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Superior Court of California,
County of San Diego
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By Maria Acevedo, Deputy Clerk

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **COUNTY OF SAN DIEGO**

12 AMANDA MARSHALL, an individual,

13 Plaintiff,

14 vs.

15 POWAY UNIFIED SCHOOL DISTRICT, a
16 California public entity; MARIAN PHELPS, an
17 individual being sued in her official capacity and
18 her individual capacity; and DOES 1 through 20,

19 Defendants.

) Case No. 37-2024-00028580-CU-WT-CTL

) **COMPLAINT FOR:**

-) 1. HARASSMENT (HOSTILE WORK ENVIRONMENT) – VIOLATION OF GOVERNMENT CODE § 12940;
-) 2. DISCRIMINATION – DISPARATE TREATMENT - VIOLATION OF GOVERNMENT CODE § 12940;
-) 3. RETALIATION – VIOLATION OF GOVERNMENT CODE § 12940;
-) 4. FAILURE TO PREVENT HARASSMENT, DISCRIMINATION, AND RETALIATION – VIOLATION OF GOVERNMENT CODE § 12940;
-) 5. WRONGFUL TERMINATION IN VIOLATION OF PUBLIC POLICY;
-) 6. BREACH OF CONTRACT
-) 7. BREACH OF THE IMPLIED COVENANT OF GOOD FAITH AND FAIR DEALING
-) 8. INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

) **DEMAND FOR JURY TRIAL**

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1 Plaintiff AMANDA MARSHALL (“Ms. Marshall” or “Plaintiff”) brings this action against
2 Defendants POWAY UNIFIED SCHOOL DISTRICT (“PUSD”), MARIAN PHELPS (“Phelps”)
3 (collectively referred to as “Defendants”); and DOES 1 through 20, inclusive, as follows:

4 **GENERAL ALLEGATIONS**

5 1. Plaintiff AMANDA MARSHALL is, and at all relevant times was, an individual
6 with her principal place of residence located within the City of Poway, the County of San Diego, in
7 the state of California.

8 2. Defendant POWAY UNIFIED SCHOOL DISTRICT (“PUSD”) is a public entity
9 located at 15250 Avenue of Science, San Diego, California. It receives state and/or federal funding.
10 It is a public and government entity duly incorporated and operating as a school district in the
11 County of San Diego, State of California, and under the laws of the State of California, with the
12 capacity to be sued. PUSD is a “State” as defined by the California Constitution, Article 1, Section
13 31, subdivision (f). PUSD is the legal entity responsible for provision of educational services to
14 students residing within their jurisdiction. PUSD is sued on the basis of the acts and omissions of
15 its officials, agents, employees, independent contractors, and/or DOES 1-20.

16 3. Defendant MARIAN PHELPS was the superintendent at PUSD, acting as an
17 employee and agent of PUSD, and acting or purporting to act in her official capacity as such. She is
18 vested with the authority to discipline students within the school district at her discretion, and to
19 enforce the policies of the district. In her individual capacity, Defendant MARIAN PHELPS is, and
20 at all relevant times was, an individual with her principal place of residence located within the
21 County of San Diego, in the state of California.

22 4. PUSD was, at all times mentioned herein, the employer of Ms. Marshall.

23 5. The true names and capacities, whether individual, corporate, associate, or
24 otherwise, of DOES 1 through 20, inclusive, are unknown to Plaintiff, who therefore sues said
25 defendants by such fictitious names. Plaintiff will ask leave of court to amend this complaint to set
26 forth their true names and capacities when the same have been ascertained.

27 6. Plaintiff is informed and believes, and thereon alleges, that each of the defendants
28 designated herein as DOES 1 through 20, inclusive, are responsible in some manner for the events

1 and happenings referred to herein and negligently, intentionally, or otherwise, caused injury and
2 damage proximately thereby to Plaintiff as herein alleged.

3 7. The legal capacities of the Defendants are stated on information and belief. Plaintiff
4 will ask leave of court to amend this complaint to set forth the capacities of those entities of
5 unknown form when ascertained.

6 **JURISDICTION AND VENUE**

7 8. Jurisdiction is proper in the Superior Court of California for the County of San
8 Diego because it has general subject matter jurisdiction over the claims herein.

9 9. This court has personal jurisdiction over Defendant POWAY UNIFIED SCHOOL
10 DISTRICT because it is a public entity funded by state and federal funds, providing public
11 education services in the State of California in San Diego County.

