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2019 FEB 20 09:00 AM
KING COUNTY
SUPERIOR COURT CLERK
E-FILED
CASE #: 19-2-04610-4 KNT

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
KING COUNTY

RYAN SANTHUFF, an individual,

Plaintiff,

vs.

STATE OF WASHINGTON, and DAVID
JAMES NOBACH, an individual.

Defendants.

Case No.:

COMPLAINT FOR DAMAGES AND
INJUNCTIVE RELIEF

I. JURISDICTION

1.1 Plaintiff Ryan Santhuff (“Mr. Santhuff” or “Trooper Santhuff” or “plaintiff”) has his principal place of business in King County.

1.2 Defendant State of Washington (“the State” or “defendant”) is a State.

1.3 Defendant David James Nobach (“Lt. Nobach” or “defendant”) is a resident of Thurston County, Washington.

1.4 This Court has jurisdiction over this matter pursuant to RCW 4.28.020 and RCW 4.92.010.

1 1.5 Prior to filing this lawsuit, the plaintiff timely filed an administrative claim
2 with the Office of Financial Management and waited the required time before filing in
3 King County Superior Court. The content of the administrative claim met the
4 requirements RCW 4.92.100.

5 II. FACTS

6 A. Background

7 2.1 Plaintiff Ryan Santhuff has been interested in aviation since he was a boy.
8 After high school, he enrolled in flight school with the intent to make aviation his
9 career. Mr. Santhuff took college courses focusing on professional aeronautics.

10 2.2 After the attack on the Twin Towers, the market for pilots contracted, and
11 Mr. Santhuff realized that his flying opportunities would be difficult to find.
12

13 2.3 Mr. Santhuff became interested in becoming a State trooper and saw a
14 career in law enforcement as a means for pursuing his aviation career goal.

15 2.4 Mr. Santhuff began working for the State of Washington, Washington State
16 Patrol (“WSP”), as a Highway Trooper on December 6, 2006.

17 2.5 Trooper Santhuff is and has been a proud servant of the State of
18 Washington who has distinguished himself through his commitment to the success and
19 improvement of the state’s police agency.
20

21 2.6 In April 2008, Trooper Santhuff became a commissioned officer.

22 2.7 In 2011, WSP selected Trooper Santhuff to be a Field Training Officer and
23 recognized him with the Detachment of the Year Award for District 1.
24
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1 2.8 In both 2011 and 2012, Trooper Santhuff received the prestigious “Looking
2 Beyond the Traffic Stop Award” in District 1 and state-wide. The award led him to
3 consider a detective position, but no positions were available at the time.

4 2.9 While Trooper Santhuff had proven himself to be an exemplary Highway
5 Trooper, his true passion was in flying airplanes for the WSP.

6 2.10 In 2013, Trooper Santhuff learned there were openings in WSP aviation.
7 Trooper Santhuff took vacation and used that time to obtain an Instrument Certificate and
8 Commercial Pilot License in seven weeks. He progressed quickly through the WSP
9 single engine training and eventually obtained a Multi-Engine Pilot License.
10

11 2.11 In November 2013, as an applicant for a Trooper Pilot position in the
12 Aviation Section, Trooper Santhuff underwent a flying proficiency evaluation flight,
13 which he successfully completed.

14 2.12 Trooper Santhuff later attended Flight Safety International King Air
15 training, where he tested and placed at the level of flying proficiency for a Professional
16 Pilot.

17 2.13 Trooper Santhuff joined the WSP’s Aviation Section as a Trooper Pilot on
18 January 1, 2014.

19 2.14 Defendant David James Nobach has been a WSP employee for
20 approximately 24 years. In 2000, Nobach began his tenure in WSP’s Aviation Section as
21 a Trooper Pilot. In 2005, he was promoted to Sergeant in Aviation. That same year he
22 became Chief Pilot and took over as the Maintenance Operation Director, two
23 supplemental job titles and sets of responsibilities which he still retains today. Nobach
24 was promoted to his current position of Lieutenant in Aviation in August 2011.
25

1 2.15 Pilots in the Aviation Section assist troopers in detecting traffic violations
2 from the air and provide assistance to agency staff and local jurisdictions with drug
3 enforcement and aerial surveillance. They also facilitate the transport of donor organs
4 and blood supplies in medical emergencies.

5 2.16 During the time that Trooper Santhuff was employed there, the Washington
6 State Patrol’s Aviation Section operated and maintained seven aircraft—two (2) multi-
7 engine King Air 200s and five (5) single engine Cessnas.

8 2.17 The two (2) multi-engine aircraft, a 1983 King Air and 1995 King Air,
9 provide transportation services for State Patrol personnel and other state agencies,
10 including transport for the Department of Corrections, as well as travel for the Governor.

