant  
13 to California Government Code Section 12926(d).

14 5. Defendants 1 through 50 are sued under fictitious names pursuant to Code of Civil  
15 Procedure section 474. Plaintiff is informed and believes, and on that basis alleges, that each of the  
16 defendants sued under fictitious names is in some manner responsible for the wrong and damages  
17 alleged below, in so acting was functioning as the agent, servant, partner, and employee of the co-  
18 defendants, and in taking the actions mentioned below was acting within the course and scope of his or  
19 her authority as such agent, servant, partner, and employee, with the permission and consent of co-  
20 defendants.

21 6. Finally, at all relevant times mentioned herein, all defendants acted as agents of all other  
22 defendants in committing the acts alleged herein.

23 **INTRODUCTORY ALLEGATIONS**

24 7. Plaintiff Casagrande, a 55 year-old woman, was employed by the City as an Office  
25 Specialist from February 26, 2001, until her termination on June 30, 2012. Throughout her tenure with  
26 the City, Plaintiff received recommendations and commendations for her work by various supervisors  
27 and co-workers. Plaintiff performed her job well.

28 8. On May 10, 2012, Plaintiff received a preliminary notice of lay-off from Carmen

1 Valdez, Director of Human Resources. The City told Plaintiff that reassignment was not an option.

2 9. At the time, the City Clerk's office employed an Office Specialist who had less  
3 seniority than Plaintiff, Rachelle Currie. Ms. Currie was 39 years old at that time. During the time of  
4 the 2012 layoff, the City reassigned Ms. Currie to work as a temporary Executive Secretary in the City  
5 Manager's office. This position later became permanent, allowing her to remain employed by the City  
6 during the 2012 layoff that resulted in Plaintiff's termination. Upon information and belief, Ms. Currie  
7 remains employed by the City today as Executive Secretary for the City Manager, with no breaks in  
8 employment due to layoff or other circumstances.

9 10. On or about May 23, 2012, Plaintiff wrote to HR Director Ms. Valdez, questioning the  
10 manner in which her layoff was being carried out.

11 11. On or about June 4, 2012, Mr. Williams transferred his Executive Secretary, Veronica  
12 Bejines, to the Police Department. The Police Department had not had an Executive Secretary since  
13 2011, when Kay Parkinson, Executive Secretary for the Police Department, retired. Upon information  
14 and belief, between Ms. Parkinson's retirement in 2011 and June 4, 2012, the City did not recruit or fill  
15 the Police Department Executive Secretary position. Upon information and belief, at a March 20, 2012,  
16 City Council Meeting, Police Chief Graham stated that he did not need an Executive Secretary and  
17 recommended eliminating that position to save money. Upon information and belief, Police Chief  
18 Graham was convinced to keep the Executive Secretary position open, but at an unfunded level. The  
19 position was reported as unfunded in the City Budget.

20 12. On or about June 14, 2012, HR Director Ms. Valdez confirmed that the appointment of  
21 Rachelle Currie to the City Manager's office was at the sole discretion of the City Manager, Tom  
22 Williams.

23 13. On or about June 18, 2012, Ms. Casagrande received a written confirmed notice of lay-  
24 off from the City.

25 14. On or about June 21, 2012, Plaintiff wrote to her supervisor, Felix Redford, stating that  
26 she did not want to retire, but the City's actions had forced her to retire to protect partially vested  
27 benefits.

28 15. On or about June 26, 2012, Ms. Valdez, wrote an email, copying City Manager

Williams, stating that the City moved Ms. Currie into the classification of Executive Secretary, and that her appointment into that classification was temporary.

16. The Executive Secretary position is two levels above the Office Specialist position.

17. Plaintiff's final day of work was June 29, 2012.

18. On or about July 3, 2012, Plaintiff filed a formal complaint to the City's decision to retain Ms. Currie and to place her in a position two steps above the Office Specialist level. Plaintiff complained that the City had set the stage to manipulate City rules to retain a much younger and less experienced employee, Currie, at the expense of a senior employee, more experienced and better qualified employee, Plaintiff Casagrande. Plaintiff complained the City had forced her into retirement and challenged the City's refusal to place her on the re-employment list for the classification of Office Specialist.

19. On or about July 31, 2012, City Manager Williams responded to Plaintiff's complaint. Mr. Williams' illogical explanation was that he needed to reassign his Executive Secretary, Veronica Bejines, to the Police Department. This rationale was false as the Police Department had demonstrated lack of interest in a replacement Executive Secretary.