12 10. This court has personal jurisdiction over Defendant MARIAN PHELPS because she
13 resides and works in the County of San Diego, State of California.

14 11. Venue is proper since the actions relating to the claims herein arose or transpired
15 within the City of Poway, the County of San Diego, in the State of California.

16 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

17 12. Ms. Marshall filed a charge of discrimination and harassment with the California
18 Department of Fair Employment and Housing (“DFEH”).

19 **FACTUAL ALLEGATIONS**

20 13. Ms. Marshall was employed by PUSD for 22 years, where she demonstrated
21 unwavering commitment and excellence in her duties.

22 14. She was promoted to Executive Assistant I on May 16, 2016, and served under
23 Acting Superintendent Mel Robertson and Interim Superintendent Tony Apostle. Phelps was hired
24 on March 7, 2017. Thereafter, she served as the Executive Assistant I to Phelps.

25 15. Throughout her tenure, Ms. Marshall consistently performed her duties to the
26 satisfaction of her superiors and was recognized for her dedication and professionalism.

27 16. Phelps created an environment of fear and hostility, making it intolerable for Ms.
28 Marshall and leading to her constructive discharge on or around June 21, 2022. Ms. Marshall was

1 approaching retirement age during her latter years of employment with PUSD.

2 17. From July 2018 to June 2022, Ms. Marshall was subjected to a pattern of severe
3 harassment, intimidation, and verbal abuse by Phelps.

4 18. Phelps' consistent yelling and demeaning comments created an intolerable work
5 environment.

6 19. The hostile work environment deteriorated further as employees in Phelps' office
7 departed, prompting Phelps to redirect her anger towards Ms. Marshall. Ms. Marshall was the
8 fourth assistant to leave due to Phelps' misconduct.

9 20. Ms. Marshall's departure was not voluntary but rather a consequence of the
10 intolerable working conditions she endured.

11 21. Ms. Marshall was forced to retire early, missing out on two salary increases, a third
12 pending increase, and two longevity increases, which would have significantly improved her
13 retirement benefits.

14 22. Phelps frequently yelled at Ms. Marshall, made insinuations about her loyalty, and
15 accused her of not being reliable.

16 23. Phelps publicly berated Ms. Marshall in front of other staff members.

17 24. Phelps falsely accused Ms. Marshall of being part of a conspiracy to poison her,
18 contributing to a hostile work environment and causing significant emotional distress.

19 a. Whenever Dr. Darshana Patel requested a cup of tea, Ms. Marshall would prepare it
20 for her. On one occasion, Phelps noticed this and remarked, "You let her make your
21 tea?" Following this comment, Dr. Patel accompanied Ms. Marshall while she made
22 her tea.

23 25. Ms. Marshall was afraid to report Phelps' misconduct due to fear of losing her job
24 and retaliation.

25 26. Ms. Marshall was not protected by the union, leaving her vulnerable and without
26 proper recourse for addressing her grievances. All complaints made would circle back to Phelps.

27 27. Phelps violated PUSD Policies and Codes of Conduct, which Ms. Marshall was
28 fearful of reporting due to potential retaliation from Phelps:

- 1 a. Phelps neglected to use her PUSD-issued cell phone and instructed Ms. Marshall to
- 2 contact her via personal channels, contravening public accountability and
- 3 transparency requirements.
- 4 b. Phelps deleted PUSD-related messages from her personal cell phone, violating
- 5 public records retention policies.
- 6 c. Phelps yelled at Associate Superintendent James Jimenez in front of others,
- 7 breaching professional standards.

8 28. Phelps frequently questioned Ms. Marshall's loyalty in front of coworkers, making

9 intimidating comments suggesting that those who could not prioritize loyalty to her would need to

10 find another job. Phelps publicly humiliated Ms. Marshall by making derogatory remarks about her

11 capabilities and performance in front of colleagues.