11 2.18 The five (5) Cessna aircraft provide impaired driving enforcement with the
12 DUI Aerial Response Team (DART), traffic congestion management (METRO), aerial
13 homeland security, and aerial law enforcement support services. WSP’s aircraft are used
14 to transport WSP staff in support of traffic law enforcement and commercial vehicle
15 enforcement, traffic investigations, vehicle inspection services, flights related to the
16 Forensic Laboratory Services Bureau’s Breath Test and Drug Recognition Expert
17 programs, and highway-related support activities by Communications, ACCESS or other
18 support personnel. Other activities include the Investigative Services Bureau’s narcotics
19 enforcement activities, the Fire Protection Bureau’s fire-safety-related activities, and the
20 Forensic Laboratory Services Bureau’s non-traffic criminal activities.
21

22 2.19 As a Trooper Pilot, Trooper Santhuff “successfully coordinated missions
23 with fellow Troopers, Local and Federal Law Enforcement Agencies, to include the U.S.
24
25

1 Navy submarine escorts, FBI task force missions, Regional Aviation exercises, and large
2 scale demonstrations.”

3 **B. The King Air Incident Involving Lt. Nobach**

4 2.20 The WSP Aviation Section’s State Patrol Highway Account (SPHA)
5 budget was reduced \$1,483,000 in the 2009-11 Biennium. WSP’s “discussions with
6 Legislative staff and the budget notes indicate this reduction was intended to eliminate
7 SPHA funding for the King Air aircraft.”

8 2.21 In 2012, Lt. Nobach sought to restore \$1,150,000 for the 2013-15
9 Biennium. In the agency’s 2013-15 Budget Request, Lt. Nobach and WSP claimed that
10 due to the previous budget cuts there was a 32.4% reduction in flight hours in the 2009-
11 2011 Biennium and a 45.7 % reduction in flight hours in 2011-2013 Biennium. The
12 decision package in the budget request entitled “PL-AJ Restore Aerial Traffic
13 Enforcement Funding” identified Lt. Nobach as “the subject matter expert for Aviation”
14 and provided his telephone number.

15 2.22 In 2012, WSP also sought an adjustment of \$515,000 to the agency’s
16 allocation from the State Patrol Airplane Revolving Account-NonAppropriated funds for
17 expenditures related to the King Air planes.

18 2.23 In the same budget request, WSP and Nobach indicated that the estimated
19 “replacement date” for the 1983 King Air was 2013 and the estimated replacement date
20 for the 1995 King Air was 2015; albeit with an asterisk (*) to indicate that, “In the 2009-
21 11 Biennium, funding was requested for a high intensity discharge Xenon landing light
22 system corrosion protection exterior paint, interior refurbishing, and Flight Moving Map
23
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1 and Precision Guidance Multifunction Display. These items were not funded which
2 lowers the expected service of the 1995 King Air to 20 years” (*i.e.*, until 2015).

3 2.24 On information and belief, the WSP’s Aviation Section and Lt. Nobach
4 were not granted the budget they requested for the 2013-2015 Biennium.

5 2.25 In 2014, Trooper Pilot Santhuff was assigned to the Cessna Training
6 Program, and as a result, he spent time on the ground, mostly in the office helping out
7 and doing administrative work.

8 2.26 At all times relevant to this complaint Brenda Biscay (“Ms. Biscay”) has
9 been the administrative assistant assigned to Lt. Nobach.

10 2.27 During the relevant time period, Ms. Biscay kept and maintained a paper
11 calendar on which she tracked, among other things, scheduled aircraft maintenance
12 within the fleet. Ms. Biscay’s practice was to record scheduled maintenance in pencil in
13 that calendar by drawing a line through the dates and notating a brief description of the
14 type of maintenance being conducted, so if a date showed no scheduled maintenance for
15 a particular plane, then the plane was available to fly on that date. Sergeants and others
16 could and would also make entries on the calendar to record maintenance dates.
17

18 2.28 On a particular day in 2014, Trooper Pilot Santhuff was standing near Ms.
19 Biscay’s desk when a phone call came in from the governor’s office requesting a flight
20 on a specific day. Ms. Biscay looked at the calendar for the date requested and noted that
21 the plane was available for use (no maintenance was scheduled). Ms. Biscay then put the
22 caller from the governor’s office on hold, and yelled to Lieutenant Nobach, who was in
23 his nearby office, words to the effect, “Hey, boss, the governor’s office is on the phone,
24 and wants a flight such-and-such date.”
25

1 2.29 Lieutenant Nobach responded to Ms. Biscay, using words to the effect,
2 “Tell him it’s down for maintenance.” Ms. Biscay then looked at the calendar and looked
3 at Trooper Pilot Santhuff, and spoke to the person from the governor’s office, words to
4 the effect, “Oh, I’m sorry, the plane is down for maintenance. Is there another day you
5 would like to schedule?”

