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METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA
LEGAL DEPARTMENT

CONFIDENTIAL

May 13, 2024

VIA HAND DELIVERY

Metropolitan Water District of Southern California
700 North Alameda Street
Los Angeles, CA 90012
Attn.: General Counsel Marcia Scully

Re: *Heather Beatty v. Metropolitan Water District of Southern California*
Claim Pursuant to Government Code Section 910, et seq.
Demand Under Labor Code Section 2802 and Government Code Sections 825,
et seq. and 995, et seq.

To Metropolitan Water District of Southern California:

This letter constitutes a claim on behalf of Heather Beatty pursuant to Government Code Section 910, et seq., with respect to claims arising from ongoing retaliation and other violations of law suffered during her employment with Metropolitan Water District of Southern California ("MWD"). This letter also contains a demand under Labor Code Section 2802 and Government Code Sections 825, et seq. and 995, et seq. Below are details of Ms. Beatty's claim and demand against MWD.

As a preliminary matter, please notify me immediately if MWD will require my office to deliver this claim and demand to the Executive Secretary of the MWD Board of Directors. Ms. Beatty is aware that more routine claims such as for property damage are so delivered, but that the claims are then circulated among numerous MWD staff across departments. Because of the nature of this claim and demand, that type of circulation would be inappropriate and further damage Ms. Beatty. Moreover, Ms. Beatty is aware that other employment claims made under Government Code Section 910, et seq. have been delivered directly to the Legal Department and have been accepted.

The name and post office address of the claimant:

Heather C. Beatty, Esq.
c/o Wilmer J. Harris, Esq.
Schonbrun Seplow Harris Hoffman & Zeldes LLP
715 Fremont Avenue, Suite A
South Pasadena, CA 91030
Tel.: (626) 441-4129

Fax: (626) 283-5770

The post office address to which the person presenting the claim desires notices to be sent:

Wilmer J. Harris, Esq.
Schonbrun Seplow Harris Hoffman & Zeldes LLP
715 Fremont Avenue, Suite A
South Pasadena, CA 91030
Tel.: (626) 441-4129
Fax: (626) 283-5770

The date, place, and other circumstances of the occurrence or transaction which gave rise to the claim asserted.

A. Heather Beatty Is An Exemplary Attorney and MWD Employee.

Heather Beatty began working for MWD's Legal Department in 2008 as a Senior Deputy General Counsel, after a successful career in private practice including partnership at the international law firm Bingham McCutchen, where MWD was one of her clients. Her lifelong pattern of academic and professional success, conducted with integrity, continued unabated at MWD and she was promoted to an Assistant General Counsel in 2012, placing her as part of MWD's executive management. Ms. Beatty has always provided exemplary service to MWD, resulting in increasing responsibilities and professional acknowledgement and respect. Throughout her tenure at MWD, Ms. Beatty has received the highest rating, "outstanding," in every evaluation.

Ms. Beatty has provided legal representation to MWD on litigation, finance, labor/employment, governance, external affairs, technology, and operational matters, and until recent years on ethics matters as well. She has overseen litigation and finance work of Legal, including managing a series of complex and significant finance cases that have resulted in savings for MWD of over \$500 million in recent years and billions of dollars going forward. Ms. Beatty also assists the General Counsel in managing the Legal Department (which consists of about twenty attorneys, as well as other staff).

B. MWD Retaliates Against Ms. Beatty for Engaging in Protected Whistleblowing Conduct and Engages in Other Unlawful Conduct Against Her.

MWD should be well aware of the whistleblowing report Ms. Beatty made on February 25, 2022, which she expanded upon on June 30, 2022 and July 13, 2022, and which was preceded by Ms. Beatty's unsuccessful efforts beginning in December 2021 to prevent Ethics officials' violations of law and ethical standards. In summary, Ms. Beatty engaged in conduct protected by Labor Code Section 1102.5 and the Fair Employment and Housing Act ("FEHA"), among other laws and regulations, by acting in compliance with local, state, and federal law; refusing to engage in unlawful and unethical conduct at MWD; and reporting unlawful conduct. In 2023, Ms. Beatty also made a report and sought the correction of false information that had

been submitted to a government agency on MWD's behalf, which too was conduct protected by Labor Code Section 1102.5.