12 29. Specific instances of Phelps' misconduct include, but are not limited to, the

13 following:

- 14 a. On or around July 2018, after an executive assistant II's early retirement, Phelps
- 15 increased her anger and directed it towards Ms. Marshall, isolating her by rekeying
- 16 the office and denying her access. The rekeying of Phelps' office prevented Ms.
- 17 Marshall from performing necessary duties and created operational difficulties; the
- 18 fire department and custodian services were unable to access Phelps' office when
- 19 Ms. Marshall was the only one in the office.
- 20 b. On or around March 21, 2020, Phelps verbally attacked Ms. Marshall over another
- 21 executive assistant II clearing out her employee's desk and leaving unannounced.
- 22 Phelps accused Ms. Marshall of neglecting her duties, and secretly clearing out that
- 23 employee's desk for her over the weekend. Then Phelps removed Ms. Marshall's
- 24 access to Phelps' calendar, hindering Ms. Marshall's ability to complete her work.
- 25 c. On or around March 1, 2021, during a meeting, Phelps was very condescending and
- 26 angrily raised her voice at Ms. Marshall, picking apart her draft of the CSBA New
- 27 Board Members Booklet, publicly humiliating her and contributing to a hostile work
- 28 environment.

- 1 d. On or around May 2021, Ms. Marshall asked Phelps to review a draft of the final
2 agenda due to last-minute changes made by Phelps and at the request of other
3 departments executive assistants. Despite the abnormality of the number of last-
4 minute changes, Phelps accused Ms. Marshall of neglecting her job duties. Phelps
5 insinuated that she was doing Ms. Marshall’s job; that she did not have time to
6 review the agenda and that the expectation was all the changes she made were to be
7 finalized without asking her – any and all the department corrections/errors were to
8 squarely fall on Ms. Marshall’s shoulders. It was an abrupt change of business
9 practice when other departments depended on Ms. Marshall getting answers for
10 them and that left Ms. Marshall feeling blindsided.
- 11 e. Ms. Marshall was tasked with handling board members' mail to notify them of
12 deadlines. However, after legal paperwork arrived for all the board members, Phelps
13 required all board members’ mail to be routed through her first, causing delays and
14 additional stress for Ms. Marshall.
- 15 f. Phelps instructed Ms. Marshall to stop updating the annual confidential emergency
16 phone booklet and later instructed her to exclude board members’ contact
17 information, creating further stress. Phelps stated she wanted all board members to
18 be contacted through her only. This created more stress for Ms. Marshall as board
19 members have been included in the booklet for years and have never requested to be
20 removed.
- 21 g. When Phelps was absent from the office, she instructed Ms. Marshall not to disclose
22 her location to anyone seeking her, including associate superintendents and board
23 members. Over time, staff noticed Phelps' frequent absences, particularly on Fridays
24 after board meetings. Phelps would enter her office through the back conference
25 room door nearest to the stairwell to avoid being seen by waiting individuals.

26 30. Phelps’ conduct included discriminatory statements such as, “If I were your age, I
27 would retire,” which suggests age-based animus. Phelps regularly asked Ms. Marshall when she
28 was going to retire. Upon information and belief, Phelps implied that Ms. Marshall’s age was a

1 reason she should leave her position.

2 31. Phelps made a derogatory comment about blonde-haired, blue-eyed women. Ms.
3 Marshall, who is a blonde-haired woman, was subjected to this discriminatory remark, creating a
4 hostile and discriminatory work environment.¹

5 32. The derogatory comments based on physical appearance, age, and racial
6 characteristics suggest bias against Ms. Marshall and further contributed to the hostile work
7 environment experienced by Ms. Marshall.

8 33. Ms. Marshall's knowledge of Phelps' extensive absences, non-accurate calendar
9 events, control over contact with the board, and hostile behavior toward other assistants who left;
10 coupled with the direct threat to retire, increased the harassment and stress to force Ms. Marshall to
11 leave.

12 34. Upon information and belief, Phelps took the above-described actions against Ms.
13 Marshall because she was a woman near retirement age with blonde hair.

14 35. Ms. Marshall's employment agreement with PUSD included assurances that she
15 would work in an environment free of harassment and discrimination and that disputes would be
16 promptly addressed. PUSD breached this agreement by allowing Phelps' conduct to continue
17 unchecked.

18 36. Despite Ms. Marshall's efforts to address these issues, and other staff and cabinets
19 members witnessing some events and speaking with Ms. Marshall regarding Phelps behavior, no
20 action was taken to remedy the hostile work environment created by Phelps.

21 37. *Economic damages:* As a consequence of Defendants' conduct, Ms. Marshall has
22 suffered and will suffer harm, including lost past and future income and employment benefits,
23 damage to her career, and lost wages, overtime, unpaid expenses, and penalties, as well as interest
24 on unpaid wages at the legal rate from and after each payday on which those wages should have
25 been paid, in a sum to be proven at trial.