6 2.30 Within minutes, Lieutenant Nobach came into Ms. Biscay’s area and said
7 words to the effect, “Fuck him. If they’re not willing to fund these aircraft, then --
8 basically, they need to feel the hit with these last-minute requests.” (the “King Air
9 Incident”).

10 2.31 On information and belief, Lieutenant Nobach has engaged in other
11 incidents involving airplane availability similar to the King Air Incident.

12 2.32 Trooper Santhuff reported and provided information to a public official
13 regarding the King Air Incident.

14 2.33 Trooper Santhuff was also perceived to have reported or provided
15 information to a public official regarding the King Air Incident.

16 2.34 Lt. Nobach has received no discipline for the King Air Incident.

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18 **C. The Email Destruction Incident Involving Lt. Nobach**

19 2.35 On February 23, 2014, Andrew Charles Hendricks, a citizen of Washington
20 State, uploaded to the Internet, 305 pages of Lt. Nobach’s email communications from
21 his WSP email account, which the agency released pursuant to the Public Records Act
22 (PRA). These emails included communications in which Lt. Nobach wrote flirtatiously
23 with his secretary, Ms. Biscay, and to other women. Any individual who searches Google
24 for “Nobach emails” can still find and view this information.
25

1 2.36 Lt. Nobach is married, and was at the time he exchanged the email
2 communications with Ms. Biscay.

3 2.37 The State reviewed and redacted Lt. Nobach's emails prior to releasing
4 them, and thus had notice of the actual contents of the emails it released.

5 2.38 Following the annual May Day protest, perhaps in 2014 or 2015, Ms.
6 Biscay and Lt. Nobach came into the pilot's lounge, where they found Chris Noll,
7 Trooper Santhuff, and perhaps one other person. Lt. Nobach told the pilots that Ms.
8 Biscay got wind of another Public Records Act request, and told the pilots to access their
9 email and delete all emails pertaining to the May Day protest. Each of the pilots did so.
10 Nobach also told the pilots to delete their entire deleted email folders, which they did.
11 Then he told the pilots to go into their "recovery folder" and delete those emails. On
12 information and belief, Nobach had each pilot delete those emails in those folders. (the
13 "Email Destruction Incident").
14

15 2.39 On information and belief, no one challenged Lt. Nobach's authority
16 consistent with the saying, "don't poke the bear," which became a reference to Nobach.

17 2.40 Trooper Santhuff reported and provided information to a public official
18 regarding the Email Destruction Incident.

19 2.41 Trooper Santhuff was also perceived to have reported or provided
20 information to a public official regarding the Email Destruction Incident.
21

22 2.42 In subsequent investigations, WSP interviewed Troopers Scott Sborov,
23 Chris Noll, and Paul Speckmaier, who confirmed the essence of Trooper Santhuff's
24 allegations regarding the Email Destruction Incident.
25

1 2.43 Trooper Sborov confirmed in Case No. 17-004115 that he “remember[ed]
2 something about the lieutenant [Nobach] bringing up deleting emails”; “we got notice ...
3 that there was a public disclosure request that was gonna be coming down” and that had
4 “precipitated it.”

5 2.44 Trooper Noll in Case No. 17-0153 described how Lt. Nobach “came up
6 and asked us to delete everything that had to do with the May Day protest, and sat us
7 down at computers and showed us how to go through and delete them, and then re-delete
8 them.”

9 2.45 Retired Trooper Speckmaier told investigators in Case No 17-0153 that he
10 “remember[ed] deleting emails” with Lt. Nobach guiding him through the steps, having
11 him delete emails in his “deleted” and “recovery” folders, and acting like it was “priority
12 and urgent.” Speckmaier said Nobach gave him “[n]o choice” and that he later heard
13 from others in the Aviation Section that Nobach “got wind that there was ... a public
14 disclosure request for emails... and that’s why we deleted them[.]”

15 2.46 RCW 42.56.100 (Protection of public records—Public access.) states, in
16 relevant part, “If a public record request is made at a time when such record exists but is
17 scheduled for destruction in the near future, the agency... shall retain possession of the
18 record, and may not destroy or erase the record until the request is resolved.”

19 2.47 Under RCW 42.14.060, public records are to be destroyed in accordance
20 with an approved retention schedule.

21 2.48 The State Government General Records Retention Schedule Version 5.1
22 (August 2011) (“SGGRRS”) applied to employees of WSP’s Aviation Section during the
23 2014-15 time period.
24
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1 2.49 SGGRRS Disposition Authority Number (“DAN”) GS 09022 Rev. 0
2 requires, “Internal and external communications to or from employees ... that are made
3 or received in connection with the transaction of public business,” including email, be
4 retained for 2 years after communication received or provided, whichever is later.”