20. Mr. Williams' explanation for why the City chose not to back-fill Ms. Currie's Executive Secretary position with the City Clerk after Mr. Williams assigned Ms. Currie to his office was similarly specious. Williams stated Ms. Currie's Office Specialist position in the City Clerk's office was eliminated. Yet, the Office Specialist position in the City Clerk's office appeared to be funded in the City's 2012/2013 Final Budget, directly contrary to the City Manager's claim

21. Mr. Williams also stated that after transferring Ms. Bejines, he had no administrative support because Ms. Bejines, "had served as the only administrative person providing assistance to the City Manager." However, on May 8, 2012, the City reclassified Susan Barrett, formerly Legal Assistant for the City Attorney, to an Executive Secretary position in light of increased interdependence and cross-over of administrative staff duties and responsibilities within the Third Floor executive wing. That wing included the City Manager and City Attorney's office.

22. Mr. Williams' response also stated, "[o]n May 3<sup>rd</sup>, 2012, notices of intent to layoff were sent to affected employees, including Grievant, Lori Casagrande. Lori Casagrande had the ability to

1 avoid layoff by choosing to retire. Ms. Currie, not of sufficient age for retirement, did not have this  
2 option and would have been laid off if not offered the option of Temporary Appointment since her job  
3 as Office Specialist with the City Clerk had been eliminated.”

4 23. Mr. Williams’ response also stated, he “chose to appoint an existing 11-year employee  
5 who had no option to apply for retirement benefits and would not receive any medical benefits if laid  
6 off.[Ms. Casagrande], on the other hand, had the ability to choose a PERS retirement benefit plus 50%  
7 medical reimbursement as a City retiree. The best interests of both the City and the employees were  
8 served by Ms. Currie’s appointment.”

9 24. Plaintiff enjoyed her job and planned to continue working for the City for many years.  
10 Plaintiff did not want to retire, as she informed her supervisor, Felix Redford, on June 21, 2012.

11 25. As a result of the City’s decision to terminate Plaintiff because she was of “sufficient  
12 age to retire,” Plaintiff receives substantially less Public Employees’ Retirement System (“PERS”)  
13 retirement benefits and medical benefits than she would have received had the City not terminated her  
14 because of her age.

15 26. On or about September 17, 2012, Plaintiff filed a Charge of Discrimination with the  
16 Equal Employment Opportunity Commission (“EEOC”). This complaint was dual filed with  
17 California’s Department of Fair Employment and Housing (“DFEH”). On September 28, 2012, the  
18 DFEH issued a right-to-sue letter, which, pursuant to California Government Code Section  
19 12965(d)(1), was tolled during the pendency of the EEOC’s investigation, which lasted through April  
20 2015.

21 27. In or around October 2012, Plaintiff became aware of a job posting for the permanent  
22 Executive Secretary position in the City Manager’s office that had been awarded to Ms. Currie on a  
23 temporary basis. Plaintiff applied for the position despite the City’s earlier discriminatory treatment of  
24 her.

25 28. On or about December 19, 2012, Plaintiff interviewed for the Executive Secretary  
26 position before a panel of three individuals.

27 29. Upon information and belief, candidates needed an overall average score of at least 80  
28 out of 100 over several categories in the first interview to move forward in the application process.

1 Upon information and belief, Plaintiff received many scores of 79 out of 100. The City did not allow  
2 Plaintiff to move forward despite the fact that she had more experience and was comparably or better  
3 qualified than Ms. Currie. Upon information and belief, it also passed over other strong applicants who  
4 were older than 40, and were also equally or better qualified than Ms. Currie.

5 30. The City eventually hired Ms. Currie for the Executive Secretary position on a  
6 permanent basis, a promotion two steps above the Office Specialist position that she previously held.  
7 Upon information and belief, Ms. Currie earns at least \$95,696. Plaintiff earned significantly less at  
8 termination.

9 31. On or about September 24, 2014, the EEOC issued a finding on Plaintiff's dual filed  
10 EEOC/DFEH complaint. The EEOC stated that, "[t]he evidence obtained in the investigation  
11 establishes that [the City of Milpitas] laid-off Charging Party because of her age, over 40. The  
12 evidence in the investigation also establishes that the [City] discriminated against a class of  
13 individuals, including Charging Party, because of their age, over 40, when it selected a less qualified  
14 individual under 40 for the permanent Executive Secretary position."