In retaliation for Ms. Beatty's protected conduct, MWD has subjected Ms. Beatty to a campaign of retaliation, defamation, and harassment and discrimination due to her gender that has caused her significant emotional distress and diminished and harmed her professional reputation and potentially her livelihood.

Specifically, Ethics Officer Abel Salinas and Assistant Ethics Officer Peter von Haam failed and refused to comply with the California Public Records Act, sought to force Ms. Beatty's violation of that law, engaged in a series of other unlawful and unethical conduct, and made false and defamatory internal and external statements about Ms. Beatty's work performance and professional integrity, as a result of her protected conduct beginning in December 2021 and her whistleblower report in February 2022. Upon information and belief, the false and defamatory statements continue to the present day.

Rather than address Ms. Beatty's whistleblower report properly and with due care, MWD unreasonably and it appears deliberately mishandled the matter. That this was occurring was signaled by the fact that Director Marsha Ramos - the director with oversight responsibility over Ethics, who received Ms. Beatty's whistleblower report, and was one of three directors assigned to the ad hoc committee of the Board of Directors that was charged with handling most of the report - engaged in gratuitous, effusive public praise of the Ethics Officer while the matter was under investigation. The ad hoc committee then issued to Ms. Beatty a series of contradictory and pretextual closing communications over several months. The final closing communication of the ad hoc committee, labeled a "draft," revealed that in contrast to representations in earlier closing communications, many of Ms. Beatty's allegations in fact were ignored and were only addressed against one of the two respondents (without identifying which). That communication also confirmed that contrary to earlier closing communications that nothing she alleged was substantiated, it was in fact substantiated that "the respondent" was found to have prevented Ms. Beatty's compliance with the law on behalf of MWD, as she reported. Inexplicably, this unlawful conduct by MWD's Ethics official(s) was stated to nevertheless be acceptable, without identifying who had made such an extraordinary decision on behalf of MWD with future significant repercussions for MWD's operations.

The ad hoc committee also stated that they "understand" (although apparently did not bother to confirm) that a portion of Ms. Beatty's complaint was being handled by the EEO Officer: EEO allegations regarding the Assistant Ethics Officer. Yet, EEO Officer Jonaura Wisdom failed and refused to provide any communication to Ms. Beatty about this whatsoever. Moreover, the EEO Officer failed to afford Ms. Beatty any of the mandated retaliation protections, even while the EEO Office informed the Board that it always does so. Ms. Beatty is informed and believes based on the EEO Office's required protocols to involve its independent counsel, that the EEO Officer's independent counsel Camille Hamilton Pating of Meyers Nave participated in this retaliatory mistreatment of Ms. Beatty.

When Ms. Beatty elevated to Chair of the Board Adan Ortega the failure and refusal of MWD to address many of her serious allegations and the conclusion on behalf of MWD that Ethics official(s) may violate the law and force others to do so, neither the Chair nor anyone else on behalf of MWD addressed this. The Chair simply ignored Ms. Beatty's last communication on the topic in December 2023, just as the ad hoc committee had ignored her communications in October and November 2023.

In addition, beginning in January 2023, Ms. Beatty reported misrepresentations made to a government agency on MWD's behalf and sought for this to be corrected, and was retaliated against for doing so. In connection with her litigation responsibilities, Ms. Beatty learned that Ms. Hamilton Pating on behalf of the EEO Officer had submitted to the California Civil Rights Department ("CRD") a complaint response of MWD that contained multiple incorrect and misleading statements. The CRD case was still open and this was fixable. Ms. Beatty notified her manager General Counsel Marcia Scully, Redacted

[REDACTED] ¹ Ms. Hamilton Pating was very hostile about this. The incorrect and misleading response was never corrected, that CRD case was closed with the response standing as the official statement of MWD, and it may become a factor in pending litigation to MWD's (and the General Manager's) detriment. Among the inaccuracies in the response is the omission of the General Manager's involvement despite a direct question by the CRD, his own public statements about his involvement, and the fact that the EEO Officer recused herself because of his involvement. Also among the incorrect statements was that the Board of Directors considered a matter and took an action that never occurred.

