

**SUMMONS  
(CITACION JUDICIAL)**

FOR COURT USE ONLY  
(SOLO PARA USO DE LA CORTE)

**NOTICE TO DEFENDANT:  
(AVISO AL DEMANDADO):**

City and County of San Francisco

*and DOES 1 through 100,  
inclusive*

**YOU ARE BEING SUED BY PLAINTIFF:  
(LO ESTÁ DEMANDANDO EL DEMANDANTE):**

Elyse Duckett

**NOTICE!** You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **¡AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), en el Centro de Ayuda de las Cortes de California, ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:

(El nombre y dirección de la corte es): Superior Court for the State of California, County of San Francisco, 400 McAllister St., San Francisco, CA 94102

CASE NUMBER:  
(Número del Caso):

**CGC-14-539201**

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es): EDUARDO G. ROY, 220 Montgomery Street Suite 1094 San Francisco, CA 94104, 415.527.0255

DATE:  
(Fecha)

**MAY 09 2014**

**CLERK OF THE COURT**

Clerk, by  
(Secretario)

Deputy  
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)  
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

**DE LA VEGA NAVARRO, Rossaly**

(SEAL)



**NOTICE TO THE PERSON SERVED:** You are served

1.  as an individual defendant.  
2.  as the person sued under the fictitious name of (specify):

3.  on behalf of (specify):

- under:  CCP 416.10 (corporation)  CCP 416.60 (minor)  
 CCP 416.20 (defunct corporation)  CCP 416.70 (conservatee)  
 CCP 416.40 (association or partnership)  CCP 416.90 (authorized person)  
 other (specify):

4.  by personal delivery on (date):

FILED  
SAN FRANCISCO COUNTY  
SUPERIOR COURT

2014 MAY -9 PM 1:08

CLERK OF THE COURT  
BY: \_\_\_\_\_ DEPUTY

1 EDUARDO G. ROY (Bar No. 146316)  
2 JOHN R. HURLEY (Bar no. 203641)  
3 PROMETHEUS PARTNERS L.L.P.  
4 220 Montgomery Street Suite 1094  
5 San Francisco, CA 94104  
6 Telephone: 415.527.0255

7 Attorneys for Plaintiff  
8 ELYSE DUCKETT

9 SUPERIOR COURT FOR THE STATE OF CALIFORNIA  
10 COUNTY OF SAN FRANCISCO

11 ELYSE DUCKETT,

12 Plaintiff,

13 v.

14 THE CITY AND COUNTY OF SAN  
15 FRANCISCO and DOES 1 through 100,  
16 inclusive,

17 Defendants.

Case No.:

CGC-14-539201

COMPLAINT FOR:

1. VIOLATION OF THE  
FIREFIGHTERS PROCEDURAL  
BILL OF RIGHTS ACT; AND
2. RETALIATION

JURY TRIAL DEMANDED

1 Plaintiff ELYSE DUCKETT ("Plaintiff") complains and alleges by and through her attorneys,  
2 upon personal knowledge and information and belief, as follows:

3 **SUMMARY OF COMPLAINT**

- 4 1. After the Asiana flight 214 crash at San Francisco International Airport on July 6, 2013, the San  
5 Francisco Fire Department ("SFFD") to that tragedy came under intense national and  
6 international scrutiny. A primary focus of that scrutiny was the circumstances surrounding the  
7 death of a 16-year-old-girl, Ye Meng Yuan, after early reports that she was killed when run over  
8 by a fire truck responding to the crash. As questions about SFFD leadership and training  
9 intensified, the brass attempted to shift blame and scapegoat an individual firefighter to minimize  
10 and downplay broader failures within the SFFD.
- 11 2. The sacrificial lamb selected was 24-year veteran firefighter Elyse Duckett, a lesbian and woman  
12 of color who helped pioneer desegregation efforts in the SFFD. Despite having video evidence  
13 that Ye Meng Yuan was first blanketed in foam and then run over by another vehicle, the SFFD  
14 attempted to pin the blame for Ye Meng Yuan's death solely on Elyse Duckett. SFFD brass,  
15 including Chief of the Department Joanne Hayes-White, Deputy Chief of Operations Mark  
16 Gonzales, and Airport Chief Dale Carnes subjected Elyse Duckett to surprise interrogation,  
17 misrepresented evidence regarding the crash and its aftermath, accused Plaintiff of killing Ye  
18 Meng Yuan, pressured Plaintiff to take sole responsibility, and committed numerous violations  
19 of her procedural rights.
- 20 3. In furtherance of their attempt to scapegoat Elyse Duckett and to draw attention away from the  
21 failings of leadership, training, triage and communications during the response, the SFFD leaked  
22 allegations to the news media describing Plaintiff as solely responsible for the death of Ye Meng  
23 Yuan—an accusation contradicted by the City's later assertions that Ye Meng Yuan was killed  
24 during ejection from the crash. Ultimately, the SFFD chose to run roughshod over the  
25 procedural rights and reputation of Elyse Duckett in a vain attempt to deflect attention away  
26 from failings of leadership and to avoid tough questions about the ability of the SFFD to protect  
27 the public.
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## JURISDICTION AND VENUE

4. This Court has personal and subject matter jurisdiction over all causes of action asserted herein.
5. Venue is proper pursuant to Code of Civil Procedure §394.
6. Plaintiff Elyse Duckett previously and timely filed a claim with the City and County of San Francisco pursuant to the California Tort Claims Act, California Government Code §§810-996.6, based on the matters set forth herein. Plaintiff timely brings this lawsuit within 6 months of the rejection of her claims.
7. Plaintiff has exhausted her administrative remedies with respect to claims of discrimination, harassment and/or retaliation by timely filing such claims with the Labor Commissioner.

### PLAINTIFF

8. Plaintiff Elyse Duckett ("Plaintiff") is a California resident and current San Francisco Firefighter.
9. Elyse entered into the San Francisco Fire Department on May 1, 1989, as part of the first class (75th) under a court-ordered consent decree to integrate the SFFD with minorities and women. When she joined the SFFD, she was the first lesbian African-American woman who was a single parent.
10. Elyse was excited to be a part of this change, and upon joining the SFFD committed to participating in the implementation of the consent decree to make it as successful as possible. That was an uphill battle. The Local Union 798 and other interests within the SFFD did not support the court ordered integration. Elyse therefore became involved in the review committee as part of the implementation of the consent decree, a privacy issues committee, recruitment activities, SFFD women's group, and Black Firefighters Association in order to fight for successful implementation of the Consent Decree.
11. Like other firefighters who joined the SFFD as part of the desegregation effort, Elyse experienced differential and negative treatment. One of the first instances was during her probationary period when she was assigned to her second fire station. At that time there were only six or seven African-American women in the SFFD out of a workforce of approximately 1500. She was assigned to the engine and went to a fire alarm call that was non-eventful.

1 However the Battalion Chief who responded took issue with Elyse's braided hairstyle, and upon  
2 returning to the fire station, she was instructed to report to the Division of Training for  
3 inspection. The Captain and the director of Human Resources then subjected Elyse to physical  
4 prodding and handling of her hair. Elyse was humiliated and felt that this was culturally  
5 insensitive and harassing, as her hairstyle did not interfere with the wearing of her helmet or  
6 firefighting duties. Upon returning to the firehouse, she was subjected to questioning by other  
7 firefighters about why she was referred for inspection. Subsequently, Elyse changed her  
8 hairstyle and removed her braids. This incident was a defining moment in her career, as she  
9 became committed to fighting oppression, exclusion and discrimination within the SFFD.