5 2.50 Lt. Nobach’s instruction to delete emails regarding the May Day protest,
6 which were records generated just days or weeks earlier and for which he believed there
7 was a pending public records request, was conduct in violation of the Public Records
8 Act, RCW 42.56, *et seq.*, and the Records Retention Act, RCW 40.14, *et seq.*

9 2.51 Despite the information WSP received in its investigations, Lt. Nobach has
10 received no discipline for the Email Destruction Incident.

11 2.52 Trooper Santhuff reported the Email Destruction Incident to the Office of
12 Professional Standards.

13 2.53 On information and belief, within days or perhaps weeks, all computers
14 within the Aviation Section were replaced and destroyed.

15
16 **D. The Sexual Misconduct Incident Involving Lt. Nobach**

17 2.54 On February 26, 2016, Trooper Santhuff met with Lt. Nobach to debrief
18 about a flight in which Trooper Santhuff’s plane encountered bad weather, causing it to
19 “ice up,” which is a serious condition.

20 2.55 On the flight in question, Trooper Santhuff had flown over the Cascade
21 mountain range, north of Mt. Rainier, on the direction of Lt. Nobach, rather than use the
22 route Trooper Santhuff had planned to make through the Gorge.

23 2.56 The planned route through the Gorge would have taken 20 minutes longer,
24 but posed no similar risk of icing.
25

1 2.57 Lt. Nobach hurried the flight in an effort to accommodate Trooper
2 Santhuff's passenger, Assistant Chief Lamoreaux, who had a meeting that evening.

3 2.58 As Trooper Pilot Santhuff sat across from Lt. Nobach to discuss the icing
4 incident, Lt. Nobach made a comment to his administrative assistant, Brenda Biscay,
5 who he observed walking by outside his office in the hallway. Lt. Nobach said something
6 to effect of, "Woman, where's my coffee?"

7 2.59 In response to Lt. Nobach's comment, Ms. Biscay entered the room and
8 began to massage Nobach's shoulders and arms as Lt. Nobach sat in his chair.

9 2.60 Sitting at a table, across from Trooper Pilot Santhuff, Lt. Nobach made
10 another derogatory type comment to Ms. Biscay as she massaged him, which was
11 followed by Ms. Biscay telling Lt. Nobach, "I know what you really want." Ms. Biscay
12 then leaned forward and pushed her breasts into the back of Lt. Nobach's head and neck.
13

14 2.61 Ms. Biscay moved side to side, rubbing her breasts on Lt. Nobach's head
15 and neck, with Trooper Santhuff still present, as Lt. Nobach smiled.

16 2.62 Trooper Santhuff promptly exited the room.

17 2.63 WSP's Regulations Manual in February 2016, at section 8.00.220, prohibit
18 employees from engaging in "third party harassment," which WSP's Regulations Manual
19 defines, in relevant part, as
20

21 Unwelcome behavior that:

22 a. Is **not directed at an individual but is a part of that individual's work
23 environment;**

24 b. Is offensive to that individual; and

25 c. Is based on a person's ... gender, marital status, sexual orientation, ... or
 military status, disability, or in retaliation against anyone who reports
 suspected harassment or who is involved in a harassment investigation.

1 2.64 The incident that Trooper Santhuff observed on February 26, 2016
2 involving Lt. Nobach and Ms. Biscay (“the Sexual Misconduct Incident”) constituted a
3 violation of WSP’s regulations.

4 2.65 Trooper Santhuff reported and provided information to a public official
5 regarding the Sexual Misconduct Incident.

6 2.66 Trooper Santhuff was also perceived to have reported or provided
7 information to a public official regarding the Sexual Misconduct Incident.

8 2.67 The applicable policy and regulation (8.00.220) requires “anyone that
9 witnesses ... a violation of this policy [to] immediately take action to identify and stop
10 the behavior,” and that in cases in which “the victim does not feel comfortable talking to
11 the alleged offender, the victim should immediately report the behavior to management
12 [immediate supervisor or higher, Office of Professional Standards (OPS), or Human
13 Resource Division (HRD)].”

14 2.68 Trooper Santhuff complied with this policy and regulation, 8.00.220, in
15 that he reported the Sexual Misconduct Incident to his immediate supervisor, Sergeant
16 Sweeney. Sweeney went directly to Nobach and suggested he “knock it off” or “cool it”
17 with Ms. Biscay. Nobach denied a relationship with Ms. Biscay. At that meeting,
18 Sweeney brought up the Sexual Misconduct Incident, and Nobach denied it had
19 happened. He later admitted to the incident and was disciplined.