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27 ¹ Of note, Jane Doe in a related case, which alleges Phelps harassed a minor student by abusing her
28 power, has blonde hair and blue eyes.

1 (“FEHA”), California Government Code §§ 12900, *et seq.*, and Article I, section 8 of the California
2 Constitution were in full force and effect and were binding on Defendants. This statute requires
3 Defendants to refrain from harassing their employees. Within the time provided by law, Ms.
4 Marshall filed a complaint with the DFEH, in full compliance with administrative requirements.

5 45. California Government Code § 12940(j) states that “[i]t is an unlawful employment
6 practice . . . for an employer, because of . . . race [or] age . . . to harass an employee.”

7 46. As described more fully herein and above, Defendants, and each of them, violated
8 the FEHA by subjecting Ms. Marshall to harassment and creating a hostile work environment.

9 47. Ms. Marshall is a member of protected classes based on her race (Caucasian) and
10 age (over 40 years old).

11 48. At all times material, Ms. Marshall was an employee of PUSD.

12 49. Ms. Marshall, while at work, was subjected to severe and pervasive conduct by
13 Phelps, who was acting as a supervisor for PUSD.

14 50. The harassment was based on Ms. Marshall’s protected status, including her race
15 and age.

16 51. Phelps, while acting in the course and scope of her employment with PUSD as the
17 Superintendent, harassed Ms. Marshall as alleged herein. Her actions included treating Ms.
18 Marshall differently in the workplace simply because she was near retirement age and a Caucasian
19 woman with blonde hair.

20 52. The harassment alleged herein was sufficiently pervasive and severe as to alter the
21 conditions of Ms. Marshall’s employment and to create a hostile and abusive work environment.

22 a. Phelps' consistent yelling, demeaning comments, and verbal assaults created a
23 hostile work environment.

24 53. Any reasonable person in Ms. Marshall’s position would consider Phelps’s conduct
25 and the resulting work environment to be hostile, harassing, intimidating, offensive, oppressive,
26 and/or abusive.

27 54. Ms. Marshall considered the work environment to be hostile, intimidating,
28 offensive, oppressive, and/or abusive.

1 indicating a preference for younger employees, such as "If I was your age, I would
2 retire."

3 b. Ms. Marshall is a Caucasian woman with blonde hair. Phelps made a derogatory
4 comment about "blonde-haired and blue-eyed women." The comment and the
5 resulting hostile work environment suggest discriminatory animus based on race.

6 65. Ms. Marshall was constructively terminated, and upon information and belief,
7 Phelps replaced Ms. Marshall's position with a younger employee. Ms. Marshall endured severe
8 harassment and intimidation from Phelps, leading to psychological distress and resignation. Phelps'
9 conduct, including public humiliation, derogatory comments, and isolation tactics, made continued
10 employment untenable.

11 66. As of the start date of employment with PUSD, and at all times herein mentioned,
12 Ms. Marshall was in all respects qualified for her position and had at all times performed her job
13 duties competently and diligently throughout her employment with PUSD.

14 67. Ms. Marshall's protected status as an employee over 40 years old and a Caucasian
15 woman with blonde hair were substantial motivating reasons for the PUSD constructively
16 discharging Ms. Marshall.

17 68. As a proximate result of Defendants' willful, knowing, and intentional age and
18 racial discrimination, Ms. Marshall has sustained and continues to sustain substantial losses of
19 earnings and other employment benefits.

20 69. As a proximate result of Defendants' willful, knowing, and intentional age and
21 racial discrimination, Ms. Marshall has suffered and continues to suffer humiliation, emotional
22 distress, and mental and physical pain and anguish, all to her damage in a sum according to proof.

23 70. Ms. Marshall has incurred and continues to incur legal expenses and attorneys' fees.
24 Pursuant to California Government Code section 12965(b), Ms. Marshall is entitled to recover
25 reasonable attorneys' fees and costs (including expert costs) in an amount according to proof.

26 71. Defendants' conduct was a substantial factor in causing Ms. Marshall's harm.

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THIRD CAUSE OF ACTION

(Retaliation (Government Code § 12940(h)) Against Defendant POWAY UNIFIED SCHOOL DISTRICT and Does 1 to 20, Inclusive)

72. Ms. Marshall alleges and incorporates herein by this reference each and every allegation set forth in all previous paragraphs of the Complaint as if fully set forth herein.

73. At all times herein mentioned, FEHA, California Government Code §§ 12900, *et seq.*, and Article I, section 8 of the California Constitution were in full force and effect and were binding on Defendants.