15 32. Upon information and belief, the City has a pattern and practice of manipulating other  
16 layoffs and promotions at the expense of employees who are forty or older, including manipulating  
17 rehires after the layoffs. The City made similar concerted efforts to re-hire younger employees who  
18 were terminated in 2012 layoff, while failing to do so for employees over 40.

### 19 **FIRST CAUSE OF ACTION**

#### 20 **Discrimination on the Basis of Age**

#### 21 **(Government Code §12940, et. seq.)**

22 33. Plaintiff re-alleges each paragraph of this Complaint as though fully set forth.

23 34. At all times mentioned herein, FEHA, Government Code Section 12940, et. seq., was in  
24 full force and effect and was binding on defendants. This statute requires defendants to refrain from  
25 discriminating against any employee on the basis of being 40 years old or older. Within the time  
26 provided by law, Plaintiff dual filed a complaint with the EEOC and DFEH, in full compliance with  
27 administrative requirements. On September 28, 2012, the DFEH issued a right-to-sue letter, which,  
28 pursuant to California Government Code Section 12965(d)(1), was tolled during the pendency of the



1 EEOC's investigation. On April 22, 2015, the EEOC issued a right-to-sue letter. This complaint is  
2 therefore timely filed.

3 35. During Plaintiff's employment, Defendants, through their supervisors, engaged in  
4 actions that had a negative impact on the treatment of employees who were 40 years old or older.  
5 Specifically, Defendants discharged older employees with greater frequency than younger employees,  
6 rehired younger employees with greater frequency than older employees, and gave better jobs and  
7 benefits to younger employees.

8 36. During Plaintiff's employment with Defendants, Defendants intentionally engaged in  
9 age discrimination by manipulating layoff procedures to discharge employees who were 40 years old  
10 or older. During Plaintiff's employment, Defendants had a pattern and practice of discriminating  
11 against employees who were 40 years old or older.

12 37. Plaintiff was a qualified employee at the time of termination of her employment, she  
13 was more than 40 years old, and she was passed over for continued employment and re-employment  
14 with the City by an employee younger than 40.

15 38. Defendants, in their response to Plaintiff's complaint about the layoff, made statements  
16 about Plaintiff that exhibited ageist motivations, intentions and consciousness. Plaintiff believes, and  
17 on that basis alleges, Defendants' motivation for discharging her and for failing to rehire her, was  
18 because of her age.

19 39. On the basis of the above, Plaintiff believes and alleges that her age was a motivating  
20 factor in Defendants' termination of her employment, and in Defendants' decision not to rehire her.

21 40. As a proximate result of Defendants' willful, knowing, and intentional discrimination  
22 against her, Plaintiff has sustained and continues to sustain substantial losses of earnings and other  
23 employment benefits.

24 41. As a proximate result of Defendants' willful, knowing, and intentional discrimination  
25 against Plaintiff, Plaintiff has suffered and continues to suffer humiliation, emotional distress, and  
26 mental and physical pain and anguish, all to her damage in a sum according to proof.

27 42. Defendants' discrimination was done intentionally, in a malicious, oppressive manner.

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1           51.    As a proximate result of Defendants' willful, knowing, and intentional failure to prevent  
2 discrimination against her, Plaintiff has suffered and continues to suffer humiliation, emotional  
3 distress, and mental and physical pain and anguish, all to her damage in a sum according to proof.

4           52.    Defendants' discrimination was done intentionally, in a malicious, oppressive manner.

5                               **PRAYER FOR RELIEF**

6           WHEREFORE, Plaintiff, Lori Casagrande, prays for judgment against Defendants as follows:

7           A.    For general and special damages according to proof;

8           B.    For pre-judgment and post-judgment interest on all damages awarded;

9           C.    For reasonable attorney's fees;

10          D.    For costs of suit incurred;

11          E.    For injunctive relief against Defendants to prevent further recurrence of their unlawful  
12 discrimination and retaliation;

13          F.    For such other and further relief as the Court may deem just and proper.

14  
15          ADDITIONALLY, Plaintiff, Lori Casagrande, demands trial of this matter by jury.

16          Dated: May 13, 2015

17                               DICKSON GEESMAN LLP

18                               BROWNE LABOR LAW, PROFESSIONAL LAW  
19                               CORPORATION

20                               *Kathryn Burkett Dickson*

21                               KATHRYN BURKETT DICKSON  
22                               Attorneys for Plaintiff