20 2.69 The facts related to the Sexual Misconduct Incident were passed from
21 Sweeny to Capt. James Riley, and then to Assistant Chief Randy Drake who shared the
22 information with Lt. Nobach’s immediate supervisor, Captain Johnny Alexander.
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1 2.70 After WSP management received notice of Trooper Santhuff’s report and
2 information concerning the Sexual Misconduct Incident, the policy and regulation for
3 handling such reports (8.00.220) was not followed.

4 2.71 Specifically, the policy and regulation provides that “an Internal Incident
5 Report (IIR) shall be completed” and that “[s]upervisors/managers receiving information
6 of an allegation shall document it in a case log,” neither of which occurred in response to
7 Trooper Santhuff’s reporting of the Sexual Misconduct Incident.

8 2.72 The applicable regulation and policy, 8.00.220, further provides “After an
9 investigation has been completed, the complainant shall be informed of the status and the
10 outcome of the investigation.”

11 2.73 For purposes of 8.00.220, Trooper Santhuff was the complainant and the
12 sole third-party witness to the Sexual Misconduct Incident.

13 2.74 Trooper Santhuff was not interviewed as part of any investigation into the
14 Sexual Misconduct Incident, nor was he debriefed on the outcome of any investigation
15 that WSP may have conducted into his complaint.

16 2.75 As a result of Trooper Santhuff’s report, Lt. Nobach and Ms. Biscay were
17 each issued an 095, the least serious form of discipline—basically a written warning that
18 is maintained in the employee’s personnel file.

19 2.76 The written warnings issued to Lt. Nobach and Ms. Biscay attempted to
20 downplay the seriousness of their conduct and inaccurately stated that “the third party
21 was *not* offended by your actions,” even though Trooper Santhuff was offended and it
22 was apparent by his actions when he immediately left the room in response to the Sexual
23 Misconduct Incident .
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1 2.77 The discipline to Lt. Nobach and Ms. Biscay was implemented by Captain
2 Alexander, who also ordered Trooper Santhuff to not discuss the Sexual Misconduct
3 Incident outside of the Aviation Section.

4 2.78 The effect of the immediate discipline without investigation (which was
5 contrary to the policy) was to eliminate the possibility that Nobach or Biscay could
6 receive more serious discipline.

7 **E. Retaliation**

8 2.79 Trooper Santhuff was retaliated against because of the reports he made of
9 improper conduct by Lt. Nobach and for which Trooper Santhuff provided information
10 for WSP to investigate.

11 2.80 Lt. Nobach told Trooper Santhuff, with an angry, raised voice that “if I’m
12 going to be held accountable for this shit [the Sexual Misconduct Incident] then you and
13 everybody else here will be, too.”

14 2.81 The events set forth in this complaint are illustrative and not exhaustive of
15 the retaliation that Trooper Santhuff suffered due to his protected reporting.

16 2.82 Lt. Nobach at various times refused to talk to Trooper Santhuff, avoided
17 him, and his tense body language and facial expressions indicated that he was extremely
18 angry at Trooper Santhuff.

19 2.83 Lt. Nobach subjected Trooper Santhuff to non-standard flight training
20 (right seat training), made changes in the training environment, and lied about a flight in
21 order to make Trooper Santhuff appear as if he was a failing pilot.

22 2.84 A record that Trooper Santhuff was failing training could give Lt. Nobach
23 a pretextual basis to remove him from the Aviation Section.
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1 2.85 Other pilots expressed the belief that Lt. Nobach was intentionally trying to
2 fail Santhuff.

3 2.86 On April 1, 2016, during the morning briefing, Lt. Nobach read from
4 papers, including the policy against sexual harassment, and directed the Aviation Section
5 employees that inappropriate office conduct would not be tolerated. As Lt. Nobach gave
6 this directive, he stared at Trooper Santhuff in an effort to intimidate him.

7 2.87 Following the issuance of the 095 to Lt. Nobach and Ms. Biscay for the
8 Sexual Misconduct Incident, Sergeant Jeff Hatterberg asked Trooper Santhuff to
9 apologize to Lt. Nobach. Trooper Santhuff refused and stated he was not the one in the
10 wrong or words to that effect. He said, "if anything he owes me an apology for how he
11 is treating me now." At that moment, Sgt. Hatterberg broke down.

12 2.88 Workload was increased to the point where Trooper Pilot Santhuff did not
13 have time within his shift to complete the work in line with Lt. Nobach's stated
14 expectations. Santhuff asked Sgt. Sweeney to schedule out Santhuff's day to complete
15 all expectations and the Sergeant could not. Santhuff nevertheless continued to be
16 verbally reprimanded for not meeting all of Lt. Nobach's stated expectations.

17 2.89 All breaks and work activity began to be closely timed by Lt. Nobach and
18 Ms. Biscay.