74. California Government Code § 12940(h) states that it is unlawful to retaliate against a person “because the person has opposed any practices forbidden under [Government Code sections 12900 through 12966] or because the person filed a complaint . . . under [the FEHA].”

75. At all times material, Ms. Marshall was an employee of PUSD.

76. During the course of her employment at the Company, Ms. Marshall was subjected to age and racial discrimination by Phelps as alleged herein.

77. Ms. Marshall expressed her opposition to Phelps’ discriminatory behavior.

78. In response to her opposition to discrimination, PUSD retaliated against Ms. Marshall by constructively terminating her June 21, 2022, in violation of California Government Code § 12940 and the California Constitution that provides employees be free from retaliation.

79. Ms. Marshall’s opposition to Phelps’ unlawful conduct was a substantial and motivating factor in PUSD’s retaliation against Ms. Marshall.

80. As a proximate result of Defendants’ willful, knowing, and intentional actions, Ms. Marshall has sustained and continues to sustain substantial losses of earnings and other employment benefits.

81. As a proximate result of Defendants’ willful, knowing, and intentional actions, Ms. Marshall has suffered and continues to suffer humiliation, emotional distress, and mental and physical pain and anguish, all to her damage in a sum according to proof.

82. Ms. Marshall has incurred and continues to incur legal expenses and attorneys’ fees. Pursuant to California Government Code section 12965(b), Ms. Marshall is entitled to recover

1 reasonable attorneys' fees and costs (including expert costs) in an amount according to proof.

2 83. Defendants' conduct was a substantial factor in causing Ms. Marshall's harm.

3 **FOURTH CAUSE OF ACTION**

4 **(Failure to Prevent Harassment, Discrimination, and Retaliation (Government Code §**
5 **12940(k)) Against All Defendant POWAY UNIFIED SCHOOL DISTRICT and Does 1 to 20,**
6 **Inclusive)**

7 84. Ms. Marshall alleges and incorporates herein by this reference each and every
8 allegation set forth in all previous paragraphs of the Complaint as if fully set forth herein.

9 85. At all times herein mentioned, FEHA, California Government Code §§ 12900, *et*
10 *seq.*, and Article I, section 8 of the California Constitution were in full force and effect and were
11 binding on Defendants.

12 86. California Government Code § 12940(k) states that it is unlawful for an employer
13 "to fail to take all reasonable steps necessary to prevent discrimination, [retaliation,] and
14 harassment from occurring."

15 87. At all times material, Ms. Marshall was an employee of PUSD.

16 88. During the course of her employment at PUSD, Ms. Marshall was subjected to
17 discrimination and harassment by Phelps as alleged herein.

18 89. Ms. Marshall opposed the discriminatory behavior of Phelps.

19 90. PUSD failed to adequately investigate or discipline Phelps' behavior, and otherwise
20 failed to take any reasonable steps to prevent her from further discriminating and harassing Ms.
21 Marshall.

22 91. At all relevant time periods, PUSD's failure to make an adequate inquiry or take any
23 steps to address Phelps' discriminatory conduct as described established a policy, custom, practice
24 or usage, which condoned, encouraged, tolerated, sanctioned, ratified, approved of, and/or
25 acquiesced in age and racial discrimination, including, but not limited to, Ms. Marshall.

26 92. Ms. Marshall is informed and believes, and thereon alleges, that during all relevant
27 time periods, PUSD failed to provide adequate or any training to its personnel and most particularly
28 to its management and supervisory personnel regarding its discrimination and harassment policies.

1 PUSD knew or reasonably should have known that such failure would result in discrimination
2 and/or harassment against employees over 40 years old and Caucasian women. Such failure on the
3 part of PUSD constituted deliberate indifference to the rights of employees with these protected
4 characteristics, including, but not limited to, Ms. Marshall under California Government Code §
5 12940(k).

6 93. As a proximate result of Defendants' willful, knowing, and intentional actions, Ms.
7 Marshall has sustained and continues to sustain substantial losses of earnings and other
8 employment benefits.

9 94. As a proximate result of Defendants' willful, knowing, and intentional actions, Ms.
10 Marshall has suffered and continues to suffer humiliation, emotional distress, and mental and
11 physical pain and anguish, all to her damage in a sum according to proof.