Moreover, Ms. Beatty has suffered unlawful harassment and discrimination based on her gender. In the course of her work, MWD subjected Ms. Beatty to hostile, demeaning treatment that her male counterparts did not suffer and caused the diminishment of her responsibilities and marginalization due to her gender. Ms. Beatty's report of harassment due to gender was mishandled, and it was ignored entirely as to at least one respondent. The gender harassment has continued and Ms. Beatty has subsequently experienced gender discrimination as well.

MWD's campaign of retaliation against Ms. Beatty and other mistreatment has eroded her well-earned reputation for professionalism and integrity among MWD management and executive leadership in the period from December 2021 to the present. For example and notably,

¹ Ms. Beatty's and the General Counsel's communications with Ms. Hamilton Pating are not privileged. The Legal Department, which represents MWD, has no professional relationship with Ms. Hamilton Pating. Pursuant to Board direction, she is independent counsel for the EEO Officer, and the General Manager has also made her his own employment counsel. And in this situation in particular, there was no common interest in an incorrect and misleading submission to a government agency.

on March 12, 2024, the General Manager and the Chair of the Board continued the ongoing pattern of retaliation, defamation, and gender harassment and discrimination in an egregious fashion by falsely accusing Ms. Beatty of misconduct while she was giving a presentation to the Legal and Claims Committee of the Board about four employment cases which she was responsible for managing on behalf of MWD.²

Redacted

Redacted

The statements were knowingly false. As the General Manager well knows, the investigation findings (which Ms. Beatty had no involvement in) are in writing, the General Manager was briefed on the findings by management and engaged in decision making on behalf of MWD as a result, and the findings have been known to him for nearly three years. Redacted

As the Chair of the Board well knows, Ms. Beatty did not withhold any investigation reports from the Board and instead it was the Ethics Officer - who oversaw and was responsible for the investigations - who did so. Indeed, the Chair knows that part of Ms. Beatty's unaddressed whistleblower report is that in 2022 after directors requested the investigation reports, the Ethics Officer and Assistant Ethics Officer created false "summaries" and provided these to the Board instead of providing the reports; tried to force Ms. Beatty's participation in that effort and retaliated against her for refusing to participate; and suggested she misrepresent the falsified documents as supposed compliance with Public Records Act requests for the reports.

Despite the outrageous and unfounded attacks on Ms. Beatty while she tried to fulfill her work requirements, Redacted

² While these statements occurred in closed session, they are not privileged for at least two reasons: (1) they are not part of the proper scope of the closed session; and (2) the Chair of the Board, upon advice of outside counsel, has taken the position on behalf of MWD that a whistleblower may discuss statements made in closed session. Ms. Beatty's discussion of this information is as a whistleblower.

Shockingly, immediately after the meeting and despite Ms. Beatty being visibly upset, the General Manager continued this campaign against Ms. Beatty when he blocked her from gathering her belongings; then placed and held his hand on her shoulder, holding her in place in an aggressive and intimidating manner; and as he did so, got close to her face and said he needed to defend himself. His offensive and threatening physical action and restraint of Ms. Beatty was outrageous and extraordinarily upsetting. It was extreme enough that an employee who witnessed the incident from across the room sent Ms. Beatty an unsolicited email shortly after, documenting what he saw and noting others were watching intently too.

The General Manager and the Chair of the Board are clearly pleased with their attack on Ms. Beatty and their success in causing Ms. Beatty distress, which was apparent. Neither has said anything to Ms. Beatty about what they did on March 12 - not one word of apology, explanation, or concern, or even any acknowledgement of what occurred. However, both continue to make public statements professing to care about all employees and employees' safety and work environment. And the Chair continues to make laudatory public remarks about the Ethics Officer.

Notably, four high-level staff of the General Manager who have leadership roles in addressing mistreatment of employees were present in the March 12 meeting and observed what occurred. None have contacted Ms. Beatty about this either, clearly following the General Manager's lead that she is an employee who is to be devalued, mistreated, and marginalized. In contrast, multiple directors reached out to Ms. Beatty thanking her for speaking truthfully and expressing support.