19 2.90 A morning meeting was called by Lt. Nobach with the pilots that excluded
20 Trooper Santhuff. Upon learning he was excluded, Trooper Santhuff reported his
21 exclusion to Sergeant Jeff Hatterberg.
22

23 2.91 Sergeant Hatterberg "papered" Trooper Santhuff's personnel file on behalf
24 of Lt.. Nobach.
25

1 2.92 Sgt. Hatterberg documented alleged performance issues of Trooper
2 Santhuff that were stale; meaning he was documenting events that allegedly took place
3 months earlier and which he hadn't deemed important enough to document at the time.

4 2.93 Sgt. Hatterberg also gave Trooper Santhuff an unwarranted 095 permanent
5 counseling record that related to a scheduling mishap that Trooper Santhuff did not
6 cause.

7 2.94 Trooper Santhuff became ostracized by Aviation Section employees. He
8 went to the hanger to chat with the assembled employees before the 8 o'clock start of the
9 work day as he had done many times before. Upon arriving, the persons who usually
10 would chat with him all dispersed upon his approach.

11 2.95 On July 13, 2016, all Aviation Section employees were required to attend a
12 half-day sexual harassment training as a result of Lt. Nobach's Sexual Misconduct
13 Incident. During the training, Trooper Santhuff was required to participate in interactive
14 exercises with Lt. Nobach and Ms. Biscay.

15
16 **F. Reports of Retaliation**

17 2.96 In May 2016, Trooper Santhuff requested and attended a meeting with
18 Captain Johnny Alexander to report a hostile work environment and retaliation by Lt.
19 Nobach (the "May 2016 report of retaliation")
20 WSP's Regulations Manual in May 2016, at section 8.00.220, prohibited "retaliation
21 against anyone who reports suspected harassment or who is involved in a harassment
22 investigation."
23

24 2.97 After Capt. Alexander received the May 2016 report of retaliation, the
25 policy and regulation for handling such reports (8.00.220) was not followed.

1 2.98 Specifically, the policy and regulation provide that “an Internal Incident
2 Report (IIR) shall be completed” and that “[s]upervisors/managers receiving information
3 of an allegation shall document it in a case log,” neither of which occurred in response to
4 Trooper Santhuff’s May 2016 report of retaliation.

5 2.99 The applicable regulation and policy, 8.00.220, provides “After an
6 investigation has been completed, the complainant shall be informed of the status and the
7 outcome of the investigation.”

8 2.100 Trooper Santhuff was not interviewed as part of any investigation into the
9 May 2016 report of retaliation, nor was he debriefed on the outcome of any investigation
10 that WSP may have conducted into his complaint.

11 2.101 Capt. Alexander invited Lt. Nobach to his May 2016 meeting with Trooper
12 Santhuff, and as Santhuff spoke at the meeting, was cut off by Lt. Nobach, who became
13 red in the face and raised his voice at Santhuff.

14 2.102 Capt. Alexander told Trooper Santhuff that if he and Lt. Nobach and
15 Santhuff could not get along, one of them would be removed from the section. which
16 Trooper Santhuff understood to be a threat to remove him from the Aviation Section,
17 since Nobach had risen to the rank of lieutenant in the section and now headed the group
18 after 16 years there.

19 2.103 SOP 8.00.220 states, “Failure to respond and thoroughly investigate an
20 allegation regarding this policy may be grounds for disciplinary action up to and
21 including termination.”

22 2.104 Capt. Alexander failed to comply with SOP 8.00.220 in response to
23 Trooper Santhuff’s report of the Sexual Misconduct Incident and his May 2016 report of
24
25

1 retaliation.

2 2.105 Capt. Alexander was not disciplined for his failures to comply with the
3 policy.

4 2.106 In September and October 2016, Trooper Santhuff again reported and
5 provided information to a public official regarding retaliation.

6 2.107 He was also perceived to have reported or provided information to a public
7 official regarding retaliation.

8 2.108 On October 3, 2017, the Office of Professional Standards Det. Sgt. Bruce
9 Maier interviewed Trooper Santhuff in regards to the reports and information that
10 Trooper Santhuff provided about Lt. Nobach's misconduct, including his reports of
11 retaliation.
12

13 2.109 Det. Maier did not record Trooper Santhuff's interview, which is unusual
14 and upon information and belief not in accordance with the agency's regulations.

15 2.110 WSP and Capt. Alexander did not discipline Lt. Nobach for any of the
16 retaliation that Trooper Santhuff reported.

17 **G. Constructive Removal From the Aviation Section And Continued Retaliation**

18 2.111 On October 7, 2016, Captain Alexander directed Trooper Santhuff through
19 Sergeant Sweeney to stop "doing your own investigation" within aviation.