10 12. Elyse joined the review committee, whose responsibility was to review EEO grievances brought  
11 by firefighters, including reviewing how the interviews were conducted. She served on the  
12 privacy/bathroom committee in the 1990s, which was charged with overseeing implementation  
13 of station upgrades to provide separate bathroom facilities for women (which did not exist at that  
14 time).

15 13. Elyse continued her commitment to the implementation of the consent decree by becoming part  
16 of the recruitment team. She headed the recruitment efforts of the women into the SFFD. In her  
17 role on the recruitment team, she objected to an attempt by the administration spearheaded to  
18 restructure the physical agility test ("PAT") for firefighters on the basis that only firefighters  
19 brought in since the 1989 consent decree were subject to testing, and the SFFD ultimately  
20 dropped the issue.

21 14. Seven years after implementation of the consent decree, the mayor appointed Robert Demmons,  
22 who was the first African-American Chief of the SFFD. In turn he assigned Elyse to be the first  
23 woman to be stationed at the airport. The consent decree was dissolved when Demmons was  
24 appointed, but discrimination within the SFFD did not end upon the appointment of an African-  
25 American Chief, and Elyse continued to speak out.

26 15. After Demmons left the SFFD, Elyse had to file several EEO complaints due to disparate  
27 treatment and harassment by officers at the airport. In 2006, she filed a complaint against a  
28 Captain that had continually harassed and singled her out during her time at the airport. In one

1 specific incident, the officer filed a false report against Elyse alleging a “failure to report to  
2 work” when Elyse had actually made a timely request for family medical leave. She expressed  
3 her dismay at being summoned to SFFD headquarters to be coached as directed by the  
4 administration headed by Joanne Hayes-White. However it was Elyse who counseled them on  
5 her rights and their shortcomings. She informed the administration that she felt that their actions  
6 were retaliatory, as she had repeatedly spoken out against policies and conduct that she felt were  
7 discriminatory at the airport.

8 16. Elyse has 19 years of Airport Division service, the most service of any firefighter—male or  
9 female—at the airport. As the senior firefighter at the airport, Elyse has encouraged others to  
10 speak out against unjust policies, procedures and discriminatory practices. Prior to the Asiana  
11 crash, she has been outspoken regarding the need for appropriate training for Mutual Aid  
12 responders as she is aware of the important role that they would play during a major incident,  
13 and has expressed that the lack of training of Mutual Aid responders is a major safety concern  
14 for the public as well as for her fellow firefighters. The Asiana crash proved her concerns to be  
15 warranted and true.

16 17. Elyse has continued to express her critical assessment of the SFFD’s administration with respect  
17 to discrimination and harassment, and their continued marginalization and patronizing of women  
18 at SFO. Elyse’s willingness to speak up regarding both the workplace environment and issues of  
19 public safety has made her a target within the SFFD. The SFFD’s efforts to place sole blame on  
20 her for the death of Ye Meng Yuan were designed to kill two birds with one stone—attempting  
21 to silence Elyse while trying to protect their own reputations by covering up the larger failures in  
22 training and leadership that led to the chaos of the Asiana 214 response, dangers that pose a  
23 continuing threat to the people of San Francisco.

#### 24 **DEFENDANTS**

25 18. Defendant City and County of San Francisco is a municipal corporation existing under the laws  
26 of the State of California, and is both a City and a County under the Constitution of the State of  
27 California.

28 19. Plaintiff is not aware of the true names and capacities of Defendants sued herein as DOES I

1 through 100, inclusive, and therefore sues these Defendants by such fictitious names. Each  
2 fictitiously named Defendant is responsible in some manner for the actions and events alleged  
3 herein. Plaintiff will seek leave of Court to amend this complaint to allege their true names and  
4 capacities when that information is ascertained. Whenever reference is made in this Complaint to  
5 "Defendants" or any individual "Defendant," such reference shall include DOES I through 100 as  
6 well as the named Defendant or Defendants.