As a result of continued unwarranted attacks on Ms. Beatty's professional ability and integrity and other mistreatment, and her own need to not be in the position of being forced to violate the law or further attacked, Ms. Beatty has been subjected to further limitations on her work for MWD, reduction of her position and responsibilities, yet more diminution of her opportunities for continued advancement and promotion, and marginalization.³

The name or names of the public employee or employees causing the injury, damage, or loss, if known.

Abel Salinas; Peter von Haam; Directors Marsha Ramos and Cynthia Kurtz, and former Director Richard Atwater (agents of MWD, assigned responsibilities of MWD as ad hoc committee members); Jonaura Wisdom; Adan Ortega (agent of MWD, assigned responsibilities of MWD including over ad hoc committee members); Adel Hagekhalil; Camille Hamilton Pating (Meyers Nave, acting on behalf of and in concert with her clients Jonaura Wisdom and Adel Hagekhalil).

³ Ms. Beatty can provide more specific information about the facts underlying her claim as requested.

A general description of the indebtedness, obligation, injury, damage, or loss incurred so far as it may be known at the time of presentation of the claim.

Ms. Beatty has suffered and continues to suffer substantial economic losses (in the form of the reduction and instability of her existing position and diminished career prospects) and severe emotional injuries as a direct and proximate result of conduct by employees and agents of MWD. As a result of the above-discussed conduct, Ms. Beatty will bring causes of action that include, but are not limited to, retaliation in violation of Labor Code Section 1102.5; gender harassment, discrimination, and retaliation in violation of FEHA; failure to prevent gender harassment, discrimination, and retaliation in violation of FEHA; defamation; battery; false imprisonment; negligent supervision; intentional infliction of emotional distress; and other state and federal civil rights violations, among other claims.

Superior Court Jurisdiction.

Ms. Beatty's damages are far in excess of the minimum jurisdiction of the Los Angeles County Superior Court.

Cessation of Retaliation and Other Unlawful Conduct.

Please ensure that retaliation and other unlawful conduct against Ms. Beatty ceases immediately. Due to her above-stated experience, Ms. Beatty cannot utilize MWD's internal complaint procedures without facing further and more severe retaliation and other mistreatment, all while any such complaint is mishandled and/or ignored. Therefore, this claim and subsequent legal action are the only way she can attempt to protect herself.

Demand Under Labor Code Section 2802 and Government Code Sections 825, et seq. and 995, et seq.

Ms. Beatty hereby makes a demand for MWD's payment and indemnity for all necessary expenditures and losses, including but not limited to attorney's fees for her defense and all other reasonable costs, that she incurs as a result of pending California State Bar Case No. 22-O-12952.

On November 14, 2023, Ms. Beatty learned that Assistant Ethics Officer Peter von Haam had filed a false and retaliatory complaint about her with the California State Bar in 2022 as a result of her above-described protected activity. Ms. Beatty engaged in no professional misconduct and instead at all times acted properly within the course and scope of her employment with MWD and in the proper discharge of her duties for MWD. Ms. Beatty is legally entitled to MWD's payment and indemnity for all expenditures and losses that she necessarily incurs as a result of the complaint.

On November 15, 2023, General Counsel Marcia Scully by email informed Chair of the Board Adan Ortega **Redacted**

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complaint was submitted to the State Bar by her legal counsel on March 4, 2024, the matter is pending, and it may be pending for years.

Based on the above-described events and in particular the retaliatory and defamatory conduct of the Chair of the Board on March 12, 2024, Ms. Beatty does not wish to rely solely on the email statement of the Chair regarding authorization for MWD's payment of the defense. Accordingly, Ms. Beatty makes this formal demand for MWD's payment and indemnity for all expenditures and losses, including costs of defense, associated with Case No. 22-O12952.

Requested Communication to the Board of Directors.

We request that this letter be provided to the MWD Board of Directors promptly and confidentially.

Sincerely,

SCHONBRUN SEPLOW HARRIS
HOFFMAN & ZELDES LLP

A handwritten signature in blue ink that reads "Wilmer J. Harris". The signature is written in a cursive style.

Wilmer J. Harris