20 2.112 Trooper Santhuff responded that he did not understand what Capt.
21 Alexander meant, and Sgt. Sweeny said that Capt. Alexaneder felt Trooper Santhuff was
22 doing things in the office that were making people feel "uncomfortable." Trooper
23 Santhuff took this to mean that Lt. Nobach was concerned about what the investigation
24 by OPS might reveal.
25

1 2.113 On October 10, 2016, Capt. Alexander and Lt. Nobach had a meeting with
2 all personnel within the aviation section. Capt. Alexander advised everyone that OPS was
3 conducting an investigation into accusations made by an employee and to not interfere
4 with the investigation in any way. This meeting appeared intended to further ostracize
5 Trooper Santhuff from the other section employees.

6 2.114 On or about October 19, 2016, Trooper Santhuff's union representative,
7 Kenyon Wiley, advised him that Mr. Wiley had spoken with Capt. Saunders (the
8 commander of OPS) and that it was his understanding that none of the matters Trooper
9 Santhuff had reported were going to be addressed.

10 2.115 On October 20, 2016, Ms. Biscay told Trooper Santhuff that she had been
11 ordered to lock all cabinets in the office. The cabinets contained documents that Trooper
12 Santhuff routinely referenced for daily tasks. When he asked why he was now being
13 locked out, she had no explanation other than that she was just following orders.

14 2.116 On October 20, 2016, Trooper Santhuff wrote to OPS Det. Bruce Maier and
15 confirmed what he had been told by Mr. Wiley regarding the status of the investigation
16 into his reports. In his email, Trooper Santhuff requested that Office of Professional
17 Standards "investigate why the sexual harassment complaint was not handled per policy,
18 [along with the] hostile work environment/retaliation, [the] intentionally refusing a
19 Governor flight for political reasons, and the Public Disclosure violation."
20

21 2.117 Trooper Santhuff received no response to his October 20th email to OPS
22 Det. Maier.
23

24 2.118 The next day, October 21, 2016, Captain Alexander had a meeting with
25 Trooper Santhuff. In the meeting Capt. Alexander appeared upset and told Trooper

1 Santhuff that he did not appreciate all of the information that Santhuff had told OPS, and
2 that he had heard Santhuff was considering leaving the aviation section, which Trooper
3 Santhuff replied was not true. Capt. Alexander ordered Trooper Santhuff that if he chose
4 to stay in aviation, he must let everything go that had happened in the past, stop
5 interrogating employees, and stop making people feel “uncomfortable.” These allegations
6 Capt. Alexander made against Santhuff were not true.

7 2.119 Capt. Alexander asked Santhuff to think about whether he wanted to stay in
8 the aviation section over the weekend.

9 2.120 Fearful of further damage to his career, as well as for his well-being and
10 safety, Trooper Santhuff felt forced to resign and requested an immediate transfer out of
11 the aviation section and asked for a meeting with the Captain of Human Resources.
12

13 2.121 On October 26, 2016, Santhuff had an exit interview with HR, Capt. Travis
14 Mathesen and Lt. Matagi. He explained the Sexual Misconduct Incident, which HR
15 advised they were never notified about, despite the WSP policies requiring HR to be
16 notified. Trooper Santhuff described some of the retaliatory acts he experienced and
17 explained how the OPS investigation was not conducted per policy. Capt. Mathesen said
18 he would look into Santhuff’s complaints and would follow-up with him. However,
19 Santhuff never received any follow-up.
20

21 2.122 The following day, Capt. Mathesen posted a whistleblower policy in the
22 daily bulletin that removed himself and the OPS Commander as persons designated for
23 receipt of whistleblower complaints.

24 2.123 Trooper Santhuff returned to field operations working highway patrol in
25 the Olympia Area.

1 2.124 After Trooper Santhuff's departure from the Aviation Section, Capt.
2 Alexander threatened that if Trooper Santhuff continued to push the issues he reported,
3 he would be investigated for "truthfulness," which could be career ending.

4 2.125 Trooper Santhuff was advised by Lt. Martin that Capt. Alexander had
5 spoken to Capt. Hall (Trooper Santhuff's new chain of command), and that Capt.
6 Alexander wanted him to know that it would be a "policy violation" and
7 "insubordination" if Trooper Santhuff spoke to the media about what had occurred.