## 7 **GENERAL ALLEGATIONS**

### 8 **Asiana 214 Crash and Response**

9 20. On July 6, 2013, Asiana Flight 214 crashed at 11:27 am at San Francisco International Airport.

10 21. On the day of the crash, Elyse Duckett was stationed at SFO Station 2, but was shopping for  
11 food, an authorized activity, for the station meals at the time of the crash. When Elyse Duckett  
12 returned to SFO at approximately 11:30 am, the response to the Asiana 214 crash was already in  
13 progress. After putting on her personal protective equipment, Elyse Duckett took Aircraft Rescue  
14 Firefighting ("ARFF") unit 37 and responded to the crash site.

15 22. After the Asiana flight 214 crash site was under control, it became immediately apparent that a  
16 passenger from the plane (later determined to be Ye Meng Yuan) had been struck by one or more  
17 ARFF rigs responding to the crash. Subsequent investigation has revealed that two ARFF  
18 vehicles struck her.

19 23. Rescue 10 was the first vehicle to strike Ye Meng Yuan. When first responding to the crash, the  
20 driver of Rescue 10 was notified of the presence of Ye Meng Yuan on the ground near the plane.  
21 Ye Meng Yuan was lying in the open, with no foam or other material obscuring her body at that  
22 time. Prior to being identified to the driver of Rescue 10, the body of Ye Meng Yuan had been  
23 seen by at least four responders. After almost hitting Ye Meng Yuan while she was lying in the  
24 open, Rescue 10 maneuvered in a wide clockwise circle in order to spray the plane with fire-  
25 suppressant foam. While spraying foam on the plane, Rescue 10 also covered Ye Meng Yuan  
26 with foam. After she was covered, the 60-ton (120,000 lb.) Rescue 10 rig moved in closer to the  
27 fuselage of the plane, running over Ye Meng Yuan in the process. Rescue 10 then backed away  
28 from the plane, running over Ye Meng Yuan a second time.

1 24. Although Rescue 37 also ran over Ye Meng Yuan, when Elyse Duckett arrived on the scene, Ye  
2 Meng Yuan had not been triaged or tagged, she was covered in foam, and the 60-ton (120,000  
3 lb.) Rescue 10 unit had already twice run her over. As a result of being covered in foam, Ye  
4 Meng Yuan was no longer visible.

5 25. When press reports about the crash began to raise questions about the death of Ye Meng Yuan,  
6 the response of the SFFD came under intense scrutiny. In response to this scrutiny, the SFFD  
7 did not acknowledge and take responsibility for the gross failings and deficiencies in the Asiana  
8 214 crash response. Instead, the SFFD attempted to cover up the facts and tried to shift sole  
9 blame for the death of Ye Meng Yuan to Elyse Duckett.

### 10 **Deficiencies in the SFFD Response to the Asiana 214 Crash**

#### 11 **1. Deficiencies in Training and Leadership**

12 26. Aircraft rescue and firefighting takes specialized training and experience. The SFFD recognizes  
13 this as they require that firefighters to have at least five years of experience before being  
14 assigned to the airport, and they have recently instituted a requirement for a five-year  
15 commitment from firefighters before being assigned to the airport.

16 27. Federal law sets forth specific requirements for training and proficiency of airport firefighters.  
17 Specifically, 14 CFR Part 139.319(i) requires that each holder of an airport operating certificate  
18 must ensure that firefighting personnel are properly trained to perform their duties, and the FAA  
19 has issued an Advisory Circular containing recommendations setting forth the minimum  
20 requirements for airport firefighting training programs. The recommendation is that ARFF  
21 personnel receive at least 40 hours of recurring training annually to maintain proficiency in the  
22 following areas:

- 23 a. Airport familiarization
- 24 b. Aircraft familiarization
- 25 c. Rescue and firefighting personnel safety
- 26 d. Emergency communications systems on the airport, including fire alarms
- 27 e. Use of fire hoses, nozzles, turrets, and other appliances
- 28 f. Applications of extinguishing agents

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- 27 e. Use of fire hoses, nozzles, turrets, and other appliances
- 28 f. Applications of extinguishing agents

1 89. California Government Code Section 12940(h) declares that it is an unlawful employment  
2 practice for an employer "to discharge, expel or otherwise discriminate against any person  
3 because the person has opposed any practices forbidden under this part" or "because the person  
4 has filed a complaint, testified, or assisted in any proceeding under this part."