12 95. Ms. Marshall has incurred and continues to incur legal expenses and attorneys' fees.
13 Pursuant to California Government Code section 12965(b), Ms. Marshall is entitled to recover
14 reasonable attorneys' fees and costs (including expert costs) in an amount according to proof.

15 96. Defendants' failure to prevent discrimination, sexual harassment, and retaliation was
16 a substantial factor in causing Ms. Marshall's harm.

17 **FIFTH CAUSE OF ACTION**

18 **(Wrongful Termination in Violation of Public Policy (Government Code § 12900, *et seq.*)**
19 **Against Defendant POWAY UNIFIED SCHOOL DISTRICT and Does 1 to 20, Inclusive)**

20 97. Ms. Marshall alleges and incorporates herein by this reference each and every
21 allegation set forth in all previous paragraphs of the Complaint as if fully set forth herein.

22 98. At all times herein mentioned, FEHA, California Government Code §§ 12900, *et*
23 *seq.*, Article I, section 8 of the California Constitution, and Labor Code §§ 200, *et seq.* were in full
24 force and effect and were binding on Defendants.

25 99. Each of the aforementioned statutes and constitutional rights embodies a
26 fundamental and well-established public policy in the State of California.

27 100. At all times material, Ms. Marshall was an employee of PUSD.

28 101. PUSD constructively discharged Ms. Marshall. Ms. Marshall's constructive

1 discharge was in retaliation for her knowledge of illegal activities, including improper record-
2 keeping and communication practices by Phelps, and her opposition to discrimination and
3 harassment.

4 102. Ms. Marshall’s protected status as an employee near retirement age (over 40) and
5 being discriminated against because of the color of her skin were substantial motivating reasons for
6 her termination.

7 103. As a proximate result of Defendants’ willful, knowing, and intentional actions, Ms.
8 Marshall has sustained and continues to sustain substantial losses of earnings and other
9 employment benefits.

10 104. As a proximate result of Defendants’ willful, knowing, and intentional actions, Ms.
11 Marshall has suffered and continues to suffer humiliation, emotional distress, and mental and
12 physical pain and anguish, all to her damage in a sum according to proof.

13 105. Ms. Marshall’s termination was a substantial factor in causing her harm.

14 **SIXTH CAUSE OF ACTION**

15 **(Breach of Contract Against Defendant POWAY UNIFIED SCHOOL DISTRICT and Does 1**
16 **to 20, Inclusive)**

17 106. Ms. Marshall alleges and incorporates herein by this reference each and every
18 allegation set forth in all previous paragraphs of the Complaint as if fully set forth herein.

19 107. A valid employment contract existed between Ms. Marshall and PUSD. This
20 contract included assurances that Ms. Marshall would work in an environment free of harassment
21 and discrimination, would not be subjected to differential standards of conduct, and that any
22 disputes would be promptly addressed.

23 108. Ms. Marshall performed all, or substantially all, of her obligations under the contract
24 by providing dedicated and professional services as an employee to PUSD for 22 years, including
25 her role as Executive Assistant I. Throughout her tenure, Ms. Marshall consistently performed her
26 duties to the satisfaction of her superiors and was recognized for her dedication and
27 professionalism.

28 109. PUSD breached the contract by:

- 1 a. Allowing Phelps to create an environment of fear and hostility, making it intolerable
- 2 for Ms. Marshall to continue her employment;
- 3 b. Failing to provide a safe channel for Ms. Marshall to report complaints of
- 4 harassment, intimidation, and verbal abuse by Phelps, free from the risk of
- 5 retaliation;
- 6 c. Allowing Phelps to publicly berate and humiliate Ms. Marshall, accusing her of
- 7 disloyalty and being part of a conspiracy to poison Phelps, contributing to a hostile
- 8 work environment;
- 9 d. Failing to prevent the consistent yelling, demeaning comments, and verbal assaults
- 10 by Phelps, which made the work environment intolerable;
- 11 e. Rekeying Phelps' office to deny Ms. Marshall access, hindering her ability to
- 12 perform her duties;
- 13 f. Removing Ms. Marshall's access to Phelps' calendar, which was necessary for her
- 14 job responsibilities;
- 15 g. Imposing last-minute changes to board agendas and blaming Ms. Marshall for any
- 16 issues with all the departments work;
- 17 h. Requiring Ms. Marshall to route all board members' mail through Phelps, causing
- 18 delays and additional stress.