8 2.126 In February 2017, Sgt. Hatteberg met with Santhuff and gave him an
9 unwarranted, adverse Job Performance Appraisal (JPA) for July 2016 - October 2016.
10 Santhuff requested changes to the narrative, scoring, and for the prior 095 to be removed.
11 Sgt. Hatteberg refused. Santhuff grieved the review, but his grievance and appeal were
12 denied.
13

14 2.127 In or about April or May 2017, Capt. Alexander refused to present a plaque
15 to Trooper Santhuff related to his dedicated service in the Aviation Section. It is
16 customary that the Captain for the chain of command in which the trooper's service was
17 being praised would present the award, Trooper Santhuff was told that was not going to
18 happen, due to the previous circumstances concerning his employment with Aviation.
19 Capt. Alexander had Santhuff's plaque sent to Captain Dan Hall.
20

21 2.128 In August 2017, in a meeting with Capt. Alexander to discuss the results of
22 an investigation into Trooper Santhuff's report regarding the Email Destruction Incident,
23 Capt. Alexander told Trooper Santhuff that he "did not leave Aviation on good terms."

24 2.129 Trooper Santhuff has suffered loss of enjoyment of life, pain and suffering,
25 mental anguish, emotional distress, injury to reputation, and humiliation.

1 2.130 Trooper Santhuff has suffered lost wages in the form of front and back pay,
2 and emotional harm proximately caused by the acts of the defendant and its agents.

3 2.131 Defendant is liable for the actions of its agents under the doctrine of
4 respondeat superior.

5 **III. CAUSES OF ACTION**

6 3.1 Plaintiff realleges the facts set forth in paragraphs 2.1 – 2.131 above and
7 incorporates the same by reference.

8 3.2 The facts set forth above state a claim against defendant Washington State
9 for retaliation in violation of RCW 42.40.050 and RCW 49.60.210.

10 3.3 The facts set forth above state a claim against defendant Washington State
11 for retaliatory harassment or hostile work environment in violation of RCW 42.40.050
12 and RCW 49.60.210.

13 3.4 The facts set forth above state a claim against Lt. Nobach for retaliation in
14 violation of RCW 42.40.050 and RCW 49.60.210.

15 3.5 The facts set forth above state a claim against Lt. Nobach for retaliatory
16 hostile work environment, or unlawful harassment, in violation of RCW 42.40.050 and
17 RCW 49.60.210.

18 3.6 In the alternative, the facts set forth above state claim against Lt. Nobach
19 for aiding, abetting, encouraging, or inciting the commission of an unfair practice in
20 violation of the Washington Law Against Discrimination, RCW 49.60.220.

21 **IV. PRAYER FOR RELIEF**

22 WHEREFORE, plaintiff prays for relief as follows:

23 4.1 Damages for back pay, front pay, and lost benefits, in an amount to be
24
25

1 proven at trial;

2 4.2 Damages for loss of enjoyment of life, pain and suffering, mental anguish,
3 anxiety, emotional distress, injury to reputation, and humiliation;

4 4.3 Prejudgment interest in an amount to be proven at trial;

5 4.4 Reasonable attorney's fees and costs;

6 4.5 Reinstatement to plaintiff's prior position in the Aviation Division;

7 4.6 A permanent injunction prohibiting retaliation against any person who has
8 complained about, opposed, given testimony concerning, or otherwise participated in
9 any inquiry into improper governmental conduct or discrimination in the Aviation
10 Division;

11 4.7 Issuance of an order to the WSP to suspend for thirty days without pay any
12 individual who is found in this matter to have engaged in unlawful retaliation (see RCW
13 49.60.250);

14 4.8 Compensation for the tax penalty associated with any recovery;

15 4.9 Equitable relief to reform conflicts of interest during investigations;

16 4.10 Equitable relief to reform the organizational culture to reduce fear of
17 reporting issues in the workplace;

18 4.11 Equitable relief to provide outside oversight of all internal affairs
19 investigations when retaliation, hostile work environment, sexual harassment,
20 whistleblower complaints, and/or corruption is alleged;

21 4.12 Equitable relief to provide term limits for Internal Affairs detectives and
22 the commander to keep the incumbents from forming bonds and loyalties that may
23 cause bias;
24
25

1 4.13 Equitable relief to ensure investigative integrity by requiring that Internal
2 Affairs investigations be conducted without any knowledge or oversight by the WSP
3 legal advisor or risk management section;

4 4.14 Equitable relief to assist employee with grievance filings, which should
5 include a standard form for grievances and professional assistance with filings;

6 4.15 Equitable relief to determine the root causes of the Aviation Section's
7 management and pilot retention problems, and to implement changes flowing from that
8 analysis as soon as possible; and

9 4.16 Whatever further and additional relief the court shall deem just and
10 equitable.
11

12 **V. JURY DEMAND**

13 5.1 Trooper Santhuff elects to have all claims and all issues tried by a jury of
14 twelve (12) persons. Plaintiff has paid to the Clerk of the King County Superior Court the
15 jury fee as required by law.

16 DATED this 20th day of February, 2019.

17 THE SHERIDAN LAW FIRM, P.S.

18
19 By: s/ John P. Sheridan
20 John P. Sheridan, WSBA # 21473
21 Attorney for Plaintiff
22
23
24
25