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12 **UNITED STATES DISTRICT COURT**
13 **SOUTHERN DISTRICT OF CALIFORNIA**

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|----|-----------------------------------|---|--------------------------------------|
| 14 | ALISON N. TERRY, |) | CIVIL NO. 06-CV-1459 JAH(CAB) |
| 15 | |) | |
| 16 | Plaintiff, |) | |
| 17 | |) | DECLARATION OF ALISON N. |
| 18 | v. |) | TERRY IN SUPPORT OF |
| 19 | |) | PLAINTIFF'S OPPOSITION TO |
| 20 | CITY OF SAN DIEGO, and DOES 1-20, |) | DEFENDANT CITY OF SAN |
| 21 | |) | DIEGO'S MOTION FOR |
| 22 | Defendants. |) | SUMMARY JUDGMENT |
| 23 | |) | |
| 24 | |) | Judge: Hon. John A. Houston |
| 25 | |) | Courtroom: 11m 2 nd Floor |
| 26 | |) | Date: October 9, 2008 |
| 27 | |) | Time: 2:30 p.m. |
| 28 | |) | Complaint filed: June 20, 2006 |

19 I, Alison N. Terry, declare as follows:

20 1. I am the plaintiff in this case. I have personal knowledge of the matters stated
21 herein and if called to do so could testify competently thereto.

22 2. I have been employed as a lifeguard for the City of San Diego ("City") since 1992.
23 Most years I have received an employee performance review and a rating. I am aware that the
24 higher the rating, the better the chance of being promoted.

25 3. By early 2003, I decided I would like to be promoted to Lifeguard II. However, I
26 lacked one required certificate, the personal watercraft ("PWC") operator's certificate. The
27 City's male-dominated lifeguard management controls certifications for PWC, as well as for the
28 main tower certification and assignment to ocean-front lifeguard duty.

1 4. To obtain the PWC certificate, I enrolled in and paid for a PWC class taught by
2 Sergeant Stropky. I worked very hard to obtain my PWC operator's certificate, but did not
3 receive it for 29 months. When I was finally permitted to take the PWC operator's certificate test
4 in late June, 2005, I passed the test on my first try.

5 5. I encountered substantial resistance in attempting to obtain my PWC certificate so
6 that I could apply to be promoted to Lifeguard II. *First*, in 2003, I was denied assignment to a
7 beach (South Pacific Beach) with an available PWC for training by Kate Jackson, even though I
8 had the seniority for and had selected that assignment.

9 6. *Second*, although I was sufficiently proficient to test by the end of the summer of
10 2003, and should have passed the test had I been allowed to test at that time, I was told by
11 Sergeant Stropky that I needed to obtain recommendations from two male PWC instructors in
12 order to even be allowed to take the PWC test (even though the written policy only requires one
13 instructor's recommendation).

14 7. *Third*, testing was delayed ten months, early September 2004 to late June 2005
15 because the testing sergeant (Stropky) claimed he did not receive the recommendations from two
16 of Terry's PWC instructors in *typewritten form*.

17 8. *Fourth*, I was told that the surf conditions were insufficiently rough for PWC
18 testing, even though no written policy contained a surf-size requirement for PWC testing.
19 Although I was working as a guard during the off season from September 2004 through May
20 2005, and repeatedly asked to be tested, Sergeant Stropky refused to test me, claiming "the
21 conditions were not right."

22 9. After I failed to receive a promotion to Lifeguard II in 2006, I requested a critique
23 from the interviewers regarding my interview and the reasons I was not selected for the Lifeguard
24 II promotion. Sergeant Jackson did not attend. I wrote the note contained in Exhibit 41 to the
25 accompany Notice of Lodgment, the same day as critique.

26 10. I was told by Sergeant Vipond what "hurt me the most," and what "separated me
27 from the others," was my failure to take courses, including a law enforcement course entitled
28 PC832 (also called "POST 832") and two technical swift water rescue courses ("swift water

1 rescue tech 1 and 2” or “SRT-1” and “SRT-2”). I had never before been told about those
2 courses and their importance in the promotional process.

3 11. There were no Lifeguard II hirings between 2004 and 2006.

4 12. In 2006, after I had been denied promotion to Lifeguard II, I accepted other full-
5 time employment and entered the 2006 Partial Schedule Program, called the “PSP.” During the
6 summer of 2006, I worked only a total of 69 hours. T 2006 Lifeguard I season ended on
7 September 4, 2006.

8 13. After the summer 2006 Lifeguard I season ended, the next employment
9 opportunity I had with the City—and the City’s first realistic chance to retaliate—occurred after
10 Memorial Day, 2007, when the 2007 Lifeguard I season started. During that entire summer, I
11 was never called in for work once.

12 14. I am aware of no requirement that PSP guards are required to call in periodically
13 to get work. In fact, this makes no sense because schedule openings can occur daily and one of
14 the requirements is that guard must be available “on short notice.” City Exh. 2. Because I was
15 not assigned to work, I did call in for work and complained, but was still not scheduled.

16 15. In 2007 I received a request from the United States State Department for Terry to
17 travel to Turkey to be a Sports Envoy for the Bureau of Educational and Cultural Affairs. I
18 informed the PSP schedulers—and other supervisors—of the exact date I would be returning
19 from Turkey, yet I still received no calls for work in the summer of 2007.

20 16. I never told Marc Brown, “No, no, I can’t do it,” while he was training me on the
21 PWC. In 2004, Marc Brown recommended that I was ready to be tested for the PWC operator’s
22 certificate.

23 17. I called Mike Cranston on several occasions in the summer of 2007 in an attempt
24 to get work. On one occasion he told me that I must “have fallen through the cracks.”

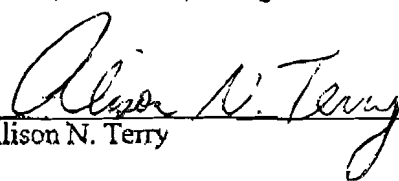
25 I declare under penalty of perjury under the laws of the State of California that the
26 foregoing is true and correct.

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Executed this 22nd day of September, 2008, at Atlanta, Georgia.



Alison N. Terry