19 110. As a direct and proximate result of PUSD's breach of contract, Ms. Marshall has
20 suffered and continues to suffer damages, including but not limited to:

- 21 a. Lost past and future income and employment benefits; and
- 22 b. Economic damages such as missing out on two salary increases, a pending increase,
- 23 and two longevity increases which would have significantly improved her retirement
- 24 benefits

25 111. PUSD's breach of the contract was a substantial factor in causing Ms. Marshall's
26 harm, resulting in economic damages.

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SEVENTH CAUSE OF ACTION

**(Breach of the Implied Covenant of Good Faith and Fair Dealing Against Defendant
POWAY UNIFIED SCHOOL DISTRICT and Does 1 to 20, Inclusive)**

112. Ms. Marshall alleges and incorporates herein by this reference each and every allegation set forth in all previous paragraphs of the Complaint as if fully set forth herein.

113. A valid employment contract existed between Ms. Marshall and PUSD.

114. Every contract in California contains an implied covenant of good faith and fair dealing that neither party will do anything to deprive the other party of the benefits of the contract. This covenant means PUSD was required to act in good faith and not engage in conduct that would unfairly interfere with Ms. Marshall’s rights to receive the benefits of her employment contract.

115. Ms. Marshall did all, or substantially all, of the significant things that the contract required her to do. She demonstrated unwavering commitment and excellence in her duties, was promoted to Executive Assistant I, and served diligently under different superintendents.

116. PUSD breached the implied covenant of good faith and fair dealing by:

- a. Creating and allowing a hostile work environment under Phelps’ supervision;
- b. Failing to address Phelps harassment and discrimination when observed, thereby allowing Phelps' conduct to continue;
- c. Allowing Phelps to accuse Ms. Marshall of being part of a conspiracy to poison her and making derogatory comments about Ms. Marshall’s loyalty and performance;
- d. Permitting Phelps to publicly humiliate Ms. Marshall, isolate her by rekeying her office, and hinder her job performance by removing her access to necessary tools and information;
- e. Imposing unreasonable demands and changes, such as the requirement to route all board members’ mail through Phelps and removing board members from the annual confidential emergency phone booklet, which caused additional stress and operational difficulties for Ms. Marshall; and
- f. Violating PUSD policies and codes of conduct, such as using personal channels for official communication and deleting PUSD-related messages from personal devices,

1 which Ms. Marshall feared reporting due to potential retaliation.

2 117. PUSD’s actions, including the conduct of Phelps, did not act fairly and in good faith
3 by:

- 4 a. Failing to provide a safe and supportive work environment;
- 5 b. Retaliating against Ms. Marshall for her knowledge of Phelps’ unlawful conduct;
- 6 and
- 7 c. Constructively discharging Ms. Marshall due to her age, her opposition to Phelps’
8 improper conduct, and her appearance as a blonde-haired woman.

9 118. All of which frustrated the purposes of the employment agreement.

10 119. As a direct and proximate result of PUSD’s breach of the implied covenant of good
11 faith and fair dealing, Ms. Marshall has suffered and continues to suffer damages including, but not
12 limited to:

- 13 a. Lost wages and employment benefits;
- 14 b. Emotional distress and mental anguish; and
- 15 c. Economic damages resulting from the hostile work environment and the premature
16 end of her career, including missing out on salary increases and enhanced retirement
17 benefits.

18 **EIGHTH CAUSE OF ACTION**

19 **(Intentional Infliction of Emotional Distress Against Defendants POWAY UNIFIED**
20 **SCHOOL DISTRICT, MARIAN PHELPS and Does 1 to 20, Inclusive)**

21 120. Ms. Marshall alleges and incorporates herein by this reference each and every
22 allegation set forth in all previous paragraphs of the Complaint as if fully set forth herein.

23 121. Pursuant to California Government Code § 815.2, PUSD is vicariously liable for
24 actions of Phelps.

25 122. Phelps engaged in extreme and outrageous conduct. "Outrageous conduct" is
26 defined as conduct so extreme that it goes beyond all possible bounds of decency and is regarded as
27 intolerable in a civilized community. Specific conduct by Phelps includes, but is not limited to:

- 28 a. Frequent yelling and making demeaning comments, including but not limited to the

1 following instances:

- 2 i. On or around March 21, 2020, Phelps verbally attacked Ms. Marshall over
3 another executive assistant II clearing out her employee's desk and leaving
4 unannounced, accusing Ms. Marshall of neglecting her duties, and secretly
5 clearing out that employee's desk for her over the weekend. Then Phelps
6 removed Ms. Marshall's access to Phelps' calendar;
- 7 ii. On or around March 1, 2021, Phelps publicly humiliated Ms. Marshall
8 during a meeting by picking apart her draft of the CSBA New Board
9 Members Booklet; and
- 10 iii. In May 2021, Phelps accused Ms. Marshall of neglecting her job duties
11 despite abnormal last-minute agenda changes Phelps and other departments
12 made and said that she was doing Ms. Marshall's job.
- 13 b. Publicly questioning Ms. Marshall's loyalty in front of coworkers and making
14 intimidating comments suggesting those who could not prioritize loyalty to her
15 would need to find another job;
- 16 c. Making baseless accusations of poisoning, contributing to a hostile work
17 environment and causing significant emotional distress;
- 18 d. Making a derogatory comment about blonde-haired, blue-eyed women, while
19 looking at Ms. Marshall who is blonde-haired;
- 20 e. Isolating Ms. Marshall from her duties by rekeying the office and denying her
21 access, which prevented her from performing necessary duties and created
22 operational difficulties; and
- 23 f. Frequently questioning Ms. Marshall about her retirement plans and making
24 statements such as, "If I were your age I would retire," suggesting age-based
25 animus.

26 123. Phelps' conduct was extreme and outrageous and went beyond all possible bounds
27 of decency.

28 124. Phelps engaged in this conduct with the intention of causing, or with reckless

1 disregard of the probability of causing, emotional distress to Ms. Marshall. "Reckless disregard"
2 means Phelps knew that emotional distress would probably result from her conduct or gave little or
3 no thought to the probable effects of her conduct. Specifically, Phelps repeatedly asked Ms.
4 Marshall about her retirement plans, knowing it would cause Ms. Marshall stress and anxiety
5 regarding her job security. Phelps' actions were calculated to undermine Ms. Marshall's confidence
6 and stability at work.

7 125. Ms. Marshall suffered severe emotional distress as a result of Phelps' conduct.
8 "Severe emotional distress" includes suffering, anguish, fright, horror, nervousness, grief, anxiety,
9 worry, shock, humiliation, and shame. It must be so substantial or long-lasting that no reasonable
10 person in a civilized society should be expected to endure . As a direct and proximate result of
11 Phelps' conduct, Ms. Marshall has suffered and continues to suffer severe emotional distress,
12 including but not limited to humiliation, anxiety, and depression. Ms. Marshall experienced
13 symptoms such as insomnia, severe anxiety attacks, and was forced to seek professional
14 psychological counseling.

15 126. Phelps' conduct was a substantial factor in causing Ms. Marshall's severe emotional
16 distress.

17 127. As a direct and proximate result of Phelps' conduct, Ms. Marshall has suffered and
18 continues to suffer damages, including but not limited to, lost wages, emotional distress, and
19 mental anguish.

20 **PRAYER FOR RELIEF**

21 WHEREFORE, Ms. Marshall prays for judgment against Defendants and each of them as
22 follows:

- 23 1. For such special and compensatory, actual, and liquidated damages in amounts to be
24 proven at the time of trial, on the applicable Causes of Action;
- 25 2. An award of punitive and exemplary damages solely against Defendant MARIAN
26 PHELPS for the Eighth Cause of Action, in an amount to be determined at trial;
- 27 3. For statutory attorneys' fees and costs pursuant to Code of Civil Procedure § 1021.5,
28 and California Government Code § 12965 (b) and as allowed by law and according to

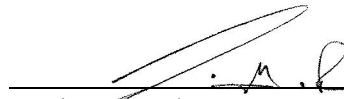
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proof;

- 4. For pre- and post-judgement interest at the maximum legal rate on all amounts claimed;
- 5. For all costs of suit; and
- 6. For all other and further relief as the Court may deem just and proper.

Dated: June 19, 2024

REDEN | RIDDELL

By: 

Justin G. Reden, Esq.
Collin E. Cresap, Esq.
Attorneys for Plaintiff
AMANDA MARSHALL

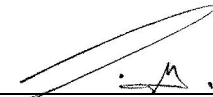
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DEMAND FOR JURY TRIAL

Plaintiff AMANDA MARSHALL hereby demands trial by jury of all claims and causes of action so triable.

Dated: June 19, 2024

REDEN | RIDDELL

By: 
Justin G. Reden, Esq.
Collin E. Cresap, Esq.
Attorneys for Plaintiff
AMANDA MARSHALL