5 90. During her career at the airport, Elyse Duckett has filed multiple complaints regarding disparate  
6 treatment and harassment for firefighters at the airport based on gender, race and orientation,  
7 including disparate treatment and harassment of individuals apart from herself.

8 91. The conduct and actions of Defendant as alleged herein taken as a whole, materially and  
9 adversely affected the terms and conditions of Plaintiff's employment and she was harmed as a  
10 result of such conduct.

11 92. Elyse Duckett is informed and believes that the protected activities she engaged in were a  
12 motivating reason for the conduct and actions of Defendant as alleged herein.

13 93. Wherefore Plaintiff prays for relief as set forth below.

14 **PRAYER FOR RELIEF**

15 WHEREFORE, Plaintiff requests of this Court the following relief:

- 16 a. Pursuant to Government Code section 3260(d), \$25,000 for each and every violation of  
17 the Firefighters Procedural Bill of Rights Act, Government Code §3250, *et seq.*;
- 18 b. Pursuant to Government Code section 3260(c)(1), appropriate injunctive or other  
19 extraordinary relief to remedy the violation and to prevent future violations of a like or  
20 similar nature, including, but not limited to an injunction prohibiting the San Francisco  
21 Fire Department from taking any punitive action against Plaintiff;
- 22 c. Attorney's fees pursuant to Government Code section 3260(d);
- 23 d. Damages according to proof;
- 24 e. Costs of suit; and
- 25 f. Such other and further relief as the Court may deem appropriate.

26 **DEMAND FOR JURY TRIAL**

27 Plaintiff hereby demands a trial by jury on all claims so triable.

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1 DATED: May 9, 2014

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By:



Eduardo G. Roy  
Attorneys for Plaintiff  
ELYSE DUCKETT

PROMETHEUS PARTNERS L.L.P.  
220 Montgomery Street Suite 1094  
San Francisco, CA 94104  
Telephone: 415.527.0255

**SAN FRANCISCO POLICE DEPARTMENT**  
**CHRONOLOGICAL REPORT OF INVESTIGATION** Page 11 of 19

DATE	TIME	ACTIVITY
		[REDACTED]
		[REDACTED]
		[REDACTED]
		[REDACTED]
		[REDACTED]
		[REDACTED]
	1455	[REDACTED]
	1500	[REDACTED]
	1650	I was informed that D.C. Tomioka couldn't allow me to have the video from Channel 2 helicopter. Lt. Hill was advised and updated on the case. Lt. Hill said to have Sgt. Erb write a search warrant so that we can have the raw footage not a copy of the video anyway.
7-11-13	0810	Meeting at Traffic Company with Sgt. Erb, Officer Kane, and Officer Thomas. Officer Thomas will write a supplemental as to what he checked on [REDACTED]. Officer Kane will write a statement to go in my case file documenting his investigation as well as Officer Aloise and Olkiewicz.
	0915	I spoke with Coroner Faucrault and updated him that there is video from a helmet camera in the field, but I need to get approval at this point to release it.
	1000	Sgt. Erb and I met with D.C. Biel and Lt. Hill to update them on the case.
	1045	I met with D.C. Tomioka and seized the Channel 2 New helicopter video. D.C. Tomioka received the video on 7-10-13 at 1110 hours.
	1135	Sgt. Erb and I responded to Property Control Room to book the helmet camera, SD card from the camera, and the flash drive given to me by Chief Hayes-White.